

AMENDED IN SENATE SEPTEMBER 1, 2023

AMENDED IN SENATE JUNE 8, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 81

**Introduced by Assembly Member Ramos
(Coauthor: Assembly Member Haney)**

December 15, 2022

An act to amend ~~Section 170~~ *Sections 170, 175, 180, 185, 3404, 7660.5, 7907.3, 7950, 8606.5, 8616.5, 8619.5, 8620, 8707.1, 8708, and 8709 of the Family Code, to amend Sections 1505, 1522.41, 1562.01, 1563, and 1796.17 of the Health and Safety Code, to amend Section 1459.5 of Sections 1449, 1459, 1459.5, 1460.2, 1474, and 1500.1 of the Probate Code, and to amend Sections 224, 224.1, 224.2, 224.3, 305.6, 306, 306.6, 315, 319, 361, 361.31, 366.26, 727, 727.4, and 11391 10553.12, 10553.13, 11391, 11401, 11462.022, 16500.9, 16501, 16504.6, 16507.4, 16507.5, 16519.5, 16546, and 16585 of the Welfare and Institutions Code, relating to Indian children, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 81, as amended, Ramos. Indian children: child custody proceedings.

Existing federal law, the Indian Child Welfare Act of 1978 (ICWA), governs the proceedings for determining the placement of an Indian child when that child is removed from the custody of the child's parent or guardian. Existing law states findings and declarations of the Legislature regarding Indian children, including that the state is committed to protecting the essential tribal relations and best interest

of an Indian child by promoting practices in accordance with the ICWA, and it is in the interest of an Indian child that the child's membership or citizenship in the child's Indian tribe and connection to the tribal community be encouraged and protected, and requires the court to consider those findings in all Indian child custody proceedings.

This bill would add to those findings and declarations by stating that the State of California is committed to protecting essential tribal relations by recognizing a tribe's right to protect the health, safety, and welfare of its citizens. The bill would also declare that provisions of the Family Code, *Health and Safety Code*, Probate Code, and the Welfare and Institutions Code that apply to proceedings involving an Indian child, as defined, are to be collectively known as the California Indian Child Welfare Act.

Existing provisions of state law govern child custody proceedings, adoption proceedings, dependency proceedings, including termination of parental rights, the voluntary relinquishment of a child by a parent, and guardianship proceedings. Existing law provides various definitions for these purposes, including "Indian child," as provided in the ICWA.

This bill would define various terms, including "Indian child," consistent with provisions of the ~~ICWA and would remove cross-references to provisions of the ICWA.~~ ICWA. The bill would also make conforming changes and cross-references throughout various provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 170 of the Family Code is amended to
2 read:
3 170. ~~(a) As used in this code, unless the context otherwise~~
4 ~~requires, the terms "Indian," "Indian child," "Indian child's tribe,"~~
5 ~~"Indian custodian," "Indian organization," "Indian tribe,"~~
6 ~~"reservation," and "tribal court" shall be defined as provided in~~
7 ~~Section 224.1 of the Welfare and Institutions Code and Section~~
8 ~~1903 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et~~
9 ~~seq.).~~

1 170. (a) *As used in this division, consistent with Section 1903*
2 *of the Indian Child Welfare Act and Section 224.1 of the Welfare*
3 *and Institutions code, unless the context requires otherwise, the*
4 *following definitions shall apply:*

5 (1) *“Indian” means any person who is a member or citizen of*
6 *an Indian tribe, or who is an Alaska Native and a member or citizen*
7 *of a Regional Corporation as defined in Section 1606 of Title 43*
8 *of the United States Code.*

9 (2) *“Indian custodian” means any Indian person who has legal*
10 *custody of an Indian child under tribal law or custom or under*
11 *state law or to whom temporary physical care, custody, and control*
12 *has been transferred by the parent of that child.*

13 (3) *“Indian tribe” means any Indian tribe, band, nation, or*
14 *other organized group or community of Indians recognized as*
15 *eligible for the services provided to Indians by the Secretary of*
16 *the Interior because of their status as Indians, including any Alaska*
17 *Native village as defined in subdivision (c) of Section 1602 of Title*
18 *43 of the United States Code.*

19 (4) *“Reservation” has the same meaning as “Indian country”*
20 *as defined in Section 1151 of Title 18 of the United States Code,*
21 *and any lands that are not covered under that section and the title*
22 *to which is either held by the United States in trust for the benefit*
23 *of any Indian tribe or individual or held by any Indian tribe or*
24 *individual subject to a restriction by the United States against*
25 *alienation.*

26 (5) *“Tribal court” means a court with jurisdiction over child*
27 *custody proceedings, and that is either a Court of Indian Offenses,*
28 *a court established and operated under the code or custom of an*
29 *Indian tribe, or any other administrative body of tribe that is vested*
30 *with authority over child custody proceedings.*

31 (6) *“Indian child” means any unmarried person who is under*
32 *18 years of age and either of the following:*

33 (A) *A member or citizen of an Indian tribe.*

34 (B) *Is eligible for membership or citizenship in an Indian tribe*
35 *and is a biological child of a member or citizen of an Indian tribe.*

36 (b) *When used in connection with an Indian child custody*
37 *proceeding, the terms “extended family member” and “parent”*
38 *shall be defined as provided in Section 224.1 of the Welfare and*
39 *Institutions Code and Section 1903 of the Indian Child Welfare*
40 *Act.*

(c) “Indian child custody proceeding” means a “child custody proceeding” within the meaning of *subdivision (d) of Section 224.1 of the Welfare and Institutions Code and Section 1903 of the Indian Child Welfare Act*, including a voluntary or involuntary proceeding that may result in an Indian child’s temporary or long-term foster care or guardianship placement if the parent or Indian custodian cannot have the child returned upon demand, termination of parental rights, or adoptive placement. An “Indian child custody proceeding” does not include a proceeding under this code commenced by the parent of an Indian child to determine the custodial rights of the child’s parents, unless the proceeding involves a petition to declare an Indian child free from the custody or control of a parent or involves a grant of custody to a person or persons other than a parent, over the objection of a parent.

(d) If an Indian child is a member of more than one tribe or is eligible for membership in more than one tribe, the court shall make a determination, in writing together with the reasons for it, as to which tribe is the Indian child’s tribe for purposes of the Indian child custody proceeding. The court shall make that determination as follows:

(1) If the Indian child is or becomes a member of only one tribe, that tribe shall be designated as the Indian child’s tribe, even though the child is eligible for membership in another tribe.

(2) If an Indian child is or becomes a member of more than one tribe, or is not a member of any tribe but is eligible for membership in more than one tribe, the tribe with which the child has the more significant contacts shall be designated as the Indian child’s tribe. In determining which tribe the child has the more significant contacts with, the court shall consider, among other things, the following factors:

(A) The length of residence on or near the reservation of each tribe and frequency of contact with each tribe.

(B) The child’s participation in activities of each tribe.

(C) The child’s fluency in the language of each tribe.

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes.

(E) Residence on or near one of the tribes’ reservations by the child’s parents, Indian custodian or extended family members.

(F) Tribal membership of custodial parent or Indian custodian.

1 (G) Interest asserted by each tribe in response to the notice
2 specified in Section 180.

3 (H) The child's self identification.

4 (3) If an Indian child becomes a member of a tribe other than
5 the one designated by the court as the Indian child's tribe under
6 paragraph (2), actions taken based on the court's determination
7 prior to the child's becoming a tribal member shall continue to be
8 valid.

9 *SEC. 2. Section 175 of the Family Code is amended to read:*

10 175. (a) The Legislature finds and declares the following:

11 (1) There is no resource that is more vital to the continued
12 existence and integrity of recognized Indian tribes than their
13 children, and the State of California has an interest in protecting
14 Indian children who are members of, or are eligible for membership
15 in, an Indian tribe. The state is committed to protecting the essential
16 tribal relations and best interest of an Indian child by promoting
17 practices, in accordance with the *California Indian Child Welfare*
18 *Act, the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et*
19 *seq.) seq.*, and other applicable law, designed to prevent the child's
20 involuntary out-of-home placement and, whenever the placement
21 is necessary or ordered, by placing the child, whenever possible,
22 in a placement that reflects the unique values of the child's tribal
23 culture and is best able to assist the child in establishing,
24 developing, and maintaining a political, cultural, and social
25 relationship with the child's tribe and tribal community.

26 (2) It is in the interest of an Indian child that the child's
27 membership in the child's Indian tribe and connection to the tribal
28 community be encouraged and protected, regardless of any of the
29 following:

30 (A) Whether the child is in the physical custody of an Indian
31 parent or Indian custodian at the commencement of a child custody
32 proceeding.

33 (B) Whether the parental rights of the child's parents have been
34 terminated.

35 (C) Where the child has resided or been domiciled.

36 (b) In all Indian child custody ~~proceedings~~ *proceedings, as*
37 *defined in subdivision (d) of Section 224.1 of the Welfare and*
38 *Institutions Code and the federal Indian Child Welfare Act, the*
39 court shall consider all of the findings contained in subdivision
40 (a), strive to promote the stability and security of Indian tribes and

1 families, comply with the *California Indian Child Welfare Act and*
2 *the federal Indian Child Welfare Act*, and seek to protect the best
3 interest of the child. Whenever an Indian child is removed from a
4 foster care home or institution, guardianship, or adoptive placement
5 for the purpose of further foster care, guardianship, or adoptive
6 placement, placement of the child shall be in accordance with
7 *Section 361.31 of the Welfare and Institutions Code and the Indian*
8 *Child Welfare Act*.

9 (c) A determination by an Indian tribe that an unmarried person,
10 who is under the age of 18 years, is either (1) a member of an
11 Indian tribe or (2) eligible for membership in an Indian tribe and
12 a biological child of a member of an Indian tribe shall constitute
13 a significant political affiliation with the tribe and shall require the
14 application of the *California Indian Child Welfare Act and the*
15 *federal Indian Child Welfare Act* to the proceedings.

16 (d) In any case in which this code or other applicable state or
17 federal law provides a higher standard of protection to the rights
18 of the parent or Indian custodian of an Indian child, or the Indian
19 child's tribe, than the rights provided under the Indian Child
20 Welfare Act, the court shall apply the higher standard.

21 (e) Any Indian child, the Indian child's tribe, or the parent or
22 Indian custodian from whose custody the child has been removed,
23 may petition the court to invalidate an action in an Indian child
24 custody proceeding for foster care, guardianship placement, or
25 termination of parental rights if the action violated Sections 1911,
26 1912, and 1913 of the Indian Child Welfare Act (25 U.S.C. Sec.
27 1901 ~~et seq.~~ *seq.*) or applicable provision in state law. Nothing
28 in this section is intended to prohibit, restrict, or otherwise limit
29 any rights under Section 1914 of the Indian Child Welfare Act (25
30 U.S.C. Sec. 1901 et seq.).

31 (f) *Sections of the Health and Safety Code, Probate Code,*
32 *Welfare and Institutions Code, and this code that apply to*
33 *proceedings involving an Indian child, as defined in Section 170*
34 *of this code, Section 224.1 of the Welfare and Institutions Code,*
35 *and Section 1449 of the Probate Code, shall be collectively known*
36 *as the California Indian Child Welfare Act.*

37 SEC. 3. *Section 180 of the Family Code is amended to read:*

38 180. (a) In an Indian child custody proceeding notice shall
39 comply with subdivision (b) of this section.

1 (b) Any notice sent under this section shall be sent to the minor's
2 parent or legal guardian, Indian custodian, if any, and the Indian
3 child's tribe and shall comply with all of the following
4 requirements:

5 (1) Notice shall be sent by registered or certified mail with return
6 receipt requested. Additional notice by first-class mail is
7 recommended, but not required.

8 (2) Notice to the tribe shall be to the tribal chairperson, unless
9 the tribe has designated another agent for service.

10 (3) Notice shall be sent to all tribes of which the child may be
11 a member or eligible for membership until the court makes a
12 determination as to which tribe is the Indian child's tribe in
13 accordance with subdivision (d) of Section 170, after which notice
14 need only be sent to the tribe determined to be the Indian child's
15 tribe.

16 (4) Notice, to the extent required by federal law, shall be sent
17 to the Secretary of the Interior's designated agent, the Sacramento
18 Area Director, Bureau of Indian Affairs. If the identity or location
19 of the Indian child's tribe is known, a copy of the notice shall also
20 be sent directly to the Secretary of the Interior unless the Secretary
21 of the Interior has waived that notice in writing and the person
22 responsible for giving notice under this section has filed proof of
23 the waiver with the court.

24 (5) In addition to the information specified in other sections of
25 this article, notice shall include all of the following information:

26 (A) The name, birthdate, and birthplace of the Indian child, if
27 known.

28 (B) The name of any Indian tribe in which the child is a member
29 or may be eligible for membership, if known.

30 (C) All names known of the Indian child's biological parents,
31 grandparents, and great-grandparents, or Indian custodians,
32 including maiden, married, and former names or aliases, as well
33 as their current and former addresses, birthdates, places of birth
34 and death, tribal enrollment numbers, and any other identifying
35 information, if known.

36 (D) A copy of the petition by which the proceeding was initiated.

37 (E) A copy of the child's birth certificate, if available.

38 (F) The location, mailing address, and telephone number of the
39 court and all parties notified pursuant to this section.

40 (G) A statement of the following:

1 (i) The absolute right of the child's parents, Indian custodians,
2 and tribe to intervene in the proceeding.

3 (ii) The right of the child's parents, Indian custodians, and tribe
4 to petition the court to transfer the proceeding to the tribal court
5 of the Indian child's tribe, absent objection by either parent and
6 subject to declination by the tribal court.

7 (iii) The right of the child's parents, Indian custodians, and tribe
8 to, upon request, be granted up to an additional 20 days from the
9 receipt of the notice to prepare for the proceeding.

10 (iv) The potential legal consequences of the proceedings on the
11 future custodial rights of the child's parents or Indian custodians.

12 (v) That if the parents or Indian custodians are unable to afford
13 counsel, counsel will be appointed to represent the parents or Indian
14 custodians pursuant to Section 1912 of the Indian Child Welfare
15 Act (25 U.S.C. Sec. 1901 et seq.).

16 (vi) That the information contained in the notice, petition,
17 pleading, and other court documents is confidential, so any person
18 or entity notified shall maintain the confidentiality of the
19 information contained in the notice concerning the particular
20 proceeding and not reveal it to anyone who does not need the
21 information in order to exercise the tribe's rights under the
22 *California Indian Child Welfare Act and the federal Indian Child*
23 *Welfare Act* (25 U.S.C. Sec. 1901 et seq.).

24 (c) Notice shall be sent whenever it is known or there is reason
25 to know that an Indian child is involved, and for every hearing
26 thereafter, including, but not limited to, the hearing at which a
27 final adoption order is to be granted. After a tribe acknowledges
28 that the child is a member or eligible for membership in that tribe,
29 or after the Indian child's tribe intervenes in a proceeding, the
30 information set out in subparagraphs (C), (D), (E), and (G) of
31 paragraph (5) of subdivision (b) need not be included with the
32 notice.

33 (d) Proof of the notice, including copies of notices sent and all
34 return receipts and responses received, shall be filed with the court
35 in advance of the hearing except as permitted under subdivision
36 (e).

37 (e) No proceeding shall be held until at least 10 days after receipt
38 of notice by the parent, Indian custodian, the tribe, or the Bureau
39 of Indian Affairs. The parent, Indian custodian, or the tribe shall,
40 upon request, be granted up to 20 additional days to prepare for

1 the proceeding. Nothing herein shall be construed as limiting the
2 rights of the parent, Indian custodian, or tribe to 10 days' notice
3 if a lengthier notice period is required under this code.

4 (f) With respect to giving notice to Indian tribes, a party shall
5 be subject to court sanctions if that person knowingly and willfully
6 falsifies or conceals a material fact concerning whether the child
7 is an Indian child, or counsels a party to do so.

8 (g) The inclusion of contact information of any adult or child
9 that would otherwise be required to be included in the notification
10 pursuant to this section, shall not be required if that person is at
11 risk of harm as a result of domestic violence, child abuse, sexual
12 abuse, or stalking.

13 *SEC. 4. Section 185 of the Family Code is amended to read:*

14 185. (a) In a custody proceeding involving a child who would
15 otherwise be an Indian child based on the definition contained in
16 *subdivision (a) of Section 170 and* paragraph (4) of Section 1903
17 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et
18 seq.), but is not an Indian child based on status of the child's *Indian*
19 tribe, as defined in paragraph (8) of Section 1903 of the federal
20 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.); *seq.) and*
21 *Section 170*, the court may permit the tribe from which the child
22 is descended to participate in the proceeding upon request of the
23 tribe.

24 (b) If the court permits a tribe to participate in a proceeding, the
25 tribe may do all of the following, upon consent of the court:

26 (1) Be present at the hearing.

27 (2) Address the court.

28 (3) Request and receive notice of hearings.

29 (4) Request to examine court documents relating to the
30 proceeding.

31 (5) Present information to the court that is relevant to the
32 proceeding.

33 (6) Submit written reports and recommendations to the court.

34 (7) Perform other duties and responsibilities as requested or
35 approved by the court.

36 (c) If more than one tribe requests to participate in a proceeding
37 under subdivision (a), the court may limit participation to the tribe
38 with which the child has the most significant contacts, as
39 determined in accordance with paragraph (2) of subdivision (d) of
40 Section 170.

(d) This section is intended to assist the court in making decisions that are in the best interest of the child by permitting a tribe in the circumstances set out in subdivision (a) to inform the court and parties to the proceeding about placement options for the child within the child's extended family or the tribal community, services and programs available to the child and the child's parents as Indians, and other unique interests the child or the child's parents may have as Indians. This section shall not be construed to make the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), or any state law implementing the Indian Child Welfare Act, applicable to the proceedings, or to limit the court's discretion to permit other interested persons to participate in these or any other proceedings.

(e) This section shall only apply to proceedings involving an Indian child.

SEC. 5. Section 3404 of the Family Code is amended to read:

3404. (a) A child custody proceeding that pertains to an Indian child as defined in *Section 170* and the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) is not subject to this part to the extent that it is governed by the *California Indian Child Welfare Act* or the Indian Child Welfare Act.

(b) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying this chapter and Chapter 2 (commencing with Section 3421).

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced under Chapter 3 (commencing with Section 3441).

SEC. 6. Section 7660.5 of the Family Code is amended to read:

7660.5. Notwithstanding any other provision of law, a presumed father may waive the right to notice of any adoption proceeding by executing a form developed by the department before an authorized representative of the department, an authorized representative of a licensed public or private adoption agency, or a notary public or other person authorized to perform notarial acts. The waiver of notice form may be validly executed before or after the birth of the child, and once signed no notice, relinquishment for, or consent to adoption of the child shall be required from the father for the adoption to proceed. This shall be a voluntary and informed waiver without undue influence. If the child is an Indian

1 child as defined in subdivision (a) of Section 170 or under the
2 Indian Child Welfare Act (ICWA), any waiver of consent by an
3 Indian presumed father shall be executed in accordance with the
4 requirements for voluntary adoptions set forth in Section 1913 of
5 Title 25 of the United States Code. The waiver shall not affect the
6 rights of any known federally recognized Indian tribe or tribes
7 from which the child or the presumed father may be descended to
8 notification of, or participation in, adoption proceedings as
9 provided by the *California Indian Child Welfare Act or the ICWA*.
10 Notice that the waiver has been executed shall be given to any
11 known federally recognized Indian tribe or tribes from which the
12 child or the presumed father may be descended, as required by the
13 *California Indian Child Welfare Act or the ICWA*.

14 *SEC. 7. Section 7907.3 of the Family Code is amended to read:*
15 7907.3. The Interstate Compact on the Placement of Children
16 shall not apply to any placement, sending, or bringing of an Indian
17 child into another state pursuant to a transfer of jurisdiction to a
18 tribal court under the *California Indian Child Welfare Act and*
19 Section 1911 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901
20 et seq.).

21 *SEC. 8. Section 7950 of the Family Code is amended to read:*
22 7950. (a) With full consideration for the proximity of the
23 natural parents to the placement so as to facilitate visitation and
24 family reunification, when a placement in foster care is being
25 made, the following considerations shall be used:

26 (1) Placement shall, if possible, be made in the home of a
27 relative, unless the placement would not be in the best interest of
28 the child. Diligent efforts shall be made by an agency or entity to
29 which this subdivision applies, to locate an appropriate relative,
30 as defined in paragraph (2) of subdivision (f) of Section 319 of the
31 Welfare and Institutions Code. At any permanency hearing in
32 which the court terminates reunification services, or at any
33 postpermanency hearing for a child not placed for adoption, the
34 court shall find that the agency or entity to which this subdivision
35 applies has made diligent efforts to locate an appropriate relative
36 and that each relative whose name has been submitted to the agency
37 or entity as a possible caretaker, either by the relative or by other
38 persons, has been evaluated as an appropriate placement resource.

(2) An agency or entity that receives any state assistance and is involved in foster care placements shall not do either of the following:

(A) Deny to any person the opportunity to become a foster parent on the basis of the race, color, or national origin of the person or the child involved.

(B) Delay or deny the placement of a child into foster care on the basis of the race, color, or national origin of the foster parent or the child involved.

(b) Subdivision (a) does not affect the application of the *California Indian Child Welfare Act and the Indian Child Welfare Act of 1978* (25 U.S.C. Sec. 1901 et seq.).

(c) This section does not preclude a search for an appropriate relative being conducted simultaneously with a search for a foster family.

SEC. 9. Section 8606.5 of the Family Code is amended to read:

8606.5. (a) Notwithstanding any other section in this part, and in accordance with *the California Indian Child Welfare Act and Section 1913 of the Indian Child Welfare Act* (25 U.S.C. Sec. 1901 et seq.), consent to adoption given by an Indian child's parent is not valid unless both of the following occur:

(1) The consent is executed in writing at least 10 days after the child's birth and recorded before a judge.

(2) The judge certifies that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that they were interpreted into a language that the parent understood.

(b) The parent of an Indian child may withdraw consent to adoption for any reason at any time prior to the entry of a final decree of adoption and the child shall be returned to the parent.

(c) After the entry of a final decree of adoption of an Indian child, the Indian child's parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding that consent was obtained through fraud or duress, the court shall vacate the decree and return the child to the parent, provided that no adoption that has been effective for at least two years may be invalidated unless otherwise permitted under state law.

1 SEC. 10. Section 8616.5 of the Family Code is amended to
2 read:

3 8616.5. (a) The Legislature finds and declares that some
4 adoptive children may benefit from either direct or indirect contact
5 with birth relatives, including the birth parent or parents or any
6 siblings, or an Indian tribe, after being adopted. Postadoption
7 contact agreements are intended to ensure children of an achievable
8 level of continuing contact when contact is beneficial to the
9 children and the agreements are voluntarily executed by birth
10 relatives, including the birth parent or parents or any siblings, or
11 an Indian tribe, and adoptive parents. Nothing in this section
12 requires all of the listed parties to participate in the development
13 of a postadoption contact agreement in order for the agreement to
14 be executed.

15 (b) (1) Nothing in the adoption laws of this state shall be
16 construed to prevent the adopting parent or parents, the birth
17 relatives, including the birth parent or parents or any siblings, or
18 an Indian tribe, and the child from voluntarily executing a written
19 agreement to permit continuing contact between the birth relatives,
20 including the birth parent or parents or any siblings, or an Indian
21 tribe, and the child if the agreement is found by the court to have
22 been executed voluntarily and to be in the best interests of the child
23 at the time the adoption petition is granted.

24 (2) The terms of any postadoption contact agreement executed
25 under this section shall be limited to, but need not include, all of
26 the following:

27 (A) Provisions for visitation between the child and a birth parent
28 or parents and other birth relatives, including siblings, and the
29 child's Indian tribe if the case is governed by the *California Indian*
30 *Child Welfare Act or the Indian Child Welfare Act* (25 U.S.C. Sec.
31 1901 et seq.).

32 (B) Provisions for future contact between a birth parent or
33 parents or other birth relatives, including siblings, or both, and the
34 child or an adoptive parent, or both, and in cases governed by the
35 *California Indian Child Welfare Act or the Indian Child Welfare*
36 *Act*, the child's Indian tribe.

37 (C) Provisions for the sharing of information about the child in
38 the future.

39 (3) The terms of any postadoption contact agreement with birth
40 relatives, including siblings, other than the child's birth parent or

1 parents shall be limited to the sharing of information about the
2 child, unless the child has a preexisting relationship with the birth
3 relative.

4 (c) At the time an adoption decree is entered pursuant to a
5 petition filed pursuant to Section 8714, 8714.5, 8802, 8912, or
6 9000, the court entering the decree may grant postadoption
7 privileges if an agreement for those privileges has been executed,
8 including agreements executed pursuant to subdivision (f) of
9 Section 8620. The hearing to grant the adoption petition and issue
10 an order of adoption may be continued as necessary to permit
11 parties who are in the process of negotiating a postadoption
12 agreement to reach a final agreement.

13 (d) The child who is the subject of the adoption petition shall
14 be considered a party to the postadoption contact agreement. The
15 written consent to the terms and conditions of the postadoption
16 contact agreement and any subsequent modifications of the
17 agreement by a child who is 12 years of age or older is a necessary
18 condition to the granting of privileges regarding visitation, contact,
19 or sharing of information about the child, unless the court finds
20 by a preponderance of the evidence that the agreement, as written,
21 is in the best interests of the child. Any child who has been found
22 to come within Section 300 of the Welfare and Institutions Code
23 or who is the subject of a petition for jurisdiction of the juvenile
24 court under Section 300 of the Welfare and Institutions Code shall
25 be represented by an attorney for purposes of consent to the
26 postadoption contact agreement.

27 (e) A postadoption contact agreement shall contain the following
28 warnings in bold type:

29 (1) After the adoption petition has been granted by the court,
30 the adoption cannot be set aside due to the failure of an adopting
31 parent, a birth parent, a birth relative, including a sibling, an Indian
32 tribe, or the child to follow the terms of this agreement or a later
33 change to this agreement.

34 (2) A disagreement between the parties or litigation brought to
35 enforce or modify the agreement shall not affect the validity of
36 the adoption and shall not serve as a basis for orders affecting the
37 custody of the child.

38 (3) A court will not act on a petition to change or enforce this
39 agreement unless the petitioner has participated, or attempted to

1 participate, in good faith in mediation or other appropriate dispute
2 resolution proceedings to resolve the dispute.

3 (f) Upon the granting of the adoption petition and the issuing
4 of the order of adoption of a child who is a dependent of the
5 juvenile court, juvenile court dependency jurisdiction shall be
6 terminated. Enforcement of the postadoption contact agreement
7 shall be under the continuing jurisdiction of the court granting the
8 petition of adoption. The court may not order compliance with the
9 agreement absent a finding that the party seeking the enforcement
10 participated, or attempted to participate, in good faith in mediation
11 or other appropriate dispute resolution proceedings regarding the
12 conflict, prior to the filing of the enforcement action, and that the
13 enforcement is in the best interests of the child. Documentary
14 evidence or offers of proof may serve as the basis for the court's
15 decision regarding enforcement. No testimony or evidentiary
16 hearing shall be required. The court shall not order further
17 investigation or evaluation by any public or private agency or
18 individual absent a finding by clear and convincing evidence that
19 the best interests of the child may be protected or advanced only
20 by that inquiry and that the inquiry will not disturb the stability of
21 the child's home to the detriment of the child.

22 (g) The court may not award monetary damages as a result of
23 the filing of the civil action pursuant to subdivision (e).

24 (h) A postadoption contact agreement may be modified or
25 terminated only if either of the following occurs:

26 (1) All parties, including the child if the child is 12 years of age
27 or older at the time of the requested termination or modification,
28 have signed a modified postadoption contact agreement and the
29 agreement is filed with the court that granted the petition of
30 adoption.

31 (2) The court finds all of the following:

32 (A) The termination or modification is necessary to serve the
33 best interests of the child.

34 (B) There has been a substantial change of circumstances since
35 the original agreement was executed and approved by the court.

36 (C) The party seeking the termination or modification has
37 participated, or attempted to participate, in good faith in mediation
38 or other appropriate dispute resolution proceedings prior to seeking
39 court approval of the proposed termination or modification.

1 Documentary evidence or offers of proof may serve as the basis
2 for the court's decision. No testimony or evidentiary hearing shall
3 be required. The court shall not order further investigation or
4 evaluation by any public or private agency or individual absent a
5 finding by clear and convincing evidence that the best interests of
6 the child may be protected or advanced only by that inquiry and
7 that the inquiry will not disturb the stability of the child's home
8 to the detriment of the child.

9 (i) All costs and fees of mediation or other appropriate dispute
10 resolution proceedings shall be borne by each party, excluding the
11 child. All costs and fees of litigation shall be borne by the party
12 filing the action to modify or enforce the agreement when no party
13 has been found by the court as failing to comply with an existing
14 postadoption contact agreement. Otherwise, a party, other than the
15 child, found by the court as failing to comply without good cause
16 with an existing agreement shall bear all the costs and fees of
17 litigation.

18 (j) The Judicial Council shall adopt rules of court and forms for
19 motions to enforce, terminate, or modify postadoption contact
20 agreements.

21 (k) The court shall not set aside a decree of adoption, rescind a
22 relinquishment, or modify an order to terminate parental rights or
23 any other prior court order because of the failure of a birth parent,
24 adoptive parent, birth relative, including a sibling, an Indian tribe,
25 or the child to comply with any or all of the original terms of, or
26 subsequent modifications to, the postadoption contact agreement,
27 except as follows:

28 (1) Prior to issuing the order of adoption, in an adoption
29 involving an Indian child, the court may, upon a petition of the
30 birth parent, birth relative, including a sibling, or an Indian tribe,
31 order the parties to engage in family mediation services for the
32 purpose of reaching a postadoption contact agreement if the
33 prospective adoptive parent fails to negotiate in good faith to
34 execute a postadoption contact agreement, after having agreed to
35 enter into negotiations, provided that the failure of the parties to
36 reach an agreement is not in and of itself proof of bad faith.

37 (2) Prior to issuing the order of adoption, if the parties fail to
38 negotiate in good faith to execute a postadoption contact agreement
39 during the negotiations entered into pursuant to, and in accordance
40 with, paragraph (1), the court may modify prior orders or issue

new orders as necessary to ensure the best interest of the Indian child is met, including, but not limited to, requiring parties to engage in further family mediation services for the purpose of reaching a postadoption contact agreement, initiating guardianship proceeding in lieu of adoption, or authorizing a change of adoptive placement for the child.

(l) As used in this section, “sibling” means a person related to the identified child by blood, adoption, or affinity through a common legal or biological parent.

SEC. 11. Section 8619.5 of the Family Code is amended to read:

8619.5. Whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent voluntary consents to termination of parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant that petition unless there is a showing, in a proceeding subject to the provisions of *the California Indian Child Welfare Act* or Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), that the return of custody is not in the best interest of the child.

SEC. 12. Section 8620 of the Family Code is amended to read:

8620. (a) (1) If a parent is seeking to relinquish a child pursuant to Section 8700 or execute an adoption placement agreement pursuant to Section 8801.3, the department, county adoption agency, licensed adoption agency, or adoption service provider, as applicable, shall ask the child and the child’s parent or custodian whether the child is, or may be, a member of, or eligible for membership in an Indian tribe or whether the child has been identified as a member of an Indian organization. The department, county adoption agency, licensed adoption agency, or adoption service provider, as applicable, shall complete the forms provided for this purpose by the department and shall make this completed form a part of the file.

(2) If there is any oral or written information that indicates that the child is, or may be, an Indian child, the department, county adoption agency, licensed adoption agency, or adoption service provider, as applicable, shall obtain the following information:

(A) The name of the child involved, and the actual date and place of birth of the child.

1 (B) The name, address, date of birth, and tribal affiliation of the
2 birth parents, maternal and paternal grandparents, and maternal
3 and paternal great-grandparents of the child.

4 (C) The name and address of extended family members of the
5 child who have a tribal affiliation.

6 (D) The name and address of the Indian tribes or Indian
7 organizations of which the child is, or may be, a member.

8 (E) A statement of the reasons why the child is, or may be, an
9 Indian.

10 (3) (A) The department, county adoption agency, licensed
11 adoption agency, attorney for the prospective adoptive parents, or
12 adoption service provider shall send a notice, which shall include
13 information obtained pursuant to paragraph (2) and a request for
14 confirmation of the child's Indian status, to any parent and any
15 custodian of the child, and to any Indian tribe of which the child
16 is, or may be, a member or eligible for membership. If any of the
17 information required under paragraph (2) cannot be obtained, the
18 notice shall indicate that fact.

19 (B) The notice sent pursuant to subparagraph (A) shall describe
20 the nature of the proceeding and advise the recipient of the Indian
21 tribe's right to intervene in the proceeding on its own behalf or on
22 behalf of a tribal member relative of the child.

23 (b) The department shall adopt regulations to ensure that if a
24 child who is being voluntarily relinquished for adoption, pursuant
25 to Section 8700, is an Indian child, the parent of the child shall be
26 advised of the right to withdraw consent and thereby rescind the
27 relinquishment of an Indian child for any reason at any time prior
28 to entry of a final decree of termination of parental rights or
29 adoption, pursuant to Section 1913 of Title 25 of the United States
30 Code.

31 (c) If a child who is the subject of an adoption proceeding after
32 being relinquished for adoption pursuant to Section 8700, is an
33 Indian child, the child's Indian tribe may intervene in that
34 proceeding on behalf of a tribal member relative of the child.

35 (d) Any notice sent under this section shall comply with Section
36 180.

37 (e) If all prior notices required by this section have been
38 provided to an Indian tribe, the Indian tribe receiving those prior
39 notices is encouraged to provide notice to the department and to
40 the licensed adoption agency, county adoption agency, or adoption

1 service provider, not later than five calendar days prior to the date
2 of the hearing to determine whether or not the final adoption order
3 is to be granted, indicating whether or not it intends to intervene
4 in the proceeding required by this section, either on its own behalf
5 or on behalf of a tribal member who is a relative of the child.

6 (f) The Legislature finds and declares that some adoptive
7 children may benefit from either direct or indirect contact with an
8 Indian tribe. The adoption laws of this state shall not be construed
9 to prevent the adopting parent or parents, the birth relatives,
10 including the birth parent or parents, an Indian tribe, and the child,
11 from voluntarily entering into a written agreement to permit
12 continuing contact between the Indian tribe and the child, if the
13 agreement is found by the court to have been entered into
14 voluntarily and to be in the best interest of the child at the time the
15 adoption petition is granted.

16 (g) With respect to giving notice to Indian tribes in the case of
17 voluntary placements of Indian children pursuant to this section,
18 a person, other than a birth parent of the child, shall be subject to
19 a civil penalty if that person knowingly and willfully:

20 (1) Falsifies, conceals, or covers up by trick, scheme, or device,
21 a material fact concerning whether the child is an Indian child or
22 the parent is an Indian.

23 (2) Makes a false, fictitious, or fraudulent statement, omission,
24 or representation.

25 (3) Falsifies a written document knowing that the document
26 contains a false, fictitious, or fraudulent statement or entry relating
27 to a material fact.

28 (4) Assists a person in physically removing a child from the
29 State of California in order to obstruct the application of
30 notification.

31 (h) Civil penalties for a violation of subdivision (g) by a person
32 other than a birth parent of the child are as follows:

33 (1) For the initial violation, a person shall be fined not more
34 than ten thousand dollars (\$10,000).

35 (2) For any subsequent violation, a person shall be fined not
36 more than twenty thousand dollars (\$20,000).

37 *SEC. 13. Section 8707.1 of the Family Code is amended to*
38 *read:*

39 8707.1. (a) The agency responsible for recruitment of potential
40 adoptive parents shall make diligent efforts to recruit individuals

1 who reflect the ethnic, racial, and cultural diversity of children for
2 whom adoptive homes are needed.

3 (b) This section shall not be construed to affect the application
4 of the *California Indian Child Welfare Act or the* federal Indian
5 Child Welfare Act.

6 *SEC. 14. Section 8708 of the Family Code is amended to read:*

7 8708. (a) The adoption agency to which a child has been freed
8 for adoption by either relinquishment or termination of parental
9 rights shall not do any of the following:

10 (1) Deny to any person the opportunity to become an adoptive
11 parent on the basis of the race, color, or national origin of the
12 person or the child involved.

13 (2) Delay or deny the placement of a child for adoption on the
14 basis of the race, color, or national origin of the adoptive parent
15 or the child involved.

16 (3) Delay or deny the placement of a child for adoption solely
17 because the prospective, approved adoptive family resides outside
18 the jurisdiction of the department, county adoption agency, or
19 licensed adoption agency. For purposes of this paragraph, an
20 approved adoptive family means a family approved pursuant to
21 the California adoptive applicant assessment standards or approved
22 as a resource family pursuant to Section 1517 of the Health and
23 Safety Code or Section 16519.5 of the Welfare and Institutions
24 Code. If the adoptive applicant assessment was conducted in
25 another state according to that state's standards, the California
26 placing agency shall determine whether the standards of the other
27 state substantially meet the standards and criteria established in
28 California adoption regulations.

29 (b) This section shall not be construed to affect the application
30 of the *California Indian Child Welfare Act or the* federal Indian
31 Child Welfare Act (25 U.S.C. Sec. 1901 and following).

32 *SEC. 15. Section 8709 of the Family Code is amended to read:*

33 8709. (a) The department, county adoption agency, or licensed
34 adoption agency to which a child has been freed for adoption by
35 either relinquishment or termination of parental rights may consider
36 the child's religious background in determining an appropriate
37 placement.

38 (b) This section shall not be construed to affect the application
39 of the *California Indian Child Welfare Act or the* federal Indian
40 Child Welfare Act (25 U.S.C. Sec. 1901 and following).

1 *SEC. 16. Section 1505 of the Health and Safety Code is*
2 *amended to read:*

3 1505. This chapter does not apply to any of the following:

4 (a) A health facility, as defined by Section 1250.

5 (b) A clinic, as defined by Section 1200.

6 (c) A juvenile placement facility approved by the Department
7 of Corrections and Rehabilitation, Division of Juvenile Facilities,
8 or any juvenile hall operated by a county.

9 (d) A place in which a juvenile is judicially placed pursuant to
10 subdivision (a) of Section 727 of the Welfare and Institutions Code.

11 (e) A child day care facility, as defined in Section 1596.750.

12 (f) (1) A facility conducted by and for the adherents of any
13 well-recognized church or religious denomination for the purpose
14 of providing facilities for the care or treatment of the sick who
15 depend solely upon prayer or spiritual means for healing in the
16 practice of the religion of the church or denomination.

17 (2) A private alternative boarding school or private alternative
18 outdoor program, as defined in subdivision (a) of Section 1502,
19 that uses prayer or spiritual means as a component of its
20 programming or services in addition to behavioral-based services
21 is subject to licensure under this chapter.

22 (g) A school dormitory or similar facility determined by the
23 department, except a private alternative boarding school or private
24 alternative outdoor program, as defined in subdivision (a) of
25 Section 1502.

26 (h) A house, institution, hotel, homeless shelter, or other similar
27 place that supplies board and room only, or room only, or board
28 only, provided that no resident thereof requires any element of
29 care, as determined by the department.

30 (i) A recovery house or other similar facility that provides group
31 living arrangements for adults recovering from alcoholism or drug
32 addiction and that does not provide care or supervision.

33 (j) An alcoholism or drug abuse recovery or treatment facility
34 as defined in Section 11834.02.

35 (k) An arrangement for the receiving and care of persons by a
36 relative or an arrangement for the receiving and care of persons
37 from only one family by a close friend of the parent, guardian, or
38 conservator, if the arrangement is not for financial profit and occurs
39 only occasionally and irregularly, as defined by regulations of the
40 department. For purposes of this chapter, arrangements for the

1 receiving and care of persons by a relative include relatives of the
2 child for the purpose of keeping sibling groups together.

3 (l) (1) A home of a relative caregiver of children who are placed
4 by a juvenile court, supervised by the county welfare or probation
5 department, and the placement of whom is approved according to
6 subdivision (d) of Section 309 of the Welfare and Institutions
7 Code.

8 (2) A home of a nonrelative extended family member, as
9 described in Section 362.7 of the Welfare and Institutions Code,
10 providing care to children who are placed by a juvenile court,
11 supervised by the county welfare or probation department, and the
12 placement of whom is approved according to subdivision (d) of
13 Section 309 of the Welfare and Institutions Code.

14 (3) On and after January 1, 2012, any supervised independent
15 living placement for nonminor dependents, as defined in
16 subdivision (w) of Section 11400 of the Welfare and Institutions
17 Code, who are placed by the juvenile court, supervised by the
18 county welfare department, probation department, Indian tribe,
19 consortium of tribes, or tribal organization that entered into an
20 agreement pursuant to Section 10553.1 of the Welfare and
21 Institutions Code, and whose placement is approved pursuant to
22 subdivision (k) of Section 11400 of the Welfare and Institutions
23 Code.

24 (4) A transitional living setting, as described in paragraph (3)
25 of subdivision (x) of Section 11400 of the Welfare and Institutions
26 Code.

27 (5) A Transitional Housing Program-Plus, as defined in
28 subdivision (s) of Section 11400 of the Welfare and Institutions
29 Code, that serves only eligible former foster youth over 18 years
30 of age who have exited from the foster care system on or after their
31 18th birthday, and that has obtained certification from the
32 applicable county in accordance with subdivision (c) of Section
33 16522 of the Welfare and Institutions Code.

34 (m) A supported living arrangement for individuals with
35 developmental disabilities, as defined in Section 4689 of the
36 Welfare and Institutions Code.

37 (n) (1) A family home agency, family home, or family teaching
38 home, as defined in Section 4689.1 of the Welfare and Institutions
39 Code, that is vendored by the State Department of Developmental
40 Services and that does any of the following:

1 (A) As a family home approved by a family home agency,
2 provides 24-hour care for one or two adults with developmental
3 disabilities in the residence of the family home provider or
4 providers and the family home provider or providers' family, and
5 the provider is not licensed by the State Department of Social
6 Services or the State Department of Public Health or certified by
7 a licensee of the State Department of Social Services or the State
8 Department of Public Health.

9 (B) As a family teaching home approved by a family home
10 agency, provides 24-hour care for a maximum of three adults with
11 developmental disabilities in independent residences, whether
12 contiguous or attached, and the provider is not licensed by the
13 State Department of Social Services or the State Department of
14 Public Health or certified by a licensee of the State Department of
15 Social Services or the State Department of Public Health.

16 (C) As a family home agency, engages in recruiting, approving,
17 and providing support to family homes.

18 (2) This subdivision does not establish by implication either a
19 family home agency or family home licensing category.

20 (o) A facility in which only Indian children who are eligible
21 under the *California Indian Child Welfare Act* and the federal
22 Indian Child Welfare Act (Chapter 21 (commencing with Section
23 1901) of Title 25 of the United States Code) are placed and that
24 is one of the following:

25 (1) An extended family member of the Indian child, as defined
26 in *Section 224.1 of the Welfare and Institutions Code* and Section
27 1903 of Title 25 of the United States Code.

28 (2) A foster home that is licensed, approved, or specified by the
29 Indian child's tribe pursuant to *Section 224.1 of the Welfare and*
30 *Institutions Code* and Section 1915 of Title 25 of the United States
31 Code.

32 (p) (1) (A) Housing occupied by elderly or disabled persons,
33 or both, that is initially approved and operated under a regulatory
34 agreement pursuant to Section 202 of Public Law 86-372 (12
35 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42
36 U.S.C. Sec. 8013), or that receives mortgage assistance pursuant
37 to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or
38 whose mortgage is insured pursuant to Section 221d(3) of Public
39 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
40 made available to residents at their option, as long as the project

1 owner or operator does not contract for or provide the supportive
2 services.

3 (B) Housing that qualifies for a low-income housing credit
4 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
5 or that is subject to the requirements for rental dwellings for
6 low-income families pursuant to Section 8 of Public Law 93-383
7 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
8 persons, or both, where supportive services are made available to
9 residents at their option, as long as the project owner or operator
10 does not contract for or provide the supportive services.

11 (2) The project owner or operator to which paragraph (1) applies
12 may coordinate, or help residents gain access to, the supportive
13 services, either directly, or through a service coordinator.

14 (q) A resource family, as defined in Section 16519.5 of the
15 Welfare and Institutions Code, that has been approved by a county
16 child welfare department or probation department.

17 (r) A home approved by a licensed private adoption agency
18 pursuant to Section 8704.5 of the Family Code, for the placement
19 of a nondependent child who is relinquished for adoption to the
20 adoption agency.

21 (s) An occasional short-term babysitter, as described in Section
22 362.04 of the Welfare and Institutions Code.

23 (t) An alternative caregiver, except as specified in Section
24 16501.02 of the Welfare and Institutions Code.

25 (u) Except as specified in subdivision (b) of Section 16501.01
26 of the Welfare and Institutions Code, a respite care provider
27 certified by a county.

28 (v) An adoption service provider, as defined in Section 8502 of
29 the Family Code, except a licensed private adoption agency as
30 specified in paragraph (1) of subdivision (a) of that section.

31 (w) A county adoption agency as defined in Section 8513 of
32 the Family Code.

33 (x) Any similar facility determined by the department.

34 *SEC. 17. Section 1522.41 of the Health and Safety Code is*
35 *amended to read:*

36 1522.41. (a) (1) The department, in consultation and
37 collaboration with county placement officials, group home provider
38 organizations, the Director of Health Care Services, and the
39 Director of Developmental Services, shall develop and establish
40 an administrator certification training program to ensure that

1 administrators of group homes have appropriate training to provide
2 the care and services for which a license or certificate is issued.

3 (2) The department shall develop and establish an administrator
4 certification training program to ensure that administrators of
5 short-term residential therapeutic programs have appropriate
6 training to provide the care and services for which a license or
7 certificate is issued.

8 (b) (1) In addition to any other requirements or qualifications
9 required by the department, an administrator of a group home or
10 short-term residential therapeutic program shall successfully
11 complete a department-approved administrator certification training
12 program, pursuant to subdivision (c), prior to employment.

13 (2) If an individual is both the licensee and the administrator of
14 a licensed facility, the individual shall comply with all of the
15 licensee and administrator requirements of this section.

16 (3) Failure to comply with this section shall constitute cause for
17 revocation of the license of the facility.

18 (4) The licensee shall notify the department within 10 days of
19 any change in administrators.

20 (c) (1) An administrator certification training program for group
21 homes shall require a minimum of 40 hours of instruction
22 conducive to learning, in which participants are able to
23 simultaneously interact with each other as well as with the
24 instructor, and that provides training on a uniform core of
25 knowledge in each of the following areas:

26 (A) Laws, regulations, and policies and procedural standards
27 that impact the operations of a group home.

28 (B) Business operations.

29 (C) Management and supervision of staff.

30 (D) Psychosocial and educational needs of the children,
31 including, but not limited to, the information described in
32 subdivision (d) of Section 16501.4 of the Welfare and Institutions
33 Code.

34 (E) Community and support services.

35 (F) Physical needs of the children.

36 (G) Assistance with self-administration, storage, misuse, and
37 interaction of medication used by the children.

38 (H) Resident admission, retention, and assessment procedures,
39 including the right of a foster child to have fair and equal access
40 to all available services, placement, care, treatment, and benefits,

1 and to not be subjected to discrimination or harassment on the
2 basis of actual or perceived race, ethnic group identification,
3 ancestry, national origin, color, religion, sex, sexual orientation,
4 gender identity, mental or physical disability, or HIV status.

5 (I) Instruction on cultural competency and sensitivity and related
6 best practices for providing adequate care for children across
7 diverse ethnic and racial backgrounds, as well as children
8 identifying as lesbian, gay, bisexual, or transgender.

9 (J) Nonviolent emergency intervention and reporting
10 requirements.

11 (K) Basic instruction on existing laws and procedures regarding
12 the safety of foster youth at school and ensuring of a harassment-
13 and violence-free school environment.

14 (L) The information described in subdivision (i) of Section
15 16521.5 of the Welfare and Institutions Code. The program may
16 use the curriculum created pursuant to subdivision (h), and
17 described in subdivision (i), of Section 16521.5 of the Welfare and
18 Institutions Code.

19 (2) An administrator certification training program for short-term
20 residential therapeutic programs shall require a minimum of 40
21 hours of instruction conducive to learning, in which participants
22 are able to simultaneously interact with each other as well as with
23 the instructor, and that provides training on a uniform core of
24 knowledge in each of the following areas:

25 (A) Laws, regulations, and policies and procedural standards
26 that impact the operations of a short-term residential therapeutic
27 program.

28 (B) Business operations and management and supervision of
29 staff, including staff training.

30 (C) Physical and psychosocial needs of the children, including
31 behavior management, de-escalation techniques, and trauma
32 informed crisis management planning.

33 (D) Permanence, well-being, and educational needs of the
34 children.

35 (E) Community and support services, including accessing local
36 behavioral and mental health supports and interventions, substance
37 use disorder treatments, and culturally relevant services, as
38 appropriate.

39 (F) Understanding the requirements and best practices regarding
40 psychotropic medications, including, but not limited to, court

1 authorization, uses, benefits, side effects, interactions, assistance
2 with self-administration, misuse, documentation, storage, and
3 metabolic monitoring of children prescribed psychotropic
4 medications.

5 (G) Admission, retention, and assessment procedures, including
6 the right of a foster child to have fair and equal access to all
7 available services, placement, care, treatment, and benefits, and
8 to not be subjected to discrimination or harassment on the basis
9 of actual or perceived race, ethnic group identification, ancestry,
10 national origin, color, religion, sex, sexual orientation, gender
11 identity, mental or physical disability, or HIV status.

12 (H) The federal Indian Child Welfare Act (25 U.S.C. Sec. 1901
13 et seq.), its historical significance, the rights of children covered
14 by the ~~act~~, *act and the California Indian Child Welfare Act*, and
15 the best interests of Indian children as including culturally
16 appropriate, child-centered practices that respect Native American
17 history, culture, retention of tribal membership, and connection to
18 the tribal community and traditions.

19 (I) Instruction on cultural competency and sensitivity and related
20 best practices for providing adequate care for children across
21 diverse ethnic and racial backgrounds, as well as children
22 identifying as lesbian, gay, bisexual, or transgender.

23 (J) Nonviolent emergency intervention and reporting
24 requirements.

25 (K) Basic instruction on existing laws and procedures regarding
26 the safety of foster youth at school and ensuring of a harassment-
27 and violence-free school environment.

28 (L) The information described in subdivision (i) of Section
29 16521.5 of the Welfare and Institutions Code. The program may
30 use the curriculum created pursuant to subdivision (h), and
31 described in subdivision (i), of Section 16521.5 of the Welfare and
32 Institutions Code.

33 (d) A group home administrator who possesses a group home
34 license, issued by the department, is exempt from completing an
35 approved administrator certification training program and taking
36 an examination, provided the individual completes 12 hours of
37 instruction conducive to learning, in which participants are able
38 to simultaneously interact with each other as well as with the
39 instructor, in the following uniform core of knowledge areas:

1 (1) Laws, regulations, and policies and procedural standards
2 that impact the operations of a short-term residential therapeutic
3 program.

4 (2) (A) Authorization, uses, benefits, side effects, interactions,
5 assistance with self-administration, misuse, documentation, and
6 storage of medications.

7 (B) Metabolic monitoring of children prescribed psychotropic
8 medications.

9 (3) Admission, retention, and assessment procedures, including
10 the right of a foster child to have fair and equal access to all
11 available services, placement, care, treatment, and benefits, and
12 to not be subjected to discrimination or harassment on the basis
13 of actual or perceived race, ethnic group identification, ancestry,
14 national origin, color, religion, sex, sexual orientation, gender
15 identity, mental or physical disability, or HIV status.

16 (4) The federal Indian Child Welfare Act (25 U.S.C. Sec. 1901
17 et seq.), its historical significance, the rights of children covered
18 by the ~~act~~, *act and the California Indian Child Welfare Act*, and
19 the best interests of Indian children as including culturally
20 appropriate, child-centered practices that respect Native American
21 history, culture, retention of tribal membership, and connection to
22 the tribal community and traditions.

23 (5) Instruction on cultural competency and sensitivity and related
24 best practices for providing adequate care for children across
25 diverse ethnic and racial backgrounds, as well as children
26 identifying as lesbian, gay, bisexual, or transgender.

27 (6) Physical and psychosocial needs of children, including
28 behavior management, deescalation techniques, and trauma
29 informed crisis management planning.

30 (e) Individuals applying for administrator certification under
31 this section shall successfully complete an approved administrator
32 certification training program, pass an examination administered
33 by the department within 60 days of completing the program,
34 submit to the department an administrator certification application,
35 and submit to the department the documentation required by
36 subdivision (f) within 30 days after being notified of having passed
37 the examination. The department may extend these time deadlines
38 for good cause. The department shall notify the applicant of their
39 examination results within 30 days of administering the
40 examination.

1 (f) The department shall not begin the process of issuing an
2 administrator certificate until receipt of all of the following:

3 (1) An administrator certification application.

4 (2) A certificate of completion of the administrator certification
5 training program required pursuant to this section.

6 (3) The fee for processing an administrator certification
7 application, including the issuance of the administrator certificate,
8 as specified in subparagraph (A) of paragraph (1) of subdivision
9 (I).

10 (4) Documentation that the applicant has passed the examination.

11 (5) Submission of fingerprints pursuant to Section 1522. The
12 department may waive the submission for those persons who have
13 a current criminal record clearance or exemption on file.

14 (6) Proof that the person is at least 21 years of age.

15 (g) It is unlawful for a person not certified under this section to
16 hold themselves out as a certified administrator of a group home
17 or short-term residential therapeutic program. A person willfully
18 making a false representation as being a certified administrator or
19 facility manager is guilty of a misdemeanor.

20 (h) (1) Administrator certificates issued under this section shall
21 be renewed every two years and renewal shall be conditional upon
22 the certificate holder submitting documentation of completion of
23 40 hours of continuing education related to the uniform core of
24 knowledge specified in subdivision (c). No more than one-half of
25 the required 40 hours of continuing education necessary to renew
26 the certificate may be satisfied through self-paced courses. All
27 other continuing education hours shall be completed in an
28 instructional setting conducive to learning, in which participants
29 are able to simultaneously interact with each other as well as with
30 the instructor. For purposes of this section, an individual who is a
31 group home or short-term residential therapeutic program
32 administrator and who is required to complete the continuing
33 education hours required by the regulations of the State Department
34 of Developmental Services, and approved by the regional center,
35 may have up to 24 of the required continuing education course
36 hours credited toward the 40-hour continuing education
37 requirement of this section. The department shall accept for
38 certification, community college course hours approved by the
39 regional centers.

1 (2) Every administrator of a group home or short-term residential
2 therapeutic program shall complete the continuing education
3 requirements described in this subdivision.

4 (3) An administrator certificate issued under this section shall
5 expire every two years on the anniversary date of the initial
6 issuance of the certificate, except that an administrator receiving
7 an initial certification on or after July 1, 1999, shall make an
8 irrevocable election to have their recertification date for a
9 subsequent recertification either on the date two years from the
10 date of issuance of the certificate or on the individual's birthday
11 during the second calendar year following certification. The
12 department shall send a renewal notice to the certificate holder 90
13 days prior to the expiration date of the certificate. If the certificate
14 is not renewed prior to its expiration date, reinstatement shall be
15 permitted only after the certificate holder has paid a delinquency
16 fee, as specified in subparagraph (C) of paragraph (1) of
17 subdivision (I), has submitted to the department an administrator
18 certification renewal application, and has provided evidence of
19 completion of the continuing education required.

20 (4) To renew an administrator certificate, the certificate holder
21 shall, on or before the certificate expiration date, submit to the
22 department an administrator certification renewal application and
23 documentation of completion of the required continuing education
24 courses and pay the renewal fee, as specified in subparagraph (A)
25 of paragraph (1) of subdivision (I), irrespective of receipt of the
26 department's notification of the renewal. A renewal request
27 postmarked on or before the expiration of the certificate shall be
28 proof of compliance with this paragraph.

29 (5) A suspended or revoked administrator certificate shall be
30 subject to expiration as provided for in this section. If reinstatement
31 of the certificate is approved by the department, the certificate
32 holder, as a condition precedent to reinstatement, shall submit
33 proof of compliance with paragraphs (1) and (2) of this subdivision,
34 and shall pay a fee in an amount equal to the renewal fee, plus the
35 delinquency fee, if any, as specified in subparagraphs (A) and (C)
36 of paragraph (1) of subdivision (I), accrued at the time of its
37 revocation or suspension. Delinquency fees, if any, accrued
38 subsequent to the time of its revocation or suspension and prior to
39 an order for reinstatement, shall be waived for a period of 12
40 months to allow the individual sufficient time to complete the

1 required continuing education units and to submit the required
2 documentation. Individuals whose certificates will expire within
3 90 days after the order for reinstatement may be granted a
4 three-month extension to renew their certificates during which
5 time the delinquency fees shall not accrue.

6 (6) An administrator certificate that is not renewed within four
7 years after its expiration shall not be renewed, restored, reissued,
8 or reinstated except upon completion of an administrator
9 certification training program, passing any examination that may
10 be required of an applicant for a new certificate at that time, and
11 paying the fee specified in subparagraph (A) of paragraph (1) of
12 subdivision (I).

13 (7) The department shall charge a fee for the reissuance of a
14 lost administrator certificate, as specified in subparagraph (B) of
15 paragraph (1) of subdivision (I).

16 (8) A certificate holder shall inform the department of their
17 employment status and change of mailing address within 30 days
18 of any change.

19 (i) Unless otherwise ordered by the department, an administrator
20 certificate shall be considered forfeited under either of the
21 following conditions:

22 (1) The administrator has had a license revoked, suspended, or
23 denied as authorized under Section 1550.

24 (2) The department has issued an exclusion order against the
25 administrator pursuant to Section 1558, 1568.092, 1569.58, or
26 1596.8897, after the department issued the certificate, and the
27 administrator did not appeal the exclusion order or, after the appeal,
28 the department issued a decision and order that upheld the
29 exclusion order.

30 (j) (1) The department, in consultation and collaboration with
31 county placement officials, provider organizations, the State
32 Department of Health Care Services, and the State Department of
33 Developmental Services, shall establish, by regulation, the program
34 content, the testing instrument, the process for approving
35 administrator certification training programs, and criteria to be
36 used in authorizing individuals, organizations, or educational
37 institutions as vendors to conduct administrator certification
38 training programs and continuing education courses. The
39 department may also grant continuing education hours for courses
40 offered by accredited educational institutions that are consistent

1 with the requirements in this section. The department may deny
2 vendor approval to any agency or person in any of the following
3 circumstances:

4 (A) The applicant has not provided the department with evidence
5 satisfactory to the department of the ability of the applicant to
6 satisfy the requirements of vendorization set out in the regulations
7 adopted by the department.

8 (B) The applicant person or agency has a conflict of interest in
9 that the person or agency places its clients in group homes or
10 short-term residential therapeutic programs.

11 (C) The applicant public or private agency has a conflict of
12 interest in that the agency is mandated to place clients in group
13 homes or short-term residential therapeutic programs and to pay
14 directly for the services. The department may deny vendorization
15 to this type of agency only as long as there are other vendor
16 programs available to conduct the administrator certification
17 training programs and continuing education courses.

18 (2) The department may authorize vendors to conduct
19 administrator certification training programs and continuing
20 education courses pursuant to this section. The department shall
21 conduct the examination pursuant to regulations adopted by the
22 department.

23 (3) The department shall prepare and maintain an updated list
24 of approved training vendors.

25 (4) The department may inspect administrator certification
26 training programs and continuing education courses, including
27 online courses, at no charge to the department, to determine if
28 content and teaching methods comply with this section and
29 applicable regulations. If the department determines that any
30 vendor is not complying with the requirements of this section, the
31 department shall take appropriate action to bring the program into
32 compliance, which may include removing the vendor from the
33 approved training vendors list.

34 (5) The department shall establish reasonable procedures and
35 timeframes, not to exceed 30 days, for the approval of vendor
36 training programs.

37 (6) The department shall charge a fee for an administrator
38 certification training program vendor application or renewal, as
39 specified in subparagraph (A) of paragraph (3) of subdivision (I).

1 (7) (A) A vendor of a self-paced online course shall ensure that
2 each course contains all of the following:

3 (i) An interactive portion in which the participant receives
4 feedback, through online communication, based on input from the
5 participant.

6 (ii) Required use of a personal identification number or personal
7 identification information to confirm the identity of the participant.

8 (iii) A final screen displaying a printable statement, to be signed
9 by the participant, certifying that the identified participant
10 completed the course. The vendor shall obtain a copy of the final
11 screen statement with the original signature of the participant prior
12 to the issuance of a certificate of completion. The signed statement
13 of completion shall be maintained by the vendor for a period of
14 three years and be available to the department upon demand. A
15 person who certifies as true any material matter pursuant to this
16 clause that the person knows to be false is guilty of a misdemeanor.

17 (B) This subdivision does not prohibit the department from
18 approving online programs that do not meet the requirements of
19 subparagraph (A) if the vendor demonstrates to the department's
20 satisfaction that, through advanced technology, the course and the
21 course delivery meet the requirements of this section.

22 (8) The department shall charge a fee for processing a continuing
23 education training program vendor application or renewal, as
24 specified in subparagraph (B) of paragraph (3) of subdivision (I).

25 (9) The department shall charge a fee for processing a continuing
26 education course, as specified in paragraph (4) of subdivision (I).

27 (k) The department shall establish a registry for certificate
28 holders that shall include, at a minimum, information on
29 employment status and criminal record clearance.

30 (l) The department shall charge nonrefundable fees, as follows:

31 (1) Commencing July 1, 2021, the fee amount in subparagraph
32 (A) shall be incrementally increased by 10 percent each year, not
33 to exceed 40 percent, over a four-year period. The current fee
34 specified in subparagraph (A) shall be the base for each yearly
35 increase, which shall be effective July 1 of each year.

36 (A) The fee for processing an administrator certification
37 application or renewal, including the issuance of the administrator
38 certificate, is one hundred dollars (\$100).

39 (B) The fee for the reissuance of a lost administrator certificate
40 is twenty-five dollars (\$25).

(C) The delinquency fee for processing a late administrator certification renewal application is three hundred dollars (\$300), which shall be charged in addition to the fee specified in subparagraph (A).

(2) Commencing July 1, 2021, the fee for the administrator certification examination is one hundred dollars (\$100), for up to three attempts.

(3) Commencing July 1, 2021, fee amounts in subparagraphs (A) and (B) shall be incrementally increased by 10 percent each year, not to exceed 40 percent, over a four-year period. The current fee specified in subparagraphs (A) and (B) shall be the base for each yearly increase and each increase shall be effective July 1 of each year.

(A) The fee for processing an administrator certification training program vendor application or renewal is one hundred fifty dollars (\$150) for each licensed facility type.

(B) The fee for processing a continuing education training program vendor application or renewal is one hundred dollars (\$100) for each licensed facility type.

(4) Commencing July 1, 2021, the fee for processing a continuing education course is ten dollars (\$10) per continuing education unit for each licensed facility type.

(5) Notwithstanding paragraphs (1) to (4), inclusive, a fee charged pursuant to this subdivision shall not exceed the reasonable costs to the department of conducting the certification training program.

(m) Notwithstanding any law to the contrary, a vendor approved by the department who exclusively provides continuing education courses for administrators of a group home or short-term residential therapeutic program, as defined in Section 1502, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

SEC. 18. Section 1562.01 of the Health and Safety Code is amended to read:

1562.01. (a) The department shall license short-term residential therapeutic programs, as defined in paragraph (18) of subdivision (a) of Section 1502, pursuant to this chapter. A short-term residential therapeutic program shall comply with all requirements

1 of this chapter that are applicable to group homes and to the
2 requirements of this section.

3 (b) (1) A short-term residential therapeutic program shall have
4 national accreditation from an entity identified by the department
5 pursuant to the process described in paragraph (6) of subdivision
6 (b) of Section 11462 of the Welfare and Institutions Code.

7 (2) A short-term residential therapeutic program applicant shall
8 submit documentation of accreditation or application for
9 accreditation with its application for licensure.

10 (3) A short-term residential therapeutic program shall have up
11 to 24 months from the date of licensure to obtain accreditation.

12 (4) A short-term residential therapeutic program shall provide
13 documentation to the department reporting its accreditation status
14 at 12 months and at 18 months after the date of licensure.

15 (5) This subdivision does not preclude the department from
16 requesting additional information from the short-term residential
17 therapeutic program regarding its accreditation status.

18 (6) The department may revoke a short-term residential
19 therapeutic program's license pursuant to Article 5 (commencing
20 with Section 1550) for failure to obtain accreditation within the
21 timeframes specified in this subdivision.

22 (c) (1) A short-term residential therapeutic program shall have
23 up to 12 months from the date of licensure to obtain in good
24 standing a mental health program approval and Medi-Cal mental
25 health certification, as set forth in Sections 4096.5 and 11462.01
26 of the Welfare and Institutions Code.

27 (2) A short-term residential therapeutic program shall maintain
28 the program approval described in paragraph (1) in good standing
29 during its licensure.

30 (3) The department shall track the number of licensed short-term
31 residential therapeutic programs that were unable to obtain a mental
32 health program approval and provide that information to the
33 Legislature annually as part of the state budget process.

34 (d) (1) A short-term residential therapeutic program shall
35 prepare and maintain a current, written plan of operation as required
36 by the department.

37 (2) The plan of operation shall include, but not be limited to,
38 all of the following:

39 (A) A statement of purposes and goals.

1 (B) A plan for the supervision, evaluation, and training of staff,
2 designed to ensure the provision of trauma-informed services. The
3 plan shall be appropriate to meet the needs of staff and children.

4 (C) A program statement that includes all of the following:

5 (i) On and after October 1, 2021, a description of how the
6 short-term residential therapeutic program will meet standards, to
7 be established by the department in collaboration with the State
8 Department of Health Care Services, for both of the following:

9 (I) A comprehensive trauma-informed treatment model designed
10 to address the individualized needs of children.

11 (II) A plan for how the short-term residential therapeutic
12 program will make licensed nursing staff available, as set forth in
13 subdivision (n).

14 (ii) Description of the short-term residential therapeutic
15 program's ability to support the individual needs of children and
16 their families with short-term, specialized, trauma-informed, and
17 intensive treatment, including, but not limited to, treatment that
18 implements child-specific short- and long-term needs and goals
19 identified by the qualified individual's assessment of the child
20 pursuant to subdivision (g) of Section 4096 of the Welfare and
21 Institutions Code.

22 (iii) Description of the core services, as set forth in paragraph
23 (1) of subdivision (b) of Section 11462 of the Welfare and
24 Institutions Code, to be offered to children and their families, as
25 appropriate or necessary.

26 (iv) Procedures for the development, implementation, and
27 periodic updating of the needs and services plan for children served
28 by the short-term residential therapeutic program and procedures
29 for collaborating with the child and family team described in
30 paragraph (4) of subdivision (a) of Section 16501 of the Welfare
31 and Institutions Code, that include, but are not limited to, a
32 description of the services to be provided or arranged to meet the
33 short- and long-term needs and goals of the child as assessed by
34 the qualified individual, pursuant to Sections 4096 and 11462.01
35 of the Welfare and Institutions Code, processes to ensure treatment
36 is consistent with the short- and long-term needs and goals for the
37 child, including, as specified in the child's permanency plan, the
38 anticipated duration of the treatment, and processes to ensure that
39 consistent progress is made toward the timeframe and plan for
40 transitioning the child to a less restrictive family environment.

1 (v) A description of the population or populations to be served.

2 (vi) A description of compliance with the requirements in
3 subdivision (c). A short-term residential therapeutic program that
4 has not satisfied the requirements in subdivision (c) shall
5 demonstrate the ability to meet the mental health service needs of
6 children.

7 (vii) (I) A description of how the short-term residential
8 therapeutic program, in accordance with the child's case plan and
9 the child and family team recommendations, will provide for,
10 arrange for the provision of, or assist in, all of the following:

11 (ia) Identification of home-based family care settings for a child
12 who does not have a home-based caregiver identified for transition
13 and pursuant to clause (viii).

14 (ib) Development of an individualized family-based aftercare
15 support plan that identifies necessary supports, services, and
16 treatment to be provided for at least six months postdischarge as
17 a child moves from their short-term residential therapeutic program
18 placement to home-based family care setting or to a permanent
19 living situation through reunification, adoption, or guardianship,
20 or to a transitional housing program. This plan shall be developed,
21 pursuant to Section 4096.6 of the Welfare and Institutions Code,
22 in collaboration with the county placing agency, the child and
23 family team, and other necessary agencies or individuals for at
24 least six months postdischarge. Federal financial participation
25 under the Medi-Cal program shall only be available if all state and
26 federal requirements are met and the treatment is medically
27 necessary, regardless of the six months postdischarge requirement.

28 (ic) Documentation of the process by which the short- and
29 long-term, child-specific mental health goals identified by a
30 qualified individual, as defined in Section 16501 of the Welfare
31 and Institutions Code, pursuant to subdivision (g) of Section 4096
32 of the Welfare and institutions Code, will be implemented by the
33 short-term residential therapeutic program.

34 (II) This clause shall not be interpreted to supersede the
35 placement and care responsibility vested in the county child welfare
36 agency or probation department.

37 (viii) (I) On and after October 1, 2021, a description of how
38 the short-term residential therapeutic program will, to the extent
39 clinically appropriate, consistent with any applicable court orders,

- 1 and in accordance with the child's best interest, do all of the
2 following:
- 3 (ia) Facilitate participation of family members in the child's
4 treatment program.
- 5 (ib) Facilitate outreach to the family members of the child,
6 including siblings, document how the outreach is made, including
7 contact information, and maintain contact information for any
8 known biological family and nonrelative extended family members
9 of the child.
- 10 (ic) Document how family members will be integrated into the
11 treatment process for the child, including postdischarge, and how
12 sibling connections are maintained.
- 13 (II) This clause shall not be interpreted to supersede the
14 placement and care responsibility vested in the county child welfare
15 agency or probation department.
- 16 (ix) Any other information that may be prescribed by the
17 department for the proper administration of this section.
- 18 (e) In addition to the rules and regulations adopted pursuant to
19 this chapter, a county licensed to operate a short-term residential
20 therapeutic program shall describe, in the plan of operation, its
21 conflict of interest mitigation plan, as set forth in subdivision (g)
22 of Section 11462.02 of the Welfare and Institutions Code.
- 23 (f) (1) (A) (i) A short-term residential therapeutic program
24 applicant shall submit an application to the department that includes
25 a letter of recommendation in support of its program from a county
26 placing agency.
- 27 (ii) The letter of recommendation shall include a statement that
28 the county placing agency reviewed a copy of the applicant's
29 program statement.
- 30 (iii) If the letter of recommendation is not from the county in
31 which the facility is located, the short-term residential therapeutic
32 program applicant shall include, with its application, a statement
33 that it provided the county in which the facility is located an
34 opportunity for that county to review the program statement and
35 notified that county that the facility has received a letter of
36 recommendation from another county.
- 37 (B) If the application does not contain a letter of
38 recommendation as described in subparagraph (A), then the
39 department shall cease review of the application. Nothing in this

1 paragraph shall constitute a denial of the application for purposes
2 of Section 1526 or any other law.

3 (C) A new letter of recommendation is not required when a
4 short-term residential therapeutic program moves locations.

5 (2) A short-term residential therapeutic program shall submit a
6 copy of its program statement to all county placing agencies from
7 which the short-term residential therapeutic program accepts
8 placements, including the county in which the facility is located,
9 for optional review when the short-term residential therapeutic
10 program updates its program statement.

11 (g) (1) The department shall adopt regulations to establish
12 requirements for the education, qualification, and training of facility
13 managers and staff who provide care and supervision to children
14 or who have regular, direct contact with children in the course of
15 their responsibilities in short-term residential therapeutic programs
16 consistent with the intended role of these facilities to provide
17 short-term, specialized, and intensive treatment.

18 (2) Requirements shall include, but not be limited to, all of the
19 following:

20 (A) Staff classifications.

21 (B) Specification of the date by which employees shall be
22 required to meet the education and qualification requirements.

23 (C) Any other requirements that may be prescribed by the
24 department for the proper administration of this section.

25 (h) The department shall adopt regulations to specify training
26 requirements for staff who provide care and supervision to children
27 or who have regular, direct contact with children in the course of
28 their responsibilities. These requirements shall include both of the
29 following:

30 (1) Timeframes for completion of training, including the
31 following:

32 (A) Training that shall be completed prior to unsupervised care
33 of children.

34 (B) Training to be completed within the first 180 days of
35 employment.

36 (C) Training to be completed annually.

37 (2) Topics to be covered in the training shall include, but are
38 not limited to, the following:

39 (A) Child and adolescent development, including sexual
40 orientation, gender identity, and gender expression.

1 (B) The effects of trauma, including grief and loss, and child
2 abuse and neglect on child development and behavior and methods
3 to behaviorally support children impacted by that trauma or child
4 abuse and neglect.

5 (C) The rights of a child in foster care, including the right to
6 have fair and equal access to all available services, placement,
7 care, treatment, and benefits, and to not be subjected to
8 discrimination or harassment on the basis of actual or perceived
9 race, ethnic group identification, ancestry, national origin, color,
10 religion, sex, sexual orientation, gender identity, mental or physical
11 disability, or HIV status.

12 (D) Positive discipline and the importance of self-esteem.

13 (E) Core practice model.

14 (F) An overview of the child welfare and probation systems.

15 (G) Reasonable and prudent parent standard.

16 (H) Instruction on cultural competency and sensitivity and
17 related best practices for providing adequate care for children
18 across diverse ethnic and racial backgrounds, as well as children
19 identifying as lesbian, gay, bisexual, or transgender.

20 (I) Awareness and identification of commercial sexual
21 exploitation and best practices for providing care and supervision
22 to commercially sexually exploited children.

23 (J) The federal Indian Child Welfare Act of 1978 (25 U.S.C.
24 Sec. 1901 et seq.), its historical significance, the rights of children
25 covered by the ~~act~~, *act and the California Indian Child Welfare*
26 *Act*, and the best interests of Indian children, including the role of
27 the caregiver in supporting culturally appropriate, child-centered
28 practices that respect Native American history, culture, retention
29 of tribal membership, and connection to the tribal community and
30 traditions.

31 (K) Permanence, well-being, and educational needs of children.

32 (L) Basic instruction on existing laws and procedures regarding
33 the safety of foster youth at school; and ensuring a harassment and
34 violence free school environment.

35 (M) Best practices for providing care and supervision to
36 nonminor dependents.

37 (N) Health issues in foster care.

38 (O) Physical and psychosocial needs of children, including
39 behavior management, deescalation techniques, and
40 trauma-informed crisis management planning.

1 (i) (1) Each person employed as a facility manager or staff
2 member of a short-term residential therapeutic program, who
3 provides direct care and supervision to children and youth residing
4 in the short-term residential therapeutic program shall be at least
5 21 years of age.

6 (2) This subdivision shall not apply to a facility manager or staff
7 member employed, before October 1, 2014, at a short-term
8 residential therapeutic program that was operating under a group
9 home license prior to January 1, 2017.

10 (j) Notwithstanding any other section of this chapter, the
11 department may establish requirements for licensed group homes
12 that are transitioning to short-term residential therapeutic programs,
13 which may include, but not be limited to, requirements related to
14 application and plan of operation.

15 (k) A short-term residential therapeutic program shall have a
16 qualified and certified administrator, as set forth in Section
17 1522.41.

18 (l) A short-term residential therapeutic program shall provide
19 trauma-informed support and transition services to foster youth as
20 part of a planned or unplanned discharge. This shall include
21 participation in any county-level or state-level meetings pursuant
22 to Section 16521.6 of the Welfare and Institutions Code with the
23 goal of placement preservation whenever possible or, if necessary,
24 identifying and working with alternative short-term residential
25 therapeutic programs or other providers to directly transition the
26 youth.

27 (m) The department shall have the authority to inspect a
28 short-term residential therapeutic program pursuant to the system
29 of governmental monitoring and oversight developed by the
30 department pursuant to subdivision (c) of Section 11462 of the
31 Welfare and Institutions Code.

32 (n) (1) On and after October 1, 2021, a short-term residential
33 therapeutic program shall ensure the availability of licensed nursing
34 staff, which may include the nursing resources established pursuant
35 to Section 4096.55 of the Welfare and Institutions Code.

36 (2) Nursing staff shall be onsite according to the treatment model
37 of the short-term residential therapeutic program and as otherwise
38 required by the needs of any child residing in the facility.

39 (3) Nursing staff shall be available 24 hours a day, 7 days a
40 week, and shall provide care within the scope of their practice.

(4) If a child who is placed in a short-term residential therapeutic program by a county placing agency requires regular onsite nursing care and does not require inpatient care in a licensed health facility, the short-term residential therapeutic program shall provide the nursing care consistent with their treatment model, or shall partner with the county placing agency to arrange for the nursing care to be provided.

(5) The department, in consultation with the State Department of Health Care Services, county agencies, providers, and other stakeholders, shall develop guidance to implement this subdivision.

(o) The short-term residential therapeutic program shall maintain the interagency placement committee's written determination and the qualified individual's assessment of the child, required to be completed and provided to the short-term residential therapeutic program pursuant to subdivisions (f) and (g) of Section 4096 of the Welfare and Institutions Code, in the child's record.

(p) The short-term residential therapeutic program shall engage with the county placing agency in placement preservation strategies pursuant to Section 16010.7 of the Welfare and Institutions Code, as applicable. Nothing in this subdivision shall be interpreted to supersede the placement and care responsibility vested in the county placing agency or their responsibilities under Section 16010.7 of the Welfare and Institution Code.

(q) (1) The department shall adopt regulations to implement this section, collaborating with the State Department of Health Care Services, as necessary, to ensure alignment with mental health program approval requirements, as described in Section 4096.5 of the Welfare and Institutions Code.

(2) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific this section by means of interim licensing standards until regulations are adopted. These interim licensing standards shall have the same force and effect as regulations until the adoption of regulations.

SEC. 19. Section 1563 of the Health and Safety Code is amended to read:

1 1563. (a) The department shall ensure that licensing personnel
2 at the department have appropriate training to properly carry out
3 this chapter.

4 (b) The department shall institute a staff development and
5 training program to develop among departmental staff the
6 knowledge and understanding necessary to successfully carry out
7 this chapter. Specifically, the program shall do all of the following:

8 (1) Provide staff with 36 hours of training per year that reflects
9 the needs of persons served by community care facilities. This
10 training shall, where appropriate, include specialized instruction
11 in the needs of foster children, persons with mental disorders, or
12 developmental or physical disabilities, or other groups served by
13 specialized community care facilities.

14 (2) Give priority to applications for employment from persons
15 with experience as care providers to persons served by community
16 care facilities.

17 (3) Provide new staff with comprehensive training within the
18 first six months of employment. This comprehensive training shall,
19 at a minimum, include the following core areas: administrative
20 action process, client populations, conducting facility visits, cultural
21 awareness, documentation skills, facility operations, human relation
22 skills, interviewing techniques, investigation processes, and
23 regulation administration.

24 (c) In addition to the requirements in subdivision (b), group
25 home, short-term residential therapeutic program, and foster family
26 agency licensing personnel shall receive a minimum of 24 hours
27 of training per year to increase their understanding of children in
28 group homes, short-term residential therapeutic programs, certified
29 homes, and foster family homes. The training shall cover, but not
30 be limited to, all of the following topics:

31 (1) The types and characteristics of emotionally troubled
32 children.

33 (2) The high-risk behaviors they exhibit.

34 (3) The biological, psychological, interpersonal, and social
35 contributors to these behaviors.

36 (4) The range of management and treatment interventions
37 utilized for these children, including, but not limited to, nonviolent,
38 emergency intervention techniques.

39 (5) The right of a foster child to have fair and equal access to
40 all available services, placement, care, treatment, and benefits, and

1 to not be subjected to discrimination or harassment on the basis
2 of actual or perceived race, ethnic group identification, ancestry,
3 national origin, color, religion, sex, sexual orientation, gender
4 identity, mental or physical disability, or HIV status.

5 (d) The training described in subdivisions (b) and (c) may
6 include the following topics:

7 (1) An overview of the child protective and probation systems.

8 (2) The effects of trauma, including grief and loss, and child
9 abuse or neglect on child development and behavior, and methods
10 to behaviorally support children impacted by that trauma or child
11 abuse and neglect.

12 (3) Positive discipline and the importance of self-esteem.

13 (4) Health issues in foster care, including, but not limited to,
14 the authorization, uses, risks, benefits, assistance with
15 self-administration, oversight, and monitoring of psychotropic
16 medications, and trauma, mental health, and substance use disorder
17 treatments for children in foster care under the jurisdiction of the
18 juvenile court, including how to access those treatments.

19 (5) Accessing the services and supports available to foster
20 children to address educational needs, physical, mental, and
21 behavioral health, substance use disorders, and culturally relevant
22 services.

23 (6) Instruction on cultural competency and sensitivity and related
24 best practices for, providing adequate care for children across
25 diverse ethnic and racial backgrounds, as well as for children
26 identifying as lesbian, gay, bisexual, and transgender.

27 (7) Understanding how to use best practices for providing care
28 and supervision to commercially sexually exploited children.

29 (8) Understanding the federal Indian Child Welfare Act (25
30 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of
31 children covered by the ~~act~~, *act and the California Indian Child*
32 *Welfare Act*, and the best interests of Indian children, including
33 the role of the caregiver in supporting culturally appropriate,
34 child-centered practices that respect Native American history,
35 culture, retention of tribal membership, and connection to the tribal
36 community and traditions.

37 (9) Understanding how to use best practices for providing care
38 and supervision to nonminor dependents.

39 (10) Understanding how to use best practices for providing care
40 and supervision to children with special health care needs.

1 (11) Basic instruction on existing laws and procedures regarding
2 the safety of foster youth at school; and ensuring a harassment and
3 violence free school environment pursuant to Article 3.6
4 (commencing with Section 32228) of Chapter 2 of Part 19 of
5 Division 1 of Title 1 of the Education Code.

6 (12) Permanence, well-being, and educational needs of children.

7 (13) Child and adolescent development, including sexual
8 orientation, gender identity, and gender expression.

9 (14) The role of foster parents, including working cooperatively
10 with the child welfare or probation agency, the child's family, and
11 other service providers implementing the case plan.

12 (15) A foster parent's responsibility to act as a reasonable and
13 prudent parent, and to provide a family setting that promotes
14 normal childhood experiences that serve the needs of the child.

15 (16) Physical and psychosocial needs of children, including
16 behavior management, deescalation techniques, and trauma
17 informed crisis management planning.

18 *SEC. 20. Section 1796.17 of the Health and Safety Code is*
19 *amended to read:*

20 1796.17. (a) Each home care organization shall be separately
21 licensed. This chapter does not prevent a licensee from obtaining
22 more than one home care organization license or obtaining a home
23 care organization license in addition to other licenses issued by
24 the department, or both.

25 (b) A home care organization does not include the following:

26 (1) A home health agency licensed under Chapter 8
27 (commencing with Section 1725).

28 (2) A hospice licensed under Chapter 8.5 (commencing with
29 Section 1745).

30 (3) A health facility licensed under Chapter 2 (commencing
31 with Section 1250).

32 (4) A person who performs services through the In-Home
33 Supportive Services program pursuant to Article 7 (commencing
34 with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or
35 Section 14132.95, 14132.952, or 14132.956 of, the Welfare and
36 Institutions Code.

37 (5) A home medical device retail facility licensed under Section
38 111656.

39 (6) An organization vendored or contracted through a regional
40 center or the State Department of Developmental Services pursuant

1 to the Lanterman Developmental Disabilities Services Act
2 (Division 4.5 (commencing with Section 4500) of the Welfare and
3 Institutions Code) and the California Early Intervention Services
4 Act (Title 14 (commencing with Section 95000) of the Government
5 Code) to provide services and supports for persons with
6 developmental disabilities, as defined in Section 4512 of the
7 Welfare and Institutions Code, when funding for those services is
8 provided through the State Department of Developmental Services
9 and more than 50 percent of the recipients of the home care services
10 provided by the organization are persons with developmental
11 disabilities.

12 (7) An employment agency, as defined in Section 1812.5095
13 of the Civil Code, that procures, offers, refers, provides, or attempts
14 to provide an independent home care aide who provides home care
15 services to clients.

16 (8) A community care facility licensed pursuant to Chapter 3
17 (commencing with Section 1500), a residential care facility for
18 persons with chronic life-threatening illness licensed pursuant to
19 Chapter 3.01 (commencing with Section 1568.01), a residential
20 care facility for the elderly licensed pursuant to Chapter 3.2
21 (commencing with Section 1569), or a facility licensed pursuant
22 to the California Child Day Care Facilities Act (Chapter 3.4
23 (commencing with Section 1596.70)), which includes day care
24 centers, as described in Chapter 3.5 (commencing with Section
25 1596.90), family day care homes, as described in Chapter 3.6
26 (commencing with Section 1597.30), and employer-sponsored
27 child care centers, as described in Chapter 3.65 (commencing with
28 Section 1597.70).

29 (9) An alcoholism or drug abuse recovery or treatment facility
30 as defined in Section 11834.02.

31 (10) A person providing services authorized pursuant to Section
32 2731 of the Business and Professions Code.

33 (11) A clinic licensed pursuant to Section 1204 or 1204.1.

34 (12) A nonrelative extended family member, as defined in
35 Section 362.7 of the Welfare and Institutions Code.

36 (13) A facility providing home care services in which only
37 Indian children who are eligible under the *California Indian Child*
38 *Welfare Act and the* federal Indian Child Welfare Act (25 U.S.C.
39 Sec. 1901 et seq.) are placed and which satisfies either of the
40 following:

1 (A) An extended family member of the Indian child, as defined
2 in *Section 224.1 of the Welfare and Institutions Code* and Section
3 1903 of Title 25 of the United States Code.

4 (B) A foster home that is licensed, approved, or specified by
5 the Indian child's tribe pursuant to *Section 361.31 of the Welfare*
6 *and Institutions Code* and Section 1915 of Title 25 of the United
7 States Code.

8 (14) Any other individual or entity providing services similar
9 to those described in this chapter, as determined by the director.

10 (c) In the event of a conflict between this chapter and a provision
11 listed in subdivision (b), the provision in subdivision (b) controls.

12 *SEC. 21. Section 1449 of the Probate Code is amended to read:*

13 1449. (a) ~~As used in this division, unless the context otherwise~~
14 ~~requires, the terms “Indian,” “Indian child,” “Indian child’s tribe,”~~
15 ~~“Indian custodian,” “Indian tribe,” “reservation,” and “tribal court”~~
16 ~~shall be defined as provided in Section 1903 of the Indian Child~~
17 ~~Welfare Act (25 U.S.C. Sec. 1901 et seq.).~~

18 (a) *As used in this division, consistent with Section 1903 of the*
19 *Indian Child Welfare Act and Section 224.1 of the Welfare and*
20 *Institutions code, unless the context requires otherwise, the*
21 *following definitions shall apply:*

22 (1) “Indian” means any person who is a member or citizen of
23 an Indian tribe, or who is an Alaska Native and a member or citizen
24 of a Regional Corporation as defined in Section 1606 of Title 43
25 of the United States Code.

26 (2) “Indian custodian” means any Indian person who has legal
27 custody of an Indian child under tribal law or custom or under
28 state law or to whom temporary physical care, custody, and control
29 has been transferred by the parent of that child.

30 (3) “Indian tribe” means any Indian tribe, band, nation, or
31 other organized group or community of Indians recognized as
32 eligible for the services provided to Indians by the Secretary of
33 the Interior because of their status as Indians, including any Alaska
34 Native village as defined in subdivision (c) of Section 1602 of Title
35 43 of the United States Code.

36 (4) “Reservation” has the same meaning as “Indian country”
37 as defined in Section 1151 of Title 18 of the United States Code,
38 and any lands that are not covered under Section 1151 and the
39 title to which is either held by the United States in trust for the
40 benefit of any Indian tribe or individual or held by any Indian tribe

1 *or individual subject to a restriction by the United States against*
2 *alienation.*

3 (5) “Tribal court” means a court with jurisdiction over child
4 custody proceedings, and that is either a Court of Indian Offenses,
5 a court established and operated under the code or custom of an
6 Indian tribe, or any other administrative body of tribe that is vested
7 with authority over child custody proceedings.

8 (6) “Indian child” means any unmarried person who is under
9 18 years of age and either of the following:

10 (A) A member or citizen of an Indian tribe.

11 (B) Is eligible for membership or citizenship in an Indian tribe
12 and is a biological child of a member or citizen of an Indian tribe.

13 (b) When used in connection with an Indian child custody
14 proceeding, the terms “extended family member” and “parent”
15 shall be defined as provided in Section 224.1 of the Welfare and
16 Institutions Code and Section 1903 of the Indian Child Welfare
17 Act (25 U.S.C. Sec. 1901 et seq.).

18 (c) “Indian child custody proceeding” means a “child custody
19 proceeding” within the meaning of subdivision (d) of Section 224.1
20 of the Welfare and Institutions Code and Section 1903 of the Indian
21 Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), including a
22 voluntary or involuntary proceeding that may result in an Indian
23 child’s temporary or long-term foster care or guardianship
24 placement if the parent or Indian custodian cannot have the child
25 returned upon demand, termination of parental rights or adoptive
26 placement.

27 (d) When an Indian child is a member of more than one tribe
28 or is eligible for membership in more than one tribe, the court shall
29 make a determination, in writing together with the reasons for it,
30 as to which tribe is the Indian child’s tribe for purposes of the
31 Indian child custody proceeding. The court shall make that
32 determination as follows:

33 (1) If the Indian child is or becomes a member of only one tribe,
34 that tribe shall be designated as the Indian child’s tribe, even though
35 the child is eligible for membership in another tribe.

36 (2) If an Indian child is or becomes a member of more than one
37 tribe, or is not a member of any tribe but is eligible for membership
38 in more than one tribe, the tribe with which the child has the more
39 significant contacts shall be designated as the Indian child’s tribe.
40 In determining which tribe the child has the more significant

1 contacts with, the court shall consider, among other things, the
2 following factors:

3 (A) The length of residence on or near the reservation of each
4 tribe and frequency of contact with each tribe.

5 (B) The child's participation in activities of each tribe.

6 (C) The child's fluency in the language of each tribe.

7 (D) Whether there has been a previous adjudication with respect
8 to the child by a court of one of the tribes.

9 (E) The residence on or near one of the tribes' reservations by
10 the child parents, Indian custodian, or extended family members.

11 (F) Tribal membership of custodial parent or Indian custodian.

12 (G) Interest asserted by each tribe in response to the notice
13 specified in Section 1460.2.

14 (H) The child's self-identification.

15 (3) If an Indian child becomes a member of a tribe other than
16 the one designated by the court as the Indian child's tribe under
17 paragraph (2), actions taken based on the court's determination
18 prior to the child's becoming a tribal member shall continue to be
19 valid.

20 *SEC. 22. Section 1459 of the Probate Code is amended to read:*

21 1459. (a) The Legislature finds and declares the following:

22 (1) There is no resource that is more vital to the continued
23 existence and integrity of recognized Indian tribes than their
24 children, and the State of California has an interest in protecting
25 Indian children who are members of, or are eligible for membership
26 in, an Indian tribe. The state is committed to protecting the essential
27 tribal relations and best interest of an Indian child by promoting
28 practices, in accordance with the *California Indian Child Welfare*
29 *Act, the federal Indian Child Welfare Act* (25 U.S.C. Sec. 1901 et
30 ~~seq.~~ *seq.*), and other applicable law, designed to prevent the child's
31 involuntary out-of-home placement and, whenever such placement
32 is necessary or ordered, by placing the child, whenever possible,
33 in a placement that reflects the unique values of the child's tribal
34 culture and is best able to assist the child in establishing,
35 developing, and maintaining a political, cultural, and social
36 relationship with the child's tribe and tribal community.

37 (2) It is in the interest of an Indian child that the child's
38 membership in the child's Indian tribe and connection to the tribal
39 community be encouraged and protected, regardless of whether
40 or not the child is in the physical custody of an Indian parent or

1 Indian custodian at the commencement of a child custody
2 proceeding, the parental rights of the child's parents have been
3 terminated, or where the child has resided or been domiciled.

4 (b) In all Indian child custody proceedings, as defined in
5 *subdivision (c) of Section 1449 and the federal Indian Child*
6 *Welfare Act*, the court shall consider all of the findings contained
7 in subdivision (a), strive to promote the stability and security of
8 Indian tribes and families, comply with the *California Indian Child*
9 *Welfare Act and the federal Indian Child Welfare Act*, and seek
10 to protect the best interest of the child. Whenever an Indian child
11 is removed from a foster care home or institution, guardianship,
12 or adoptive placement for the purpose of further foster care,
13 guardianship, or adoptive placement, placement of the child shall
14 be in accordance with *Section 361.31 of the Welfare and*
15 *Institutions Code and the Indian Child Welfare Act*.

16 (c) A determination by an Indian tribe that an unmarried person,
17 who is under the age of 18 years, is either (1) a member of an
18 Indian tribe or (2) eligible for membership in an Indian tribe and
19 a biological child of a member of an Indian tribe shall constitute
20 a significant political affiliation with the tribe and shall require the
21 application of the *California Indian Child Welfare Act and the*
22 *federal Indian Child Welfare Act* to the proceedings.

23 (d) In any case in which this code or other applicable state or
24 federal law provides a higher standard of protection to the rights
25 of the parent or Indian custodian of an Indian child, or the Indian
26 child's tribe, than the rights provided under the Indian Child
27 Welfare Act, the court shall apply the higher state or federal
28 standard.

29 (e) Any Indian child, the Indian child's tribe, or the parent or
30 Indian custodian from whose custody the child has been removed,
31 may petition the court to invalidate an action in an Indian child
32 custody proceeding for foster care or guardianship placement or
33 termination of parental rights if the action violated Sections 1911,
34 1912, and 1913 of the Indian Child Welfare Act. ~~Act or applicable~~
35 *provisions in state law.*

36 (f) *In any case in which the court determines indigency, the*
37 *parent or Indian custodian shall have the right to court-appointed*
38 *counsel in any removal, placement, or termination proceeding*
39 *pursuant to Section 1912 of the Indian Child Welfare Act (25*
40 *U.S.C. Sec. 1901 et seq.).*

1 (g) *Sections of the Family Code, Health and Safety Code,*
2 *Welfare and Institutions Code, and this code that apply to*
3 *proceedings involving an Indian child, as defined in Section 1449*
4 *of this code, Section 170 of the Family Code, and Section 224.1*
5 *of the Welfare and Institutions Code, shall be collectively known*
6 *as the California Indian Child Welfare Act.*

7 ~~SEC. 2.~~

8 SEC. 23. Section 1459.5 of the Probate Code is amended to
9 read:

10 1459.5. (a) The California Indian Child Welfare Act and the
11 federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.)
12 shall apply to the following guardianship or conservatorship
13 proceedings under this division when the proposed ward or
14 conservatee is an Indian child:

15 (1) In any case in which the petition is a petition for guardianship
16 of the person and the proposed guardian is not the natural parent
17 or Indian custodian of the proposed ward, unless the proposed
18 guardian has been nominated by the natural parents pursuant to
19 Section 1500 and the parents retain the right to have custody of
20 the child returned to them upon demand.

21 (2) To a proceeding to have an Indian child declared free from
22 the custody and control of one or both parents brought in a
23 guardianship proceeding.

24 (3) In any case in which the petition is a petition for
25 conservatorship of the person of a minor whose marriage has been
26 dissolved, the proposed conservator is seeking physical custody
27 of the minor, the proposed conservator is not the natural parent or
28 Indian custodian of the proposed conservatee and the natural parent
29 or Indian custodian does not retain the right to have custody of the
30 child returned to them upon demand.

31 ~~(b) When an Indian child is subject to a proceeding under this~~
32 ~~division, the court shall apply Sections 224.3 to 224.6, inclusive,~~
33 ~~and Sections 305.5, 361.31, and 361.7 of the Welfare and~~
34 ~~Institutions Code, and the following rules from the California Rules~~
35 ~~of Court, as they read on January 1, 2005:~~

36 (b) *In a proceeding described in subdivision (a), the court shall*
37 *apply Sections 224.2, 224.4, 224.5, 224.6, 305.5, 361.31, and 361.7*
38 *of the Welfare and Institutions Code, and the following rules from*
39 *the California Rules of Court:*

40 (1) Paragraph (7) of subdivision (b) of Rule ~~1410~~ 5.530.

1 (2) Subdivision (i) of Rule 1412. (e) of Rule 5.534.

2 (c) In the provisions cited in subdivision (b), references to social
3 workers, probation officers, county welfare department, or
4 probation department shall be construed as meaning the party
5 seeking a foster care placement, guardianship, or adoption.

6 SEC. 24. Section 1460.2 of the Probate Code is amended to
7 read:

8 ~~1460.2. (a) If the court or petitioner knows or has reason to~~
9 ~~know that the proposed ward or conservatee may be an Indian~~
10 ~~child, notice shall comply with subdivision (b) in any case in which~~
11 ~~the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) applies,~~
12 ~~as specified in Section 1459.5.~~

13 1460.2. (a) If the court or petitioner knows or has reason to
14 know that the proposed ward or conservatee is an Indian child,
15 as described in subdivision (d) of Section 224.2 of Welfare and
16 Institutions Code, notice of every subsequent hearing in the
17 proceedings shall comply with subdivision (b) in any proceeding
18 to which the California Indian Child Welfare Act and the Indian
19 Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) apply, as specified
20 in Section 1459.5. After a tribe has acknowledged that the child
21 is a member or eligible for membership in the tribe, or after the
22 Indian child's tribe has intervened in the proceedings, the
23 information in subparagraphs (C), (D), and (E) of paragraph (5)
24 of subdivision (b) need not be included with the notices of further
25 hearings.

26 (b) Any notice sent under this section shall be sent to the minor's
27 parent or legal guardian, Indian custodian, if any, and the Indian
28 child's tribe, and shall comply with all of the following
29 requirements:

30 (1) Notice shall be sent by registered or certified mail with return
31 receipt requested. Additional notice by first-class mail is
32 recommended, but not required.

33 (2) Notice to the tribe shall be to the tribal chairperson, unless
34 the tribe has designated another agent for service.

35 ~~(3) Notice shall be sent to all tribes of which the child may be~~
36 ~~a member or eligible for membership until the court makes a~~
37 ~~determination as to which tribe is the Indian child's tribe in~~
38 ~~accordance with subdivision (d) of Section 1449, after which notice~~
39 ~~need only be sent to the tribe determined to be the Indian child's~~
40 ~~tribe.~~

1 (3) *Notice of all Indian child custody hearings shall be sent to*
2 *all of the following:*

3 (A) *All tribes of which the child may be a member, or eligible*
4 *for membership, unless either of the following occurs:*

5 (i) *A tribe has made a determination that the child is not a*
6 *member or eligible for membership.*

7 (ii) *The court makes a determination as to which tribe is the*
8 *child's tribe in accordance with subdivision (e) of Section 1449,*
9 *after which notice need only be sent to the tribe determined to be*
10 *the Indian child's tribe.*

11 (B) *The child's parents.*

12 (C) *The child's Indian custodian.*

13 (4) Notice, to the extent required by federal law, shall be sent
14 to the Secretary of the Interior's designated agent, the Sacramento
15 Area Director, Bureau of Indian Affairs. If the identity or location
16 of the Indian child's tribe is known, a copy of the notice shall also
17 be sent directly to the Secretary of the Interior, unless the Secretary
18 of the Interior has waived the notice in writing and the person
19 responsible for giving notice under this section has filed proof of
20 the waiver with the court.

21 (5) The notice shall include all of the following information:

22 (A) The name, birthdate, and birthplace of the Indian child, if
23 known.

24 (B) The name of any Indian tribe in which the child is *or may*
25 *be* a member or may be eligible for membership, if known.

26 (C) All names known of the Indian child's biological parents,
27 grandparents and great-grandparents or Indian custodians, including
28 maiden, married, and former names or aliases, as well as their
29 current and former addresses, birthdates, places of birth and death,
30 tribal enrollment numbers, *information of other direct lineal*
31 *ancestors of the child*, and any other identifying information, if
32 known.

33 (D) A copy of the petition.

34 (E) A copy of the child's birth certificate, if available.

35 (F) The location, mailing address, and telephone number of the
36 court and all parties notified pursuant to this section.

37 (G) A statement of the following:

38 (i) The absolute right of the child's parents, Indian custodians,
39 and tribe to intervene in the proceeding.

(ii) The right of the child's parents, Indian custodians, and tribe to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe, absent objection by either parent and subject to declination by the tribal court.

(iii) The right of the child's parents, Indian custodians, and tribe to, upon request, be granted up to an additional 20 days from the receipt of the notice to prepare for the proceeding.

(iv) The potential legal consequences of the proceedings on the future custodial *and parental* rights of the child's parents or Indian custodians.

(v) That if the parents or Indian custodians are unable to afford counsel, counsel shall be appointed to represent the parents or Indian custodians pursuant to *Section 1459 of this code and Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.)*.

(vi) That the information contained in the notice, petition, pleading, and other court documents is confidential, so any person or entity notified shall maintain the confidentiality of the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's rights under the *California Indian Child Welfare Act and the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.)*.

(vii) *The name of the petitioner and the name and address of the petitioner's attorney.*

(H) *The time, date, and location of any scheduled hearings.*

~~(e) Notice shall be sent whenever it is known or there is reason to know that an Indian child is involved, and for every hearing thereafter, including, but not limited to, the hearing at which a final adoption order is to be granted. After a tribe acknowledges that the child is a member or eligible for membership in the tribe, or after the Indian child's tribe intervenes in a proceeding, the information set out in subparagraphs (C), (D), (E), and (G) of paragraph (5) of subdivision (b) need not be included with the notice.~~

(6) Copies of all notices sent under this section shall be delivered pursuant to Section 1215 to all other parties, the parties' attorneys, and any person entitled to notice under Sections 1460 and 1511 or 1822.

~~(d)~~

1 (c) Proof of the notice, including copies of notices sent and all
2 return receipts and responses received, shall be filed with the court
3 in advance of the hearing except as permitted under subdivision
4 (e).

5 ~~(e)~~

6 (d) No proceeding shall be held until at least 10 days after receipt
7 of notice by the parent, *the* Indian custodian, the tribe or the Bureau
8 of Indian Affairs. The parent, Indian custodian, or the tribe shall,
9 upon request, be granted up to 20 additional days to prepare for
10 the proceeding. ~~Nothing herein shall be construed as limiting This~~
11 *subdivision does not limit* the rights of the parent, Indian custodian,
12 or tribe to *more than* 10 days' notice when a lengthier notice period
13 is required by ~~statute~~ *law*.

14 ~~(f)~~

15 (e) With respect to giving notice to Indian tribes, a party shall
16 be subject to court sanctions if that person knowingly and willfully
17 falsifies or conceals a material fact concerning whether the child
18 is an Indian child, or counsels a party to do so.

19 ~~(g)~~

20 (f) The inclusion of contact information of any adult or child
21 that would otherwise be required to be included in the notification
22 pursuant to this section, shall not be required if that person is at
23 risk of harm as a result of domestic violence, child abuse, sexual
24 abuse, or stalking.

25 *SEC. 25. Section 1474 of the Probate Code is amended to read:*

26 1474. If an Indian custodian or biological parent of an Indian
27 child lacks the financial ability to retain counsel and requests the
28 appointment of counsel in proceedings described in *subdivision*
29 *(a) of Section 1459.5, then the provisions of Section 1459 of this*
30 *code, subsection (b) of Section 1912 of the Indian Child Welfare*
31 *Act (25 U.S.C. Sec. 1901 et seq.) seq.), and Section 23.13 of Title*
32 *25 of the Code of Federal Regulations are applicable.*

33 *SEC. 26. Section 1500.1 of the Probate Code is amended to*
34 *read:*

35 1500.1. (a) Notwithstanding any other section in this part, and
36 in accordance with *the California Indian Child Welfare Act and*
37 *Section 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901*
38 *et seq.), consent to nomination of a guardian of the person or of a*
39 *guardian of the person and the estate given by an Indian child's*
40 *parent is not valid unless both of the following occur:*

1 (1) The consent is executed in writing at least 10 days after the
2 child's birth and recorded before a judge.

3 (2) The judge certifies that the terms and consequences of the
4 consent were fully explained in detail in English and were fully
5 understood by the parent or that they were interpreted into a
6 language that the parent understood.

7 (b) The parent of an Indian child may withdraw ~~his or her~~ *their*
8 consent to guardianship for any reason at any time prior to the
9 issuance of letters of guardianship and the child shall be returned
10 to the parent.

11 ~~SEC. 3.~~

12 *SEC. 27.* Section 224 of the Welfare and Institutions Code is
13 amended to read:

14 224. (a) The Legislature finds and declares the following:

15 ~~(1) Federally recognized tribes are sovereign nations with~~
16 ~~inherent rights to self-governance, including the right to regulate~~
17 ~~domestic relations involving their citizens. Tribes have been~~
18 ~~protecting and caring for their children from time immemorial.~~
19 ~~The State of California is committed to protecting essential tribal~~
20 ~~relations by recognizing a tribe's right to protect the health, safety,~~
21 ~~and welfare of its citizens.~~

22 *(1) Federally recognized tribes are sovereign nations with*
23 *inherent rights to self-governance. Federally recognized tribes*
24 *have the sole authority to determine their tribal citizenship, and*
25 *this includes the right to regulate domestic relations involving*
26 *their citizens. The federal government recognizes its trust*
27 *relationship with federally recognized tribes and the unique*
28 *political status of federally recognized tribes and their citizens. It*
29 *is the policy of the State of California to support, protect, and*
30 *uplift this inherent tribal sovereignty. Tribes have been protecting*
31 *and caring for their children from time immemorial. The State of*
32 *California is committed to protecting essential tribal relations and*
33 *the political status of federally recognized tribes by recognizing*
34 *a tribe's right to protect the health, safety, and welfare of its*
35 *citizens.*

36 (2) There is no resource that is more vital to the continued
37 existence and integrity of Indian tribes than their children, and the
38 State of California has an interest in protecting Indian children
39 who are members or citizens of, or are eligible for membership or
40 citizenship in, an Indian tribe. The state is committed to protecting

1 the essential tribal relations and best interest of an Indian child by
2 promoting practices, in accordance with the *California Indian*
3 *Child Welfare Act and the* federal Indian Child Welfare Act of
4 1978 (25 U.S.C. Sec. 1901 et seq.) and other applicable state and
5 federal law, designed to prevent the child's involuntary
6 out-of-home placement and, whenever that placement is necessary
7 or ordered, by placing the child, whenever possible, in a placement
8 that reflects the unique values of the child's tribal culture and is
9 best able to assist the child in establishing, developing, and
10 maintaining a political, cultural, and social relationship with the
11 child's tribe and tribal community.

12 (3) It is in the interest of an Indian child that the child's
13 membership or citizenship in the child's Indian tribe and
14 connection to the tribal community be encouraged and protected,
15 regardless of whether the child is in the physical custody of an
16 Indian parent or Indian custodian at the commencement of an
17 Indian child custody proceeding, the parental rights of the child's
18 parents have been terminated, or where the child has resided or
19 been domiciled.

20 (b) In all Indian child custody proceedings, as defined in
21 subdivision (d) of Section 224.1 and the federal Indian Child
22 Welfare Act, the court shall consider all of the findings contained
23 in subdivision (a), strive to promote the stability and security of
24 Indian tribes and families, comply with the *California Indian Child*
25 *Welfare Act and the* federal Indian Child Welfare Act of 1978 and
26 other applicable state and federal law, and seek to protect the best
27 interest of the child. Whenever an Indian child is removed from a
28 foster care home or institution, guardianship, or adoptive placement
29 for the purpose of further foster care, guardianship, or adoptive
30 placement, placement of the child shall be in accordance with the
31 *California Indian Child Welfare Act, the* federal Indian Child
32 Welfare Act of 1978, and other applicable state and federal
33 law.

34 (c) A determination by an Indian tribe that an unmarried person,
35 who is under the age of 18 years, is either (1) a member or citizen
36 of an Indian tribe or (2) eligible for membership or citizenship in
37 an Indian tribe and a biological child of a member or citizen of an
38 Indian tribe shall constitute a significant political affiliation with
39 the tribe and shall require the application of the *California Indian*

1 *Child Welfare Act, the federal Indian Child Welfare Act of 1978*
2 *1978, and other applicable state and federal law to the proceedings.*

3 (d) In any case in which this code or other applicable state or
4 federal law provides a higher standard of protection to the rights
5 of the *Indian child, the parent or Indian custodian of an Indian*
6 *child, or the Indian child's tribe, than the rights provided under*
7 *the California Indian Child Welfare Act or the federal Indian Child*
8 *Welfare Act of 1978, the court shall apply the higher standard.*

9 (e) Any Indian child, the Indian child's tribe, or the parent or
10 Indian custodian from whose custody the child has been removed,
11 may petition the court to invalidate an action in an Indian child
12 custody proceeding for foster care or guardianship placement or
13 termination of parental rights if the action violated Section 1911,
14 1912, or 1913 of the federal Indian Child Welfare Act of ~~1978:~~
15 *1978 or applicable provision in state law.*

16 (f) Sections of the Family Code, *Health and Safety Code,*
17 *Probate Code, and this code that apply to proceedings involving*
18 *an Indian child as defined in Section ~~224.1~~ 224.1 of this code,*
19 *Section 170 of the Family Code, and Section 1449 of the Probate*
20 *Code, shall be collectively known as the California Indian Child*
21 *Welfare Act.*

22 ~~SEC. 4.~~

23 *SEC. 28.* Section 224.1 of the Welfare and Institutions Code
24 is amended to read:

25 224.1. (a) As used in this division, unless the context requires
26 otherwise, the following definitions shall apply:

27 (1) "Indian" means any person who is a member of an Indian
28 tribe, or who is an Alaska Native and a member of a Regional
29 Corporation as defined in Section 1606 of Title 43 of the United
30 States Code.

31 (2) "Indian custodian" means any Indian person who has legal
32 custody of an Indian child under tribal law or custom or under
33 state law or to whom temporary physical care, custody, and control
34 has been transferred by the parent of that child.

35 (3) "Indian tribe" means any Indian tribe, band, nation, or other
36 organized group or community of Indians recognized as eligible
37 for the services provided to Indians by the Secretary of the Interior
38 because of their status as Indians, including any Alaska Native
39 village as defined in subdivision (c) of Section 1602 of Title 43
40 of the United States Code.

1 (4) “Reservation” has the same meaning as “Indian country” as
2 defined in Section 1151 of Title 18 of the United States Code, and
3 any lands that are not covered under Section 1151 and the title to
4 which is either held by the United States in trust for the benefit of
5 any Indian tribe or individual or held by any Indian tribe or
6 individual subject to a restriction by the United States against
7 alienation.

8 (5) “Tribal court” means a court with jurisdiction over child
9 custody proceedings, and that is either a Court of Indian Offenses,
10 a court established and operated under the code or custom of an
11 Indian tribe, or any other administrative body of tribe that is vested
12 with authority over child custody proceedings.

13 (b) (1) As used in this division, the term “Indian child” means
14 any unmarried person who is under 18 years of age and either of
15 the following:

16 (A) A member of an Indian tribe.

17 (B) Is eligible for membership in an Indian tribe and is a
18 biological child of a member of an Indian tribe.

19 (2) As used in connection with an Indian child custody
20 proceeding, the term “Indian child” also means an unmarried
21 person who is 18 years of age or over, but under 21 years of age,
22 who is a member *or citizen* of an Indian tribe or eligible for
23 membership *or citizenship* in an Indian tribe and is the biological
24 child of a member *or citizen* of an Indian tribe, and who is under
25 the jurisdiction of the dependency court, unless that person or their
26 attorney elects not to be considered an Indian child for purposes
27 of the Indian child custody proceeding. All Indian child custody
28 proceedings involving persons 18 years of age and older shall be
29 conducted in a manner that respects the person’s status as a legal
30 adult.

31 (c) As used in connection with an Indian child custody
32 proceeding, the following definitions shall apply:

33 (1) “Extended family” means the same as defined by the law
34 or custom of the Indian child’s tribe or, in the absence of such law
35 or custom, shall be a person who has reached 18 years of age and
36 who is the Indian child’s grandparent, aunt or uncle, brother or
37 sister, brother-in-law or sister-in-law, niece or nephew, first or
38 second cousin, or stepparent.

39 (2) “Parent” means any biological parent or parents of an Indian
40 child or any Indian person who has lawfully adopted an Indian

1 child, including adoptions under tribal law or custom. “Parent”
2 does not include an unwed father where paternity has not been
3 acknowledged or established.

4 (d) (1) “Indian child custody proceeding” means a hearing
5 during a juvenile court proceeding brought under this code, or a
6 proceeding under the Probate Code or the Family Code, involving
7 an Indian child, other than an emergency proceeding under Section
8 319, that may culminate in one of the following outcomes:

9 (A) Foster care placement, which includes removal of an Indian
10 child from their parent, parents, or Indian custodian for placement
11 in a foster home, institution, or the home of a guardian or
12 conservator, in which the parent or Indian custodian may not have
13 the child returned upon demand, but in which parental rights have
14 not been terminated. Foster care placement does not include an
15 emergency placement of an Indian child pursuant to Section 309,
16 as long as the emergency proceeding requirements set forth in
17 Section 319 are met.

18 (B) Termination of parental rights, which includes any action
19 involving an Indian child resulting in the termination of the
20 parent-child relationship.

21 (C) Preadoptive placement, which includes the temporary
22 placement of an Indian child in a foster home or institution after
23 the termination of parental rights, but prior to, or in lieu of,
24 adoptive placement.

25 (D) Adoptive placement, which includes the permanent
26 placement of an Indian child for ~~adoption~~, *adoption and a tribal*
27 *customary adoption as described in Section 366.24*, including any
28 action resulting in a final decree of adoption.

29 (E) If a child is placed in foster care or another out-of-home
30 placement as a result of a status offense, that status offense
31 proceeding is considered an Indian child custody proceeding.

32 (2) “Indian child custody proceeding” does not include a
33 voluntary foster care or guardianship placement if the parent or
34 Indian custodian retains the right to have the child returned upon
35 demand.

36 (e) (1) “Indian child’s tribe” means the Indian tribe in which
37 an Indian child is a member or citizen or eligible for membership
38 or citizenship, or in the case of an Indian child who is a member
39 or citizen of, or eligible for membership or citizenship in, more

1 than one tribe, the Indian tribe with which the Indian child has the
2 more significant contacts.

3 (2) In the case of an Indian child who meets the definition of
4 “Indian child” through more than one tribe, deference should be
5 given to the tribe of which the Indian child is already a member
6 or citizen, unless otherwise agreed to by the tribes.

7 (3) If an Indian child meets the definition of “Indian child”
8 through more than one tribe because the child is a member or
9 citizen of more than one tribe or the child is not a member or citizen
10 but is eligible for membership or citizenship in more than one
11 tribe, the court shall provide the tribes the opportunity to determine
12 which tribe shall be designated as the Indian child’s tribe.

13 (4) If the tribes are able to reach an agreement, the agreed-upon
14 tribe shall be designated as the Indian child’s tribe.

15 (5) If the tribes are unable to reach an agreement, the court shall
16 designate as the Indian child’s tribe, the tribe with which the Indian
17 child has the more significant contacts, taking into consideration
18 all of the following:

19 (A) Preference of the parents for membership of the child.

20 (B) Length of past domicile or residence on or near the
21 reservation of each tribe.

22 (C) Tribal membership of the child’s custodial parent or Indian
23 custodian.

24 (D) Interest asserted by each tribe in the child custody
25 proceeding.

26 (E) Whether there has been a previous adjudication with respect
27 to the child by a court of one of the tribes.

28 (F) Self-identification by the child, if the child is of sufficient
29 age and capacity to meaningfully self-identify.

30 (6) If an Indian child becomes a member *or citizen* of a tribe
31 other than the one designated by the court as the Indian child’s
32 tribe under paragraph (5), actions taken based on the court’s
33 determination prior to the child’s becoming a tribal member *or*
34 *citizen* continue to be valid.

35 (7) A determination of the Indian child’s tribe for purposes of
36 the California Indian Child Welfare Act and federal Indian Child
37 Welfare Act does not constitute a determination for any other
38 purpose.

39 (f) “Active efforts” means affirmative, active, thorough, and
40 timely efforts intended primarily to maintain or reunite an Indian

1 child with their family. If an agency is involved in an Indian child
2 custody proceeding, active efforts shall involve assisting the parent,
3 parents, or Indian custodian through the steps of a case plan and
4 with accessing or developing the resources necessary to satisfy
5 the case plan. To the maximum extent possible, active efforts shall
6 be provided *beginning at initial agency contact with a child who*
7 *is known to be, or if there is reason to know that the child is, an*
8 *Indian child and* in a manner consistent with the prevailing social
9 and cultural conditions and way of life of the Indian child's tribe
10 and shall be conducted in partnership with the Indian child and
11 the Indian child's parents, extended family members, Indian
12 custodians, and tribe. Active efforts shall be tailored to the facts
13 and circumstances of the case and may include, but are not limited
14 to, any of the following:

15 (1) Conducting a comprehensive assessment of the
16 circumstances of the Indian child's family, with a focus on safe
17 reunification as the most desirable goal.

18 (2) Identifying appropriate services and helping the parents
19 overcome barriers, including actively assisting the parents in
20 obtaining those services.

21 (3) Identifying, notifying, and inviting representatives of the
22 Indian child's tribe to participate in providing support and services
23 to the Indian child's family and in family team meetings,
24 permanency planning, and resolution of placement issues.

25 (4) Conducting or causing to be conducted a diligent search for
26 the Indian child's extended family members, and contacting and
27 consulting with extended family members *as possible placements*
28 *and* to provide family structure and support for the Indian child
29 and the Indian child's parents.

30 (5) Offering and employing all available and culturally
31 appropriate family preservation strategies and facilitating the use
32 of remedial and rehabilitative services provided by the child's
33 tribe.

34 (6) Taking steps to keep siblings together whenever possible.

35 (7) Supporting regular visits with parents or Indian custodians
36 in the most natural setting possible, as well as trial home visits of
37 the Indian child during any period of removal, consistent with the
38 need to ensure the health, safety, and welfare of the child.

39 (8) Identifying community resources, including housing,
40 financial assistance, transportation, mental health and substance

1 abuse services, and peer support services, and actively assisting
2 the Indian child's parents or, when appropriate, the child's family,
3 in utilizing and accessing those resources.

4 (9) Monitoring progress and participation in services.

5 (10) Considering alternative ways to address the needs of the
6 Indian child's parents and, where appropriate, the family, if the
7 optimum services do not exist or are not available.

8 (11) Providing postreunification services and monitoring.

9 (g) "Assistant Secretary" means the Assistant Secretary of the
10 Bureau of Indian Affairs.

11 (h) "Bureau of Indian Affairs" means the Bureau of Indian
12 Affairs of the Department of the Interior.

13 (i) "Continued custody" means physical custody or legal custody
14 or both, under any applicable tribal law or tribal custom or state
15 law, that a parent or Indian custodian already has or had at any
16 time in the past. The biological mother of an Indian child is deemed
17 to have had custody of the Indian child.

18 (j) "Custody" means physical custody or legal custody or both,
19 under any applicable tribal law or tribal custom or state law.

20 (k) "Domicile" means either of the following:

21 (1) For a parent, Indian custodian, or legal guardian, the place
22 that a person has been physically present and that the person
23 regards as home. This includes a person's true, fixed, principal,
24 and permanent home, to which that person intends to return and
25 remain indefinitely even though the person may be currently
26 residing elsewhere.

27 (2) For an Indian child, the domicile of the Indian child's
28 parents, Indian custodian, or legal guardian. In the case of an Indian
29 child whose parents are not married to each other, the domicile of
30 the Indian child means the domicile of the Indian child's custodial
31 parent.

32 (l) "Emergency proceeding" for purposes of juvenile dependency
33 proceedings is the initial petition hearing held pursuant to Section
34 319.

35 (m) "Indian foster home" means a foster home where one or
36 more of the licensed or approved foster parents is an Indian as
37 defined in subdivision (a) of this section and Section 3 of the
38 federal Indian Child Welfare Act of 1978.

39 (n) "Involuntary proceeding" means an Indian child custody
40 proceeding in which the parent does not consent of their free will

1 to the foster care, preadoptive, or adoptive placement, or
2 termination of parental rights. “Involuntary proceeding” also means
3 an Indian child custody proceeding in which the parent consents
4 to the foster care, preadoptive, or adoptive placement, under threat
5 of removal of the child by a state court or agency.

6 (o) “Status offense” means an offense that would not be
7 considered criminal if committed by an adult, including, but not
8 limited to, school truancy and incorrigibility.

9 (p) “Upon demand” means, in the case of an Indian child, the
10 parent or Indian custodian may regain physical custody during a
11 voluntary proceeding simply upon verbal request, without any
12 delay, formalities, or contingencies.

13 (q) “Voluntary proceeding” means an Indian child custody
14 proceeding that is not an involuntary proceeding, including, but
15 not limited to, a proceeding for foster care, preadoptive or adoptive
16 placement that either parent, both parents, or the Indian custodian
17 has, of their free will, without a threat of removal by a state agency,
18 consented to for the Indian child, or a proceeding for voluntary
19 termination of parental rights.

20 (r) “Tribally approved home” means a home that has been
21 licensed or approved by an Indian child’s tribe, or a tribe or tribal
22 organization designated by the Indian child’s tribe, for foster care
23 or adoptive placement of an Indian child using standards
24 established by the child’s tribe pursuant to Section 1915 of the
25 federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.). A
26 tribally approved home is not required to be licensed or approved
27 by the state or county and is equivalent to a state-licensed or
28 county-licensed or approved home, including an approved resource
29 family home. Background check requirements for foster care or
30 adoptive placement as required by Sections 1522 and 1522.1 of
31 the Health and Safety Code shall apply to a tribally approved home.

32 *SEC. 29. Section 224.2 of the Welfare and Institutions Code*
33 *is amended to read:*

34 224.2. (a) The court, county welfare department, and the
35 probation department have an affirmative and continuing duty to
36 inquire whether a child for whom a petition under Section 300,
37 601, or 602 may be or has been filed, is or may be an Indian child.
38 The duty to inquire begins with the initial contact, including, but
39 not limited to, asking the party reporting child abuse or neglect

1 whether the party has any information that the child may be an
2 Indian child.

3 (b) If a child is placed into the temporary custody of a county
4 welfare department pursuant to Section 306 or county probation
5 department pursuant to Section 307, *or if they are placed in*
6 *temporary custody pursuant to a warrant described in Section*
7 *340*, the county welfare department or county probation department
8 has a duty to inquire whether that child is an Indian child. Inquiry
9 includes, but is not limited to, asking the child, parents, legal
10 guardian, Indian custodian, extended family members, others who
11 have an interest in the child, and the party reporting child abuse
12 or neglect, whether the child is, or may be, an Indian child and
13 where the child, the parents, or Indian custodian is domiciled.

14 (c) At the first appearance in court of each party, the court shall
15 ask each participant present in the hearing whether the participant
16 knows or has reason to know that the child is an Indian child. The
17 court shall instruct the parties to inform the court if they
18 subsequently receive information that provides reason to know the
19 child is an Indian child.

20 (d) There is reason to know a child involved in a proceeding is
21 an Indian child under any of the following circumstances:

22 (1) A person having an interest in the child, including the child,
23 an officer of the court, a tribe, an Indian organization, a public or
24 private agency, or a member of the child's extended family informs
25 the court that the child is an Indian child.

26 (2) The residence or domicile of the child, the child's parents,
27 or Indian custodian is on a reservation or in an Alaska Native
28 village.

29 (3) Any participant in the proceeding, officer of the court, Indian
30 tribe, Indian organization, or agency informs the court that it has
31 discovered information indicating that the child is an Indian child.

32 (4) The child who is the subject of the proceeding gives the
33 court reason to know that the child is an Indian child.

34 (5) The court is informed that the child is or has been a ward of
35 a tribal court.

36 (6) The court is informed that either parent or the child possess
37 an identification card indicating membership or citizenship in an
38 Indian tribe.

39 (e) If the court, social worker, or probation officer has reason
40 to believe that an Indian child is involved in a proceeding, but does

1 not have sufficient information to determine that there is reason
2 to know that the child is an Indian child, the court, social worker,
3 or probation officer shall make further inquiry regarding the
4 possible Indian status of the child, and shall make that inquiry as
5 soon as practicable.

6 (1) There is reason to believe a child involved in a proceeding
7 is an Indian child whenever the court, social worker, or probation
8 officer has information suggesting that either the parent of the
9 child or the child is a member or may be eligible for membership
10 in an Indian tribe. Information suggesting membership or eligibility
11 for membership includes, but is not limited to, information that
12 indicates, but does not establish, the existence of one or more of
13 the grounds for reason to know enumerated in paragraphs (1) to
14 (6), inclusive, of subdivision (d).

15 (2) When there is reason to believe the child is an Indian child,
16 further inquiry is necessary to help the court, social worker, or
17 probation officer determine whether there is reason to know a child
18 is an Indian child. Further inquiry includes, but is not limited to,
19 all of the following:

20 (A) Interviewing the parents, Indian custodian, and extended
21 family members to gather the information required in paragraph
22 (5) of subdivision (a) of Section 224.3.

23 (B) Contacting the Bureau of Indian Affairs and the State
24 Department of Social Services for assistance in identifying the
25 names and contact information of the tribes in which the child may
26 be a ~~member~~, *member or citizen*, or eligible for membership in,
27 and contacting the tribes and any other person that may reasonably
28 be expected to have information regarding the child's membership
29 status or eligibility.

30 (C) Contacting the tribe or tribes and any other person that may
31 reasonably be expected to have information regarding the child's
32 membership, citizenship status, or eligibility. Contact with a tribe
33 shall, at a minimum, include telephone, facsimile, or electronic
34 mail contact to each tribe's designated agent for receipt of notices
35 under the federal Indian Child Welfare Act of 1978 (25 U.S.C.
36 Sec. 1901 et seq.). Contact with a tribe shall include sharing
37 information identified by the tribe as necessary for the tribe to
38 make a membership or eligibility determination, as well as
39 information on the current status of the child and the case.

1 (f) If there is reason to know, as set forth in subdivision (d), that
2 the child is an Indian child, the party seeking foster care placement
3 shall provide notice in accordance with paragraph (5) of
4 subdivision (a) of Section 224.3.

5 (g) If there is reason to know the child is an Indian child, but
6 the court does not have sufficient evidence to determine that the
7 child is or is not an Indian child, the court shall confirm, by way
8 of a report, declaration, or testimony included in the record that
9 the agency or other party used due diligence to identify and work
10 with all of the tribes of which there is reason to know the child
11 may be a ~~member~~, *member or citizen*, or eligible for ~~membership~~,
12 *membership or citizenship*, to verify whether the child is in fact a
13 *member or citizen* or whether a biological parent is a *member or*
14 *citizen* and the child is eligible for ~~membership~~. *membership or*
15 *citizenship*.

16 (h) A determination by an Indian tribe that a child is or is not a
17 member of, or eligible for membership in, that tribe, or testimony
18 attesting to that status by a person authorized by the tribe to provide
19 that determination, shall be conclusive. Information that the child
20 is not enrolled, or is not eligible for enrollment in, the tribe is not
21 determinative of the child's membership status unless the tribe
22 also confirms in writing that enrollment is a prerequisite for
23 membership under tribal law or custom.

24 (i) (1) When there is reason to know that the child is an Indian
25 child, the court shall treat the child as an Indian child unless and
26 until the court determines on the record and after review of the
27 report of due diligence as described in subdivision (g), and a review
28 of the copies of notice, return receipts, and tribal responses required
29 pursuant to Section 224.3, that the child does not meet the
30 definition of an Indian child as used in Section 224.1 and the
31 federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et
32 seq.).

33 (2) If the court makes a finding that proper and adequate further
34 inquiry and due diligence as required in this section have been
35 conducted and there is no reason to know whether the child is an
36 Indian child, the court may make a finding that the *California*
37 *Indian Child Welfare Act and the* federal Indian Child Welfare
38 Act of 1978 (25 U.S.C. Sec. 1901 et seq.) does not apply to the
39 proceedings, subject to reversal based on sufficiency of the
40 evidence. The court shall reverse its determination if it

1 subsequently receives information providing reason to believe that
2 the child is an Indian child and order the social worker or probation
3 officer to conduct further inquiry pursuant to ~~Section 224.3~~.
4 *subdivision (e)*.

5 (j) Notwithstanding a determination that the *California Indian*
6 *Child Welfare Act and the* federal Indian Child Welfare Act of
7 1978 does not apply to the proceedings, if the court, social worker,
8 or probation officer subsequently receives any information required
9 by Section 224.3 that was not previously available or included in
10 the notice issued under Section 224.3, the party seeking placement
11 shall provide the additional information to any tribes entitled to
12 notice under Section 224.3 and to the Secretary of the Interior's
13 designated agent.

14 (k) Notwithstanding any other provision, an Indian child's tribe
15 may participate by telephone, or other remote appearance options,
16 in proceedings in which the *California Indian Child Welfare Act*
17 *and the* federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec.
18 1901 et seq.) may apply. The method of appearance may be
19 determined by the court consistent with court capacity and
20 contractual obligations, and taking into account the capacity of the
21 tribe, as long as a method of effective remote appearance and
22 participation sufficient to allow the tribe to fully exercise its rights
23 is provided. Fees shall not be charged for court appearances
24 established under this subdivision conducted in whole or in part
25 by remote means.

26 *SEC. 30. Section 224.3 of the Welfare and Institutions Code*
27 *is amended to read:*

28 224.3. (a) If the court, a social worker, or probation officer
29 knows or has reason to know, as described in subdivision (d) of
30 Section 224.2, that an Indian child is involved, notice pursuant to
31 *this article and* Section 1912 of the federal Indian Child Welfare
32 Act of 1978 (25 U.S.C. Sec. 1901 et seq.) shall be provided for
33 hearings that may culminate in an order for foster care placement,
34 termination of parental rights, preadoptive placement, or adoptive
35 placement, as described in paragraph (1) of subdivision (d) of
36 Section 224.1. The notice shall be sent to the minor's parents or
37 legal guardian, Indian custodian, if any, and the child's tribe.
38 Copies of all notices sent shall be served on all parties to the
39 dependency proceeding and their attorneys. Notice shall comply
40 with all of the following requirements:

1 (1) Notice shall be sent by registered or certified mail with return
2 receipt requested. Additional notice by first-class mail is
3 recommended, but not required.

4 (2) Notice to the tribe shall be to the tribal chairperson, unless
5 the tribe has designated another agent for service.

6 (3) Notice of all Indian child custody hearings shall be sent by
7 the party seeking placement of the child to all of the following:

8 (A) All tribes of which the child may be a member or citizen,
9 or eligible for membership or citizenship, unless either of the
10 following occur:

11 (i) A tribe has made a determination that the child is not a
12 member or citizen, or eligible for membership or citizenship.

13 (ii) The court makes a determination as to which tribe is the
14 child's tribe in accordance with subdivision (e) of Section 224.1,
15 after which notice need only be sent to the Indian child's tribe.

16 (B) The child's parents.

17 (C) The child's Indian custodian.

18 (4) Notice, to the extent required by federal law, shall be sent
19 to the Secretary of the Interior's designated agent.

20 (5) In addition to the information specified in other sections of
21 this article, notice shall include all of the following information:

22 (A) The name, birth date, and birthplace of the Indian child, if
23 known.

24 (B) The name of the Indian tribe in which the child is a ~~member,~~
25 *member or citizen*, or may be eligible for ~~membership,~~ *membership*
26 *or citizenship*, if known.

27 (C) All names known of the Indian child's biological parents,
28 grandparents, and great-grandparents, or Indian custodians,
29 including maiden, married, and former names or aliases, as well
30 as their current and former addresses, birth dates, places of birth
31 and death, tribal enrollment information of other direct lineal
32 ancestors of the child, and any other identifying information, if
33 known.

34 (D) A copy of the petition by which the proceeding was initiated.

35 (E) A copy of the child's birth certificate, if available.

36 (F) The location, mailing address, and telephone number of the
37 court and all parties notified pursuant to this section.

38 (G) The information regarding the time, date, and any location
39 of any scheduled hearings.

40 (H) A statement of all of the following:

1 (i) The name of the petitioner and the name and address of the
2 petitioner's attorney.

3 (ii) The absolute right of the child's parents, Indian custodians,
4 and tribe to intervene in the proceeding.

5 (iii) The right of the child's parents, Indian custodians, and tribe
6 to petition the court to transfer the proceeding to the tribal court
7 of the Indian child's tribe, absent objection by either parent and
8 subject to declination by the tribal court.

9 (iv) The right of the child's parents, Indian custodians, and tribe
10 to, upon request, be granted up to an additional 20 days from the
11 receipt of the notice to prepare for the proceeding.

12 (v) The potential legal consequences of the proceedings on the
13 future custodial and parental rights of the child's parents or Indian
14 custodians.

15 (vi) That if the parents or Indian custodians are unable to afford
16 counsel, counsel will be appointed to represent the parents or Indian
17 ~~eustodians pursuant to Section 1912 of the federal Indian Child~~
18 ~~Welfare Act of 1978.~~ *custodians.*

19 (vii) In accordance with Section 827, the information contained
20 in the notice, petition, pleading, and other court documents is
21 confidential. Any person or entity notified shall maintain the
22 confidentiality of the information contained in the notice
23 concerning the particular proceeding and not reveal that
24 information to anyone who does not need the information in order
25 to exercise the tribe's rights under the *California Indian Child*
26 *Welfare Act and the federal Indian Child Welfare Act of 1978.*

27 (b) Notice shall be sent whenever it is known or there is reason
28 to know that an Indian child is involved, and for every hearing that
29 may culminate in an order for foster care placement, termination
30 of parental rights, preadoptive placement, or adoptive placement,
31 as described in paragraph (1) of subdivision (d) of Section 224.1,
32 unless it is determined that the *California Indian Child Welfare*
33 *Act and the federal Indian Child Welfare Act of 1978* does not
34 apply to the case in accordance with Section 224.2. After a tribe
35 acknowledges that the child is a member of, or eligible for
36 membership in, that tribe, or after a tribe intervenes in a proceeding,
37 the information set out in subparagraphs (C), (D), (E), and (H) of
38 paragraph (5) of subdivision (a) need not be included with the
39 notice.

1 (c) Proof of the notice, including copies of notices sent and all
2 return receipts and responses received, shall be filed with the court
3 in advance of the hearing, except as permitted under subdivision
4 (d).

5 (d) A proceeding shall not be held until at least 10 days after
6 receipt of notice by the parent, Indian custodian, the tribe, or the
7 Bureau of Indian Affairs, except for a hearing held pursuant to
8 Section 319, provided that notice of the hearing held pursuant to
9 Section 319 shall be given as soon as possible after the filing of
10 the petition to declare the Indian child a dependent child. Notice
11 to tribes of the hearing pursuant to Section 319 shall be consistent
12 with the requirements for notice to parents set forth in Sections
13 290.1 and 290.2. With the exception of the hearing held pursuant
14 to Section 319, the parent, Indian custodian, or tribe shall, upon
15 request, be granted up to 20 additional days to prepare for that
16 proceeding. This subdivision does not limit the rights of the parent,
17 Indian custodian, or tribe to more than 10 days' notice when a
18 lengthier notice period is required by law.

19 (e) With respect to giving notice to Indian tribes, a party is
20 subject to court sanctions if that person knowingly and willfully
21 falsifies or conceals a material fact concerning whether the child
22 is an Indian child, or counsels a party to do so.

23 (f) The inclusion of contact information of any adult or child
24 that would otherwise be required to be included in the notification
25 pursuant to this section shall not be required if that person is at
26 risk of harm as a result of domestic violence, child abuse, sexual
27 abuse, or stalking.

28 (g) For any hearing that does not meet the definition of an Indian
29 child custody proceeding set forth in Section 224.1, or is not an
30 emergency proceeding, notice to the child's parents, Indian
31 custodian, and tribe shall be sent in accordance with Sections 292,
32 293, and 295.

33 *SEC. 31. Section 305.6 of the Welfare and Institutions Code*
34 *is amended to read:*

35 305.6. (a) Any peace officer may, without a warrant, take into
36 temporary custody a child who is in a hospital if the release of the
37 child to a prospective adoptive parent or a representative of a
38 licensed adoption agency poses an immediate danger to the child's
39 health or safety.

(b) Notwithstanding subdivision (a) and Section 305, a peace officer shall not, without a warrant, take into temporary custody a child who is in a hospital if all of the following conditions exist:

(1) The child is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs.

(2) The child is the subject of a proposed adoption and a Health Facility Minor Release Report, developed by the department, has been completed by the hospital, including the marking of the boxes applicable to an independent adoption or agency adoption planning, and signed by the placing birth parent or birth parents, as well as either the prospective adoptive parent or parents or an authorized representative of a licensed adoption agency, prior to the discharge of the birth parent or the child from the hospital. The Health Facility Minor Release Report shall include a notice written in at least 14-point pica type, containing substantially all of the following statements:

(A) That the Health Facility Minor Release Report does not constitute consent to adoption of the child by the prospective adoptive parent or parents, or any other person.

(B) That the Health Facility Minor Release Report does not constitute a relinquishment of parental rights for the purposes of adoption.

(C) That the birth parent or parents or any person authorized by the birth parent or parents may reclaim the child at any time from the prospective adoptive parent or parents or any other person to whom the child was released by the hospital, as provided in Section 8700, 8814.5, or 8815 of the Family Code.

(3) The release of the child to a prospective adoptive parent or parents or an authorized representative of a licensed adoption agency does not pose an immediate danger to the child.

(4) An attorney or an adoption agency has provided documentation stating that ~~he or she~~, *they*, or the agency, is representing the prospective adoptive parent or parents for purposes of the adoption. In the case of an independent adoption, as defined in Section 8524 of the Family Code, the attorney or adoption agency shall provide documentation stating that the prospective adoptive parent or parents have been informed that the child may be eligible for benefits provided pursuant to the Adoption Assistance Program, as set forth in Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9, only if, at the time the

1 adoption request is filed, the child has met the requirements to
2 receive federal supplemental security income benefits pursuant to
3 Subchapter XVI (commencing with Section 1381) of Chapter 7
4 of Title 42 of the United States Code, as determined and
5 documented by the federal Social Security Administration.

6 (5) The prospective adoptive parent or parents or their
7 representative, or an authorized representative of a licensed
8 adoption agency, provides all of the following to the peace officer:

9 (A) A fully executed copy of the Health Facility Minor Release
10 Report.

11 (B) A written form signed by either the prospective adoptive
12 parent or parents or a representative of the licensed adoption
13 agency, which shall include all of the following:

14 (i) A statement that the child is the subject of a proposed
15 adoption.

16 (ii) A declaration that the signer or signers will immediately
17 notify the county child welfare agency pursuant to Section 11165.9
18 of the Penal Code if the adoption plan is terminated for any reason,
19 and will not release the child to the birth parent or parents or any
20 designee of the birth parent or parents until the county child welfare
21 agency or local law enforcement agency completes an investigation
22 and determines that release of the child to the birth parent or parents
23 or a designee of the birth parent or parents will not create an
24 immediate risk to the health or safety of the child.

25 (iii) An agreement to provide a conformed copy of the adoption
26 request or guardianship petition to the county child welfare agency
27 within five business days after filing.

28 (iv) The names, identifying information, and contact information
29 for the child, for each prospective adoptive parent, and for each
30 birth parent, to the extent that information is known. In the case
31 of an agency adoption where no prospective adoptive parent or
32 parents are identified at the time of the child's release from the
33 hospital, the licensed adoption agency may provide the information
34 as it pertains to the licensed or certified foster home into which
35 the agency intends to place the child.

36 (c) (1) In every independent adoption proceeding under this
37 section, the prospective adoptive parent or parents shall file with
38 the court either an adoption request within 10 working days after
39 execution of an adoption placement agreement, or a guardianship

1 petition within 30 calendar days after the child's discharge from
2 the hospital, whichever is earlier.

3 (2) If the adoption plan for a child who was released from the
4 hospital pursuant to subdivision (b) is terminated for any reason,
5 the prospective adoptive parent or parents or licensed adoption
6 agency shall immediately notify the county child welfare agency.
7 The prospective adoptive parent or parents or licensed adoption
8 agency may not release the child into the physical custody of the
9 birth parent or parents, or any designee of the birth parent or
10 parents, until the county child welfare agency or local law
11 enforcement agency completes an investigation and determines
12 that release of the child to the birth parent or parents or a designee
13 of the birth parent or parents will not create an immediate risk to
14 the health or safety of the child.

15 (d) Upon request by a birth parent or parents of the newborn
16 child, the appropriate hospital personnel shall complete a Health
17 Facility Minor Release Report and provide copies of the report to
18 the birth parent or parents, and the person or persons who will
19 receive physical custody of the child upon discharge pursuant to
20 Section 1283 of the Health and Safety Code. Hospital personnel
21 shall not refuse to complete a Health Facility Minor Release Report
22 for any reason, even if the child is ineligible for release at that
23 time. This section shall not be construed to require hospital
24 personnel to release a child contrary to the directives of a child
25 welfare agency.

26 (e) This section is not intended to create a duty that requires
27 law enforcement to investigate the prospective adoptive parent or
28 parents.

29 (f) This section does not suspend the requirements for voluntary
30 adoptive placement under the *California Indian Child Welfare Act*
31 *and the* federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec.
32 1901 et seq.).

33 *SEC. 32. Section 306 of the Welfare and Institutions Code is*
34 *amended to read:*

35 306. (a) Any social worker in a county welfare department,
36 or in an Indian tribe that has entered into an agreement pursuant
37 to Section 10553.1 while acting within the scope of ~~his or her~~ *their*
38 regular duties under the direction of the juvenile court and pursuant
39 to subdivision (b) of Section 272, may do all of the following:

1 (1) Receive and maintain, pending investigation, temporary
2 custody of a child who is described in Section 300, and who has
3 been delivered by a peace officer.

4 (2) Take into and maintain temporary custody of, without a
5 warrant, a child who has been declared a dependent child of the
6 juvenile court under Section 300 or who the social worker has
7 reasonable cause to believe is a person described in subdivision
8 (b) or (g) of Section 300, and the social worker has reasonable
9 cause to believe that the child has an immediate need for medical
10 care or is in immediate danger of physical or sexual abuse or the
11 physical environment poses an immediate threat to the child's
12 health or safety.

13 (b) Upon receiving temporary custody of a child, the county
14 welfare department shall inquire pursuant to Section 224.2, whether
15 the child is an Indian child.

16 (c) If it is known or if there is reason to know the child is an
17 Indian child, any county social worker in a county welfare
18 department may take into custody, and maintain temporary custody
19 of, without a warrant, the Indian child if removing the child from
20 the physical custody of ~~his or her~~ *their* parent, parents, or Indian
21 custodian is necessary to prevent imminent physical damage or
22 harm to the Indian child. The temporary custody shall be
23 considered an emergency removal under Section 1922 of the federal
24 Indian Child Welfare Act (25 U.S.C. Sec. ~~1922~~). *1922) and*
25 *subdivision (g) of Section 305.5.*

26 (d) If a county social worker takes or maintains an Indian child
27 into temporary custody under subdivision (a), and the social worker
28 knows or has reason to believe the Indian child is already a ward
29 of a tribal court, or resides or is domiciled within a reservation of
30 an Indian tribe that has exclusive jurisdiction over child custody
31 proceedings as recognized in *Section 305.5 of this code and* Section
32 1911 of Title 25 of the United States Code, or reassumed exclusive
33 jurisdiction over Indian child custody proceedings pursuant to
34 Section 1918 of Title 25 of the United States Code, the county
35 welfare agency shall notify the tribe that the child was taken into
36 temporary custody no later than the next working day and shall
37 provide all relevant documentation to the tribe regarding the
38 temporary custody and the child's identity. If the tribe determines
39 that the child is an Indian child who is already a ward of a tribal
40 court or who is subject to the tribe's exclusive jurisdiction, the

1 county welfare agency shall transfer custody of the child to the
2 tribe within 24 hours after learning of the tribe's determination.

3 (e) If the social worker is unable to confirm that an Indian child
4 is a ward of a tribal court or subject to the exclusive jurisdiction
5 of an Indian tribe as described in subdivision (d), or is unable to
6 transfer custody of the Indian child to the child's tribe, prior to the
7 expiration of the period permitted by subdivision (a) of Section
8 313 for filing a petition to declare the Indian child a dependent of
9 the juvenile court, the county welfare agency shall file the petition.

10 The county welfare agency shall inform the state court in its report
11 for the hearing pursuant to Section 319, that the Indian child may
12 be a ward of a tribal court or subject to the exclusive jurisdiction
13 of the child's tribe. If the child welfare agency receives
14 confirmation that an Indian child is a ward of a tribal court or
15 subject to the exclusive jurisdiction of the Indian child's tribe
16 between the time of filing a petition and the initial petition hearing,
17 the agency shall inform the state court, provide a copy of the
18 written confirmation, if any, and move to dismiss the petition. This
19 subdivision does not prevent the court from authorizing a state or
20 local agency to maintain temporary custody of the Indian child for
21 a period not to exceed 30 days in order to arrange for the Indian
22 child to be placed in the custody of the child's tribe.

23 (f) Before taking a child into custody, a social worker shall
24 consider whether the child may remain safely in ~~his or her~~ *their*
25 residence. The consideration of whether the child may remain
26 safely at home shall include, but not be limited to, the following
27 factors:

28 (1) Whether there are any reasonable services available to the
29 worker which, if provided to the child's parent, guardian, caretaker,
30 or to the child would eliminate the need to remove the child from
31 the custody of ~~his or her~~ *their* parent, guardian, Indian custodian,
32 or other caretaker.

33 (2) Whether a referral to public assistance pursuant to Chapter
34 2 (commencing with Section 11200) of Part 3, Chapter 7
35 (commencing with Section 14000) of Part 3, Chapter 1
36 (commencing with Section 17000) of Part 5, and Chapter 10
37 (commencing with Section 18900) of Part 6, of Division 9 would
38 eliminate the need to take temporary custody of the child. If those
39 services are available they shall be utilized.

1 (3) Whether a nonoffending caretaker can provide for and
2 protect the child from abuse and neglect and whether the alleged
3 perpetrator voluntarily agrees to withdraw from the residence,
4 withdraws from the residence, and is likely to remain withdrawn
5 from the residence.

6 (4) If it is known or there is reason to know the child is an Indian
7 child, the county social worker shall make active efforts to provide
8 remedial services and rehabilitative programs designed to prevent
9 the breakup of the Indian family prior to removal from the custody
10 of a parent or parents or Indian custodian unless emergency
11 removal is necessary to prevent imminent physical damage or harm
12 to the Indian child.

13 ~~SEC. 5.~~

14 *SEC. 33.* Section 306.6 of the Welfare and Institutions Code
15 is amended to read:

16 306.6. (a) In a dependency proceeding involving a child who
17 would otherwise be an Indian child, based on the definition
18 contained in Section 224.1 and paragraph (4) of Section 1903 of
19 the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.),
20 but is not an Indian child based on status of the child's tribe, as
21 defined in *Section 224.1 of this code* and paragraph (8) of Section
22 1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901
23 et seq.), the court may permit the tribe from which the child is
24 descended to participate in the proceeding upon request of the
25 tribe.

26 (b) If the court permits a tribe to participate in a proceeding, the
27 tribe may do all of the following, upon consent of the court:

- 28 (1) Be present at the hearing.
29 (2) Address the court.
30 (3) Request and receive notice of hearings.
31 (4) Request to examine court documents relating to the
32 proceeding.
33 (5) Present information to the court that is relevant to the
34 proceeding.

35 (6) Submit written reports and recommendations to the court.

36 (7) Perform other duties and responsibilities as requested or
37 approved by the court.

38 (c) If more than one tribe requests to participate in a proceeding
39 under subdivision (a), the court may limit participation to the tribe
40 with which the child has the most significant contacts, as

1 determined in accordance with paragraph (2) of subdivision (d) of
2 Section 170 of the Family Code.

3 (d) This section is intended to assist the court in making
4 decisions that are in the best interest of the child by permitting a
5 tribe in the circumstances set out in subdivision (a) to inform the
6 court and parties to the proceeding about placement options for
7 the child within the child's extended family or the tribal
8 community, services and programs available to the child and the
9 child's parents as Indians, and other unique interests the child or
10 the child's parents may have as Indians. This section shall not be
11 construed to make the Indian Child Welfare Act (25 U.S.C. Sec.
12 1901 et seq.), or the California Indian Child Welfare Act,
13 applicable to the proceedings, or to limit the court's discretion to
14 permit other interested persons to participate in these or any other
15 proceedings.

16 (e) The court shall, on a case-by-case basis, make a
17 determination if this section is applicable and may request
18 information from the tribe, or the entity claiming to be a tribe,
19 from which the child is descended for the purposes of making this
20 determination, if the child would otherwise be an Indian child
21 pursuant to subdivision (a).

22 *SEC. 34. Section 315 of the Welfare and Institutions Code is*
23 *amended to read:*

24 315. If a child has been taken into custody under this article
25 and not released to a parent or guardian, the juvenile court shall
26 hold a hearing (which shall be referred to as a "detention hearing")
27 to determine whether the child shall be further detained. This
28 hearing shall be held as soon as possible, but not later than the
29 expiration of the next judicial day after a petition to declare the
30 child a dependent child has been filed. If the hearing is not held
31 within the period prescribed by this section, the child shall be
32 released from custody. In the case of an Indian child, the hearing
33 pursuant to Section 319 shall be considered an emergency removal
34 ~~under as described in Section 305.5 of this code and~~ Section 1922
35 of the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec.
36 1922).

37 ~~SEC. 6.~~

38 *SEC. 35. Section 319 of the Welfare and Institutions Code is*
39 *amended to read:*

1 319. (a) At the initial petition hearing, the court shall examine
2 the child's parents, guardians, Indian custodian, or other persons
3 having relevant knowledge and hear the relevant evidence as the
4 child, the child's parents or guardians, the child's Indian custodian,
5 the petitioner, the Indian child's tribe, or their counsel desires to
6 present. The court may examine the child, as provided in Section
7 350.

8 (b) The social worker shall report to the court on the reasons
9 why the child has been removed from the parent's, guardian's, or
10 Indian custodian's physical custody, the need, if any, for continued
11 detention, the available services and the referral methods to those
12 services that could facilitate the return of the child to the custody
13 of the child's parents, guardians, or Indian custodian, and whether
14 there are any relatives who are able and willing to take temporary
15 physical custody of the child. If it is known or there is reason to
16 know the child is an Indian child, the report shall also include all
17 of the following:

18 (1) A statement of the risk of imminent physical damage or
19 harm to the Indian child and any evidence that the emergency
20 removal or placement continues to be necessary to prevent the
21 imminent physical damage or harm to the child.

22 (2) The steps taken to provide notice to the child's parents,
23 custodians, and tribe about the hearing pursuant to this section.

24 (3) If the child's parents and Indian custodians are unknown, a
25 detailed explanation of what efforts have been made to locate and
26 contact them, including contact with the appropriate Bureau of
27 Indian Affairs regional director.

28 (4) The residence and the domicile of the Indian child.

29 (5) If either the residence or the domicile of the Indian child is
30 believed to be on a reservation or in an Alaska Native village, the
31 name of the tribe affiliated with that reservation or village.

32 (6) The tribal affiliation of the child and of the parents or Indian
33 custodians.

34 (7) A specific and detailed account of the circumstances that
35 caused the Indian child to be taken into temporary custody.

36 (8) If the child is believed to reside or be domiciled on a
37 reservation in which the tribe exercises exclusive jurisdiction over
38 child custody matters, a statement of efforts that have been made
39 and that are being made to contact the tribe and transfer the child
40 to the tribe's jurisdiction.

1 (9) A statement of the efforts that have been taken to assist the
2 parents or Indian custodians so the Indian child may safely be
3 returned to their custody.

4 (c) The court shall order the release of the child from custody
5 unless a prima facie showing has been made that the child comes
6 within Section 300, the court finds that continuance in the parent's
7 or guardian's home is contrary to the child's welfare, and any of
8 the following circumstances exist:

9 (1) There is a substantial danger to the physical health of the
10 child or the child is suffering severe emotional damage, and there
11 are no reasonable means by which the child's physical or emotional
12 health may be protected without removing the child from the
13 parent's or guardian's physical custody.

14 (2) There is substantial evidence that a parent, guardian, or
15 custodian of the child is likely to flee the jurisdiction of the court,
16 and, in the case of an Indian child, fleeing the jurisdiction will
17 place the child at risk of imminent physical damage or harm.

18 (3) The child has left a placement in which the child was placed
19 by the juvenile court.

20 (4) The child indicates an unwillingness to return home, if the
21 child has been physically or sexually abused by a person residing
22 in the home.

23 (d) If the court knows or there is reason to know the child is an
24 Indian child, the court may only detain the Indian child if it also
25 finds that detention is necessary to prevent imminent physical
26 damage or harm. The court shall state on the record the facts
27 supporting this finding.

28 (e) (1) If the hearing pursuant to this section is continued
29 pursuant to Section 322 or for any other reason, the court shall
30 find that the continuance of the child in the parent's or guardian's
31 home is contrary to the child's welfare at the initial petition hearing
32 or order the release of the child from custody.

33 (2) If the court knows or has reason to know the child is an
34 Indian child, the hearing pursuant to this section may not be
35 continued beyond 30 days unless the court finds all of the
36 following:

37 (A) Restoring the child to the parent, parents, or Indian custodian
38 would subject the child to imminent physical damage or harm.

39 (B) The court is unable to transfer the proceeding to the
40 jurisdiction of the appropriate Indian tribe.

1 (C) It is not possible to initiate an Indian child custody
2 proceeding as defined in Section 224.1.

3 (f) (1) The court shall also make a determination on the record,
4 referencing the social worker's report or other evidence relied
5 upon, as to whether reasonable efforts were made to prevent or
6 eliminate the need for removal of the child from their home,
7 pursuant to subdivision (b) of Section 306, and whether there are
8 available services that would prevent the need for further detention.
9 Services to be considered for purposes of making this determination
10 are case management, counseling, emergency shelter care,
11 emergency in-home caretakers, out-of-home respite care, teaching
12 and demonstrating homemakers, parenting training, transportation,
13 and any other child welfare services authorized by the State
14 Department of Social Services pursuant to Chapter 5 (commencing
15 with Section 16500) of Part 4 of Division 9. The court shall also
16 review whether the social worker has considered whether a referral
17 to public assistance services pursuant to Chapter 2 (commencing
18 with Section 11200) and Chapter 7 (commencing with Section
19 14000) of Part 3 of, Chapter 1 (commencing with Section 17000)
20 of Part 5 of, and Chapter 10 (commencing with Section 18900) of
21 Part 6 of, Division 9 would have eliminated the need to take
22 temporary custody of the child or would prevent the need for
23 further detention.

24 (2) If the court knows or has reason to know the child is an
25 Indian child, the court shall also determine whether the county
26 welfare department made active efforts to provide remedial services
27 and rehabilitation programs designed to prevent the breakup of
28 the Indian family. The court shall order the county welfare
29 department to initiate or continue services or programs pending
30 disposition pursuant to Section 358.

31 (3) If the child can be returned to the custody of their parent,
32 guardian, or Indian custodian through the provision of those
33 services, the court shall place the child with their parent, guardian,
34 or Indian custodian and order that the services shall be provided.
35 If the child cannot be returned to the physical custody of their
36 parent or guardian, the court shall determine if there is a relative
37 who is able and willing to care for the child, and has been assessed
38 pursuant to Section 361.4.

39 (4) In order to preserve the bond between the child and the
40 parent and to facilitate family reunification, the court shall consider

1 whether the child can be returned to the custody of their parent
2 who is enrolled in a certified substance abuse treatment facility
3 that allows a dependent child to reside with their parent. The fact
4 that the parent is enrolled in a certified substance abuse treatment
5 facility that allows a dependent child to reside with their parent
6 shall not be, for that reason alone, prima facie evidence of
7 substantial danger. The court shall specify the factual basis for its
8 conclusion that the return of the child to the custody of their parent
9 would pose a substantial danger or would not pose a substantial
10 danger to the physical health, safety, protection, or physical or
11 emotional well-being of the child.

12 (g) If a court orders a child detained, the court shall state the
13 facts on which the decision is based, specify why the initial removal
14 was necessary, reference the social worker's report or other
15 evidence relied upon to make its determination whether
16 continuance in the home of the parent or legal guardian is contrary
17 to the child's welfare, order temporary placement and care of the
18 child to be vested with the county child welfare department pending
19 the hearing held pursuant to Section 355 or further order of the
20 court, and order services to be provided as soon as possible to
21 reunify the child and their family, if appropriate.

22 (h) (1) (A) If the child is not released from custody, the court
23 may order the temporary placement of the child in any of the
24 following for a period not to exceed 15 judicial days:

25 (i) The home of a relative, an extended family member, as
26 defined in Section 224.1 and Section 1903 of the federal Indian
27 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.), or a
28 nonrelative extended family member, as defined in Section 362.7,
29 that has been assessed pursuant to Section 361.4.

30 (ii) The approved home of a resource family, as defined in
31 Section 16519.5, or a home licensed or approved by the Indian
32 child's tribe.

33 (iii) An emergency shelter or other suitable licensed place.

34 (iv) A place exempt from licensure designated by the juvenile
35 court.

36 (B) A youth homelessness prevention center licensed by the
37 State Department of Social Services pursuant to Section 1502.35
38 of the Health and Safety Code shall not be a placement option
39 pursuant to this section.

1 (C) If the court knows or has reason to know that the child is
2 an Indian child, the Indian child shall be detained in a home that
3 complies with the placement preferences set forth in Section 361.31
4 and in the federal Indian Child Welfare Act of 1978 (25 U.S.C.
5 Sec. 1901 et seq.), unless the court finds good cause exists pursuant
6 to Section 361.31 not to follow the placement preferences. If the
7 court finds good cause not to follow the placement preferences for
8 detention, this finding does not affect the requirement that a diligent
9 search be made for a subsequent placement within the placement
10 preferences.

11 (2) Relatives shall be given preferential consideration for
12 placement of the child. As used in this section, “relative” means
13 an adult who is related to the child by blood, adoption, or affinity
14 within the fifth degree of kinship, including stepparents,
15 stepsiblings, and all relatives whose status is preceded by the words
16 “great,” “great-great,” or “grand,” or the spouse of any of these
17 persons, even if the marriage was terminated by death or
18 dissolution.

19 (3) When placing in the home of a relative, an extended family
20 member, as defined in Section 224.1 and Section 1903 of the
21 federal Indian Child Welfare Act of 1978, or nonrelative extended
22 family member, the court shall consider the recommendations of
23 the social worker based on the assessment pursuant to Section
24 361.4 of the home of the relative, extended family member, or
25 nonrelative extended family member, including the results of a
26 criminal records check and prior child abuse allegations, if any,
27 before ordering that the child be placed with a relative or
28 nonrelative extended family member. The court may authorize the
29 placement of a child on temporary basis in the home of a relative,
30 regardless of the status of any criminal record exemption or
31 resource family approval, if the court finds that the placement does
32 not pose a risk to the health and safety of the child. The court shall
33 order the parent to disclose to the social worker the names,
34 residences, and any known identifying information of any maternal
35 or paternal relatives of the child. The social worker shall initiate
36 the assessment pursuant to Section 361.3 of any relative to be
37 considered for continuing placement.

38 (i) In the case of an Indian child, any order detaining the child
39 pursuant to this section shall be considered an emergency removal
40 within the meaning of Section 224.1 of this ~~code~~ and *code, and as*

1 *described in subdivision (g) of Section 305.5, and Section 1922*
2 *of the federal Indian Child Welfare Act of 1978. The emergency*
3 *proceeding shall terminate if the child is returned to the custody*
4 *of the parent, parents, or Indian custodian, the child has been*
5 *transferred to the custody and jurisdiction of the child's tribe, or*
6 *the agency or another party to the proceeding recommends that*
7 *the child be removed from the physical custody of their parent or*
8 *parents or Indian custodian pursuant to Section 361 or 361.2.*

9 (j) (1) At the initial hearing upon the petition filed in accordance
10 with subdivision (c) of Rule 5.520 of the California Rules of Court
11 or anytime thereafter up until the time that the minor is adjudged
12 a dependent child of the court or a finding is made dismissing the
13 petition, the court may temporarily limit the right of the parent or
14 guardian to make educational or developmental services decisions
15 for the child and temporarily appoint a responsible adult to make
16 educational or developmental services decisions for the child if
17 all of the following conditions are found:

18 (A) The parent or guardian is unavailable, unable, or unwilling
19 to exercise educational or developmental services rights for the
20 child.

21 (B) The county placing agency has made diligent efforts to
22 locate and secure the participation of the parent or guardian in
23 educational or developmental services decisionmaking.

24 (C) The child's educational and developmental services needs
25 cannot be met without the temporary appointment of a responsible
26 adult.

27 (2) If the court limits the parent's educational rights under this
28 subdivision, the court shall determine whether there is a responsible
29 adult who is a relative, nonrelative extended family member, or
30 other adult known to the child and who is available and willing to
31 serve as the child's educational representative before appointing
32 an educational representative or surrogate who is not known to the
33 child.

34 (3) If the court cannot identify a responsible adult to make
35 educational decisions for the child and the appointment of a
36 surrogate parent, as defined in subdivision (a) of Section 56050
37 of the Education Code, is not warranted, the court may, with the
38 input of any interested person, make educational decisions for the
39 child. If the child is receiving services from a regional center, the
40 provision of any developmental services related to the court's

1 decision shall be consistent with the child's individual program
2 plan and pursuant to the Lanterman Developmental Disabilities
3 Services Act (Division 4.5 (commencing with Section 4500)). If
4 the court cannot identify a responsible adult to make developmental
5 services decisions for the child, the court may, with the input of
6 any interested person, make developmental services decisions for
7 the child. If the court makes educational or developmental services
8 decisions for the child, the court shall also issue appropriate orders
9 to ensure that every effort is made to identify a responsible adult
10 to make future educational or developmental services decisions
11 for the child.

12 (4) A temporary appointment of a responsible adult and
13 temporary limitation on the right of the parent or guardian to make
14 educational or developmental services decisions for the child shall
15 be specifically addressed in the court order. An order made under
16 this section shall expire at the conclusion of the hearing held
17 pursuant to Section 361 or upon dismissal of the petition. Upon
18 the entering of disposition orders, additional needed limitation on
19 the parent's or guardian's educational or developmental services
20 rights shall be addressed pursuant to Section 361.

21 (5) This section does not remove the obligation to appoint
22 surrogate parents for students with disabilities who are without
23 parental representation in special education procedures, as required
24 by state and federal law, including Section 1415(b)(2) of Title 20
25 of the United States Code, Section 56050 of the Education Code,
26 Section 7579.5 of the Government Code, and Rule 5.650 of the
27 California Rules of Court.

28 (6) If the court appoints a developmental services decisionmaker
29 pursuant to this section, the developmental services decisionmaker
30 shall have the authority to access the child's information and
31 records pursuant to subdivision (u) of Section 4514 and paragraph
32 (23) of subdivision (a) of Section 5328, and to act on the child's
33 behalf for the purposes of the individual program plan process
34 pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing
35 process pursuant to Chapter 7 (commencing with Section 4700)
36 of Division 4.5, and as set forth in the court order.

37 (k) For a placement made on or after October 1, 2021, each
38 temporary placement of the child pursuant to subdivision (h) in a
39 short-term residential therapeutic program shall comply with the

1 requirements of Section 4096 and be reviewed by the court
2 pursuant to Section 361.22.

3 (l) For a placement made on or after July 1, 2022, each
4 temporary placement of the child pursuant to subdivision (h) in a
5 community treatment facility shall comply with the requirements
6 of Section 4096 and be reviewed by the court pursuant to Section
7 361.22.

8 *SEC. 36. Section 361 of the Welfare and Institutions Code is*
9 *amended to read:*

10 361. (a) (1) In all cases in which a minor is adjudged a
11 dependent child of the court on the ground that the minor is a
12 person described by Section 300, the court may limit the control
13 to be exercised over the dependent child by any parent, guardian,
14 or Indian custodian and shall by its order clearly and specifically
15 set forth all those limitations. Any limitation on the right of the
16 parent, guardian, or Indian custodian to make educational or
17 developmental services decisions for the child shall be specifically
18 addressed in the court order. The limitations may not exceed those
19 necessary to protect the child. If the court specifically limits the
20 right of the parent, guardian, or Indian custodian to make
21 educational or developmental services decisions for the child, or,
22 for the nonminor dependent, if the court finds the appointment of
23 a developmental services decisionmaker to be in the best interests
24 of the nonminor dependent, the court shall at the same time appoint
25 a responsible adult to make educational or developmental services
26 decisions for the child or nonminor dependent until one of the
27 following occurs:

28 (A) The minor reaches 18 years of age, unless the child or
29 nonminor dependent chooses not to make educational or
30 developmental services decisions for ~~himself or herself~~, *themselves*,
31 or is deemed by the court to be incompetent.

32 (B) Another responsible adult is appointed to make educational
33 or developmental services decisions for the minor pursuant to this
34 section.

35 (C) The right of the parent, guardian, or Indian custodian to
36 make educational or developmental services decisions for the
37 minor is fully restored.

38 (D) A successor guardian or conservator is appointed.

39 (E) The child is placed into a planned permanent living
40 arrangement pursuant to paragraph (5) of subdivision (g) of Section

1 366.21, Section 366.22, Section 366.26, or subdivision (i) of
2 Section 366.3, at which time, for educational decisionmaking, the
3 foster parent, relative caretaker, or nonrelative extended family
4 member as defined in Section 362.7, has the right to represent the
5 child in educational matters pursuant to Section 56055 of the
6 Education Code, and for decisions relating to developmental
7 services, unless the court specifies otherwise, the foster parent,
8 relative caregiver, or nonrelative extended family member of the
9 planned permanent living arrangement has the right to represent
10 the child or nonminor dependent in matters related to
11 developmental services.

12 (2) An individual who would have a conflict of interest in
13 representing the child or nonminor dependent shall not be
14 appointed to make educational or developmental services decisions.
15 For purposes of this section, “an individual who would have a
16 conflict of interest” means a person having any interests that might
17 restrict or bias ~~his or her~~ *their* ability to make educational or
18 developmental services decisions, including, but not limited to,
19 those conflicts of interest prohibited by Section 1126 of the
20 Government Code, and the receipt of compensation or attorney’s
21 fees for the provision of services pursuant to this section. A foster
22 parent shall not be deemed to have a conflict of interest solely
23 because ~~he or she receives~~ *they receive* compensation for the
24 provision of services pursuant to this section.

25 (3) Regardless of the person or persons currently holding the
26 right to make educational decisions for the child, a foster parent,
27 relative caregiver, nonrelated extended family member, or resource
28 family shall retain rights and obligations regarding accessing and
29 maintaining health and education information pursuant to Sections
30 49069.3 and 49076 of the Education Code and Section 16010 of
31 this code.

32 (4) (A) If the court limits the parent’s, guardian’s, or Indian
33 custodian’s educational rights pursuant to this subdivision, the
34 court shall determine whether there is a responsible adult who is
35 a relative, nonrelative extended family member, or other adult
36 known to the child who is available and willing to serve as the
37 child’s educational representative before appointing an educational
38 representative or surrogate who is not known to the child.

39 (B) If the court cannot identify a responsible adult who is known
40 to the child and available to make educational decisions for the

1 child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not
2 apply, and the child has either been referred to the local educational
3 agency for special education and related services, or has a valid
4 individualized education program, the court shall refer the child
5 to the local educational agency for appointment of a surrogate
6 parent pursuant to Section 7579.5 of the Government Code.

7 (C) If the court cannot identify a responsible adult to make
8 educational decisions for the child, the appointment of a surrogate
9 parent as defined in subdivision (a) of Section 56050 of the
10 Education Code is not warranted, and there is no foster parent to
11 exercise the authority granted by Section 56055 of the Education
12 Code, the court may, with the input of any interested person, make
13 educational decisions for the child.

14 (5) (A) If the court appoints a developmental services
15 decisionmaker pursuant to this section, ~~he or she~~ *they* shall have
16 the authority to access the child's or nonminor dependent's
17 information and records pursuant to subdivision (u) of Section
18 4514 and paragraph (23) of subdivision (a) of Section 5328, and
19 to act on the child's or nonminor dependent's behalf for the
20 purposes of the individual program plan process pursuant to
21 Sections 4646, 4646.5, and 4648 and the fair hearing process
22 pursuant to Chapter 7 (commencing with Section 4700) of Division
23 4.5, and as set forth in the court order.

24 (B) If the court cannot identify a responsible adult to make
25 developmental services decisions for the child or nonminor
26 dependent, the court may, with the input of any interested person,
27 make developmental services decisions for the child or nonminor
28 dependent. If the child is receiving services from a regional center,
29 the provision of any developmental services related to the court's
30 decision must be consistent with the child's or nonminor
31 dependent's individual program plan and pursuant to the provisions
32 of the Lanterman Developmental Disabilities Services Act
33 (Division 4.5 (commencing with Section 4500)).

34 (6) All educational and school placement decisions shall seek
35 to ensure that the child is in the least restrictive educational
36 programs and has access to the academic resources, services, and
37 extracurricular and enrichment activities that are available to all
38 pupils. In all instances, educational and school placement decisions
39 shall be based on the best interests of the child. If an educational
40 representative or surrogate is appointed for the child, the

1 representative or surrogate shall meet with the child, shall
2 investigate the child's educational needs and whether those needs
3 are being met, and shall, prior to each review hearing held under
4 this article, provide information and recommendations concerning
5 the child's educational needs to the child's social worker, make
6 written recommendations to the court, or attend the hearing and
7 participate in those portions of the hearing that concern the child's
8 education.

9 (7) Nothing in this section in any way removes the obligation
10 to appoint surrogate parents for students with disabilities who are
11 without parental representation in special education procedures as
12 required by state and federal law, including Section 1415(b)(2) of
13 Title 20 of the United States Code, Section 56050 of the Education
14 Code, Section 7579.5 of the Government Code, and Rule 5.650
15 of the California Rules of Court.

16 (b) (1) Subdivision (a) does not limit the ability of a parent to
17 voluntarily relinquish ~~his or her~~ *their* child to the State Department
18 of Social Services, to a county adoption agency, or to a licensed
19 private adoption agency at any time while the child is the subject
20 of a petition to declare ~~him or her~~ *them*, or is, a dependent child
21 of the juvenile court, if the department, county adoption agency,
22 or licensed private adoption agency is willing to accept the
23 relinquishment.

24 (2) When accepting the relinquishment of a child described in
25 paragraph (1), the department or a county adoption agency shall
26 comply with Section 8700 of the Family Code and, within five
27 court days of accepting the relinquishment, shall file written notice
28 of that fact with the court and all parties to the case and their
29 counsel.

30 (3) When accepting the relinquishment of a child described in
31 paragraph (1), a licensed private adoption agency shall comply
32 with Section 8700 of the Family Code and, within 10 court days
33 of accepting the relinquishment, shall file or allow another party
34 or that party's counsel to file with the court one original and five
35 copies of a request to approve the relinquishment. The clerk of the
36 court shall file the request under seal, subject to examination only
37 by the parties and their counsel or by others upon court approval.
38 If the request is accompanied by the written agreement of all
39 parties, the court may issue an ex parte order approving the
40 relinquishment. Unless approved pursuant to that agreement, the

1 court shall set the matter for hearing no later than 10 court days
2 after filing, and shall provide notice of the hearing to all parties
3 and their counsel, and to the licensed private adoption agency and
4 its counsel. The licensed private adoption agency and any
5 prospective adoptive parent or parents named in the relinquishment
6 shall be permitted to attend the hearing and participate as parties
7 regarding the strictly limited issue of whether the court should
8 approve the relinquishment. The court shall issue an order
9 approving or denying the relinquishment within 10 court days after
10 the hearing.

11 (4) Nothing in this subdivision suspends the requirements for
12 voluntary adoptive placement under the *California Indian Child*
13 *Welfare Act and the federal Indian Child Welfare Act of 1978* (25
14 U.S.C. Sec. 1901 et seq.).

15 (c) A dependent child shall not be taken from the physical
16 custody of ~~his or her~~ *their* parents, guardian or guardians, or Indian
17 custodian with whom the child resides at the time the petition was
18 initiated, unless the juvenile court finds clear and convincing
19 evidence of any of the following circumstances listed in paragraphs
20 (1) to (5), inclusive, and, where it is known or there is reason to
21 know that the child is an Indian child, as defined by Section 224.1,
22 paragraph (6):

23 (1) There is or would be a substantial danger to the physical
24 health, safety, protection, or physical or emotional well-being of
25 the minor if the minor were returned home, and there are no
26 reasonable means by which the minor's physical health can be
27 protected without removing the minor from the minor's parent's,
28 guardian's, or Indian custodian's physical custody. The fact that
29 a minor has been adjudicated a dependent child of the court
30 pursuant to subdivision (e) of Section 300 shall constitute prima
31 facie evidence that the minor cannot be safely left in the physical
32 custody of the parent, guardian, or Indian custodian with whom
33 the minor resided at the time of injury. The court shall consider,
34 as a reasonable means to protect the minor, each of the following:

35 (A) The option of removing an offending parent, guardian, or
36 Indian custodian from the home.

37 (B) Allowing a nonoffending parent, guardian, or Indian
38 custodian to retain physical custody as long as that parent, guardian,
39 or Indian custodian presents a plan acceptable to the court

1 demonstrating that ~~he or she~~ *they* will be able to protect the child
2 from future harm.

3 (2) The parent, guardian, or Indian custodian of the minor is
4 unwilling to have physical custody of the minor, and the parent,
5 guardian, or Indian custodian has been notified that if the minor
6 remains out of their physical custody for the period specified in
7 Section 366.26, the minor may be declared permanently free from
8 their custody and control.

9 (3) The minor is suffering severe emotional damage, as indicated
10 by extreme anxiety, depression, withdrawal, or untoward aggressive
11 behavior toward ~~himself or herself~~ *themselves* or others, and there
12 are no reasonable means by which the minor's emotional health
13 may be protected without removing the minor from the physical
14 custody of ~~his or her~~ *their* parent, guardian, or Indian custodian.

15 (4) The minor or a sibling of the minor has been sexually abused,
16 or is deemed to be at substantial risk of being sexually abused, by
17 a parent, guardian, Indian custodian, or member of ~~his or her~~ *their*
18 household, or other person known to ~~his or her~~ *their* parent, and
19 there are no reasonable means by which the minor can be protected
20 from further sexual abuse or a substantial risk of sexual abuse
21 without removing the minor from ~~his or her~~ *their* parent, guardian,
22 or Indian custodian, or the minor does not wish to return to ~~his or~~
23 ~~her~~ *their* parent, guardian, or Indian custodian.

24 (5) The minor has been left without any provision for ~~his or her~~
25 *their* support, or a parent, guardian, or Indian custodian who has
26 been incarcerated or institutionalized cannot arrange for the care
27 of the minor, or a relative or other adult custodian with whom the
28 child has been left by the parent, guardian, or Indian custodian is
29 unwilling or unable to provide care or support for the child and
30 the whereabouts of the parent, guardian, or Indian custodian is
31 unknown and reasonable efforts to locate ~~him or her~~ *them* have
32 been unsuccessful.

33 (6) In an Indian child custody proceeding, continued custody
34 of the child by the parent or Indian custodian is likely to result in
35 serious emotional or physical damage to the child, and that finding
36 is supported by testimony of a "qualified expert witness" as
37 described in Section 224.6.

38 (A) For purposes of this paragraph, stipulation by the parent,
39 Indian custodian, or the Indian child's tribe, or failure to object,
40 may waive the requirement of producing evidence of the likelihood

1 of serious damage only if the court is satisfied that the party has
2 been fully advised of the requirements of the *California Indian*
3 *Child Welfare Act and the* federal Indian Child Welfare Act of
4 1978 (25 U.S.C. Sec. 1901 et seq.), and has knowingly,
5 intelligently, and voluntarily waived them.

6 (B) For purposes of this paragraph, failure to meet non-Indian
7 family and child-rearing community standards, or the existence of
8 other behavior or conditions that meet the removal standards of
9 this section, will not support an order for placement in the absence
10 of the finding in this paragraph.

11 (d) A dependent child shall not be taken from the physical
12 custody of ~~his or her~~ *their* parents, guardian, or Indian custodian
13 with whom the child did not reside at the time the petition was
14 initiated, unless the juvenile court finds clear and convincing
15 evidence that there would be a substantial danger to the physical
16 health, safety, protection, or physical or emotional well-being of
17 the child for the parent, guardian, or Indian custodian to live with
18 the child or otherwise exercise the parent's, guardian's, or Indian
19 custodian's right to physical custody, and there are no reasonable
20 means by which the child's physical and emotional health can be
21 protected without removing the child from the child's parent's,
22 guardian's, or Indian custodian's physical custody.

23 (e) The court shall make a determination as to whether
24 reasonable efforts were made to prevent or to eliminate the need
25 for removal of the minor from ~~his or her~~ *their* home or, if the minor
26 is removed for one of the reasons stated in paragraph (5) of
27 subdivision (c), whether it was reasonable under the circumstances
28 not to make any of those efforts, or, where it is known or there is
29 reason to know that the child is an Indian child, as defined by
30 Section 224.1, whether active efforts, as defined by Section 224.1
31 and as required in Section 361.7 were made and that these efforts
32 have proved unsuccessful. The court shall state the facts on which
33 the decision to remove the minor is based.

34 (f) The court shall make all of the findings required by
35 subdivision (a) of Section 366 in either of the following
36 circumstances:

37 (1) The minor has been taken from the custody of ~~his or her~~
38 *their* parent, guardian, or Indian custodian and has been living in
39 an out-of-home placement pursuant to Section 319.

1 (2) The minor has been living in a voluntary out-of-home
2 placement pursuant to Section 16507.4.

3 ~~SEC. 7.~~

4 *SEC. 37.* Section 361.31 of the Welfare and Institutions Code
5 is amended to read:

6 361.31. (a) If an Indian child is removed from the physical
7 custody of their parents or Indian custodian pursuant to Section
8 361, the child's placement shall comply with this section. The
9 placement shall be analyzed each time there is a change in
10 placement.

11 (b) Any foster care or guardianship placement of an Indian child,
12 or any emergency removal of a child who is known to be, or if
13 there is reason to know that the child is, an Indian child shall be
14 in the least restrictive setting that most approximates a family
15 situation and in which the child's special needs, if any, may be
16 met. The child shall also be placed within reasonable proximity
17 to the child's home, taking into account any special needs of the
18 child. Preference shall be given to the child's placement with one
19 of the following, in descending priority order:

20 (1) A member of the child's extended family, as defined in
21 Section 224.1 of this code and Section 1903 of the federal Indian
22 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

23 (2) A foster home licensed, approved, or specified by the child's
24 tribe.

25 (3) An Indian foster home licensed or approved by an authorized
26 non-Indian licensing authority.

27 (4) An institution for children approved by an Indian tribe or
28 operated by an Indian organization that has a program suitable to
29 meet the Indian child's needs.

30 (c) In any adoptive placement of an Indian child, preference
31 shall be given to a placement with one of the following, in
32 descending priority order:

33 (1) A member of the child's extended family, as defined in
34 Section 224.1 of this code and Section 1903 of the federal Indian
35 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

36 (2) Other members or citizens of the child's tribe.

37 (3) Another Indian family.

38 (d) Notwithstanding the placement preferences listed in
39 subdivisions (b) and (c), if a different order of placement preference
40 is established by the child's tribe, the court or agency effecting the

1 placement shall follow the order of preference established by the
2 tribe, so long as the placement is the least restrictive setting
3 appropriate to the particular needs of the child as provided in
4 subdivision (b).

5 (e) Where appropriate, the placement preference of the Indian
6 child, if of sufficient age, or parent shall be considered. In applying
7 the preferences, a consenting parent's request for anonymity shall
8 also be given weight by the court or agency effecting the
9 placement.

10 (f) The prevailing social and cultural standards of the Indian
11 community in which the parent or extended family members of
12 an Indian child reside, or with which the parent or extended family
13 members maintain social and cultural ties, or the prevailing social
14 and cultural standards of the Indian child's tribe shall be applied
15 in meeting the placement preferences under this section. A
16 determination of the applicable prevailing social and cultural
17 standards may be confirmed by the Indian child's tribe or by the
18 testimony or other documented support of a qualified expert
19 witness, as defined in subdivision (c) of Section 224.6, who is
20 knowledgeable regarding the social and cultural standards of the
21 Indian community.

22 (g) Any person or court involved in the placement of an Indian
23 child shall use the services of the Indian child's tribe, whenever
24 available through the tribe, in seeking to secure placement within
25 the order of placement preference established in this section and
26 in the supervision of the placement. *The responsibility for*
27 *conducting a diligent search to seek placements in descending*
28 *priority order shall remain on the person or agency removing the*
29 *Indian child.*

30 (h) If a party asserts that good cause not to follow the placement
31 preferences exists, the reason for that assertion shall be stated
32 orally on the record or provided in writing to the parties to the
33 Indian child custody proceeding and the court.

34 (i) The party seeking departure from the placement preferences
35 shall bear the burden of proving by clear and convincing evidence
36 that there is good cause to depart from the placement preferences.

37 (j) A state court's determination of good cause to depart from
38 the placement preferences shall be made on the record or in writing
39 and shall be based on one or more of the following considerations:

1 (1) The request of one or both of the Indian child's parents, if
2 they attest that they have reviewed the placement options, if any,
3 that comply with the order of preference.

4 (2) The request of the child, if the child is of sufficient age and
5 capacity to understand the decision that is being made.

6 (3) The presence of a sibling attachment that can be maintained
7 only through a particular placement.

8 (4) The extraordinary physical, mental, or emotional needs of
9 the Indian child, including specialized treatment services that may
10 be unavailable in the community where families who meet the
11 placement preferences live.

12 (5) The unavailability of a suitable placement after a
13 determination by the court that a diligent search was conducted.
14 For purposes of this paragraph, the standard for determining
15 whether a placement is unavailable shall conform to the prevailing
16 social and cultural standards of the Indian community in which
17 the Indian child's parent or extended family resides or with which
18 the Indian child's parent or extended family members maintain
19 social and cultural ties.

20 (k) A placement shall not depart from the preferences based on
21 the socioeconomic status of any placement relative to another
22 placement.

23 (l) A placement shall not depart from the preferences based
24 solely on ordinary bonding or attachment that flowed from time
25 spent in a nonpreferred placement that was made in violation of
26 this section or the federal Indian Child Welfare Act of 1978 (25
27 U.S.C. Sec. 1901 et seq.).

28 (m) A record of each foster care placement or adoptive
29 placement of an Indian child shall be maintained in perpetuity by
30 the State Department of Social Services. The record shall document
31 the active efforts to comply with the applicable order of preference
32 specified in this section, and shall be made available within 14
33 days of a request by the child's tribe.

34 ~~SEC. 8.~~

35 *SEC. 38.* Section 366.26 of the Welfare and Institutions Code
36 is amended to read:

37 366.26. (a) This section applies to children who are adjudged
38 dependent children of the juvenile court pursuant to subdivision
39 (d) of Section 360. The procedures specified in this section are the
40 exclusive procedures for conducting these hearings. The procedures

1 in Part 2 (commencing with Section 3020) of Division 8 of the
2 Family Code are not applicable to these proceedings. Section
3 8616.5 of the Family Code is applicable and available to all
4 dependent children meeting the requirements of that section, if the
5 postadoption contact agreement has been entered into voluntarily.
6 For children who are adjudged dependent children of the juvenile
7 court pursuant to subdivision (d) of Section 360, this section, and
8 Sections 8604, 8605, 8606, and 8700 of the Family Code and
9 Chapter 5 (commencing with Section 7660) of Part 3 of Division
10 12 of the Family Code specify the exclusive procedures for
11 permanently terminating parental rights with regard to, or
12 establishing legal guardianship of, the child while the child is a
13 dependent child of the juvenile court.

14 (b) At the hearing, which shall be held in juvenile court for all
15 children who are dependents of the juvenile court, the court, in
16 order to provide stable, permanent homes for these children, shall
17 review the report as specified in Section 361.5, 366.21, 366.22, or
18 366.25, shall indicate that the court has read and considered it,
19 shall receive other evidence that the parties may present, and then
20 shall make findings and orders in the following order of preference:

21 (1) Terminate the rights of the parent or parents and order that
22 the child be placed for adoption and, upon the filing of a petition
23 for adoption in the juvenile court, order that a hearing be set. The
24 court shall proceed with the adoption after the appellate rights of
25 the natural parents have been exhausted.

26 (2) Order, without termination of parental rights, the plan of
27 tribal customary adoption, as described in Section 366.24, through
28 tribal custom, traditions, or law of the Indian child's tribe, and
29 upon the court affording the tribal customary adoption order full
30 faith and credit at the continued selection and implementation
31 hearing, order that a hearing be set pursuant to paragraph (2) of
32 subdivision (e).

33 (3) Appoint a relative or relatives with whom the child is
34 currently residing as legal guardian or guardians for the child, and
35 order that letters of guardianship issue.

36 (4) On making a finding under paragraph (3) of subdivision (c),
37 identify adoption or tribal customary adoption as the permanent
38 placement goal and order that efforts be made to locate an
39 appropriate adoptive family for the child within a period not to
40 exceed 180 days.

1 (5) Appoint a nonrelative legal guardian for the child and order
2 that letters of guardianship issue.

3 (6) Order that the child be permanently placed with a fit and
4 willing relative, subject to the periodic review of the juvenile court
5 under Section 366.3.

6 (7) Order that the child remain in foster care, subject to the
7 conditions described in paragraph (4) of subdivision (c) and the
8 periodic review of the juvenile court under Section 366.3.

9 In choosing among the alternatives in this subdivision, the court
10 shall proceed pursuant to subdivision (c).

11 (c) (1) If the court determines, based on the assessment provided
12 as ordered under subdivision (i) of Section 366.21, subdivision (b)
13 of Section 366.22, or subdivision (b) of Section 366.25, and any
14 other relevant evidence, by a clear and convincing standard, that
15 it is likely the child will be adopted, the court shall terminate
16 parental rights and order the child placed for adoption. The fact
17 that the child is not yet placed in a preadoptive home nor with a
18 relative or foster family who is prepared to adopt the child, shall
19 not constitute a basis for the court to conclude that it is not likely
20 the child will be adopted. A finding under subdivision (b) or
21 paragraph (1) of subdivision (e) of Section 361.5 that reunification
22 services shall not be offered, under subdivision (e) of Section
23 366.21 that the whereabouts of a parent have been unknown for
24 six months or that the parent has failed to visit or contact the child
25 for six months, or that the parent has been convicted of a felony
26 indicating parental unfitness, or, under Section 366.21 or 366.22,
27 that the court has continued to remove the child from the custody
28 of the parent or guardian and has terminated reunification services,
29 shall constitute a sufficient basis for termination of parental rights.
30 Under these circumstances, the court shall terminate parental rights
31 unless either of the following applies:

32 (A) The child is living with a relative who is unable or unwilling
33 to adopt the child because of circumstances that do not include an
34 unwillingness to accept legal or financial responsibility for the
35 child, but who is willing and capable of providing the child with
36 a stable and permanent environment through legal guardianship,
37 and the removal of the child from the custody of their relative
38 would be detrimental to the emotional well-being of the child. For
39 purposes of an Indian child, “relative” shall include an “extended

1 family member,” as defined in Section 224.1 and the federal Indian
2 Child Welfare Act of 1978 (25 U.S.C. Sec. 1903(2)).

3 (B) The court finds a compelling reason for determining that
4 termination would be detrimental to the child due to one or more
5 of the following circumstances:

6 (i) The parents have maintained regular visitation and contact
7 with the child and the child would benefit from continuing the
8 relationship.

9 (ii) A child 12 years of age or older objects to termination of
10 parental rights.

11 (iii) The child is placed in a residential treatment facility,
12 adoption is unlikely or undesirable, and continuation of parental
13 rights will not prevent finding the child a permanent family
14 placement if the parents cannot resume custody when residential
15 care is no longer needed.

16 (iv) The child is living with a foster parent or Indian custodian
17 who is unable or unwilling to adopt the child because of
18 exceptional circumstances, that do not include an unwillingness
19 to accept legal or financial responsibility for the child, but who is
20 willing and capable of providing the child with a stable and
21 permanent environment and the removal of the child from the
22 physical custody of their foster parent or Indian custodian would
23 be detrimental to the emotional well-being of the child. This clause
24 does not apply to any child who is either (I) under six years of age
25 or (II) a member of a sibling group where at least one child is under
26 six years of age and the siblings are, or should be, permanently
27 placed together.

28 (v) There would be substantial interference with a child’s sibling
29 relationship, taking into consideration the nature and extent of the
30 relationship, including, but not limited to, whether the child was
31 raised with a sibling in the same home, whether the child shared
32 significant common experiences or has existing close and strong
33 bonds with a sibling, and whether ongoing contact is in the child’s
34 best interest, including the child’s long-term emotional interest,
35 as compared to the benefit of legal permanence through adoption.

36 (vi) The child is an Indian child and there is a compelling reason
37 for determining that termination of parental rights would not be
38 in the best interest of the child, including, but not limited to:

1 (I) Termination of parental rights would substantially interfere
2 with the child's connection to their tribal community or the child's
3 tribal membership rights.

4 (II) The child's tribe has identified guardianship, foster care
5 with a fit and willing relative, tribal customary adoption, or another
6 planned permanent living arrangement for the child.

7 (III) The child is a nonminor dependent, and the nonminor and
8 the nonminor's tribe have identified tribal customary adoption for
9 the nonminor.

10 (C) For purposes of subparagraph (B), in the case of tribal
11 customary adoptions, Section 366.24 shall apply.

12 (D) If the court finds that termination of parental rights would
13 be detrimental to the child pursuant to clause (i), (ii), (iii), (iv),
14 (v), or (vi), it shall state its reasons in writing or on the record.

15 (2) The court shall not terminate parental rights if:

16 (A) At each hearing at which the court was required to consider
17 reasonable efforts or services, the court has found that reasonable
18 efforts were not made or that reasonable services were not offered
19 or provided.

20 (B) In the case of an Indian child:

21 (i) At the hearing terminating parental rights, the court has found
22 that active efforts were not made as required in Section 361.7.

23 (ii) The court does not make a determination at the hearing
24 terminating parental rights, supported by evidence beyond a
25 reasonable doubt, including testimony of one or more "qualified
26 expert witnesses" as defined in Section 224.6, that the continued
27 custody of the child by the parent is likely to result in serious
28 emotional or physical damage to the child.

29 (iii) The court has ordered tribal customary adoption pursuant
30 to Section 366.24.

31 (3) If the court finds that termination of parental rights would
32 not be detrimental to the child pursuant to paragraph (1) and that
33 the child has a probability for adoption but is difficult to place for
34 adoption and there is no identified or available prospective adoptive
35 parent, the court may identify adoption as the permanent placement
36 goal and, without terminating parental rights, order that efforts be
37 made to locate an appropriate adoptive family for the child, within
38 the state or out of the state, within a period not to exceed 180 days.
39 During this 180-day period, the public agency responsible for
40 seeking adoptive parents for each child shall, to the extent possible,

1 ask each child who is 10 years of age or older to identify any
2 individuals, other than the child's siblings, who are important to
3 the child, in order to identify potential adoptive parents. The public
4 agency may ask any other child to provide that information, as
5 appropriate. During the 180-day period, the public agency shall,
6 to the extent possible, contact other private and public adoption
7 agencies regarding the availability of the child for adoption. During
8 the 180-day period, the public agency shall conduct the search for
9 adoptive parents in the same manner as prescribed for children in
10 Sections 8708 and 8709 of the Family Code. At the expiration of
11 this period, another hearing shall be held and the court shall
12 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision
13 (b). For purposes of this section, a child may only be found to be
14 difficult to place for adoption if there is no identified or available
15 prospective adoptive parent for the child because of the child's
16 membership in a sibling group, or the presence of a diagnosed
17 medical, physical, or mental handicap, or the child is seven years
18 of age or older.

19 (4) (A) If the court finds that adoption of the child or
20 termination of parental rights is not in the best interest of the child,
21 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
22 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)
23 applies, the court shall order that the present caretakers or other
24 appropriate persons shall become legal guardians of the child, or,
25 in the case of an Indian child, consider a tribal customary adoption
26 pursuant to Section 366.24. Legal guardianship shall be considered
27 before continuing the child in foster care under any other permanent
28 plan, if it is in the best interests of the child and if a suitable
29 guardian can be found. If the child continues in foster care, the
30 court shall make factual findings identifying any barriers to
31 achieving adoption, tribal customary adoption in the case of an
32 Indian child, legal guardianship, or placement with a fit and willing
33 relative as of the date of the hearing. A child who is 10 years of
34 age or older, shall be asked to identify any individuals, other than
35 the child's siblings, who are important to the child, in order to
36 identify potential guardians or, in the case of an Indian child,
37 prospective tribal customary adoptive parents. The agency may
38 ask any other child to provide that information, as appropriate.

39 (B) (i) If the child is living with an approved relative who is
40 willing and capable of providing a stable and permanent

1 environment, but not willing to become a legal guardian as of the
2 hearing date, the court shall order a permanent plan of placement
3 with a fit and willing relative, and the child shall not be removed
4 from the home if the court finds the removal would be seriously
5 detrimental to the emotional well-being of the child because the
6 child has substantial psychological ties to the relative caretaker.

7 (ii) If the child is living with a nonrelative caregiver who is
8 willing and capable of providing a stable and permanent
9 environment, but not willing to become a legal guardian as of the
10 hearing date, the court shall order that the child remain in foster
11 care with a permanent plan of return home, adoption, legal
12 guardianship, or placement with a fit and willing relative, as
13 appropriate. If the child is 16 years of age or older, or a nonminor
14 dependent, and no other permanent plan is appropriate at the time
15 of the hearing, the court may order another planned permanent
16 living arrangement, as described in paragraph (2) of subdivision
17 (i) of Section 16501. Regardless of the age of the child, the child
18 shall not be removed from the home if the court finds the removal
19 would be seriously detrimental to the emotional well-being of the
20 child because the child has substantial psychological ties to the
21 caregiver.

22 (iii) If the child is living in a group home or, on or after January
23 1, 2017, a short-term residential therapeutic program, the court
24 shall order that the child remain in foster care with a permanent
25 plan of return home, adoption, tribal customary adoption in the
26 case of an Indian child, legal guardianship, or placement with a
27 fit and willing relative, as appropriate. If the child is 16 years of
28 age or older, or a nonminor dependent, and no other permanent
29 plan is appropriate at the time of the hearing, the court may order
30 another planned permanent living arrangement, as described in
31 paragraph (2) of subdivision (i) of Section 16501.

32 (C) The court shall also make an order for visitation with the
33 parents or guardians unless the court finds by a preponderance of
34 the evidence that the visitation would be detrimental to the physical
35 or emotional well-being of the child.

36 (5) If the court finds that the child should not be placed for
37 adoption, that legal guardianship shall not be established, that
38 placement with a fit and willing relative is not appropriate as of
39 the hearing date, and that there are no suitable foster parents except
40 certified family homes or resource families of a foster family

1 agency available to provide the child with a stable and permanent
2 environment, the court may order the care, custody, and control
3 of the child transferred from the county welfare department to a
4 licensed foster family agency. The court shall consider the written
5 recommendation of the county welfare director regarding the
6 suitability of the transfer. The transfer shall be subject to further
7 court orders.

8 The licensed foster family agency shall place the child in a
9 suitable licensed or certified family home that has been certified
10 by the agency as meeting licensing standards or with a resource
11 family approved by the agency. The licensed foster family agency
12 shall be responsible for supporting the child and providing
13 appropriate services to the child, including those services ordered
14 by the court. Responsibility for the support of the child shall not,
15 in and of itself, create liability on the part of the foster family
16 agency to third persons injured by the child. Those children whose
17 care, custody, and control are transferred to a foster family agency
18 shall not be eligible for foster care maintenance payments or child
19 welfare services, except for emergency response services pursuant
20 to Section 16504.

21 (d) The proceeding for the appointment of a guardian for a child
22 who is a dependent of the juvenile court shall be conducted in the
23 juvenile court. If the court finds pursuant to this section that legal
24 guardianship is the appropriate permanent plan, it shall appoint
25 the legal guardian and issue letters of guardianship. The assessment
26 prepared pursuant to subdivision (g) of Section 361.5, subdivision
27 (i) of Section 366.21, subdivision (c) of Section 366.22, and
28 subdivision (b) of Section 366.25 shall be read and considered by
29 the court prior to the appointment, and this shall be reflected in
30 the minutes of the court. The assessment may also include the
31 naming of a prospective successor guardian, if one is identified.
32 In the event of the incapacity or death of the appointed guardian,
33 the named successor guardian may be assessed and appointed
34 pursuant to this section. The person preparing the assessment may
35 be called and examined by any party to the proceeding.

36 (e) (1) The proceeding for the adoption of a child who is a
37 dependent of the juvenile court shall be conducted in the juvenile
38 court if the court finds pursuant to this section that adoption is the
39 appropriate permanent plan and the petition for adoption is filed
40 in the juvenile court. Upon the filing of a petition for adoption, the

1 juvenile court shall order that an adoption hearing be set. The court
2 shall proceed with the adoption after the appellate rights of the
3 natural parents have been exhausted. The full report required by
4 Section 8715 of the Family Code shall be read and considered by
5 the court prior to the adoption and this shall be reflected in the
6 minutes of the court. The person preparing the report may be called
7 and examined by any party to the proceeding. It is the intent of the
8 Legislature, pursuant to this subdivision, to give potential adoptive
9 parents the option of filing in the juvenile court the petition for the
10 adoption of a child who is a dependent of the juvenile court.
11 Nothing in this section is intended to prevent the filing of a petition
12 for adoption in any other court as permitted by law, instead of in
13 the juvenile court.

14 (2) In the case of an Indian child, if the Indian child's tribe has
15 elected a permanent plan of tribal customary adoption, the court,
16 upon receiving the tribal customary adoption order will afford the
17 tribal customary adoption order full faith and credit to the same
18 extent that the court would afford full faith and credit to the public
19 acts, records, judicial proceedings, and judgments of any other
20 entity. Upon a determination that the tribal customary adoption
21 order may be afforded full faith and credit, consistent with Section
22 224.5, the court shall thereafter order a hearing to finalize the
23 adoption be set upon the filing of the adoption petition. The
24 prospective tribal customary adoptive parents and the child who
25 is the subject of the tribal customary adoption petition shall appear
26 before the court for the finalization hearing. The court shall
27 thereafter issue an order of adoption pursuant to Section 366.24.

28 (3) (A) If a child who is the subject of a finalized tribal
29 customary adoption shows evidence of a developmental disability
30 or mental illness as a result of conditions existing before the tribal
31 customary adoption to the extent that the child cannot be
32 relinquished to a licensed adoption agency on the grounds that a
33 plan of adoption is not currently suitable, and of which condition
34 the tribal customary adoptive parent or parents had no knowledge
35 or notice before the entry of the tribal customary adoption order,
36 a petition setting forth those facts may be filed by the tribal
37 customary adoptive parent or parents with the juvenile court that
38 granted the tribal customary adoption petition. If these facts are
39 proved to the satisfaction of the juvenile court, it may make an
40 order setting aside the tribal customary adoption order. The

1 set-aside petition shall be filed within five years of the issuance
2 of the tribal customary adoption order. The court clerk shall
3 immediately notify the child's tribe and the department in
4 Sacramento of the petition within 60 days after the notice of filing
5 of the petition. The department shall file a full report with the court
6 and shall appear before the court for the purpose of representing
7 the child. Whenever a final decree of tribal customary adoption
8 has been vacated or set aside, the child shall be returned to the
9 custody of the county in which the proceeding for tribal customary
10 adoption was finalized. The biological parent or parents of the
11 child may petition for return of custody. The disposition of the
12 child after the court has entered an order to set aside a tribal
13 customary adoption shall include consultation with the child's
14 tribe.

15 (B) Notwithstanding any other law, an adoption case file,
16 including a juvenile case file, as defined in subdivision (e) of
17 Section 827, may be inspected and copied by the department for
18 the purpose of completing the duties pursuant to this paragraph.

19 (f) At the beginning of any proceeding pursuant to this section,
20 if the child or the parents are not being represented by previously
21 retained or appointed counsel, the court shall proceed as follows:

22 (1) In accordance with subdivision (c) of Section 317, if a child
23 before the court is without counsel, the court shall appoint counsel
24 unless the court finds that the child would not benefit from the
25 appointment of counsel. The court shall state on the record its
26 reasons for that finding.

27 (2) If a parent appears without counsel and is unable to afford
28 counsel, the court shall appoint counsel for the parent, unless this
29 representation is knowingly and intelligently waived. The same
30 counsel shall not be appointed to represent both the child and their
31 parent. The public defender or private counsel may be appointed
32 as counsel for the parent.

33 (3) Private counsel appointed under this section shall receive a
34 reasonable sum for compensation and expenses, the amount of
35 which shall be determined by the court. The amount shall be paid
36 by the real parties in interest, other than the child, in any
37 proportions the court deems just. However, if the court finds that
38 any of the real parties in interest are unable to afford counsel, the
39 amount shall be paid out of the general fund of the county.

1 (g) The court may continue the proceeding for a period of time
2 not to exceed 30 days as necessary to appoint counsel, and to
3 enable counsel to become acquainted with the case.

4 (h) (1) At all proceedings under this section, the court shall
5 consider the wishes of the child and shall act in the best interests
6 of the child.

7 (2) In accordance with Section 349, the child shall be present
8 in court if the child or the child's counsel so requests or the court
9 so orders. If the child is 10 years of age or older and is not present
10 at a hearing held pursuant to this section, the court shall determine
11 whether the minor was properly notified of their right to attend
12 the hearing and inquire as to the reason why the child is not present.

13 (3) (A) The testimony of the child may be taken in chambers
14 and outside the presence of the child's parent or parents, if the
15 child's parent or parents are represented by counsel, the counsel
16 is present, and any of the following circumstances exist:

17 (i) The court determines that testimony in chambers is necessary
18 to ensure truthful testimony.

19 (ii) The child is likely to be intimidated by a formal courtroom
20 setting.

21 (iii) The child is afraid to testify in front of their parent or
22 parents.

23 (B) After testimony in chambers, the parent or parents of the
24 child may elect to have the court reporter read back the testimony
25 or have the testimony summarized by counsel for the parent or
26 parents.

27 (C) The testimony of a child also may be taken in chambers and
28 outside the presence of the guardian or guardians of a child under
29 the circumstances specified in this subdivision.

30 (i) (1) Any order of the court permanently terminating parental
31 rights under this section shall be conclusive and binding upon the
32 child, upon the parent or parents and, upon all other persons who
33 have been served with citation by publication or otherwise as
34 provided in this chapter. After making the order, the juvenile court
35 shall have no power to set aside, change, or modify it, except as
36 provided in paragraph (2), but nothing in this section shall be
37 construed to limit the right to appeal the order.

38 (2) A tribal customary adoption order evidencing that the Indian
39 child has been the subject of a tribal customary adoption shall be
40 afforded full faith and credit and shall have the same force and

1 effect as an order of adoption authorized by this section. The rights
2 and obligations of the parties as to the matters determined by the
3 Indian child's tribe shall be binding on all parties. A court shall
4 not order compliance with the order absent a finding that the party
5 seeking the enforcement participated, or attempted to participate,
6 in good faith, in family mediation services of the court or dispute
7 resolution through the tribe regarding the conflict, prior to the
8 filing of the enforcement action.

9 (3) A child who has not been adopted after the passage of at
10 least three years from the date the court terminated parental rights
11 and for whom the court has determined that adoption is no longer
12 the permanent plan may petition the juvenile court to reinstate
13 parental rights pursuant to the procedure prescribed by Section
14 388. The child may file the petition prior to the expiration of this
15 three-year period if the State Department of Social Services, county
16 adoption agency, or licensed adoption agency that is responsible
17 for custody and supervision of the child as described in subdivision
18 (j) and the child stipulate that the child is no longer likely to be
19 adopted. A child over 12 years of age shall sign the petition in the
20 absence of a showing of good cause as to why the child could not
21 do so. If it appears that the best interests of the child may be
22 promoted by reinstatement of parental rights, the court shall order
23 that a hearing be held and shall give prior notice, or cause prior
24 notice to be given, to the social worker or probation officer and to
25 the child's attorney of record, or, if there is no attorney of record
26 for the child, to the child, and the child's tribe, if applicable, by
27 means prescribed by subdivision (c) of Section 297. The court
28 shall order the child or the social worker or probation officer to
29 give prior notice of the hearing to the child's former parent or
30 parents whose parental rights were terminated in the manner
31 prescribed by subdivision (f) of Section 294 where the
32 recommendation is adoption. The juvenile court shall grant the
33 petition if it finds by clear and convincing evidence that the child
34 is no longer likely to be adopted and that reinstatement of parental
35 rights is in the child's best interest. If the court reinstates parental
36 rights over a child who is under 12 years of age and for whom the
37 new permanent plan will not be reunification with a parent or legal
38 guardian, the court shall specify the factual basis for its findings
39 that it is in the best interest of the child to reinstate parental rights.
40 This subdivision is intended to be retroactive and applies to any

1 child who is under the jurisdiction of the juvenile court at the time
2 of the hearing regardless of the date parental rights were terminated.

3 (j) If the court, by order or judgment, declares the child free
4 from the custody and control of both parents, or one parent if the
5 other does not have custody and control, or declares the child
6 eligible for tribal customary adoption, the court shall at the same
7 time order the child referred to the State Department of Social
8 Services, county adoption agency, or licensed adoption agency for
9 adoptive placement by the agency. However, except in the case
10 of a tribal customary adoption where there is no termination of
11 parental rights, a petition for adoption may not be granted until
12 the appellate rights of the natural parents have been exhausted.
13 The State Department of Social Services, county adoption agency,
14 or licensed adoption agency shall be responsible for the custody
15 and supervision of the child and shall be entitled to the exclusive
16 care and control of the child at all times until a petition for adoption
17 or tribal customary adoption is granted, except as specified in
18 subdivision (n). With the consent of the agency, the court may
19 appoint a guardian of the child, who shall serve until the child is
20 adopted.

21 (k) (1) Notwithstanding any other law, the application of any
22 person who, as a relative caretaker or foster parent, has cared for
23 a dependent child for whom the court has approved a permanent
24 plan for adoption, or who has been freed for adoption, shall be
25 given preference with respect to that child over all other
26 applications for adoptive placement if the agency making the
27 placement determines that the child has substantial emotional ties
28 to the relative caretaker or foster parent and removal from the
29 relative caretaker or foster parent would be seriously detrimental
30 to the child's emotional well-being.

31 (2) As used in this subdivision, "preference" means that the
32 application shall be processed and, if satisfactory, the family study
33 shall be completed before the processing of the application of any
34 other person for the adoptive placement of the child.

35 (l) (1) An order by the court that a hearing pursuant to this
36 section be held is not appealable at any time unless all of the
37 following apply:

38 (A) A petition for extraordinary writ review was filed in a timely
39 manner.

1 (B) The petition substantively addressed the specific issues to
2 be challenged and supported that challenge by an adequate record.

3 (C) The petition for extraordinary writ review was summarily
4 denied or otherwise not decided on the merits.

5 (2) Failure to file a petition for extraordinary writ review within
6 the period specified by rule, to substantively address the specific
7 issues challenged, or to support that challenge by an adequate
8 record shall preclude subsequent review by appeal of the findings
9 and orders made pursuant to this section.

10 (3) The Judicial Council shall adopt rules of court, effective
11 January 1, 1995, to ensure all of the following:

12 (A) A trial court, after issuance of an order directing a hearing
13 pursuant to this section be held, shall advise all parties of the
14 requirement of filing a petition for extraordinary writ review as
15 set forth in this subdivision in order to preserve any right to appeal
16 in these issues.

17 (i) If a party is present at the time of the making of the order,
18 the notice shall be made orally to the party.

19 (ii) If the party is not present at the time of making the order,
20 the notice shall be made by the clerk of the court by first-class
21 mail to the last known address of a party or by electronic service
22 pursuant to Section 212.5. If the notice is for a hearing at which
23 the social worker will recommend the termination of parental
24 rights, the notice may be electronically served pursuant to Section
25 212.5, but only in addition to service of the notice by first-class
26 mail.

27 (B) The prompt transmittal of the records from the trial court
28 to the appellate court.

29 (C) That adequate time requirements for counsel and court
30 personnel exist to implement the objective of this subdivision.

31 (D) That the parent or guardian, or their trial counsel or other
32 counsel, is charged with the responsibility of filing a petition for
33 extraordinary writ relief pursuant to this subdivision.

34 (4) The intent of this subdivision is to do both of the following:

35 (A) Make every reasonable attempt to achieve a substantive and
36 meritorious review by the appellate court within the time specified
37 in Sections 366.21, 366.22, and 366.25 for holding a hearing
38 pursuant to this section.

39 (B) Encourage the appellate court to determine all writ petitions
40 filed pursuant to this subdivision on their merits.

1 (5) This subdivision shall only apply to cases in which an order
2 to set a hearing pursuant to this section is issued on or after January
3 1, 1995.

4 (m) Except for subdivision (j), this section shall also apply to
5 minors adjudged wards pursuant to Section 727.31.

6 (n) (1) Notwithstanding Section 8704 of the Family Code or
7 any other law, the court, at a hearing held pursuant to this section
8 or anytime thereafter, may designate a current caretaker as a
9 prospective adoptive parent if the child has lived with the caretaker
10 for at least six months, the caretaker currently expresses a
11 commitment to adopt the child, and the caretaker has taken at least
12 one step to facilitate the adoption process. In determining whether
13 to make that designation, the court may take into consideration
14 whether the caretaker is listed in the preliminary assessment
15 prepared by the county department in accordance with subdivision
16 (i) of Section 366.21 as an appropriate person to be considered as
17 an adoptive parent for the child and the recommendation of the
18 State Department of Social Services, county adoption agency, or
19 licensed adoption agency.

20 (2) For purposes of this subdivision, steps to facilitate the
21 adoption process include, but are not limited to, the following:

22 (A) Applying for an adoption homestudy.

23 (B) Cooperating with an adoption homestudy.

24 (C) Being designated by the court or the adoption agency as the
25 adoptive family.

26 (D) Requesting de facto parent status.

27 (E) Signing an adoptive placement agreement.

28 (F) Engaging in discussions regarding a postadoption contact
29 agreement.

30 (G) Working to overcome any impediments that have been
31 identified by the State Department of Social Services, county
32 adoption agency, or licensed adoption agency.

33 (H) Attending classes required of prospective adoptive parents.

34 (3) Prior to a change in placement and as soon as possible after
35 a decision is made to remove a child from the home of a designated
36 prospective adoptive parent, the agency shall notify the court, the
37 designated prospective adoptive parent or the current caretaker, if
38 that caretaker would have met the threshold criteria to be
39 designated as a prospective adoptive parent pursuant to paragraph
40 (1) on the date of service of this notice, the child's attorney, the

1 child, if the child is 10 years of age or older, and, where it is known
2 or there is reason to know that the child is an Indian child, as
3 defined by Section 224.1, the child's tribe, of the proposal in the
4 manner described in Section 16010.6.

5 (A) Within five court days or seven calendar days, whichever
6 is longer, of the date of notification, the child, the child's attorney,
7 the child's tribe, or the designated prospective adoptive parent
8 may file a petition with the court objecting to the proposal to
9 remove the child, or the court, upon its own motion, may set a
10 hearing regarding the proposal. The court may, for good cause,
11 extend the filing period. A caretaker who would have met the
12 threshold criteria to be designated as a prospective adoptive parent
13 pursuant to paragraph (1) on the date of service of the notice of
14 proposed removal of the child may file, together with the petition
15 under this subparagraph, a petition for an order designating the
16 caretaker as a prospective adoptive parent for purposes of this
17 subdivision.

18 (B) A hearing ordered pursuant to this paragraph shall be held
19 as soon as possible and not later than five court days after the
20 petition is filed with the court or the court sets a hearing upon its
21 own motion, unless the court for good cause is unable to set the
22 matter for hearing five court days after the petition is filed, in
23 which case the court shall set the matter for hearing as soon as
24 possible. At the hearing, the court shall determine whether the
25 caretaker has met the threshold criteria to be designated as a
26 prospective adoptive parent pursuant to paragraph (1), and whether
27 the proposed removal of the child from the home of the designated
28 prospective adoptive parent is in the child's best interest, and the
29 child may not be removed from the home of the designated
30 prospective adoptive parent unless the court finds that removal is
31 in the child's best interest. If the court determines that the caretaker
32 did not meet the threshold criteria to be designated as a prospective
33 adoptive parent on the date of service of the notice of proposed
34 removal of the child, the petition objecting to the proposed removal
35 filed by the caretaker shall be dismissed. If the caretaker was
36 designated as a prospective adoptive parent prior to this hearing,
37 the court shall inquire into any progress made by the caretaker
38 towards the adoption of the child since the caretaker was designated
39 as a prospective adoptive parent.

1 (C) A determination by the court that the caretaker is a
2 designated prospective adoptive parent pursuant to paragraph (1)
3 or subparagraph (B) does not make the caretaker a party to the
4 dependency proceeding nor does it confer on the caretaker any
5 standing to object to any other action of the department, county
6 adoption agency, or licensed adoption agency, unless the caretaker
7 has been declared a de facto parent by the court prior to the notice
8 of removal served pursuant to paragraph (3).

9 (D) If a petition objecting to the proposal to remove the child
10 is not filed, and the court, upon its own motion, does not set a
11 hearing, the child may be removed from the home of the designated
12 prospective adoptive parent without a hearing.

13 (4) Notwithstanding paragraph (3), if the State Department of
14 Social Services, county adoption agency, or licensed adoption
15 agency determines that the child must be removed from the home
16 of the caretaker who is or may be a designated prospective adoptive
17 parent immediately, due to a risk of physical or emotional harm,
18 the agency may remove the child from that home and is not
19 required to provide notice prior to the removal. However, as soon
20 as possible and not longer than two court days after the removal,
21 the agency shall notify the court, the caretaker who is or may be
22 a designated prospective adoptive parent, the child's attorney, and
23 the child, if the child is 10 years of age or older, of the removal.
24 Within five court days or seven calendar days, whichever is longer,
25 of the date of notification of the removal, the child, the child's
26 attorney, or the caretaker who is or may be a designated prospective
27 adoptive parent may petition for, or the court on its own motion
28 may set, a noticed hearing pursuant to paragraph (3). The court
29 may, for good cause, extend the filing period.

30 (5) Except as provided in subdivision (b) of Section 366.28, an
31 order by the court issued after a hearing pursuant to this subdivision
32 shall not be appealable.

33 (6) Nothing in this section shall preclude a county child
34 protective services agency from fully investigating and responding
35 to alleged abuse or neglect of a child pursuant to Section 11165.5
36 of the Penal Code.

37 (7) When an Indian child is removed from the home of a
38 prospective adoptive parent pursuant to this section, the placement
39 preferences contained in Section 361.31 and the federal Indian

1 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) apply to
2 the subsequent placement of the child.

3 (8) The Judicial Council shall prepare forms to facilitate the
4 filing of the petitions described in this subdivision, which shall
5 become effective on January 1, 2006.

6 ~~SEC. 9.~~

7 *SEC. 39.* Section 727 of the Welfare and Institutions Code is
8 amended to read:

9 727. (a) (1) If a minor or nonminor is adjudged a ward of the
10 court on the ground that the minor or nonminor is a person
11 described by Section 601 or 602, the court may make any
12 reasonable orders for the care, supervision, custody, conduct,
13 maintenance, and support of the minor or nonminor, including
14 medical treatment, subject to further order of the court.

15 (2) In the discretion of the court, a ward may be ordered to be
16 on probation without supervision of the probation officer. The
17 court, in so ordering, may impose on the ward any and all
18 reasonable conditions of behavior as may be appropriate under
19 this disposition. A minor or nonminor who has been adjudged a
20 ward of the court on the basis of the commission of any of the
21 offenses described in subdivision (b) or paragraph (2) of
22 subdivision (d) of Section 707, Section 459 of the Penal Code, or
23 subdivision (a) of Section 11350 of the Health and Safety Code,
24 shall not be eligible for probation without supervision of the
25 probation officer. A minor or nonminor who has been adjudged a
26 ward of the court on the basis of the commission of an offense
27 involving the sale or possession for sale of a controlled substance,
28 except misdemeanor offenses involving marijuana, as specified in
29 Chapter 2 (commencing with Section 11053) of Division 10 of the
30 Health and Safety Code, or of an offense in violation of Section
31 32625 of the Penal Code, shall be eligible for probation without
32 supervision of the probation officer only if the court determines
33 that the interests of justice would best be served and states reasons
34 on the record for that determination.

35 (3) In all other cases, the court shall order the care, custody, and
36 control of the minor or nonminor to be under the supervision of
37 the probation officer.

38 (4) It is the responsibility, pursuant to Section 672(a)(2)(B) of
39 Title 42 of the United States Code, of the probation agency to
40 determine the appropriate placement for the ward once the court

1 issues a placement order. In determination of the appropriate
2 placement for the ward, the probation officer shall consider any
3 recommendations of the child and family. The probation agency
4 may place the minor or nonminor in any of the following:

5 (A) The approved home of a relative or the approved home of
6 a nonrelative, extended family member, as defined in Section
7 362.7. If a decision has been made to place the minor in the home
8 of a relative, the court may authorize the relative to give legal
9 consent for the minor's medical, surgical, and dental care and
10 education as if the relative caregiver were the custodial parent of
11 the minor.

12 (B) A foster home, the approved home of a resource family, as
13 defined in Section 16519.5, or a home or facility in accordance
14 with Section 224.1 and the federal Indian Child Welfare Act (25
15 U.S.C. Sec. 1901 et seq.).

16 (C) A suitable licensed community care facility, as identified
17 by the probation officer, except a youth homelessness prevention
18 center licensed by the State Department of Social Services pursuant
19 to Section 1502.35 of the Health and Safety Code.

20 (D) A foster family agency, as defined in subdivision (g) of
21 Section 11400 and paragraph (4) of subdivision (a) of Section 1502
22 of the Health and Safety Code, in a suitable certified family home
23 or with a resource family.

24 (E) A minor or nonminor dependent may be placed in a group
25 home vendored by a regional center pursuant to Section 56004 of
26 Title 17 of the California Code of Regulations or a short-term
27 residential therapeutic program, as defined in subdivision (ad) of
28 Section 11400 and paragraph (18) of subdivision (a) of Section
29 1502 of the Health and Safety Code. The placing agency shall also
30 comply with requirements set forth in paragraph (9) of subdivision
31 (e) of Section 361.2, that includes, but is not limited to,
32 authorization, limitation on length of stay, extensions, and
33 additional requirements related to minors. For youth 13 years of
34 age and older, the chief probation officer of the county probation
35 department, or their designee, shall approve the placement if it is
36 longer than 12 months, and no less frequently than every 12 months
37 thereafter.

38 (F) (i) A minor adjudged a ward of the juvenile court shall be
39 entitled to participate in age-appropriate extracurricular,
40 enrichment, and social activities. A state or local regulation or

1 policy shall not prevent, or create barriers to, participation in those
2 activities. Each state and local entity shall ensure that private
3 agencies that provide foster care services to wards have policies
4 consistent with this section and that those agencies promote and
5 protect the ability of wards to participate in age-appropriate
6 extracurricular, enrichment, and social activities. A short-term
7 residential therapeutic program or a group home administrator, a
8 facility manager, or their responsible designee, and a caregiver,
9 as defined in paragraph (1) of subdivision (a) of Section 362.04,
10 shall use a reasonable and prudent parent standard, as defined in
11 paragraph (2) of subdivision (a) of Section 362.04, in determining
12 whether to give permission for a minor residing in foster care to
13 participate in extracurricular, enrichment, and social activities. A
14 short-term residential therapeutic program or a group home
15 administrator, a facility manager, or their responsible designee,
16 and a caregiver shall take reasonable steps to determine the
17 appropriateness of the activity taking into consideration the minor's
18 age, maturity, and developmental level. For every minor placed
19 in a setting described in subparagraphs (A) through (E), inclusive,
20 age-appropriate extracurricular, enrichment, and social activities
21 shall include access to computer technology and the internet.

22 (ii) A short-term residential therapeutic program or a group
23 home administrator, facility manager, or their responsible designee,
24 is encouraged to consult with social work or treatment staff
25 members who are most familiar with the minor at the group home
26 or short-term residential therapeutic program in applying and using
27 the reasonable and prudent parent standard.

28 (G) For nonminors, an approved supervised independent living
29 setting, as defined in Section 11400, including a residential housing
30 unit certified by a licensed transitional housing placement provider.

31 (5) The minor or nonminor shall be released from juvenile
32 detention upon an order being entered under paragraph (3), unless
33 the court determines that a delay in the release from detention is
34 reasonable pursuant to Section 737.

35 (b) (1) To facilitate coordination and cooperation among
36 agencies, the court may, at any time after a petition has been filed,
37 after giving notice and an opportunity to be heard, join in the
38 juvenile court proceedings any agency that the court determines
39 has failed to meet a legal obligation to provide services to a minor,
40 for whom a petition has been filed under Section 601 or 602, to a

nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. Nothing in this section shall prohibit agencies that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to an individualized education program developed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) For the purposes of this subdivision, "agency" means any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor, or nonminor dependent.

(c) If a minor has been adjudged a ward of the court on the ground that the minor is a person described in Section 601 or 602, and the court finds that notice has been given in accordance with Section 661, and if the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

(d) (1) The juvenile court may direct any reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a), (b), and (c), including orders to appear before a county financial evaluation officer, to ensure the minor's regular school attendance, and to make reasonable

1 efforts to obtain appropriate educational services necessary to meet
2 the needs of the minor.

3 (2) If counseling or other treatment services are ordered for the
4 minor, the parent, guardian, or foster parent shall be ordered to
5 participate in those services, unless participation by the parent,
6 guardian, or foster parent is deemed by the court to be inappropriate
7 or potentially detrimental to the minor.

8 (e) The court may, after receipt of relevant testimony and other
9 evidence from the parties, affirm or reject the placement
10 determination. If the court rejects the placement determination,
11 the court may instruct the probation department to determine an
12 alternative placement for the ward, or the court may modify the
13 placement order to an alternative placement recommended by a
14 party to the case after the court has received the probation
15 department's assessment of that recommendation and other relevant
16 evidence from the parties.

17 ~~SEC. 40.~~

18 *SEC. 40.* Section 727.4 of the Welfare and Institutions Code
19 is amended to read:

20 727.4. (a) (1) Notice of any hearing pursuant to Section 727,
21 727.2, or 727.3 shall be served by the probation officer to the
22 minor, the minor's parent or guardian, any adult provider of care
23 to the minor including, but not limited to, foster parents, relative
24 caregivers, preadoptive parents, resource family, community care
25 facility, or foster family agency, and to the counsel of record if the
26 counsel of record was not present at the time that the hearing was
27 set by the court, by first-class mail addressed to the last known
28 address of the person to be notified, by personal service on those
29 persons, or by electronic service pursuant to Section 212.5, not
30 earlier than 30 days nor later than 15 days preceding the date of
31 the hearing. The notice shall contain a statement regarding the
32 nature of the status review or permanency planning hearing and
33 any change in the custody or status of the minor being
34 recommended by the probation department. The notice shall also
35 include a statement informing the foster parents, relative caregivers,
36 or preadoptive parents that they may attend all hearings or may
37 submit any information they deem relevant to the court in writing.
38 The foster parents, relative caregiver, and preadoptive parents are
39 entitled to notice and opportunity to be heard but need not be made

1 parties to the proceedings. Proof of notice shall be filed with the
2 court.

3 (2) If the court or probation officer knows or has reason to know
4 that the minor is or may be an Indian child, any notice sent under
5 this section shall comply with the requirements of Section 224.2.

6 (b) At least 10 calendar days before each status review and
7 permanency planning hearing, after the hearing during which the
8 court orders that the care, custody, and control of the minor to be
9 under the supervision of the probation officer for placement
10 pursuant to subdivision (a) of Section 727, the probation officer
11 shall file a social study report with the court, pursuant to the
12 requirements listed in Section 706.5.

13 (c) The probation department shall inform the minor, the minor's
14 parent or guardian, and all counsel of record that a copy of the
15 social study prepared for the hearing will be available 10 days
16 before the hearing and may be obtained from the probation officer.

17 (d) As used in Article 15 (commencing with Section 625) to
18 Article 18 (commencing with Section 725), inclusive:

19 (1) "Foster care" means residential care provided in any of the
20 settings described in Section 11402 or 11402.01.

21 (2) "At risk of entering foster care" means that conditions within
22 a minor's family may necessitate the minor's entry into foster care
23 unless those conditions are resolved.

24 (3) "Preadoptive parent" means a licensed foster parent who
25 has been approved for adoption by the State Department of Social
26 Services when it is acting as an adoption agency or by a licensed
27 adoption agency.

28 (4) "Date of entry into foster care" means the date that is 60
29 days after the date on which the minor was removed from their
30 home, unless one of the exceptions below applies:

31 (A) If the minor is detained pending foster care placement, and
32 remains detained for more than 60 days, then the date of entry into
33 foster care means the date the court adjudges the minor a ward and
34 orders the minor placed in foster care under the supervision of the
35 probation officer.

36 (B) If, before the minor is placed in foster care, the minor is
37 committed to a ranch, camp, school, or other institution pending
38 placement, and remains in that facility for more than 60 days, then
39 the "date of entry into foster care" is the date the minor is
40 physically placed in foster care.

(C) If at the time the wardship petition was filed, the minor was a dependent of the juvenile court and in out-of-home placement, then the “date of entry into foster care” is the earlier of the date the juvenile court made a finding of abuse or neglect, or 60 days after the date on which the child was removed from the child’s home.

(5) “Reasonable efforts” means:

(A) Efforts made to prevent or eliminate the need for removing the minor from the minor’s home.

(B) Efforts to make it possible for the minor to return home, including, but not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services.

(C) Efforts to complete whatever steps are necessary to finalize a permanent plan for the minor.

(D) In child custody proceedings involving an Indian child, “reasonable efforts” shall also include “active efforts” as defined in Section 361.7.

(6) “Relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” “grand,” or the spouse of any of these persons even if the marriage was terminated by death or dissolution. “Relative” shall also include an “extended family member” as defined in Section 224.1 and the federal Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

(7) “Hearing” means a noticed proceeding with findings and orders that are made on a case-by-case basis, heard by either of the following:

(A) A judicial officer, in a courtroom, recorded by a court reporter.

(B) An administrative panel, provided that the hearing is a status review hearing and that the administrative panel meets the following conditions:

(i) The administrative review shall be open to participation by the minor and parents or legal guardians and all those persons entitled to notice under subdivision (a).

(ii) The minor and their parents or legal guardians receive proper notice as required in subdivision (a).

1 (iii) The administrative review panel is composed of persons
2 appointed by the presiding judge of the juvenile court, the
3 membership of which shall include at least one person who is not
4 responsible for the case management of, or delivery of services
5 to, the minor or the parents who are the subjects of the review.

6 (iv) The findings of the administrative review panel shall be
7 submitted to the juvenile court for the court's approval and shall
8 become part of the official court record.

9 *SEC. 41. Section 10553.12 of the Welfare and Institutions Code*
10 *is amended to read:*

11 10553.12. (a) Notwithstanding any other law, a federally
12 recognized tribe is authorized, but not required, to license or
13 approve a home for the purpose of foster or adoptive placement
14 of an Indian child pursuant to *Section 224.1 of this code and the*
15 *federal Indian Child Welfare Act (25 U.S.C. Sec. 1915).*

16 (b) An Indian child, as defined by subdivisions (a) and (b) of
17 Section 224, who has been removed pursuant to Section 361, from
18 the custody of their parents or Indian custodian may be placed in
19 a tribally approved home, as defined in subdivision (r) of Section
20 224.1, pursuant to Section 1915 of the federal Indian Child Welfare
21 Act.

22 (c) To facilitate the availability of tribally approved homes that
23 have been fully approved in accord with federal law, including
24 completion of required background checks pursuant to Section
25 8712 of the Family Code, a tribe or tribal organization may request
26 from the Department of Justice federal and state summary criminal
27 history information and Child Abuse Central Index Information
28 pursuant to paragraph (8) of subdivision (b) of Section 11170 of
29 the Penal Code regarding a prospective foster parent or adoptive
30 parent, an adult who resides or is employed in the home of an
31 applicant, a person who has a familial or intimate relationship with
32 a person living in the home of an applicant, or an employee of the
33 child welfare agency who may have contact with children.

34 (d) As used in this section, a "tribal organization" means an
35 entity designated by a federally recognized tribe as authorized to
36 approve homes consistent with the federal Indian Child Welfare
37 Act for the purpose of placing an Indian child into foster or
38 adoptive care, including the authority to conduct criminal record
39 and child abuse background checks of, and grant exemptions to,
40 individuals who are prospective foster parents or adoptive parents,

1 an adult who resides or is employed in the home of an applicant
2 for approval, a person who has a familial or intimate relationship
3 with a person living in the home of an applicant, or an employee
4 of the tribal organization who may have contact with children.

5 (e) A county social worker may place an Indian child in a tribally
6 approved home without having to conduct a separate background
7 check, upon certification by the tribe or tribal organization of the
8 following:

9 (1) The tribe or tribal organization has completed a criminal
10 record background check in accord with the standards set forth in
11 Section 1522 of the Health and Safety Code, and a Child Abuse
12 Central Index Check pursuant to Section 1522.1 of the Health and
13 Safety Code, with respect to each of the individuals described in
14 subdivision (c).

15 (2) The tribe or tribal organization has agreed to report to a
16 county child welfare agency responsible for a child placed in the
17 tribally approved home, within 24 hours of notification to the tribe
18 or tribal organization by the Department of Justice, of any
19 subsequent state or federal arrest or disposition notification
20 provided pursuant to Section 11105.2 of the Penal Code involving
21 an individual associated with the tribally approved home where
22 an Indian child is placed.

23 (3) If the tribe or tribal organization in its certification states
24 that the individual was granted a criminal record exemption, the
25 certification shall specify that the exemption was evaluated in
26 accord with the standards and limitations set forth in paragraph
27 (2) of subdivision (g) of Section 1522 of the Health and Safety
28 Code and was not granted to an individual ineligible for an
29 exemption under that provision.

30 (f) Tribal home approvals conducted in compliance with this
31 section are not subject to resource family approval requirements.

32 *SEC. 42. Section 10553.13 of the Welfare and Institutions Code*
33 *is amended to read:*

34 10553.13. (a) (1) The Tribally Approved Homes
35 Compensation Program is hereby established to provide funding,
36 as described in this section, to eligible Indian tribes to assist in
37 funding the costs associated with recruiting and approving homes
38 for the purpose of foster or adoptive placement of an Indian child
39 pursuant to the *California Indian Child Welfare Act and the federal*
40 *Indian Child Welfare Act*, as described in Section 10553.12.

1 Funding is limited to eligible Indian tribes as described in
2 subdivision (b).

3 (2) Subject to an appropriation in the annual Budget Act for the
4 express purpose described in paragraph (1), the department shall
5 provide each eligible Indian tribe, as described in subdivision (b),
6 an annual allocation of seventy-five thousand dollars (\$75,000)
7 for the purpose described in paragraph (1). If the annual Budget
8 Act provides for an allocation of more than seventy-five thousand
9 dollars (\$75,000) per eligible tribe, then each eligible tribe shall
10 receive an adjusted allocation within and for that same fiscal year.
11 The adjusted allocation shall be based on a methodology
12 considering the number of Indian children in foster care or
13 prospective adoptive placements through the juvenile court. The
14 allocation methodology and the implementation plan shall be
15 established by the department in government-to-government
16 consultation with tribes no later than June 30, 2023. The department
17 shall provide an update to legislative staff and stakeholders on the
18 progress of implementation of this section, preferably by January
19 1, 2023, but no later than February 1, 2023.

20 (3) For purposes of this section, the following definitions apply:

21 (A) “Department” means the State Department of Social
22 Services.

23 (B) “Indian tribe” means any federally recognized Indian tribe
24 located in California or with lands that extend into California.

25 (b) To be eligible for an allocation of funds under this section,
26 an Indian tribe shall enter into an agreement with the department
27 pursuant to subdivision (a) of Section 10553.1 or in accordance
28 with Section 1919 of Title 25 of the United States Code. An Indian
29 tribe may designate another entity to administer the allocation of
30 funds on a tribe’s behalf upon designation by the tribe for this
31 purpose. An Indian tribe that seeks funding pursuant to this section
32 shall submit a letter of interest to the department each year by a
33 deadline established by the department through
34 government-to-government consultation with tribes. The agreement
35 shall contain, but not be limited to, the following terms:

36 (1) A timeline for the distribution of funds by the department.

37 (2) A description of how the tribe will administer the funds.

38 (3) A description of the tribe’s staffing needs to administer the
39 program, including recruitment, retention, and training.

1 (4) The estimated number of homes the tribe will assess and
2 potentially approve for foster or adoptive placement per year.

3 (5) The number of existing foster or prospective adoptive homes
4 approved by the tribe, if applicable.

5 (6) A description of the existing or planned recruitment activities
6 and processes that will be developed, including meeting criminal
7 background check requirements.

8 (7) If the tribe plans to designate another entity to administer
9 the funds, the name of that entity.

10 (c) An Indian tribe that receives funding pursuant to this section
11 shall submit a progress report to the department. The progress
12 report shall be submitted to the department on or before September
13 1 following the close of the fiscal year in which the tribe received
14 an allocation. The progress report shall include all of the following
15 information for the fiscal year that was funded:

16 (1) A description of how the tribe administered the funds.

17 (2) A description of how the funds were used to meet the tribe's
18 staffing needs to administer the program, including recruitment,
19 retention, and training.

20 (3) The number of homes the tribe assessed and approved for
21 foster or adoptive placement for the fiscal year the funds were
22 allocated.

23 (4) The number of existing foster or prospective adoptive homes
24 approved by the tribe, if applicable.

25 (5) A description of the existing or planned recruitment activities
26 and processes that were developed, including meeting the criminal
27 background check requirements.

28 (d) The department shall annually provide to the budget
29 committees of the Legislature a report summarizing the information
30 and data provided by the Indian tribes in their progress reports to
31 the department. The annual report shall be submitted to the budget
32 committees no later than January 31 following the close of the
33 fiscal year covered by the tribe's progress reports. The report shall
34 include, but be not be limited to, all of the following:

35 (1) The total amount of funds allocated by the department for
36 the program.

37 (2) The number of tribes that received an allocation of funds
38 during the fiscal year and the amount of funds allocated to each
39 tribe.

1 (3) A summary of the data submitted to the department by the
2 tribes pursuant to paragraphs (1) to (3), inclusive, of subdivision
3 (c).

4 (e) The department shall seek federal approvals or waivers
5 necessary to claim federal reimbursement under Title IV-E of the
6 federal Social Security Act (42 U.S.C. Sec. 670 et seq.) in order
7 to maximize funding for the purpose described in this section.

8 (f) An agreement entered into pursuant to this section may be
9 revoked by either party upon a 180-day written notice to the other
10 party.

11 (g) Notwithstanding the rulemaking provisions of the
12 Administrative Procedure Act (Chapter 3.5 (commencing with
13 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
14 Code), the department may issue written guidance to implement,
15 interpret, or make specific this section without taking any
16 regulatory action.

17 ~~SEC. 11. Section 11391 of the Welfare and Institutions Code~~
18 ~~is amended to read:~~

19 ~~11391. For purposes of this article, the following definitions~~
20 ~~shall apply:~~

21 (a) ~~“Kinship Guardianship Assistance Payments (Kin-GAP)”~~
22 ~~means the aid provided on behalf of children eligible for federal~~
23 ~~financial participation under Section 671(a)(28) of Title 42 of the~~
24 ~~United States Code in kinship care under the terms of this article.~~

25 (b) ~~“Kinship guardian” means a person who meets both of the~~
26 ~~following criteria:~~

27 (1) ~~The person has been appointed the legal guardian of a~~
28 ~~dependent child pursuant to Section 366.26 or Section 360 or a~~
29 ~~ward of the juvenile court pursuant to subdivision (d) of Section~~
30 ~~728.~~

31 (2) ~~The person is a relative of the child.~~

32 (c) ~~“Relative,” subject to federal approval of amendments to~~
33 ~~the state plan, means any of the following:~~

34 (1) ~~An adult who is related to the child by blood, adoption, or~~
35 ~~affinity within the fifth degree of kinship, including stepparents,~~
36 ~~stepsiblings, and all relatives whose status is preceded by the words~~
37 ~~“great,” “great-great,” or “grand” or the spouse of any of those~~
38 ~~persons even if the marriage was terminated by death or~~
39 ~~dissolution.~~

1 ~~(2) An adult who meets the definition of an approved, nonrelated~~
2 ~~extended family member, as described in Section 362.7.~~

3 ~~(3) An adult who is either a member of the Indian child's tribe,~~
4 ~~or an Indian custodian, as defined in Section 224.1 of this code~~
5 ~~and Section 1903(6) of Title 25 of the United States Code.~~

6 ~~(4) An adult who is the current foster parent of a child under~~
7 ~~the juvenile court's jurisdiction, who has established a significant~~
8 ~~and family-like relationship with the child, and the child and the~~
9 ~~county child welfare agency, probation department, Indian tribe,~~
10 ~~consortium of tribes, or tribal organization that has entered into~~
11 ~~an agreement pursuant to Section 10553.1 identify this adult as~~
12 ~~the child's permanent connection.~~

13 ~~(d) "Sibling" means a child related to the identified eligible~~
14 ~~child by blood, adoption, or affinity through a common legal or~~
15 ~~biological parent.~~

16 ~~SEC. 43. Section 11391 of the Welfare and Institutions Code~~
17 ~~is amended to read:~~

18 ~~11391. For purposes of this article, the following definitions~~
19 ~~shall apply:~~

20 ~~(a) "Kinship Guardianship Assistance Payments (Kin-GAP)"~~
21 ~~means the aid provided on behalf of children eligible for federal~~
22 ~~financial participation under Section 671(a)(28) of Title 42 of the~~
23 ~~United States Code in kinship care under the terms of this article.~~

24 ~~(b) "Kinship guardian" means a person who meets both of the~~
25 ~~following criteria:~~

26 ~~(1) The person has been appointed the legal guardian of a~~
27 ~~dependent child pursuant to Section 366.26 or Section 360 or a~~
28 ~~ward of the juvenile court pursuant to subdivision (d) of Section~~
29 ~~728.~~

30 ~~(2) The person is a relative of the child.~~

31 ~~(c) "Relative," subject to federal approval of amendments to~~
32 ~~the state plan, means any of the following:~~

33 ~~(1) An adult who is related to the child by blood, adoption, or~~
34 ~~affinity within the fifth degree of kinship, including stepparents,~~
35 ~~stepsiblings, and all relatives whose status is preceded by the words~~
36 ~~"great," "great-great," or "grand" or the spouse of any of those~~
37 ~~persons even if the marriage was terminated by death or~~
38 ~~dissolution.~~

39 ~~(2) An adult who meets the definition of an approved, nonrelated~~
40 ~~extended family member, as described in Section 362.7.~~

1 (3) An adult who is either a member *or citizen* of the Indian
2 child's tribe, or an Indian custodian, as defined in *Section 224.1*
3 *of this code and* Section 1903(6) of Title 25 of the United States
4 Code.

5 (4) An adult who is the current foster parent of a child under
6 the juvenile court's jurisdiction, who has established a significant
7 and family-like relationship with the child, and the child and the
8 county child welfare agency, probation department, Indian tribe,
9 consortium of tribes, or tribal organization that has entered into
10 an agreement pursuant to Section 10553.1 identify this adult as
11 the child's permanent connection.

12 (5) An adult who meets the definition of an extended family
13 member as described in Section 1903 of the federal Indian Child
14 Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

15 (d) "Sibling" means a child related to the identified eligible
16 child by blood, adoption, or affinity through a common legal or
17 biological parent.

18 (e) "Approved home of the prospective relative guardian" means
19 either of the following:

20 (1) The home of a relative who has been approved as a resource
21 family home pursuant to Section 16519.5 of this code, or Section
22 1517 of the Health and Safety Code.

23 (2) The home of a relative who has been approved as a tribally
24 approved home, as defined in subdivision (r) of Section 224.1.

25 *SEC. 44. Section 11401 of the Welfare and Institutions Code*
26 *is amended to read:*

27 11401. Aid in the form of AFDC-FC shall be provided under
28 this chapter on behalf of any child under 18 years of age, and to
29 any nonminor dependent who meets the conditions of any of the
30 following subdivisions:

31 (a) The child has been relinquished, for purposes of adoption,
32 to a licensed adoption agency, or the department, or the parental
33 rights of either or both of the child's parents have been terminated
34 after an action under the Family Code has been brought by a
35 licensed adoption agency or the department, provided that the
36 licensed adoption agency or the department, if responsible for
37 placement and care, provides to those children all services as
38 required by the department to children in foster care.

39 (b) The child has been removed from the physical custody of
40 the child's parent, relative, or guardian as a result of a voluntary

1 placement agreement or a judicial determination that continuance
2 in the home would be contrary to the child's welfare and that, if
3 the child was placed in foster care, reasonable efforts were made,
4 consistent with Chapter 5 (commencing with Section 16500) of
5 Part 4, to prevent or eliminate the need for removal of the child
6 from the child's home and to make it possible for the child to return
7 to the child's home, and any of the following applies:

8 (1) The child has been adjudged a dependent child of the court
9 on the grounds that the child is a person described by Section 300.

10 (2) The child has been adjudged a ward of the court on the
11 grounds that the child is a person described by Sections 601 and
12 602, or the child or nonminor is under the transition jurisdiction
13 of the juvenile court pursuant to Section 450.

14 (3) The child has been detained under a court order, pursuant
15 to Section 319 or 636, that remains in effect.

16 (4) The child's or nonminor's dependency jurisdiction, or
17 transition jurisdiction pursuant to Section 450, has resumed
18 pursuant to Section 387, or subdivision (a), (e), or (f) of Section
19 388.

20 (c) The child has been voluntarily placed by the child's parent
21 or guardian pursuant to Section 11401.1.

22 (d) The child is living in the home of a nonrelated legal guardian,
23 or the nonminor is living in the home of a former nonrelated legal
24 guardian.

25 (e) The child is a nonminor dependent who is placed pursuant
26 to a mutual agreement as set forth in subdivision (u) of Section
27 11400, under the placement and care responsibility of the county
28 child welfare services department, an Indian tribe that entered into
29 an agreement pursuant to Section 10553.1, or the county probation
30 department, or the child is a nonminor dependent reentering foster
31 care placement pursuant to a voluntary agreement, as set forth in
32 subdivision (z) of Section 11400.

33 (f) The child has been placed in foster care under the *California*
34 *Indian Child Welfare Act and the federal Indian Child Welfare*
35 *Act*. Sections 11402, 11404, and 11405 shall not be construed as
36 limiting payments to Indian children, as defined in the *California*
37 *Indian Child Welfare Act and the federal Indian Child Welfare*
38 *Act*, placed in accordance with that act.

1 (g) To be eligible for federal financial participation, the
2 conditions described in paragraph (1), (2), (3), or (4) shall be
3 satisfied:

4 (1) (A) The child meets the conditions of subdivision (b).

5 (B) The child has been deprived of parental support or care for
6 any of the reasons set forth in Section 11250.

7 (C) The child has been removed from the home of a relative as
8 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
9 Regulations, as amended.

10 (D) The requirements of Sections 671 and 672 of Title 42 of
11 the United States Code, as amended, have been met.

12 (2) (A) The child meets the requirements of subdivision (h).

13 (B) The requirements of Sections 671 and 672 of Title 42 of
14 the United States Code, as amended, have been met.

15 (C) This paragraph shall be implemented only if federal financial
16 participation is available for the children described in this
17 paragraph.

18 (3) (A) The child has been removed from the custody of the
19 child's parent, relative, or guardian as a result of a voluntary
20 placement agreement or a judicial determination that continuance
21 in the home would be contrary to the child's welfare and that, if
22 the child was placed in foster care, reasonable efforts were made,
23 consistent with Chapter 5 (commencing with Section 16500) of
24 Part 4, to prevent or eliminate the need for removal of the child
25 from the child's home and to make it possible for the child to return
26 to the child's home, or the child is a nonminor dependent who
27 satisfies the removal criteria in Section 472(a)(2)(A)(i) of the
28 federal Social Security Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and
29 agrees to the placement and care responsibility of the placing
30 agency by signing the voluntary reentry agreement, as set forth in
31 subdivision (z) of Section 11400, and any of the following applies:

32 (i) The child has been adjudged a dependent child of the court
33 on the grounds that the child is a person described by Section 300.

34 (ii) The child has been adjudged a ward of the court on the
35 grounds that the child is a person described by Sections 601 and
36 602 or the child or nonminor is under the transition jurisdiction of
37 the juvenile court, pursuant to Section 450.

38 (iii) The child has been detained under a court order, pursuant
39 to Section 319 or 636, that remains in effect.

(iv) The child's or nonminor's dependency jurisdiction, or transition jurisdiction pursuant to Section 450, has resumed pursuant to Section 387, or subdivision (a), (e), or (f) of Section 388.

(B) The child has been placed in an eligible foster care placement, as set forth in Section 11402.

(C) The requirements of Sections 671 and 672 of Title 42 of the United States Code have been satisfied.

(D) This paragraph shall be implemented only if federal financial participation is available for the children described in this paragraph.

(4) With respect to a nonminor dependent, in addition to meeting the conditions specified in paragraph (1), the requirements of Section 675(8)(B) of Title 42 of the United States Code have been satisfied. With respect to a former nonminor dependent who reenters foster care placement by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, the requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of Title 42 of the United States Code are satisfied based on the nonminor's status as a child-only case, without regard to the parents, legal guardians, or others in the assistance unit in the home from which the nonminor was originally removed.

(h) The child meets all of the following conditions:

(1) The child has been adjudged to be a dependent child or ward of the court on the grounds that the child is a person described in Section 300, 601, or 602.

(2) The child's parent also has been adjudged to be a dependent child or nonminor dependent of the court on the grounds that the child's parent is a person described by Section 300, 450, 601, or 602 and is receiving benefits under this chapter.

(3) The child is placed in the same licensed or approved foster care facility in which the child's parent is placed and the child's parent is receiving reunification services with respect to that child.

SEC. 45. Section 11462.022 of the Welfare and Institutions Code is amended to read:

11462.022. (a) Upon meeting the licensure requirements pursuant to Section 1530.8 of the Health and Safety Code, a county child welfare agency operating a temporary shelter care facility, as defined in Section 1530.8 of the Health and Safety Code, shall comply with this section.

1 (b) Prior to detaining the child in the temporary shelter care
2 facility, the child welfare agency shall make reasonable efforts,
3 consistent with current law, to place the child with a relative, tribal
4 member, nonrelative extended family member, or in a licensed,
5 certified, approved or tribally approved foster family home or
6 approved resource family. When the child welfare agency has
7 reason to believe that the child is or may be an Indian child, the
8 agency shall make active efforts to comply with the *California*
9 *Indian Child Welfare Act and the* federal Indian Child Welfare
10 Act placement preferences, as required by ~~subdivision (k) of~~
11 Section 361.31.

12 (c) A child may be detained or placed in a temporary shelter
13 care facility only for the duration necessary to enable the county
14 placing agency to perform the required assessments and to
15 appropriately place the child.

16 (d) Upon admission, the temporary shelter care facility shall
17 provide each child with health, mental health, and developmental
18 screenings, as applicable. Commencing when a child is admitted
19 into a temporary shelter care facility, and continuing until the
20 child's discharge from the facility, the county welfare agency shall
21 continuously strive to identify and place the child in an appropriate
22 licensed or approved home or facility.

23 (e) The temporary shelter care facility shall ensure that the
24 following services, at a minimum, are identified in the facility's
25 plan of operation and are available to children detained at the
26 facility:

27 (1) Medical, developmental, behavioral, and mental health
28 assessments based on the information obtained through the
29 screenings required pursuant to subdivision (d).

30 (2) Based on the screening, assessments, and other information
31 obtained about the child, identification of the appropriate placement
32 resources that meet the child's needs.

33 (3) Trauma-informed services and interventions.

34 (4) Crisis intervention services.

35 (5) Care and supervision provided by trauma-informed trained
36 and qualified staff.

37 (6) Referrals to and coordination with service providers who
38 can meet the medical, developmental, behavioral, or mental health
39 needs of the child identified upon admission.

1 (7) Educational services to ensure the child's educational
2 progress, including efforts to maintain the child in ~~his or her~~ *their*
3 school of origin if practical.

4 (8) Visitation services, including the ability to provide
5 court-ordered, supervised visitation.

6 (9) Structured indoor and outdoor activities, including
7 recreational and social programs.

8 (10) Transportation and other forms of support to ensure, to the
9 extent possible, the child's ability to attend and participate in
10 important milestone events.

11 (11) Mentorship and peer support-type programs.

12 (f) (1) In no case shall the detention or placement in a temporary
13 shelter care facility exceed 10 calendar days. For any stay that
14 exceeds 10 calendar days, the child welfare agency shall submit
15 a written report to the department, within 24 hours of an overstay,
16 that shall include a description of the reasons and circumstances
17 for the child's overstay, and shall be signed by the county child
18 welfare agency director or ~~his or her~~ *their* designee. The department
19 may choose not to issue a citation to the county for a violation of
20 the 10-day placement limit when, based on the information
21 contained in the report, the overstay is reasonable and the county
22 is complying with subdivision (d).

23 (2) The child welfare agency may permit any child or youth to
24 access assessment and other services described in subdivision (d)
25 or (e) while in an out-of-home placement.

26 (3) To ensure the protection of children placed in temporary
27 shelter care facilities, the child welfare agency shall separate
28 children placed in temporary shelter care facilities pursuant to
29 subdivision (b) from children returning to the shelter due to a failed
30 placement, when possible, when circumstances warrant that
31 separation. Temporary shelters shall staff as necessary to
32 adequately supervise children to ensure an appropriate environment
33 for all children present.

34 (g) At the request of the county, the department shall provide
35 technical assistance necessary for the implementation of this
36 section.

37 (h) The department, in consultation with the counties, shall
38 provide a report to the Legislature no later than January 1, 2021,
39 that shall include the number of children and youth served by
40 temporary shelter care facilities, characteristics of children detained

1 in these facilities, and whether there is a continued need for the
2 licensing and operation of temporary shelter care facilities.

3 *SEC. 46. Section 16500.9 of the Welfare and Institutions Code*
4 *is amended to read:*

5 16500.9. The department shall establish one full-time position,
6 within the office of the director, to assist counties in complying
7 with the *California Indian Child Welfare Act*, the federal Indian
8 Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) *seq.*, and related
9 state laws, regulations, and rules of court. This assistance shall
10 include, but not be limited to, all of the following:

11 (a) Acting as a clearinghouse for up-to-date information
12 regarding tribes within and outside of the state.

13 (b) Providing information and support regarding the
14 requirements of laws, regulations, and rules of court in juvenile
15 dependency cases involving a child who is subject to the *California*
16 *Indian Child Welfare Act* and the federal Indian Child Welfare
17 Act.

18 (c) Providing or coordinating training and technical assistance
19 for counties regarding the requirements described in subdivision
20 (b).

21 *SEC. 47. Section 16501 of the Welfare and Institutions Code*
22 *is amended to read:*

23 16501. (a) (1) As used in this chapter, “child welfare services”
24 means public social services that are directed toward the
25 accomplishment of any or all of the following purposes:

26 (A) Protecting and promoting the welfare of all children,
27 including disabled, homeless, dependent, or neglected children.

28 (B) Preventing or remedying, or assisting in the solution of
29 problems that may result in, the neglect, abuse, exploitation, or
30 delinquency of children.

31 (C) Preventing the unnecessary separation of children from their
32 families by identifying family problems, assisting families in
33 resolving their problems, and preventing breakup of the family
34 where the prevention of child removal is desirable and possible.

35 (D) Restoring to their families children who have been removed,
36 by the provision of services to the child and the families.

37 (E) Identifying children to be placed in suitable adoptive homes,
38 in cases where restoration to the biological family is not possible
39 or appropriate.

1 (F) Ensuring adequate care of children away from their homes,
2 in cases where the child cannot be returned home or cannot be
3 placed for adoption.

4 (2) “Child welfare services” also means services provided on
5 behalf of children alleged to be the victims of child abuse, neglect,
6 or exploitation. The child welfare services provided on behalf of
7 each child represent a continuum of services, including emergency
8 response services, family preservation services, family maintenance
9 services, family reunification services, and permanent placement
10 services, including supportive transition services. The individual
11 child’s case plan is the guiding principle in the provision of these
12 services. The case plan shall be developed within a maximum of
13 60 days of the initial removal of the child or of the in-person
14 response required under subdivision (f) if the child has not been
15 removed from their home, or by the date of the dispositional
16 hearing pursuant to Section 358, whichever comes first.

17 (3) “Child welfare services” are best provided in a framework
18 that integrates service planning and delivery among multiple
19 service systems, including the mental health system, using a
20 team-based approach, such as a child and family team. A child
21 and family team brings together individuals that engage with the
22 child or youth and family in assessing, planning, and delivering
23 services consistent with paragraph (1) of subdivision (d) of Section
24 16501.1. Use of a team approach increases efficiency, and thus
25 reduces cost, by increasing coordination of formal services and
26 integrating the natural and informal supports available to the child
27 or youth and family.

28 (4) “Child and family team” means a group of individuals who
29 are convened by the placing agency and who are engaged through
30 a variety of team-based processes to identify the strengths and
31 needs of the child or youth and their family, and to help achieve
32 positive outcomes for safety, permanency, and well-being. The
33 child and family team shall have the same meaning as the “family
34 and permanency team,” as described in Section 675a(c)(1)(B)(ii)
35 of Title 42 of the United States Code.

36 (A) The activities of the team shall include, but not be limited
37 to, all of the following:

38 (i) Providing input into the development of a child and family
39 plan that is strengths-based, needs-driven, and culturally relevant.

1 (ii) Providing input into the placement decision made by the
2 placing agency and the services to be provided in order to support
3 the child or youth.

4 (iii) On and after October 1, 2021, for a child placed into a
5 short-term residential therapeutic program, providing input into
6 all of the following:

7 (I) Required determinations by a qualified individual pursuant
8 to subdivision (g) of Section 4096.

9 (II) Required components of the case plan, including those
10 specified in subparagraph (C) of paragraph (2) of subdivision (d)
11 of Section 16501.1.

12 (III) Development of the plan for family-based aftercare services
13 described in Section 4096.6.

14 (B) (i) The child and family team process shall engage the child
15 or youth, the child's family, and other people important to the
16 family or to the child or youth in meeting the objectives set forth
17 in subparagraph (A). The child and family team shall also include
18 representatives who provide formal supports to the child or youth
19 and family when appropriate, including, but not limited to, all of
20 the following:

21 (I) The caregiver.

22 (II) The placing agency caseworker.

23 (III) A representative from a foster family agency or short-term
24 residential therapeutic program with which a child or youth is
25 placed.

26 (IV) A county mental health representative.

27 (V) A representative from the regional center if the child is
28 eligible for regional center services.

29 (VI) The child or youth's Court-Appointed Special Advocate,
30 if one has been appointed, unless the child or youth objects.

31 (VII) A representative of the child or youth's tribe or Indian
32 custodian, as applicable.

33 (ii) As appropriate, the child and family team also may include
34 other formal supports, such as substance use disorder treatment
35 professionals and educational professionals, providing services to
36 the child or youth and family. For purposes of this definition, the
37 child and family team also may include extended family and
38 informal support persons, such as friends, coaches, faith-based
39 connections, and tribes as identified by the child or youth and
40 family. If placement into a short-term residential therapeutic

1 program or a foster family agency that provides treatment services
2 has occurred or is being considered, the mental health
3 representative is required to be a licensed mental health
4 professional. Any party to the child's case who is represented by
5 an attorney may consult with their attorney regarding this process.
6 The child or youth and their family may request specific persons
7 to be included on the child and family team. Nothing shall preclude
8 another agency serving the child or youth from convening a team
9 in collaboration with the placing agency.

10 (5) "Child and family team meeting" means a convening of all
11 or some members of the child and family team. A child and family
12 team meeting may be requested by any member of the child and
13 family team.

14 (A) Upon the scheduling of a child and family team meeting, a
15 notification shall be provided to the child or youth, their parent or
16 guardian, and the caregiver.

17 (B) The occurrence of the child and family team meeting shall
18 be documented in the court report that is prepared pursuant to
19 Section 358.1 or 366.1.

20 (C) (i) The child's court-appointed educational rights holder,
21 if someone other than the parent, guardian, or caregiver, shall be
22 invited to the child and family team meeting if either of the
23 following applies:

24 (I) The child and family team will develop and implement a
25 placement preservation strategy pursuant to Section 16010.7.

26 (II) The child and family team will discuss a placement change.

27 (ii) The child and family team shall discuss if remaining in the
28 school of origin is in the child's best interest.

29 (iii) Pursuant to, and in accordance with, Section 48853.5 of
30 the Education Code, if the child's educational rights holder
31 determines that remaining in, or returning to, the child's school of
32 origin is in the child's best interest, the child and family team, in
33 consultation with the foster care educational liaison, shall determine
34 an appropriate transportation plan for the child to attend their
35 school of origin and any available extracurricular activities.

36 (6) Child welfare services may include, but are not limited to,
37 a range of service-funded activities, including case management,
38 counseling, emergency shelter care, emergency in-home caretakers,
39 temporary in-home caretakers, respite care, therapeutic day
40 services, teaching and demonstrating homemakers, parenting

1 training, substance abuse testing, transportation, and specialized
2 permanency services. These service-funded activities shall be
3 available to children and their families in all phases of the child
4 welfare program in accordance with the child's case plan and
5 departmental regulations. Funding for services is limited to the
6 amount appropriated in the annual Budget Act and other available
7 county funds.

8 (7) Service-funded activities to be provided may be determined
9 by each county, based upon individual child and family needs as
10 reflected in the service plan.

11 (8) As used in this chapter, "emergency shelter care" means
12 emergency shelter provided to children who have been removed
13 pursuant to Section 300 from their parent or parents or their
14 guardian or guardians. The department may establish, by
15 regulation, the time periods for which emergency shelter care shall
16 be funded. For the purposes of this paragraph, "emergency shelter
17 care" may include "transitional shelter care facilities" as defined
18 in paragraph (11) of subdivision (a) of Section 1502 of the Health
19 and Safety Code.

20 (9) As used in this chapter, "specialized permanency services"
21 means services to assist a child or nonminor dependent whose case
22 plan is for permanent placement or supportive transition to
23 adulthood in achieving a permanent family through reunification,
24 adoption, legal guardianship, or other lifelong connection to caring
25 adults, including at least one adult who will provide a permanent,
26 parent-like relationship for the child or nonminor dependent.
27 Specialized permanency services are designed for and with the
28 child to address the child's history of trauma, separation, and loss.
29 "Specialized permanency services" may include all of the
30 following:

31 (A) Medically necessary mental health services, if the medical
32 necessity criteria for Medi-Cal specialty mental health services,
33 as described in Section 1830.205 or 1830.210 of Title 9 of the
34 California Code of Regulations, is met, as needed to ameliorate
35 impairments in significant areas of life functioning that may reduce
36 the likelihood of the child or nonminor dependent achieving a
37 permanent family, and may include other services designed to
38 address the child's or nonminor dependent's history of trauma,
39 grief, loss, stigma, and rejection that reduce the likelihood of the
40 child or nonminor dependent achieving a permanent family.

1 (B) Permanency support core services, as appropriate to achieve,
2 stabilize, and sustain the child or nonminor dependent in a
3 permanent family.

4 (C) Services designed to prepare the identified permanent family
5 to meet the child's or nonminor dependent's needs, set appropriate
6 expectations before and after permanency is achieved, and stabilize
7 the placement.

8 (b) As used in this chapter, "respite care" means temporary care
9 for periods not to exceed 72 hours, and, in order to preserve the
10 placement, may be extended up to 14 days in any one month
11 pending the development of policies and regulations in consultation
12 with county placing agencies and stakeholders. This care may be
13 provided to the child's parents or guardians. This care shall not be
14 limited by regulation to care over 24 hours. These services shall
15 not be provided for the purpose of routine, ongoing childcare.

16 (c) The county shall provide child welfare services as needed
17 pursuant to an approved service plan and in accordance with
18 regulations promulgated, in consultation with the counties, by the
19 department. Counties may contract for service-funded activities,
20 as defined in paragraph (1) of subdivision (a). Counties shall not
21 contract for needs assessment, client eligibility determination, or
22 any other activity as specified by regulations of the State
23 Department of Social Services, except as specifically authorized
24 in Section 16100.

25 (d) This chapter shall not be construed to affect duties that are
26 delegated to probation officers pursuant to Sections 601 and 654.

27 (e) A county may utilize volunteer individuals to supplement
28 professional child welfare services by providing ancillary support
29 services in accordance with regulations adopted by the State
30 Department of Social Services.

31 (f) As used in this chapter, emergency response services consist
32 of a response system providing in-person response, 24 hours a day,
33 seven days a week, to reports of abuse, neglect, or exploitation, as
34 required by Article 2.5 (commencing with Section 11164) of
35 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of
36 investigation pursuant to Section 11166 of the Penal Code and to
37 determine the necessity for providing initial intake services and
38 crisis intervention to maintain the child safely in their own home
39 or to protect the safety of the child. County welfare departments
40 shall respond to any report of imminent danger to a child

1 immediately and all other reports within 10 calendar days. An
2 in-person response is not required when the county welfare
3 department, based upon an evaluation of risk, determines that an
4 in-person response is not appropriate. This evaluation includes
5 collateral contacts, a review of previous referrals, and other relevant
6 information, as indicated.

7 (g) As used in this chapter, family maintenance services are
8 activities designed to provide in-home protective services to
9 prevent or remedy neglect, abuse, or exploitation, for the purposes
10 of preventing separation of children from their families.

11 (h) As used in this chapter, family reunification services are
12 activities designed to provide time-limited foster care services to
13 prevent or remedy neglect, abuse, or exploitation, when the child
14 cannot safely remain at home, and needs temporary foster care,
15 while services are provided to reunite the family.

16 (i) (1) As used in this chapter, permanent placement services
17 are activities designed to provide an alternate permanent family
18 structure for children who, because of abuse, neglect, or
19 exploitation, cannot safely remain at home and who are unlikely
20 to ever return home. These services shall be provided on behalf
21 of children for whom there has been a judicial determination of a
22 permanent plan for adoption, legal guardianship, placement with
23 a fit and willing relative, or continued foster care placement, and,
24 as needed, shall include supportive transition services to nonminor
25 dependents, as described in subdivision (v) of Section 11400.

26 (2) For purposes of this section, “another planned permanent
27 living arrangement” means a permanent plan ordered by the court
28 for a child 16 years of age or older or a nonminor dependent, when
29 there is a compelling reason or reasons to determine that it is not
30 in the best interest of the child or nonminor dependent to return
31 home, be placed for adoption, be placed for tribal customary
32 adoption in the case of an Indian child, or be placed with a fit and
33 willing relative. Placement in a group home, or, on and after
34 January 1, 2017, a short-term residential therapeutic program, shall
35 not be the identified permanent plan for any child or nonminor
36 dependent.

37 (j) As used in this chapter, family preservation services include
38 those services specified in Section 16500.5 to avoid or limit
39 out-of-home placement of children, and may include those services

1 specified in that section to place children in the least restrictive
2 environment possible.

3 (k) (1) (A) In any county electing to implement this
4 subdivision, all county welfare department employees who have
5 frequent and routine contact with children shall, by February 1,
6 1997, and all welfare department employees who are expected to
7 have frequent and routine contact with children and who are hired
8 on or after January 1, 1996, and all such employees whose duties
9 change after January 1, 1996, to include frequent and routine
10 contact with children, shall, if the employees provide services to
11 children who are alleged victims of abuse, neglect, or exploitation,
12 sign a declaration under penalty of perjury regarding any prior
13 criminal conviction, and shall provide a set of fingerprints to the
14 county welfare director.

15 (B) The county welfare director shall secure from the
16 Department of Justice a criminal record to determine whether the
17 employee has ever been convicted of a crime other than a minor
18 traffic violation. The Department of Justice shall deliver the
19 criminal record to the county welfare director.

20 (C) If it is found that the employee has been convicted of a
21 crime, other than a minor traffic violation, the county welfare
22 director shall determine whether there is substantial and convincing
23 evidence to support a reasonable belief that the employee is of
24 good character so as to justify frequent and routine contact with
25 children.

26 (D) An exemption shall not be granted pursuant to subparagraph
27 (C) if the person has been convicted of a sex offense against a
28 minor, or has been convicted of an offense specified in Section
29 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in
30 paragraph (1) of Section 273a of, or subdivision (a) or (b) of
31 Section 368 of, the Penal Code, or has been convicted of an offense
32 specified in subdivision (c) of Section 667.5 of the Penal Code.
33 The county welfare director shall suspend such a person from any
34 duties involving frequent and routine contact with children.

35 (E) Notwithstanding subparagraph (D), the county welfare
36 director may grant an exemption if the employee or prospective
37 employee, who was convicted of a crime against an individual
38 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5
39 of the Penal Code, has been rehabilitated as provided in Section
40 4852.03 of the Penal Code and has maintained the conduct required

1 in Section 4852.05 of the Penal Code for at least 10 years and has
2 the recommendation of the district attorney representing the
3 employee's or prospective employee's county of residence, or if
4 the employee or prospective employee has received a certificate
5 of rehabilitation pursuant to Chapter 3.5 (commencing with Section
6 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the
7 county welfare director may give the employee or prospective
8 employee an opportunity to explain the conviction and shall
9 consider that explanation in the evaluation of the criminal
10 conviction record.

11 (F) If criminal record information has not been recorded, the
12 county welfare director shall cause a statement of that fact to be
13 included in that person's personnel file.

14 (2) For purposes of this subdivision, a conviction means a plea
15 or verdict of guilty or a conviction following a plea of nolo
16 contendere. An action that the county welfare director is permitted
17 to take following the establishment of a conviction may be taken
18 when the time for appeal has elapsed, or the judgment of conviction
19 has been affirmed on appeal or when an order granting probation
20 is made suspending the imposition of sentence, notwithstanding
21 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
22 Penal Code permitting the person to withdraw their plea of guilty
23 and to enter a plea of not guilty, or setting aside the verdict of
24 guilty, or dismissing the accusation, information, or indictment.
25 For purposes of this subdivision, the record of a conviction, or a
26 copy thereof certified by the clerk of the court or by a judge of the
27 court in which the conviction occurred, shall be conclusive
28 evidence of the conviction.

29 (I) (1) Consistent with Section 675a(c)(1)(D) of Title 42 of the
30 United States Code, "qualified individual" means a trained
31 professional or licensed clinician responsible for conducting the
32 determination described in subdivision (g) of Section 4096 and
33 determining the most effective and appropriate placement for a
34 child. In the case of an Indian child, as defined in Section 224.1,
35 a person may be designated by the child's tribe as the qualified
36 individual pursuant to this subdivision and as defined in subdivision
37 (c) of Section 224.6. In the absence of that designation, the
38 qualified individual shall have specialized knowledge of, training
39 about, or experience with, tribes and the *California Indian Child*

1 *Welfare Act and federal Indian Child Welfare Act of 1978 (25*
2 *U.S.C. Sec. 1901 et seq.).*

3 (2) Except as provided in paragraph (3), the qualified individual
4 shall not be an employee of the IV-E agency and shall not be
5 connected to, or affiliated with, any placement setting in which
6 the IV-E agency places children.

7 (3) (A) The department shall seek approval from the Secretary
8 of the United States Department of Health and Human Services
9 for authorization to permit employees of the IV-E agency or an
10 individual connected to, or affiliated with, a placement setting to
11 serve as the qualified individual who conducts the assessment
12 described in subdivision (g) of Section 4096. A request for approval
13 shall describe the process through which the department may
14 certify that an employee of a Title IV-E agency, or individual
15 connected to or affiliated with a placement setting, and designated
16 as a qualified individual will maintain objectivity in conducting
17 the assessment and determination of the most effective and
18 appropriate placement for a child or nonminor dependent.

19 (B) Any process developed pursuant to subparagraph (A) shall
20 be developed jointly with the State Department of Health Care
21 Services and in consultation with the State Department of
22 Developmental Services, the State Department of Education,
23 county child welfare, probation, and behavioral health agencies,
24 and other interested stakeholders.

25 (C) If approval is granted, the department and the State
26 Department of Health Care services shall issue joint instructions
27 to counties regarding the process for the department to approve a
28 joint request and plan submitted to the department by a county
29 placing agency and behavioral health plan to permit an individual
30 who is an employee of a Title IV-E agency or connected to, or
31 affiliated with, a IV-E placement setting to serve as a qualified
32 individual.

33 (4) Notwithstanding the rulemaking provisions of the
34 Administrative Procedure Act (Chapter 3.5 (commencing with
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
36 Code), the department may implement, interpret, or make specific
37 this subdivision by means of all-county letters or similar
38 instructions from the department until regulations are adopted.
39 These all-county letters or similar written instructions shall have

1 the same force and effect as regulations until the adoption of
2 regulations.

3 *SEC. 48. Section 16504.6 of the Welfare and Institutions Code*
4 *is amended to read:*

5 16504.6. The State Department of Social Services shall evaluate
6 a request from an Indian tribe to exempt a crime that is exemptible
7 under Section 1522 of the Health and Safety Code, if needed, to
8 allow placement into an Indian home that the tribe has designated
9 for placement under *Section 361.31 of this code* and the federal
10 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.). However,
11 the tribe may request that the county with jurisdiction over the
12 child evaluate the exemption request. Once a tribe has elected to
13 have the exemption request reviewed by either the State
14 Department of Social Services or the county, the exemption
15 decision may only be made by that entity. Nothing in this section
16 limits the duty of a county social worker to evaluate the home for
17 placement or to gather information needed to evaluate an
18 exemption request.

19 *SEC. 49. Section 16507.4 of the Welfare and Institutions Code*
20 *is amended to read:*

21 16507.4. (a) Notwithstanding any other provisions of this
22 chapter, voluntary family reunification services shall be provided
23 without fee to families who qualify, or would qualify if application
24 had been made therefor, as recipients of public assistance under
25 the Aid to Families with Dependent Children program as described
26 in the State Plan in effect on July 1, 1996. If the family is not
27 qualified for aid, voluntary family reunification services may be
28 utilized, provided that the county seeks reimbursement from the
29 parent or guardian on a statewide sliding scale according to income
30 as determined by the State Department of Social Services and
31 approved by the Department of Finance. The fee may be waived
32 if the social worker determines that the payment of the fee may
33 be a barrier to reunification. Section 17552 of the Family Code
34 shall also apply.

35 (b) An out-of-home placement of a minor without adjudication
36 by the juvenile court may occur only when all of the following
37 conditions exist:

38 (1) There is a mutual decision between the child's parent, Indian
39 custodian, or guardian and the county welfare department in

1 accordance with regulations promulgated by the State Department
2 of Social Services.

3 (2) There is a written agreement between the county welfare
4 department and the parent or guardian specifying the terms of the
5 voluntary placement. The State Department of Social Services
6 shall develop a form for voluntary placement agreements that shall
7 be used by all counties. The form shall indicate that foster care
8 under the Aid to Families with Dependent Children program is
9 available to those children.

10 (3) In the case of an Indian child, in accordance with *the*
11 *California Indian Child Welfare Act* and Section 1913 of the
12 federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et
13 seq.), the following criteria are met:

14 (A) The parent or Indian custodian's consent to the voluntary
15 out-of-home placement is executed in writing at least 10 days after
16 the child's birth and recorded before a judge.

17 (B) The judge certifies that the terms and consequences of the
18 consent were fully explained in detail in English and were fully
19 understood by the parent or that they were interpreted into a
20 language that the parent understood.

21 (C) A parent of an Indian child may withdraw his or her consent
22 to a voluntary foster care placement or voluntary termination of
23 parental rights or relinquishment for any reason at any time and
24 the child shall be returned to the parent.

25 (D) The placement complies with preferences set forth in Section
26 361.31.

27 (c) In the case of a voluntary placement pending relinquishment,
28 a county welfare department shall have the option of delegating
29 to a licensed private adoption agency the responsibility for
30 placement by the county welfare department. If a delegation occurs,
31 the voluntary placement agreement shall be signed by the county
32 welfare department, the child's parent or guardian, and the licensed
33 private adoption agency.

34 (d) The State Department of Social Services shall amend its
35 plan pursuant to Part E (commencing with Section 670) of
36 Subchapter IV of Chapter 7 of Title 42 of the United States Code
37 in order to conform to mandates of Public Law 96-272 and Public
38 Law 110-351 for federal financial participation in voluntary
39 placements.

1 *SEC. 50. Section 16507.5 of the Welfare and Institutions Code*
2 *is amended to read:*

3 16507.5. (a) (1) When a minor is separated, or is in the process
4 of being separated, from the minor's family under the provisions
5 of a voluntary placement agreement, the county welfare department
6 or a licensed private or public adoption agency social worker shall
7 make any and all reasonable and necessary provisions for the care,
8 supervision, custody, conduct, maintenance, and support of the
9 minor, including medical treatment.

10 (2) Responsibility for placement and care of the minor shall be
11 with the social worker who may place the minor in any of the
12 following:

13 (A) The home of a relative or the home of a nonrelative extended
14 family member, as described in Section 362.7, that has been
15 assessed pursuant to Section 361.4.

16 (B) The home of a resource family, as defined in Section
17 16519.5.

18 (C) A suitable licensed community care facility.

19 (D) With a foster family agency to be placed in a suitable
20 licensed home or other family home which has been certified by
21 the agency as meeting licensing standards.

22 (E) A home or facility in accordance with the *California Indian*
23 *Child Welfare Act and the federal Indian Child Welfare Act.*

24 (b) The granting of a community care license or approval status
25 does not entitle the caregiver to the placement of a specific child
26 or children. Placement is based on the child's needs and best
27 interests.

28 *SEC. 51. Section 16519.5 of the Welfare and Institutions Code*
29 *is amended to read:*

30 16519.5. (a) The State Department of Social Services, in
31 consultation with county child welfare agencies, foster parent
32 associations, and other interested community parties, shall
33 implement a unified, family friendly, and child-centered resource
34 family approval process to replace the existing multiple processes
35 for licensing foster family homes, certifying foster homes by
36 licensed foster family agencies, approving relatives and nonrelative
37 extended family members as foster care providers, and approving
38 guardians and adoptive families.

39 (b) (1) Counties shall be selected to participate on a voluntary
40 basis as early implementation counties for the purpose of

1 participating in the initial development of the approval process.
2 Early implementation counties shall be selected according to
3 criteria developed by the department in consultation with the
4 County Welfare Directors Association of California. In selecting
5 the five early implementation counties, the department shall
6 promote diversity among the participating counties in terms of
7 size and geographic location.

8 (2) Additional counties may participate in the early
9 implementation of the program upon authorization by the
10 department.

11 (3) The State Department of Social Services shall be responsible
12 for all of the following:

13 (A) Selecting early implementation counties, based on criteria
14 established by the department in consultation with the County
15 Welfare Directors Association of California.

16 (B) Establishing timeframes for participating counties to submit
17 an implementation plan, enter into terms and conditions for early
18 implementation participation in the program, train appropriate
19 staff, and accept applications from resource families.

20 (C) Entering into terms and conditions for early implementation
21 participation in the program by counties.

22 (4) Counties participating in the early implementation of the
23 program shall be responsible for all of the following:

24 (A) Submitting an implementation plan.

25 (B) Entering into terms and conditions for early implementation
26 participation in the program.

27 (C) Consulting with the county probation department in the
28 development of the implementation plan.

29 (D) Training appropriate staff.

30 (E) Accepting applications from resource families within the
31 timeframes established by the department.

32 (5) (A) Approved relatives and nonrelative extended family
33 members, licensed foster family homes, or approved adoptive
34 homes that have completed the license or approval process prior
35 to statewide implementation of the program shall not be considered
36 part of the program. The otherwise applicable assessment and
37 oversight processes shall continue to be administered for families
38 and facilities not included in the program.

39 (B) Upon implementation of the program in a county, that
40 county shall not accept new applications for the licensure of foster

1 family homes, the approval of relative and nonrelative extended
2 family members, or the approval of prospective guardians and
3 adoptive homes.

4 (6) The department may waive regulations that pose a barrier
5 to the early implementation and operation of this program. The
6 waiver of a regulation by the department pursuant to this section
7 applies to only those counties or foster family agencies
8 participating in the early implementation of the program and only
9 for the duration of the program.

10 (7) This subdivision is inoperative on January 1, 2017.

11 (c) (1) For purposes of this article, “resource family” means an
12 individual or family that has successfully met both the home
13 environment assessment standards and the permanency assessment
14 criteria adopted pursuant to subdivision (d) necessary for providing
15 care for a child placed by a public or private child placement
16 agency by court order, or voluntarily placed by a parent or legal
17 guardian. A resource family shall demonstrate all of the following:

18 (A) An understanding of the safety, permanence, and well-being
19 needs of children who have been victims of child abuse and neglect,
20 and the capacity and willingness to meet those needs, including
21 the need for protection, and the willingness to make use of support
22 resources offered by the agency, or a support structure in place,
23 or both.

24 (B) An understanding of children’s needs and development,
25 effective parenting skills or knowledge about parenting, and the
26 capacity to act as a reasonable, prudent parent in day-to-day
27 decisionmaking.

28 (C) An understanding of the role of the individual or family as
29 a resource family and the capacity to work cooperatively with the
30 agency and other service providers in implementing the child’s
31 case plan.

32 (D) The financial ability within the household to ensure the
33 stability and financial security of the family. This requirement may
34 be waived for relative and nonrelative extended family member
35 resource families on a case-by-case basis. For purposes of this
36 subparagraph, there is no minimum income requirement and an
37 applicant who will rely on the funding described in subdivision
38 (I) to meet additional household expenses incurred due to the
39 placement of a child shall not, for this reason, be denied approval
40 as a resource family.

1 (E) An ability and willingness to provide a family setting that
2 promotes normal childhood experiences that serves the needs of
3 the child.

4 (2) For purposes of this article, and unless otherwise specified,
5 references to a “child” include a “nonminor dependent” and
6 “nonminor former dependent or ward,” as defined in subdivision
7 (v) and paragraph (1) of subdivision (aa) of Section 11400.

8 (3) There is no fundamental right to approval as a resource
9 family. Emergency placement of a child pursuant to Section 309,
10 319, 361.45, or 727.05, or with a resource family applicant pursuant
11 to subdivision (e), does not entitle an applicant to approval as a
12 resource family.

13 (4) (A) A resource family shall be considered eligible to provide
14 foster care for children in out-of-home placement and approved
15 for adoption and guardianship.

16 (B) (i) Notwithstanding subparagraph (A), a county may
17 approve a resource family to care for a specific child, as specified
18 in the written directives or regulations adopted pursuant to this
19 section. Child-specific approval shall be considered if the applicant
20 is a relative or nonrelative extended family member who has an
21 established and significant relationship with a child or a child is
22 already placed in the home of the relative or nonrelative extended
23 family member pursuant to subdivision (e) or Section 309, 319,
24 361.45, or 727.05.

25 (ii) When child-specific approval is granted to a relative who
26 has received a criminal records exemption pursuant to clause (iv)
27 of subparagraph (A) of paragraph (2) of subdivision (g) of Section
28 1522 of the Health and Safety Code, the child’s placement shall
29 be funded pursuant to Section 11461.3 and the relative shall not
30 be eligible for federal financial participation while the child is
31 placed with them.

32 (iii) In the case of an Indian child for whom the child’s tribe is
33 not exercising its right to approve a home, the county shall apply
34 the prevailing social and cultural standards of the Indian
35 community to resource family approval for that child, as required
36 by subdivision (f) of Section 361.31 and the federal Indian Child
37 Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.). The department
38 shall engage in the tribal consultation process and develop
39 regulations to implement this clause. Notwithstanding the
40 rulemaking provisions of the Administrative Procedure Act

1 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3 of Title 2 of the Government Code), the department
3 may implement this clause through all-county letters or other
4 similar instruction, and provide guidance to counties regarding
5 consistent implementation of this clause.

6 (5) For purposes of this article, “resource family approval”
7 means that the applicant or resource family successfully meets the
8 home environment assessment and permanency assessment
9 standards. This approval is in lieu of a foster family home license
10 issued pursuant to Chapter 3 (commencing with Section 1500) of
11 Division 2 of the Health and Safety Code, a certificate of approval
12 issued by a licensed foster family agency, as described in
13 subdivision (b) of Section 1506 of the Health and Safety Code,
14 relative or nonrelative extended family member approval,
15 guardianship approval, and the adoption home study approval.

16 (6) Approval of a resource family does not guarantee an initial,
17 continued, or adoptive placement of a child with a resource family
18 or with a relative or nonrelative extended family member. Approval
19 of a resource family does not guarantee the establishment of a legal
20 guardianship of a child with a resource family.

21 (7) (A) Notwithstanding paragraphs (1) to (6), inclusive, the
22 county shall, consistent with Sections 1520.3 and 1558.1 of the
23 Health and Safety Code, cease any further review of an application
24 if the applicant has had a previous application denial by the
25 department or a county within the preceding year, or if the applicant
26 has had a previous rescission, revocation, or exemption denial or
27 exemption rescission by the department or a county within the
28 preceding two years.

29 (B) Notwithstanding subparagraph (A), the county may continue
30 to review an application if it has determined that the reasons for
31 the previous denial, rescission, or revocation were due to
32 circumstances and conditions that either have been corrected or
33 are no longer in existence. If an individual was excluded from a
34 resource family home or facility licensed by the department, the
35 county shall cease review of the individual’s application unless
36 the excluded individual has been reinstated pursuant to subdivision
37 (g) of Section 16519.6 of this code or pursuant to Section 1569.53,
38 subdivision (h) of Section 1558, subdivision (h) of Section 1569.58,
39 or subdivision (h) of Section 1596.8897, of the Health and Safety
40 Code.

1 (C) (i) The county may cease any further review of an
2 application if, after written notice to the applicant, the applicant
3 fails to complete an application without good faith effort and within
4 30 days of the date of the notice, as specified in the written
5 directives or regulations adopted pursuant to this section.

6 (ii) Clause (i) does not apply if a child is placed with the
7 applicant pursuant to Section 309, 361.45, 727.05, or paragraph
8 (1) of subdivision (e) of Section 16519.5.

9 (D) The cessation of an application review pursuant to this
10 paragraph does not constitute a denial of the application for
11 purposes of this section or any other law.

12 (E) For purposes of this section, the date of a previous denial,
13 rescission, revocation, exemption denial or exemption rescission,
14 or exclusion shall be either of the following:

15 (i) The effective date of a final decision or order upholding a
16 notice of action or exclusion order.

17 (ii) The date on the notice of the decision to deny, rescind,
18 revoke, or exclude if the notice was not appealed or otherwise
19 constitutes a final decision.

20 (8) A resource family shall meet the approval standards set forth
21 in this section, and, as applicable, Chapter 6.3 (commencing with
22 Section 18360) of Part 6, to maintain approval. A resource family
23 shall comply with the written directives or regulations adopted
24 pursuant to this section and applicable laws in order to maintain
25 approval.

26 (9) A resource family may be approved by a county child
27 welfare department or a probation department pursuant to this
28 section or by a foster family agency pursuant to Section 1517 of
29 the Health and Safety Code.

30 (10) A resource family shall not be licensed to operate a
31 residential facility, as defined in Section 1502 of the Health and
32 Safety Code, a residential care facility for the elderly, as defined
33 in Section 1569.2 of the Health and Safety Code, or a residential
34 care facility for persons with chronic life-threatening illnesses, as
35 defined in Section 1568.01 of the Health and Safety Code, on the
36 same premises used as the residence of the resource family.

37 (11) (A) An applicant who withdraws an application prior to
38 its approval or denial may resubmit the application within 12
39 months of the withdrawal.

1 (B) This paragraph does not preclude a county from requiring
2 an applicant to complete an application activity, even if that activity
3 was previously completed.

4 (d) (1) The department shall adopt standards pertaining to the
5 home environment and permanency assessments of a resource
6 family.

7 (2) Resource family home environment assessment standards
8 shall include, but not be limited to, all of the following:

9 (A) (i) (I) A criminal record clearance of each applicant and
10 all adults residing in, or regularly present in, the home, and not
11 exempted from fingerprinting, as set forth in subdivision (b) of
12 Section 1522 of the Health and Safety Code, pursuant to Section
13 8712 of the Family Code, utilizing a check of the Child Abuse
14 Central Index pursuant to Section 1522.1 of the Health and Safety
15 Code, and receipt of a fingerprint-based state and federal criminal
16 offender record information search response. The criminal history
17 information shall include subsequent notifications pursuant to
18 Section 11105.2 of the Penal Code.

19 (II) Consideration of any substantiated allegations of child abuse
20 or neglect against the applicant and any other adult residing in, or
21 regularly present in, the home pursuant to Section 1522.1 of the
22 Health and Safety Code.

23 (III) If the criminal records check indicates that the person has
24 been convicted of an offense described in subparagraph (A) of
25 paragraph (2) of subdivision (g) of Section 1522 of the Health and
26 Safety Code, home approval shall be denied unless the person has
27 received a criminal records exemption pursuant to clause (iv) of
28 subparagraph (A) of paragraph (2) of subdivision (g) of Section
29 1522 of the Health and Safety Code. If the criminal records check
30 indicates that the person has been convicted of an offense described
31 in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of
32 Section 1522 of the Health and Safety Code, the home shall not
33 be approved unless a criminal record exemption has been granted
34 pursuant to subclause (IV).

35 (IV) If the resource family parent, applicant, or any other person
36 specified in subclause (I) has been convicted of a crime other than
37 an infraction or arrested for an offense specified in subdivision (e)
38 of Section 1522 of the Health and Safety Code, except for the civil
39 penalty language, the criminal background check provisions
40 specified in subdivisions (d) through (f) of Section 1522 of the

1 Health and Safety Code shall apply. Exemptions from the criminal
2 records clearance requirements set forth in this section may be
3 granted by the department or the county, if that county has been
4 granted permission by the department to issue criminal record
5 exemptions pursuant to Section 361.4, using the exemption criteria
6 currently used for foster care licensing, as specified in subdivision
7 (g) of Section 1522 of the Health and Safety Code.

8 (V) If it is determined, on the basis of the fingerprint images
9 and related information submitted to the Department of Justice,
10 that subsequent to obtaining a criminal record clearance or
11 exemption from disqualification, the person has been convicted
12 of, or is awaiting trial for, a sex offense against a minor, or has
13 been convicted for an offense specified in Section 243.4, 273a,
14 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the
15 department or county shall notify the resource family to act
16 immediately to remove or bar the person from entering the resource
17 family's home. The department or county, as applicable, may
18 subsequently grant an exemption from disqualification pursuant
19 to subdivision (g) of Section 1522 of the Health and Safety Code.
20 If the conviction or arrest was for another crime, the resource
21 family shall, upon notification by the department or county, act
22 immediately to either remove or bar the person from entering the
23 resource family's home, or require the person to seek an exemption
24 from disqualification pursuant to subdivision (g) of Section 1522
25 of the Health and Safety Code. The department or county, as
26 applicable, shall determine if the person shall be allowed to remain
27 in the home until a decision on the exemption from disqualification
28 is rendered.

29 (ii) For public foster family agencies approving resource
30 families, the criminal records clearance process set forth in clause
31 (i) shall be utilized.

32 (iii) For private foster family agencies approving resource
33 families, the criminal records clearance process set forth in clause
34 (i) shall be utilized, but the Department of Justice shall disseminate
35 a fitness determination resulting from the federal criminal offender
36 record information search.

37 (B) A home and grounds evaluation to ensure the health and
38 safety of children.

1 (C) In addition to the foregoing requirements, the resource
2 family home environment assessment standards shall require the
3 following:

4 (i) That the applicant demonstrates an understanding of the
5 rights of children in care and the applicant's responsibility to
6 safeguard those rights.

7 (ii) That the total number of children residing in the home of a
8 resource family shall be no more than the total number of children
9 the resource family can properly care for, regardless of status, and
10 shall not exceed six children, unless exceptional circumstances
11 that are documented in the foster child's case file exist to permit
12 a resource family to care for more children, including, but not
13 limited to, the need to place siblings together, consistent with
14 Section 16002.

15 (iii) That the applicant understands the applicant's
16 responsibilities with respect to acting as a reasonable and prudent
17 parent, and maintaining the least restrictive environment that serves
18 the needs of the child.

19 (3) The resource family permanency assessment standards shall
20 include, but not be limited to, all of the following:

21 (A) Caregiver training, as described in subdivisions (g) and (h).

22 (B) A family evaluation, which shall include, but not be limited
23 to, interviews of an applicant to assess the applicant's personal
24 history, family dynamic, and need for support or resources, and a
25 risk assessment.

26 (i) When the applicant is a relative or nonrelative extended
27 family member to an identified child, the family evaluation shall
28 consider the nature of the relationship between the relative or
29 nonrelative extended family member and the child. The relative
30 or nonrelative extended family member's expressed desire to only
31 care for a specific child or children shall not be a reason to deny
32 the approval.

33 (ii) A caregiver risk assessment shall include, but not be limited
34 to, physical and mental health, alcohol and other substance use
35 and abuse, family and domestic violence, and the factors listed in
36 paragraph (1) of subdivision (c).

37 (iii) A county may review and discuss data contained in the
38 statewide child welfare database with an applicant for purposes of
39 conducting a family evaluation, as specified in the written
40 directives or regulations adopted pursuant to this section.

1 (C) Completion of any other activities that relate to the ability
2 of an applicant or a resource family to achieve permanency with
3 a child.

4 (4) (A) For a child placed on an emergency basis pursuant to
5 Section 309, 361.45, or 727.05, the home environment assessment,
6 the permanency assessment, and the written report shall be
7 completed within 90 days of the placement, unless good cause
8 exists based upon the needs of the child.

9 (B) If additional time is needed to complete the home
10 environment assessment or the permanency assessment, the county
11 shall document the extenuating circumstances for the delay and
12 generate a timeframe for the completion of those assessments.

13 (C) The county shall report to the department, on a quarterly
14 basis, the number of families with emergency placements whose
15 home environment assessment or permanency assessment goes
16 beyond 90 days and summarize the reasons for these delays.

17 (e) (1) A county may place a child with a resource family
18 applicant who has successfully completed the home environment
19 assessment prior to completion of a permanency assessment only
20 if a compelling reason for the placement exists based on the needs
21 of the child.

22 (A) The permanency assessment and the written report described
23 in paragraph (5) of subdivision (g) shall be completed within 90
24 days of the child's placement in the home, unless good cause exists.

25 (B) If additional time is needed to comply with subparagraph
26 (A), the county shall document the extenuating circumstances for
27 the delay and generate a timeframe for the completion of the
28 permanency assessment.

29 (C) The county shall report to the department, on a quarterly
30 basis, the number of applicants for whom the requirements of
31 subparagraph (A) exceed 90 days and summarize the reasons for
32 these delays.

33 (2) The home environment and permanency assessments, and
34 the written report described in paragraph (5) of subdivision (g),
35 shall be completed within 90 days of a child's placement with a
36 relative or nonrelative extended family member pursuant to Section
37 309, 361.45, or 727.05, unless good cause exists.

38 (3) For any placement made pursuant to this subdivision,
39 AFDC-FC funding shall not be available until approval of the
40 resource family has been completed.

1 (4) A child placed pursuant to this subdivision shall be afforded
2 all the rights set forth in Section 16001.9.

3 (5) This section does not limit the county's authority to inspect
4 the home of a resource family applicant as often as necessary to
5 ensure the quality of care provided.

6 (6) This subdivision does not limit the county's obligation under
7 law to assess and give placement consideration to relatives and
8 nonrelative extended family members and to place a child pursuant
9 to Section 309, 361.3, 361.45, 706.6, or 727.1.

10 (f) The State Department of Social Services shall be responsible
11 for all of the following:

12 (1) (A) Until regulations are adopted, administering the program
13 through the issuance of written directives that shall have the same
14 force and effect as regulations. Any directive affecting Article 1
15 (commencing with Section 700) of Chapter 7 of Division 1 of Title
16 11 of the California Code of Regulations shall be approved by the
17 Department of Justice. The directives shall be exempt from the
18 rulemaking provisions of the Administrative Procedure Act
19 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
20 Division 3 of Title 2 of the Government Code).

21 (B) Adopting, amending, or repealing, in accordance with
22 Chapter 4.5 (commencing with Section 11400) of Part 1 of Division
23 3 of Title 2 of the Government Code, any reasonable rules,
24 regulations, and standards that may be necessary or proper to carry
25 out the purposes and intent of this article and to enable the
26 department to exercise the powers and perform the duties conferred
27 upon it by this section, consistent with the laws of this state.

28 (2) Approving and requiring the use of a single standard for
29 resource family approval.

30 (3) Adopting and requiring the use of standardized
31 documentation for the home environment and permanency
32 assessments of resource families. The department shall permit
33 counties to maintain documentation relating to the resource family
34 approval process in an electronic format.

35 (4) Adopting core competencies for county staff to participate
36 in the assessment and evaluation of an applicant or resource family.

37 (5) Requiring counties to monitor county-approved resource
38 families, including, but not limited to, both of the following:

39 (A) Investigating complaints regarding resource families.

1 (B) Developing and monitoring resource family corrective action
2 plans to correct identified deficiencies and to rescind resource
3 family approval if compliance with corrective action plans is not
4 achieved.

5 (6) Ongoing oversight and monitoring of county systems and
6 operations including all of the following:

7 (A) Reviewing the county's implementation plan and
8 implementation of the program.

9 (B) Reviewing an adequate number of county-approved resource
10 families in each county to ensure that approval standards are being
11 properly applied. The review shall include case file documentation
12 and may include onsite inspection of individual resource families.
13 The review shall occur on a biennial basis and more frequently if
14 the department becomes aware that a county is experiencing a
15 disproportionate number of complaints against individual resource
16 family homes.

17 (C) Reviewing county reports of serious complaints and
18 incidents involving resource families, as determined necessary by
19 the department. The department may conduct an independent
20 review of the complaint or incident and change the findings
21 depending on the results of its investigation.

22 (D) Investigating unresolved complaints against counties.

23 (E) Requiring corrective action of counties that are not in full
24 compliance with this section.

25 (7) Excluding a resource family parent, applicant, or other
26 individual from presence in any resource family home, consistent
27 with the established standard for any of the reasons specified in
28 Section 16519.61.

29 (8) Implementing due process procedures, including, but not
30 limited to, all of the following:

31 (A) Providing a statewide fair hearing process for application
32 denials, rescissions of approval, exclusion actions, or criminal
33 record exemption denials or rescissions by a county or the
34 department.

35 (B) Providing an excluded individual with due process pursuant
36 to Section 16519.6.

37 (C) Amending the department's applicable state hearing
38 procedures and regulations or using the Administrative Procedure
39 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of

1 Division 3 of Title 2 of the Government Code), when applicable,
2 as necessary for the administration of the program.

3 (g) Counties shall be responsible for all of the following:

4 (1) Submitting an implementation plan and consulting with the
5 county probation department in the development of the
6 implementation plan.

7 (2) Complying with the written directives or regulations adopted
8 pursuant to this section.

9 (3) Implementing the requirements for resource family approval
10 and utilizing standardized documentation established by the
11 department. A county may maintain documentation relating to the
12 resource family approval process in an electronic format.

13 (4) Training appropriate staff, including ensuring staff have the
14 education and experience or core competencies necessary to
15 participate in the assessment and evaluation of an applicant or
16 resource family.

17 (5) (A) Taking the following actions, as applicable, for any of
18 the reasons specified in Section 16519.61:

19 (i) (I) Approving or denying resource family applications,
20 including preparing a written report that evaluates an applicant's
21 capacity to foster, adopt, and provide legal guardianship of a child
22 based on all of the information gathered through the resource
23 family application and assessment processes.

24 (II) The applicant's preference to provide a specific level of
25 permanency, including adoption, guardianship, or, in the case of
26 a relative, placement with a fit and willing relative, shall not be a
27 basis to deny an application.

28 (ii) Rescinding approvals of resource families.

29 (iii) When applicable, referring a case to the department for an
30 action to exclude a resource family parent, applicant, or other
31 individual from presence in any resource family home, consistent
32 with the established standard.

33 (iv) Issuing a temporary suspension order that suspends the
34 resource family approval prior to a hearing when, in the opinion
35 of the county, urgent action is needed to protect a child from
36 physical or mental abuse, abandonment, or any other substantial
37 threat to health or safety. The county shall serve the resource family
38 with the temporary suspension order and a copy of available
39 discovery in the possession of the county, including, but not limited
40 to, affidavits, declarations, names of witnesses, and other evidence

1 upon which the county relied in issuing the temporary suspension
2 order. The temporary suspension order shall be served upon the
3 resource family with a notice of action, and if the matter is to be
4 heard before the Office of Administrative Hearings, an accusation.
5 The temporary suspension order shall list the effective date on the
6 order.

7 (v) Granting, denying, or rescinding criminal record exemptions.

8 (B) Providing a resource family parent, applicant, or individual
9 who is the subject of a criminal record exemption denial or
10 rescission with due process pursuant to Section 16519.6.

11 (C) Notifying the department of any decisions denying an
12 application for resource family approval, rescinding the approval
13 of a resource family, or denying or rescinding a criminal record
14 exemption and, if applicable, notifying the department of the results
15 of an administrative action.

16 (6) (A) Updating resource family approval biennially and as
17 necessary to address any changes that have occurred in the resource
18 family's circumstances, including, but not limited to, moving to
19 a new home location or commencing operation of a family daycare
20 home, as defined in Section 1596.78 of the Health and Safety Code.

21 (B) A county shall conduct an announced inspection of a
22 resource family home during the biennial update, and as necessary
23 to address any changes specified in subparagraph (A), in order to
24 ensure that the resource family is conforming to all applicable laws
25 and the written directives or regulations adopted pursuant to this
26 section.

27 (7) Monitoring resource families through all of the following:

28 (A) Ensuring that social workers who identify a condition in
29 the home that may not meet the approval standards set forth in
30 subdivision (d) while in the course of a routine visit to children
31 placed with a resource family take appropriate action as needed.

32 (B) Requiring resource families to meet the approval standards
33 set forth in this section and to comply with the written directives
34 or regulations adopted pursuant to this section, other applicable
35 laws, and corrective action plans as necessary to correct identified
36 deficiencies. If corrective action is not completed, as specified in
37 the plan, the county may rescind the resource family approval.

38 (C) Requiring resource families to report any incidents consistent
39 with the reporting requirements pursuant to the written directives
40 or regulations adopted pursuant to this section.

1 (D) Inspecting resource family homes as often as necessary to
2 ensure the quality of care provided.

3 (8) (A) Investigating all complaints against a resource family
4 and taking action as necessary, including, but not limited to,
5 investigating any incidents reported about a resource family
6 indicating that the approval standard is not being maintained and
7 inspecting the resource family home.

8 (B) The child's social worker shall not conduct the investigation
9 into the complaint received concerning a family providing services
10 pursuant to the standards required by subdivision (d). To the extent
11 that adequate resources are available, complaints shall be
12 investigated by a worker who did not conduct the home
13 environment assessment or family evaluation or prepare the written
14 report determining approval of the resource family.

15 (C) Upon conclusion of the complaint investigation, the final
16 disposition shall be reviewed and approved by a supervising staff
17 member.

18 (D) The department shall be notified of any serious incidents
19 or serious complaints or any incident that falls within the definition
20 of Section 11165.5 of the Penal Code. If those incidents or
21 complaints result in an investigation, the department shall also be
22 notified as to the status and disposition of that investigation.

23 (9) Performing corrective action as required by the department.

24 (10) Assessing county performance in related areas of the
25 California Child and Family Services Review System, and
26 remedying problems identified.

27 (11) Submitting information and data that the department
28 determines is necessary to study, monitor, and prepare the update
29 specified in paragraph (7) of subdivision (f).

30 (12) Ensuring resource family applicants and resource families
31 have the necessary knowledge, skills, and abilities to support
32 children in foster care by completing caregiver training. The
33 training should include a curriculum that supports the role of a
34 resource family in parenting vulnerable children and should be
35 ongoing in order to provide resource families with information on
36 trauma-informed practices and requirements and other topics within
37 the foster care system.

38 (13) Ensuring that a resource family applicant completes a
39 minimum of 12 hours of preapproval caregiver training. The

1 training shall include, but not be limited to, all of the following
2 courses:

3 (A) An overview of the child protective and probation systems.

4 (B) The effects of trauma, including grief and loss, and child
5 abuse and neglect, on child development and behavior, and
6 methods to behaviorally support children impacted by that trauma
7 or child abuse and neglect.

8 (C) Positive discipline and the importance of self-esteem.

9 (D) Health issues in foster care.

10 (E) Accessing services and supports to address education needs,
11 physical, mental, and behavioral health, and substance use
12 disorders, including culturally relevant services.

13 (F) The rights of a child in foster care and the resource family's
14 responsibility to safeguard those rights, including the right to have
15 fair and equal access to all available services, placement, care,
16 treatment, and benefits, and to not be subjected to discrimination
17 or harassment on the basis of actual or perceived race, ethnic group
18 identification, ancestry, national origin, color, religion, sex, sexual
19 orientation, gender identity, mental or physical disability, or HIV
20 status.

21 (G) Cultural needs of children, including instruction on cultural
22 competency and sensitivity, and related best practices for providing
23 adequate care for children or youth across diverse ethnic and racial
24 backgrounds, as well as children or youth identifying as lesbian,
25 gay, bisexual, or transgender.

26 (H) Basic instruction on existing laws and procedures regarding
27 the safety of foster youth at school.

28 (I) Permanence, well-being, and education needs of children.

29 (J) Child and adolescent development, including sexual
30 orientation, gender identity, and expression.

31 (K) The role of resource families, including working
32 cooperatively with the child welfare or probation agency, the
33 child's family, and other service providers implementing the case
34 plan.

35 (L) The role of a resource family on the child and family team
36 as defined in paragraph (4) of subdivision (a) of Section 16501.

37 (M) A resource family's responsibility to act as a reasonable
38 and prudent parent, as described in subdivision (c) of Section
39 1522.44 of the Health and Safety Code, and to provide a family

1 setting that promotes normal childhood experiences and that serves
2 the needs of the child.

3 (N) An overview of the specialized training identified in
4 subdivision (h).

5 (O) The information described in subdivision (i) of Section
6 16521.5. The program may use the curriculum created pursuant
7 to subdivision (h), and described in subdivision (i), of Section
8 16521.5.

9 (P) Information on providing care and supervision to children
10 who have been commercially sexually exploited or who have been
11 victims of child labor trafficking. For purposes of this
12 subparagraph, “information” may include, but not be limited to,
13 informational pamphlets addressing the identification of victims
14 of commercial sexual exploitation and child labor trafficking and
15 the provision of existing resources, including crisis hotline
16 numbers, survivor and caregiver supports, and contact information
17 for law enforcement entities.

18 (14) Ensuring resource families complete a minimum of eight
19 hours of caregiver training annually, a portion of which shall be
20 from subparagraph (M) of paragraph (13) and from one or more
21 of the other topics listed in paragraph (13).

22 (15) (A) (i) Ensuring that resource families complete
23 cardiopulmonary resuscitation (CPR) training and first aid training,
24 or demonstrate equivalent certification, no later than 90 days
25 following resource family approval.

26 (ii) A resource family parent who has a certificate of completion
27 for Basic Life Support (BLS) for health care professionals, or
28 Pediatric Advanced Life Support (PALS), or a higher standard of
29 training that certifies CPR, and for whom the certification is
30 currently active, is exempt from completing the resource family
31 approval CPR training requirement as described in clause (i), upon
32 demonstrating proof of certification of completion and until the
33 date the certification expires.

34 (iii) A resource family parent who has active and unrestricted
35 licensure as a health care professional, issued by the Department
36 of Consumer Affairs or the Emergency Medical Services Authority,
37 is exempt from completing the resource family approval first aid
38 training requirement as described in clause (i), upon demonstrating
39 proof of active and unrestricted licensure and until the date the
40 licensure expires.

1 (B) (i) Ensuring that resource families, prior to expiration of
2 the CPR and first aid certificates, obtain training to remain certified
3 in CPR and first aid, or demonstrate equivalent certification, and
4 submit copies of the certificates verifying completion of the
5 training.

6 (ii) Clause (i) does not apply to first aid training for a resource
7 family parent who is exempt from the first aid training requirement
8 pursuant to clause (iii) of subparagraph (A).

9 (16) (A) Ensuring that resource families that care for children
10 who are 10 years of age or older attend, within 12 months of
11 approval as a resource family, a training on understanding how to
12 use best practices for providing care and supervision to children
13 who have been commercially sexually exploited or who have been
14 victims of child labor trafficking. This training shall be survivor
15 informed, culturally relevant and appropriate, and address issues
16 relating to stigma. The training required by this subparagraph shall
17 address all of the following topics:

18 (i) Recognizing indicators of commercial sexual exploitation
19 and child labor trafficking.

20 (ii) Harm reduction.

21 (iii) Trauma-informed care.

22 (iv) Available county and state resources.

23 (v) Perspectives of individuals or families who have experiences
24 with commercial sexual exploitation and child labor trafficking.

25 (B) The information provided in subparagraph (P) of paragraph
26 (13) shall also be provided during the training described in this
27 paragraph.

28 (C) After completing the training required by subparagraph (A),
29 a resource family shall not be required to attend training relating
30 to children who have been commercially sexually exploited or
31 who have been victims of child labor trafficking, except as required
32 pursuant to subdivision (h).

33 (D) This section does not prevent an entity from providing the
34 training specified in this paragraph in person, virtually, by recorded
35 means, or by any other available means.

36 (h) In addition to any training required by this section, a county
37 may require a resource family or applicant to receive relevant
38 specialized training for the purpose of preparing the resource family
39 to meet the needs of a particular child in care. This training may
40 include, but is not limited to, the following:

1 (1) Understanding how to use best practices for providing care
2 and supervision to commercially sexually exploited children and
3 children who have been victims of child labor trafficking.

4 (2) Understanding how to use best practices for providing care
5 and supervision to lesbian, gay, bisexual, and transgender children.

6 (3) Understanding the requirements and best practices regarding
7 psychotropic medications, including, but not limited to, court
8 authorization, benefits, uses, side effects, interactions, assistance
9 with self-administration, misuse, documentation, storage, and
10 metabolic monitoring of children prescribed psychotropic
11 medications.

12 (4) Understanding the federal Indian Child Welfare Act (25
13 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of
14 children covered by the ~~act~~, *act and the California Indian Child*
15 *Welfare Act*, and the best interests of Indian children, including
16 the role of the caregiver in supporting culturally appropriate,
17 child-centered practices that respect Native American history,
18 culture, retention of tribal ~~membership~~, *membership*, and
19 connection to the tribal community and traditions.

20 (5) Understanding how to use best practices for providing care
21 and supervision to nonminor dependents.

22 (6) Understanding how to use best practices for providing care
23 and supervision to children with special health care needs.

24 (7) Understanding the different permanency options and the
25 services and benefits associated with the options.

26 (i) This section does not preclude a county from requiring
27 training in excess of the requirements in this section.

28 (j) (1) Resource families who move home locations shall retain
29 their resource family status pending the outcome of the update
30 conducted pursuant to paragraph (6) of subdivision (g).

31 (2) (A) If a resource family moves from one county to another
32 county, the department, or the county to which a resource family
33 has moved, shall submit a written request to the Department of
34 Justice to transfer the individual's subsequent arrest notification,
35 as specified in subdivision (h) of Section 1522 of the Health and
36 Safety Code.

37 (B) A request to transfer a subsequent arrest notification shall
38 contain all prescribed data elements and format protocols pursuant
39 to a written agreement between the department and the Department
40 of Justice.

(3) Subject to the requirements in paragraph (1), the resource family shall continue to be approved for guardianship and adoption. This subdivision shall not limit a county, foster family agency, or adoption agency from determining that the family is not approved for guardianship or adoption based on changes in the family's circumstances or family evaluation.

(k) Implementation of the program shall be contingent upon the continued availability of federal Social Security Act Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with placement of children with resource families assessed and approved pursuant to the program.

(l) A child placed with a resource family is eligible for the resource family basic rate, pursuant to Sections 11460, 11461, 11461.3, and 11463, at the child's assessed level of care.

(m) Sharing ratios for nonfederal expenditures for all costs associated with activities related to the approval of relatives and nonrelative extended family members shall be in accordance with Section 10101.

(n) The Department of Justice shall charge fees sufficient to cover the cost of initial or subsequent criminal offender record information and Child Abuse Central Index searches, processing, or responses, as specified in this section.

(o) Except as provided, resource families shall be exempt from both of the following:

(1) Licensure requirements established pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) and all regulations promulgated to implement the act.

(2) Relative and nonrelative extended family member approval requirements as those approval requirements existed prior to January 1, 2017.

(p) (1) Early implementation counties shall be authorized to continue through December 31, 2016. The program shall be implemented by each county on or before January 1, 2017.

(2) (A) (i) On and after January 1, 2017, a county to which the department has delegated its licensing authority pursuant to Section 1511 of the Health and Safety Code shall approve resource families in lieu of licensing foster family homes.

(ii) Notwithstanding clause (i), the existing licensure and oversight processes shall continue to be administered for foster

1 family homes licensed prior to January 1, 2017, or as specified in
2 subparagraph (C), until the license is revoked or forfeited by
3 operation of law pursuant to Section 1517.1 of the Health and
4 Safety Code.

5 (B) (i) On and after January 1, 2017, a county shall approve
6 resource families in lieu of approving relative and nonrelative
7 extended family members.

8 (ii) Notwithstanding clause (i), the existing approval and
9 oversight processes shall continue to be administered for relatives
10 and nonrelative extended family members approved prior to
11 January 1, 2017, or as specified in subparagraph (C), until the
12 approval is revoked or forfeited by operation of law pursuant to
13 this section.

14 (C) Notwithstanding subparagraph (D), a county shall approve
15 or deny all applications for foster family home licenses and requests
16 for relative or nonrelative extended family member approvals
17 received on or before December 31, 2016, in accordance with
18 Chapter 3 (commencing with Section 1500) of Division 2 of the
19 Health and Safety Code or provisions providing for the approval
20 of relatives or nonrelative extended family members, as applicable.

21 (D) On and after January 1, 2017, a county shall not accept
22 applications for foster family home licenses or requests to approve
23 relatives or nonrelative extended family members.

24 (3) No later than July 1, 2019, each county shall provide the
25 following information to all licensed foster family homes and
26 approved relatives and nonrelative extended family members
27 licensed or approved by the county:

28 (A) A detailed description of the resource family approval
29 program.

30 (B) Notification that, in order to care for a foster child, resource
31 family approval is required by December 31, 2020.

32 (C) Notification that a foster family home license and an
33 approval of a relative or nonrelative extended family member shall
34 be forfeited by operation of law, as specified in paragraph (8).

35 (4) The following applies to all licensed foster family homes
36 and approved relative and nonrelative extended family members:

37 (A) A licensed foster family home or an approved relative or
38 nonrelative extended family member with an approved adoptive
39 home study completed prior to January 1, 2018, shall be deemed
40 to be a resource family.

1 (B) A licensed foster family home or an approved relative or
2 nonrelative extended family member who had a child in placement
3 at any time between January 1, 2017, and December 31, 2017,
4 inclusive, may be approved as a resource family on the date of
5 successful completion of a family evaluation.

6 (C) A licensed foster family home that provided
7 county-authorized respite services at any time between January 1,
8 2017, and December 31, 2017, inclusive, may be approved as a
9 resource family on the date of successful completion of a family
10 evaluation.

11 (5) A county may provide supportive services to all licensed
12 foster family homes, relatives, and nonrelative extended family
13 members with a child in placement to assist with the resource
14 family transition and to minimize placement disruptions.

15 (6) (A) In order to approve a licensed foster family home or
16 approved relative or nonrelative extended family member as a
17 resource family pursuant to paragraph (4), a county shall submit
18 a written request to the Department of Justice to transfer any
19 subsequent arrest and Child Abuse Central Index notifications, as
20 specified in subdivision (h) of Section 1522 of the Health and
21 Safety Code.

22 (B) A request to transfer a subsequent arrest notification shall
23 contain all prescribed data elements and format protocols pursuant
24 to a written agreement between the department and the Department
25 of Justice.

26 (7) An individual who is a member of a resource family
27 approved pursuant to subparagraph (B) or (C) of paragraph (4)
28 shall be fingerprinted pursuant to Section 8712 of the Family Code
29 upon filing an application for adoption.

30 (8) All foster family licenses and approvals of relatives and
31 nonrelative extended family members shall be forfeited by
32 operation of law on December 31, 2020, except as provided in this
33 paragraph or Section 1524 of the Health and Safety Code:

34 (A) All licensed foster family homes that did not have a child
35 in placement or did not provide county-authorized respite services
36 at any time between January 1, 2017, and December 31, 2017,
37 inclusive, shall forfeit the license by operation of law on January
38 1, 2018.

39 (B) For foster family home licensees and approved relatives or
40 nonrelative extended family members who have a pending resource

1 family application on December 31, 2020, the foster family home
2 license or relative and nonrelative extended family member
3 approval shall be forfeited by operation of law upon approval as
4 a resource family. If approval is denied, forfeiture by operation of
5 law shall occur on the date of completion of any proceedings
6 required by law to ensure due process.

7 (C) A foster family home license shall be forfeited by operation
8 of law, pursuant to Section 1517.1 of the Health and Safety Code,
9 upon approval as a resource family.

10 (D) Approval as a relative or nonrelative extended family
11 member shall be forfeited by operation of law upon approval as a
12 resource family.

13 (q) On and after January 1, 2017, all licensed foster family
14 agencies shall approve resource families in lieu of certifying foster
15 homes, as set forth in Section 1517 of the Health and Safety Code.

16 (r) The department may establish participation conditions, and
17 select and authorize foster family agencies that voluntarily submit
18 implementation plans and revised plans of operation in accordance
19 with requirements established by the department, to approve
20 resource families in lieu of certifying foster homes.

21 (1) Notwithstanding any other law, a participating foster family
22 agency shall require resource families to meet and maintain the
23 resource family approval standards and requirements set forth in
24 this chapter and in the written directives adopted consistent with
25 the chapter prior to approval and in order to maintain approval.

26 (2) A participating foster family agency shall implement the
27 resource family approval program pursuant to Section 1517 of the
28 Health and Safety Code.

29 (3) This section does not limit the authority of the department
30 to inspect, evaluate, or investigate a complaint or incident, or
31 initiate a disciplinary action against a foster family agency pursuant
32 to Article 5 (commencing with Section 1550) of Chapter 3 of
33 Division 2 of the Health and Safety Code, or to take any action it
34 may deem necessary for the health and safety of children placed
35 with the foster family agency.

36 (4) The department may adjust the foster family agency
37 AFDC-FC rate pursuant to Section 11463 for implementation of
38 this subdivision.

39 (5) This subdivision is inoperative on January 1, 2017.

1 (s) The department or a county is authorized to obtain any arrest
2 or conviction records or reports from any court or law enforcement
3 agency as necessary to the performance of its duties, as provided
4 in this section or subdivision (e) of Section 1522 of the Health and
5 Safety Code.

6 (t) A resource family approved pursuant to this section shall
7 forfeit its approval concurrent with resource family approval by a
8 foster family agency.

9 *SEC. 52. Section 16546 of the Welfare and Institutions Code*
10 *is amended to read:*

11 16546. The Legislature finds and declares all of the following:

12 (a) Identifying and engaging family members are critical
13 components of providing effective child welfare services to
14 children who have been removed from their homes due to abuse
15 or neglect.

16 (b) For Indian children subject to an Indian child custody
17 proceeding, as defined in subdivision (d) of Section 224.1 of the
18 Welfare and Institutions Code, dedicated and specialized efforts
19 for family finding, engagement, and support are critical to promote
20 the stability and security of Indian tribes and families, to comply
21 with the *California Indian Child Welfare Act*, the federal Indian
22 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.), and
23 other applicable federal and state law, and to protect the best
24 interests of the child.

25 (c) Often, family members may become caregivers for children
26 or may be able to provide other help and support to children and
27 families on an ongoing basis.

28 (d) Supporting dedicated and specialized efforts for family
29 finding, engagement, and support has been shown to increase the
30 success of identifying relative caregivers and engaging relatives
31 and other supportive adults to support children and families during
32 and after reunification, and can support permanency in cases where
33 reunification cannot occur. These dedicated and specialized efforts
34 have proven to increase placements with and connections to
35 relatives up front when children first enter out-of-home care, and
36 to increase legal and relational permanency for children who have
37 been in out-of-home care for a longer time.

38 *SEC. 53. Section 16585 of the Welfare and Institutions Code*
39 *is amended to read:*

1 16585. (a) It is the intent of the Legislature to exercise the
2 option afforded to states under Section 474(a)(6) and Section
3 471(e) of the federal Social Security Act, as contained in the federal
4 Family First Prevention Services Act of 2018 (Public Law 115-123,
5 42 U.S.C. Sec. 674(a)(6) and 42 U.S.C. Sec. 671(e), respectively)
6 to receive federal financial participation for the prevention services
7 described in Section 471(e) of the federal Social Security Act (42
8 U.S.C. Sec. 671(e)) that are provided for a candidate for foster
9 care or a pregnant or parenting foster youth, and their parents or
10 kin caregivers, and the allowable costs for the proper and efficient
11 administration of the program.

12 (b) (1) It is the intent of the Legislature that the prevention
13 services under this chapter will be implemented in coordination
14 with the existing continuum of services to improve the safety and
15 well-being of children by strengthening and supporting families
16 so that children can remain safely in their homes.

17 (2) It is the intent of the Legislature that the prevention services
18 under this chapter will improve outcomes for children and families,
19 reduce entries into foster care, and reduce disproportionate entries
20 into foster care of children and youth of color, Native American
21 and Alaskan Native children and youth, and lesbian, gay, bisexual,
22 transgender, queer, and plus (LGBTQ+) children and youth.

23 (3) It is the intent of the Legislature that the prevention services
24 under this chapter will be provided in a manner that reaffirms the
25 commitments to Indian children, Indian families, and Indian tribes
26 in accordance with Section 224. There is no resource more vital
27 to the continued existence and integrity of Indian tribes than their
28 children, and the State of California has an interest in ensuring
29 that prevention services are provided in a manner consistent with
30 the *California Indian Child Welfare Act and the* federal Indian
31 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

32 (4) It is the intent of the Legislature that prevention services
33 provided by a county under this chapter be delivered as part of a
34 plan developed in consultation with other relevant county agencies
35 that serve families and children, Indian tribes, local community
36 representatives, caseworkers, and individuals and families with
37 lived experience with the child welfare system.

38 ~~SEC. 12.~~

39 *SEC. 54.* This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the California Constitution and shall
2 go into immediate effect. The facts constituting the necessity are:
3 Indian children continue to be disproportionately represented in
4 California's child welfare system and new research shows that
5 tribes being involved in dependency cases can reduce a child's
6 time in state care. These amendments are urgently needed to
7 reinforce the State's commitment to protecting essential tribal
8 relations by recognizing a tribe's right to protect the health, safety,
9 and welfare of its citizens. Additionally, a uniform name for the
10 provisions of California state law integrating the federal Indian
11 Child Welfare Act ~~are needed to distinguish the growing area of~~
12 ~~state law from the federal act that is subject to changes over the~~
13 ~~next six months and is outside of the California Legislature's~~
14 ~~control.~~ *is needed.*

O