

1 convicted of a felony indicating parental unfitness, the court may
2 schedule a hearing pursuant to Section 366.26 within 120 days.

3 (6) If the child had been placed under court supervision with a
4 previously noncustodial parent pursuant to Section 361.2, the court
5 shall determine whether supervision is still necessary. The court
6 may terminate supervision and transfer permanent custody to that
7 parent, as provided for by paragraph (1) of subdivision (b) of
8 Section 361.2.

9 (7) In all other cases, the court shall direct that any reunification
10 services previously ordered shall continue to be offered to the
11 parent or legal guardian pursuant to the time periods set forth in
12 subdivision (a) of Section 361.5, provided that the court may
13 modify the terms and conditions of those services.

14 (8) If the child is not returned to his or her parent or legal
15 guardian, the court shall determine whether reasonable services
16 that were designed to aid the parent or legal guardian in
17 overcoming the problems that led to the initial removal and the
18 continued custody of the child have been provided or offered to
19 the parent or legal guardian. The court shall order that those
20 services be initiated, continued, or terminated.

21 (f) (1) The permanency hearing shall be held no later than 12
22 months after the date the child entered foster care, as that date is
23 determined pursuant to Section 361.49. At the permanency hearing,
24 the court shall determine the permanent plan for the child, which
25 shall include a determination of whether the child will be returned
26 to the child's home and, if so, when, within the time limits of
27 subdivision (a) of Section 361.5. After considering the relevant
28 and admissible evidence, the court shall order the return of the
29 child to the physical custody of his or her parent or legal guardian
30 unless the court finds, by a preponderance of the evidence, that
31 the return of the child to his or her parent or legal guardian would
32 create a substantial risk of detriment to the safety, protection, or
33 physical or emotional well-being of the child. The social worker
34 shall have the burden of establishing that detriment.

35 (A) At the permanency hearing, the court shall consider the
36 criminal history, obtained pursuant to paragraph (1) of subdivision
37 (f) of Section 16504.5, of the parent or legal guardian subsequent
38 to the child's removal to the extent that the criminal record is
39 substantially related to the welfare of the child or the parent's or
40 legal guardian's ability to exercise custody and control regarding

1 his or her child, provided that the parent or legal guardian agreed
2 to submit fingerprint images to obtain criminal history information
3 as part of the case plan. The court shall also determine whether
4 reasonable services that were designed to aid the parent or legal
5 guardian to overcome the problems that led to the initial removal
6 and continued custody of the child have been provided or offered
7 to the parent or legal guardian.

8 (B) The court shall also consider whether the child can be
9 returned to the custody of his or her parent who is enrolled in a
10 certified substance abuse treatment facility that allows a dependent
11 child to reside with his or her parent. The fact that the parent is
12 enrolled in a certified substance abuse treatment facility shall not
13 be, for that reason alone, prima facie evidence of detriment. The
14 failure of the parent or legal guardian to participate regularly and
15 make substantive progress in court-ordered treatment programs
16 shall be prima facie evidence that return would be detrimental.

17 (C) In making its determination, the court shall review and
18 consider the social worker's report and recommendations and the
19 report and recommendations of any child advocate appointed
20 pursuant to Section 356.5, shall consider the efforts or progress,
21 or both, demonstrated by the parent or legal guardian and the extent
22 to which he or she availed himself or herself of services provided,
23 taking into account the particular barriers to a minor parent or a
24 nonminor dependent parent, or an incarcerated, institutionalized,
25 detained, or deported parent's or legal guardian's access to those
26 court-mandated services and ability to maintain contact with his
27 or her child, and shall make appropriate findings pursuant to
28 subdivision (a) of Section 366.

29 (D) For each youth 16 years of age and older, the court shall
30 also determine whether services have been made available to assist
31 him or her in making the transition from foster care to successful
32 adulthood.

33 (2) Regardless of whether the child is returned to his or her
34 parent or legal guardian, the court shall specify the factual basis
35 for its decision. If the child is not returned to a parent or legal
36 guardian, the court shall specify the factual basis for its conclusion
37 that the return would be detrimental. The court also shall make a
38 finding pursuant to subdivision (a) of Section 366. If the child is
39 not returned to his or her parent or legal guardian, the court shall
40 consider, and state for the record, in-state and out-of-state

1 placement options. If the child is placed out of the state, the court
2 shall make a determination whether the out-of-state placement
3 continues to be appropriate and in the best interests of the child.

4 (g) If the time period in which the court-ordered services were
5 provided has met or exceeded the time period set forth in
6 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
7 of Section 361.5, as appropriate, and a child is not returned to the
8 custody of a parent or legal guardian at the permanency hearing
9 held pursuant to subdivision (f), the court shall do one of the
10 following:

11 (1) Continue the case for up to six months for a permanency
12 review hearing, provided that the hearing shall occur within 18
13 months of the date the child was originally taken from the physical
14 custody of his or her parent or legal guardian. The court shall
15 continue the case only if it finds that there is a substantial
16 probability that the child will be returned to the physical custody
17 of his or her parent or legal guardian and safely maintained in the
18 home within the extended period of time or that reasonable services
19 have not been provided to the parent or legal guardian. For the
20 purposes of this section, in order to find a substantial probability
21 that the child will be returned to the physical custody of his or her
22 parent or legal guardian and safely maintained in the home within
23 the extended period of time, the court shall be required to find all
24 of the following:

25 (A) That the parent or legal guardian has consistently and
26 regularly contacted and visited with the child.

27 (B) That the parent or legal guardian has made significant
28 progress in resolving problems that led to the child's removal from
29 the home.

30 (C) The parent or legal guardian has demonstrated the capacity
31 and ability both to complete the objectives of his or her treatment
32 plan and to provide for the child's safety, protection, physical and
33 emotional well-being, and special needs.

34 (i) For purposes of this subdivision, the court's decision to
35 continue the case based on a finding or substantial probability that
36 the child will be returned to the physical custody of his or her
37 parent or legal guardian is a compelling reason for determining
38 that a hearing held pursuant to Section 366.26 is not in the best
39 interests of the child.

1 (ii) The court shall inform the parent or legal guardian that if
2 the child cannot be returned home by the next permanency review
3 hearing, a proceeding pursuant to Section 366.26 may be instituted.
4 The court shall not order that a hearing pursuant to Section 366.26
5 be held unless there is clear and convincing evidence that
6 reasonable services have been provided or offered to the parent or
7 legal guardian.

8 (2) Continue the case for up to six months for a permanency
9 review hearing, provided that the hearing shall occur within 18
10 months of the date the child was originally taken from the physical
11 custody of his or her parent or legal guardian, if the parent has
12 been arrested and issued an immigration hold, detained by the
13 United States Department of Homeland Security, or deported to
14 his or her country of origin, and the court determines either that
15 there is a substantial probability that the child will be returned to
16 the physical custody of his or her parent or legal guardian and
17 safely maintained in the home within the extended period of time
18 or that reasonable services have not been provided to the parent
19 or legal guardian.

20 (3) For purposes of paragraph (2), in order to find a substantial
21 probability that the child will be returned to the physical custody
22 of his or her parent or legal guardian and safely maintained in the
23 home within the extended period of time, the court shall find all
24 of the following:

25 (A) The parent or legal guardian has consistently and regularly
26 contacted and visited with the child, taking into account any
27 particular barriers to a parent's ability to maintain contact with his
28 or her child due to the parent's arrest and receipt of an immigration
29 hold, detention by the United States Department of Homeland
30 Security, or deportation.

31 (B) The parent or legal guardian has made significant progress
32 in resolving the problems that led to the child's removal from the
33 home.

34 (C) The parent or legal guardian has demonstrated the capacity
35 or ability both to complete the objectives of his or her treatment
36 plan and to provide for the child's safety, protection, physical and
37 emotional well-being, and special needs.

38 (4) Order that a hearing be held within 120 days, pursuant to
39 Section 366.26, but only if the court does not continue the case to
40 the permanency planning review hearing and there is clear and

1 convincing evidence that reasonable services have been provided
2 or offered to the parents or legal guardians. On and after January
3 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
4 if the child is a nonminor dependent, unless the nonminor
5 dependent is an Indian child and tribal customary adoption is
6 recommended as the permanent plan.

7 (5) Order that the child remain in foster care, but only if the
8 court finds by clear and convincing evidence, based upon the
9 evidence already presented to it, including a recommendation by
10 the State Department of Social Services when it is acting as an
11 adoption agency or by a county adoption agency, that there is a
12 compelling reason for determining that a hearing held pursuant to
13 Section 366.26 is not in the best interests of the child because the
14 child is not a proper subject for adoption and has no one willing
15 to accept legal guardianship as of the hearing date. For purposes
16 of this section, a recommendation by the State Department of
17 Social Services when it is acting as an adoption agency or by a
18 county adoption agency that adoption is not in the best interests
19 of the child shall constitute a compelling reason for the court's
20 determination. That recommendation shall be based on the present
21 circumstances of the child and shall not preclude a different
22 recommendation at a later date if the child's circumstances change.
23 On and after January 1, 2012, the nonminor dependent's legal
24 status as an adult is in and of itself a compelling reason not to hold
25 a hearing pursuant to Section 366.26. The court may order that a
26 nonminor dependent who otherwise is eligible pursuant to Section
27 11403 remain in a planned, permanent living arrangement.

28 (A) The court shall make factual findings identifying any
29 barriers to achieving the permanent plan as of the hearing date.
30 When the child is under 16 years of age, the court shall order a
31 permanent plan of return home, adoption, tribal customary adoption
32 in the case of an Indian child, legal guardianship, or placement
33 with a fit and willing relative, as appropriate. When the child is
34 16 years of age or older, or is a nonminor dependent, and no other
35 permanent plan is appropriate at the time of the hearing, the court
36 may order another planned permanent living arrangement, as
37 described in paragraph (2) of subdivision (i) of Section 16501.

38 (B) If the court orders that a child who is 10 years of age or
39 older remain in foster care, the court shall determine whether the
40 agency has made reasonable efforts to maintain the child's

1 relationships with individuals other than the child's siblings who
2 are important to the child, consistent with the child's best interests,
3 and may make any appropriate order to ensure that those
4 relationships are maintained.

5 (C) If the child is not returned to his or her parent or legal
6 guardian, the court shall consider, and state for the record, in-state
7 and out-of-state options for permanent placement. If the child is
8 placed out of the state, the court shall make a determination
9 whether the out-of-state placement continues to be appropriate and
10 in the best interests of the child.

11 (h) In any case in which the court orders that a hearing pursuant
12 to Section 366.26 shall be held, it shall also order the termination
13 of reunification services to the parent or legal guardian. The court
14 shall continue to permit the parent or legal guardian to visit the
15 child pending the hearing unless it finds that visitation would be
16 detrimental to the child. The court shall make any other appropriate
17 orders to enable the child to maintain relationships with individuals,
18 other than the child's siblings, who are important to the child,
19 consistent with the child's best interests. When the court orders a
20 termination of reunification services to the parent or legal guardian,
21 it shall also order that the child's caregiver receive the child's birth
22 certificate in accordance with Sections 16010.4 and 16010.5.
23 Additionally, when the court orders a termination of reunification
24 services to the parent or legal guardian, it shall order, when
25 appropriate, that a child who is 16 years of age or older receive
26 his or her birth certificate.

27 (i) (1) Whenever a court orders that a hearing pursuant to
28 Section 366.26, including, when, in consultation with the child's
29 tribe, tribal customary adoption is recommended, shall be held, it
30 shall direct the agency supervising the child and the county
31 adoption agency, or the State Department of Social Services when
32 it is acting as an adoption agency, to prepare an assessment that
33 shall include:

34 (A) Current search efforts for an absent parent or parents or
35 legal guardians.

36 (B) A review of the amount of and nature of any contact between
37 the child and his or her parents or legal guardians and other
38 members of his or her extended family since the time of placement.
39 Although the extended family of each child shall be reviewed on
40 a case-by-case basis, "extended family" for the purpose of this

1 subparagraph shall include, but not be limited to, the child's
2 siblings, grandparents, aunts, and uncles.

3 (C) An evaluation of the child's medical, developmental,
4 scholastic, mental, and emotional status.

5 (D) A preliminary assessment of the eligibility and commitment
6 of any identified prospective adoptive parent or legal guardian,
7 including the prospective tribal customary adoptive parent,
8 particularly the caretaker, to include a social history including
9 screening for criminal records and prior referrals for child abuse
10 or neglect, the capability to meet the child's needs, and the
11 understanding of the legal and financial rights and responsibilities
12 of adoption and guardianship. If a proposed guardian is a relative
13 of the minor, the assessment shall also consider, but need not be
14 limited to, all of the factors specified in subdivision (a) of Section
15 361.3 and in Section 361.4. *The assessment of a legal guardian*
16 *may also include the development of a plan for a successor*
17 *guardian in the case of the incapacity or death of the guardian.*

18 (E) The relationship of the child to any identified prospective
19 adoptive parent or legal guardian, the duration and character of
20 the relationship, the degree of attachment of the child to the
21 prospective relative guardian or adoptive parent, the relative's or
22 adoptive parent's strong commitment to caring permanently for
23 the child, the motivation for seeking adoption or guardianship, a
24 statement from the child concerning placement and the adoption
25 or guardianship, and whether the child, if over 12 years of age,
26 has been consulted about the proposed relative guardianship
27 arrangements, unless the child's age or physical, emotional, or
28 other condition precludes his or her meaningful response, and if
29 so, a description of the condition.

30 (F) A description of efforts to be made to identify a prospective
31 adoptive parent or legal guardian, including, but not limited to,
32 child-specific recruitment and listing on an adoption exchange
33 within the state or out of the state.

34 (G) An analysis of the likelihood that the child will be adopted
35 if parental rights are terminated.

36 (H) In the case of an Indian child, in addition to subparagraphs
37 (A) to (G), inclusive, an assessment of the likelihood that the child
38 will be adopted, when, in consultation with the child's tribe, a
39 tribal customary adoption, as defined in Section 366.24, is

1 recommended. If tribal customary adoption is recommended, the
2 assessment shall include an analysis of both of the following:

3 (i) Whether tribal customary adoption would or would not be
4 detrimental to the Indian child and the reasons for reaching that
5 conclusion.

6 (ii) Whether the Indian child cannot or should not be returned
7 to the home of the Indian parent or Indian custodian and the reasons
8 for reaching that conclusion.

9 (2) (A) A relative caregiver's preference for legal guardianship
10 over adoption, if it is due to circumstances that do not include an
11 unwillingness to accept legal or financial responsibility for the
12 child, shall not constitute the sole basis for recommending removal
13 of the child from the relative caregiver for purposes of adoptive
14 placement.

15 (B) Regardless of his or her immigration status, a relative
16 caregiver shall be given information regarding the permanency
17 options of guardianship and adoption, including the long-term
18 benefits and consequences of each option, prior to establishing
19 legal guardianship or pursuing adoption. If the proposed permanent
20 plan is guardianship with an approved relative caregiver for a
21 minor eligible for aid under the Kin-GAP Program, as provided
22 for in Article 4.7 (commencing with Section 11385) of Chapter 2
23 of Part 3 of Division 9, the relative caregiver shall be informed
24 about the terms and conditions of the negotiated agreement
25 pursuant to Section 11387 and shall agree to its execution prior to
26 the hearing held pursuant to Section 366.26. A copy of the executed
27 negotiated agreement shall be attached to the assessment.

28 (j) If, at any hearing held pursuant to Section 366.26, a
29 guardianship is established for the minor with an approved relative
30 caregiver, and juvenile court dependency is subsequently
31 dismissed, the minor shall be eligible for aid under the Kin-GAP
32 Program, as provided for in Article 4.5 (commencing with Section
33 11360) or Article 4.7 (commencing with Section 11385), as
34 applicable, of Chapter 2 of Part 3 of Division 9.

35 (k) As used in this section, "relative" means an adult who is
36 related to the minor by blood, adoption, or affinity within the fifth
37 degree of kinship, including stepparents, stepsiblings, and all
38 relatives whose status is preceded by the words "great,"
39 "great-great," or "grand," or the spouse of any of those persons
40 even if the marriage was terminated by death or dissolution. If the

1 proposed permanent plan is guardianship with an approved relative
2 caregiver for a minor eligible for aid under the Kin-GAP Program,
3 as provided for in Article 4.7 (commencing with Section 11385)
4 of Chapter 2 of Part 3 of Division 9, "relative" as used in this
5 section has the same meaning as "relative" as defined in
6 subdivision (c) of Section 11391.

7 (f) For purposes of this section, evidence of any of the following
8 circumstances shall not, in and of itself, be deemed a failure to
9 provide or offer reasonable services:

10 (1) The child has been placed with a foster family that is eligible
11 to adopt a child, or has been placed in a preadoptive home.

12 (2) The case plan includes services to make and finalize a
13 permanent placement for the child if efforts to reunify fail.

14 (3) Services to make and finalize a permanent placement for
15 the child, if efforts to reunify fail, are provided concurrently with
16 services to reunify the family.

17 SEC. 4. Section 366.22 of the Welfare and Institutions Code
18 is amended to read:

19 366.22. (a) (1) When a case has been continued pursuant to
20 paragraph (1) or (2) of subdivision (g) of Section 366.21, the
21 permanency review hearing shall occur within 18 months after the
22 date the child was originally removed from the physical custody
23 of his or her parent or legal guardian. After considering the
24 admissible and relevant evidence, the court shall order the return
25 of the child to the physical custody of his or her parent or legal
26 guardian unless the court finds, by a preponderance of the evidence,
27 that the return of the child to his or her parent or legal guardian
28 would create a substantial risk of detriment to the safety, protection,
29 or physical or emotional well-being of the child. The social worker
30 shall have the burden of establishing that detriment. At the
31 permanency review hearing, the court shall consider the criminal
32 history, obtained pursuant to paragraph (1) of subdivision (f) of
33 Section 16504.5, of the parent or legal guardian subsequent to the
34 child's removal, to the extent that the criminal record is
35 substantially related to the welfare of the child or the parent's or
36 legal guardian's ability to exercise custody and control regarding
37 his or her child, provided that the parent or legal guardian agreed
38 to submit fingerprint images to obtain criminal history information
39 as part of the case plan. The court shall also consider whether the
40 child can be returned to the custody of his or her parent who is

1 enrolled in a certified substance abuse treatment facility that allows
2 a dependent child to reside with his or her parent. The fact that the
3 parent is enrolled in a certified substance abuse treatment facility
4 shall not be, for that reason alone, prima facie evidence of
5 detriment. The failure of the parent or legal guardian to participate
6 regularly and make substantive progress in court-ordered treatment
7 programs shall be prima facie evidence that return would be
8 detrimental. In making its determination, the court shall review
9 and consider the social worker's report and recommendations and
10 the report and recommendations of any child advocate appointed
11 pursuant to Section 356.5; shall consider the efforts or progress,
12 or both, demonstrated by the parent or legal guardian and the extent
13 to which he or she availed himself or herself of services provided,
14 taking into account the particular barriers of a minor parent or a
15 nonminor dependent parent, or an incarcerated or institutionalized
16 parent's or legal guardian's access to those court-mandated services
17 and ability to maintain contact with his or her child; and shall make
18 appropriate findings pursuant to subdivision (a) of Section 366.

19 (2) Whether or not the child is returned to his or her parent or
20 legal guardian, the court shall specify the factual basis for its
21 decision. If the child is not returned to a parent or legal guardian,
22 the court shall specify the factual basis for its conclusion that return
23 would be detrimental. If the child is not returned to his or her parent
24 or legal guardian, the court shall consider, and state for the record,
25 in-state and out-of-state options for the child's permanent
26 placement. If the child is placed out of the state, the court shall
27 make a determination whether the out-of-state placement continues
28 to be appropriate and in the best interests of the child.

29 (3) Unless the conditions in subdivision (b) are met and the
30 child is not returned to a parent or legal guardian at the permanency
31 review hearing, the court shall order that a hearing be held pursuant
32 to Section 366.26 in order to determine whether adoption, or, in
33 the case of an Indian child, in consultation with the child's tribe,
34 tribal customary adoption, guardianship, or continued placement
35 in foster care is the most appropriate plan for the child. On and
36 after January 1, 2012, a hearing pursuant to Section 366.26 shall
37 not be ordered if the child is a nonminor dependent, unless the
38 nonminor dependent is an Indian child, and tribal customary
39 adoption is recommended as the permanent plan. However, if the
40 court finds by clear and convincing evidence, based on the evidence

1 already presented to it, including a recommendation by the State
2 Department of Social Services when it is acting as an adoption
3 agency or by a county adoption agency, that there is a compelling
4 reason, as described in paragraph (5) of subdivision (g) of Section
5 366.21, for determining that a hearing held under Section 366.26
6 is not in the best interests of the child because the child is not a
7 proper subject for adoption and has no one willing to accept legal
8 guardianship as of the hearing date, the court may, only under
9 these circumstances, order that the child remain in foster care with
10 a permanent plan of return home, adoption, tribal customary
11 adoption in the case of an Indian child, legal guardianship, or
12 placement with a fit and willing relative, as appropriate. If the
13 child is 16 years of age or older or is a nonminor dependent, and
14 no other permanent plan is appropriate at the time of the hearing,
15 the court may order another planned permanent living arrangement,
16 as described in paragraph (2) of subdivision (i) of Section 16501.
17 The court shall make factual findings identifying any barriers to
18 achieving the permanent plan as of the hearing date. On and after
19 January 1, 2012, the nonminor dependent's legal status as an adult
20 is in and of itself a compelling reason not to hold a hearing pursuant
21 to Section 366.26. The court may order that a nonminor dependent
22 who otherwise is eligible pursuant to Section 11403 remain in a
23 planned, permanent living arrangement. If the court orders that a
24 child who is 10 years of age or older remain in foster care, the
25 court shall determine whether the agency has made reasonable
26 efforts to maintain the child's relationships with individuals other
27 than the child's siblings who are important to the child, consistent
28 with the child's best interests, and may make any appropriate order
29 to ensure that those relationships are maintained. The hearing shall
30 be held no later than 120 days from the date of the permanency
31 review hearing. The court shall also order termination of
32 reunification services to the parent or legal guardian. The court
33 shall continue to permit the parent or legal guardian to visit the
34 child unless it finds that visitation would be detrimental to the
35 child. The court shall determine whether reasonable services have
36 been offered or provided to the parent or legal guardian. For
37 purposes of this subdivision, evidence of any of the following
38 circumstances shall not, in and of themselves, be deemed a failure
39 to provide or offer reasonable services:

1 (A) The child has been placed with a foster family that is eligible
2 to adopt a child, or has been placed in a preadoptive home.

3 (B) The case plan includes services to make and finalize a
4 permanent placement for the child if efforts to reunify fail.

5 (C) Services to make and finalize a permanent placement for
6 the child, if efforts to reunify fail, are provided concurrently with
7 services to reunify the family.

8 (b) If the child is not returned to a parent or legal guardian at
9 the permanency review hearing and the court determines by clear
10 and convincing evidence that the best interests of the child would
11 be met by the provision of additional reunification services to a
12 parent or legal guardian who is making significant and consistent
13 progress in a court-ordered residential substance abuse treatment
14 program, a parent who was either a minor parent or a nonminor
15 dependent parent at the time of the initial hearing making
16 significant and consistent progress in establishing a safe home for
17 the child's return, or a parent recently discharged from
18 incarceration, institutionalization, or the custody of the United
19 States Department of Homeland Security and making significant
20 and consistent progress in establishing a safe home for the child's
21 return, the court may continue the case for up to six months for a
22 subsequent permanency review hearing, provided that the hearing
23 shall occur within 24 months of the date the child was originally
24 taken from the physical custody of his or her parent or legal
25 guardian. The court shall continue the case only if it finds that
26 there is a substantial probability that the child will be returned to
27 the physical custody of his or her parent or legal guardian and
28 safely maintained in the home within the extended period of time
29 or that reasonable services have not been provided to the parent
30 or legal guardian. For the purposes of this section, in order to find
31 a substantial probability that the child will be returned to the
32 physical custody of his or her parent or legal guardian and safely
33 maintained in the home within the extended period of time, the
34 court shall be required to find all of the following:

35 (1) That the parent or legal guardian has consistently and
36 regularly contacted and visited with the child.

37 (2) That the parent or legal guardian has made significant and
38 consistent progress in the prior 18 months in resolving problems
39 that led to the child's removal from the home.

1 (3) The parent or legal guardian has demonstrated the capacity
2 and ability both to complete the objectives of his or her substance
3 abuse treatment plan as evidenced by reports from a substance
4 abuse provider as applicable, or complete a treatment plan
5 postdischarge from incarceration, institutionalization, or detention,
6 or following deportation to his or her country of origin and his or
7 her return to the United States, and to provide for the child's safety,
8 protection, physical and emotional well-being, and special needs.

9 For purposes of this subdivision, the court's decision to continue
10 the case based on a finding or substantial probability that the child
11 will be returned to the physical custody of his or her parent or legal
12 guardian is a compelling reason for determining that a hearing
13 held pursuant to Section 366.26 is not in the best interests of the
14 child.

15 The court shall inform the parent or legal guardian that if the
16 child cannot be returned home by the subsequent permanency
17 review hearing, a proceeding pursuant to Section 366.26 may be
18 instituted. The court shall not order that a hearing pursuant to
19 Section 366.26 be held unless there is clear and convincing
20 evidence that reasonable services have been provided or offered
21 to the parent or legal guardian.

22 (c) (1) Whenever a court orders that a hearing pursuant to
23 Section 366.26, including when a tribal customary adoption is
24 recommended, shall be held, it shall direct the agency supervising
25 the child and the county adoption agency, or the State Department
26 of Social Services when it is acting as an adoption agency, to
27 prepare an assessment that shall include:

28 (A) Current search efforts for an absent parent or parents.

29 (B) A review of the amount of and nature of any contact between
30 the child and his or her parents and other members of his or her
31 extended family since the time of placement. Although the
32 extended family of each child shall be reviewed on a case-by-case
33 basis, "extended family" for the purposes of this subparagraph
34 shall include, but not be limited to, the child's siblings,
35 grandparents, aunts, and uncles.

36 (C) An evaluation of the child's medical, developmental,
37 scholastic, mental, and emotional status.

38 (D) A preliminary assessment of the eligibility and commitment
39 of any identified prospective adoptive parent or legal guardian,
40 particularly the caretaker, to include a social history including

1 screening for criminal records and prior referrals for child abuse
2 or neglect, the capability to meet the child's needs, and the
3 understanding of the legal and financial rights and responsibilities
4 of adoption and guardianship. If a proposed legal guardian is a
5 relative of the minor, the assessment shall also consider, but need
6 not be limited to, all of the factors specified in subdivision (a) of
7 Section 361.3 and Section 361.4. *The assessment of a legal*
8 *guardian may also include the development of a plan for a*
9 *successor guardian in the case of the incapacity or death of the*
10 *guardian.*

11 (E) The relationship of the child to any identified prospective
12 adoptive parent or legal guardian, the duration and character of
13 the relationship, the degree of attachment of the child to the
14 prospective relative guardian or adoptive parent, the relative's or
15 adoptive parent's strong commitment to caring permanently for
16 the child, the motivation for seeking adoption or legal guardianship,
17 a statement from the child concerning placement and the adoption
18 or legal guardianship, and whether the child, if over 12 years of
19 age, has been consulted about the proposed relative guardianship
20 arrangements, unless the child's age or physical, emotional, or
21 other condition precludes his or her meaningful response, and if
22 so, a description of the condition.

23 (F) An analysis of the likelihood that the child will be adopted
24 if parental rights are terminated.

25 (G) In the case of an Indian child, in addition to subparagraphs
26 (A) to (F), inclusive, an assessment of the likelihood that the child
27 will be adopted, when, in consultation with the child's tribe, a
28 tribal customary adoption, as defined in Section 366.24, is
29 recommended. If tribal customary adoption is recommended, the
30 assessment shall include an analysis of both of the following:

31 (i) Whether tribal customary adoption would or would not be
32 detrimental to the Indian child and the reasons for reaching that
33 conclusion.

34 (ii) Whether the Indian child cannot or should not be returned
35 to the home of the Indian parent or Indian custodian and the reasons
36 for reaching that conclusion.

37 (2) (A) A relative caregiver's preference for legal guardianship
38 over adoption, if it is due to circumstances that do not include an
39 unwillingness to accept legal or financial responsibility for the
40 child, shall not constitute the sole basis for recommending removal

1 of the child from the relative caregiver for purposes of adoptive
2 placement.

3 (B) Regardless of his or her immigration status, a relative
4 caregiver shall be given information regarding the permanency
5 options of guardianship and adoption, including the long-term
6 benefits and consequences of each option, prior to establishing
7 legal guardianship or pursuing adoption. If the proposed permanent
8 plan is guardianship with an approved relative caregiver for a
9 minor eligible for aid under the Kin-GAP Program, as provided
10 for in Article 4.7 (commencing with Section 11385) of Chapter 2
11 of Part 3 of Division 9, the relative caregiver shall be informed
12 about the terms and conditions of the negotiated agreement
13 pursuant to Section 11387 and shall agree to its execution prior to
14 the hearing held pursuant to Section 366.26. A copy of the executed
15 negotiated agreement shall be attached to the assessment.

16 (d) This section shall become operative January 1, 1999. If at
17 any hearing held pursuant to Section 366.26, a legal guardianship
18 is established for the minor with an approved relative caregiver,
19 and juvenile court dependency is subsequently dismissed, the minor
20 shall be eligible for aid under the Kin-GAP Program, as provided
21 for in Article 4.5 (commencing with Section 11360) or Article 4.7
22 (commencing with Section 11385), as applicable, of Chapter 2 of
23 Part 3 of Division 9.

24 (e) As used in this section, "relative" means an adult who is
25 related to the child by blood, adoption, or affinity within the fifth
26 degree of kinship, including stepparents, stepsiblings, and all
27 relatives whose status is preceded by the words "great,"
28 "great-great," or "grand," or the spouse of any of those persons
29 even if the marriage was terminated by death or dissolution. If the
30 proposed permanent plan is guardianship with an approved relative
31 caregiver for a minor eligible for aid under the Kin-GAP Program,
32 as provided for in Article 4.7 (commencing with Section 11385)
33 of Chapter 2 of Part 3 of Division 9, "relative" as used in this
34 section has the same meaning as "relative" as defined in
35 subdivision (c) of Section 11391.

36 SEC. 5. Section 366.25 of the Welfare and Institutions Code
37 is amended to read:

38 366.25. (a) (1) When a case has been continued pursuant to
39 subdivision (b) of Section 366.22, the subsequent permanency
40 review hearing shall occur within 24 months after the date the

1 child was originally removed from the physical custody of his or
2 her parent or legal guardian. After considering the relevant and
3 admissible evidence, the court shall order the return of the child
4 to the physical custody of his or her parent or legal guardian unless
5 the court finds, by a preponderance of the evidence, that the return
6 of the child to his or her parent or legal guardian would create a
7 substantial risk of detriment to the safety, protection, or physical
8 or emotional well-being of the child. The social worker shall have
9 the burden of establishing that detriment. At the subsequent
10 permanency review hearing, the court shall consider the criminal
11 history, obtained pursuant to paragraph (1) of subdivision (f) of
12 Section 16504.5, of the parent or legal guardian subsequent to the
13 child's removal to the extent that the criminal record is substantially
14 related to the welfare of the child or parent's or legal guardian's
15 ability to exercise custody and control regarding his or her child
16 provided that the parent or legal guardian agreed to submit
17 fingerprint images to obtain criminal history information as part
18 of the case plan. The court shall also consider whether the child
19 can be returned to the custody of a parent who is enrolled in a
20 certified substance abuse treatment facility that allows a dependent
21 child to reside with his or her parent. The fact that the parent is
22 enrolled in a certified substance abuse treatment facility shall not
23 be, for that reason alone, prima facie evidence of detriment. The
24 failure of the parent or legal guardian to participate regularly and
25 make substantive progress in court-ordered treatment programs
26 shall be prima facie evidence that return would be detrimental. In
27 making its determination, the court shall review and consider the
28 social worker's report and recommendations and the report and
29 recommendations of any child advocate appointed pursuant to
30 Section 356.5; shall consider the efforts or progress, or both,
31 demonstrated by the parent or legal guardian and the extent to
32 which he or she availed himself or herself of services provided;
33 and shall make appropriate findings pursuant to subdivision (a) of
34 Section 366.

35 (2) Whether or not the child is returned to his or her parent or
36 legal guardian, the court shall specify the factual basis for its
37 decision. If the child is not returned to a parent or legal guardian,
38 the court shall specify the factual basis for its conclusion that return
39 would be detrimental. If the child is not returned to his or her parent
40 or legal guardian, the court shall consider and state for the record,

1 in-state and out-of-state options for the child's permanent
2 placement. If the child is placed out of the state, the court shall
3 make a determination whether the out-of-state placement continues
4 to be appropriate and in the best interests of the child.

5 (3) If the child is not returned to a parent or legal guardian at
6 the subsequent permanency review hearing, the court shall order
7 that a hearing be held pursuant to Section 366.26 in order to
8 determine whether adoption, or, in the case of an Indian child,
9 tribal customary adoption, guardianship, or, in the case of a child
10 16 years of age or older when no other permanent plan is
11 appropriate, another planned permanent living arrangement is the
12 most appropriate plan for the child. On and after January 1, 2012,
13 a hearing pursuant to Section 366.26 shall not be ordered if the
14 child is a nonminor dependent, unless the nonminor dependent is
15 an Indian child and tribal customary adoption is recommended as
16 the permanent plan. However, if the court finds by clear and
17 convincing evidence, based on the evidence already presented to
18 it, including a recommendation by the State Department of Social
19 Services when it is acting as an adoption agency or by a county
20 adoption agency, that there is a compelling reason, as described
21 in paragraph (5) of subdivision (g) of Section 366.21, for
22 determining that a hearing held under Section 366.26 is not in the
23 best interest of the child because the child is not a proper subject
24 for adoption or, in the case of an Indian child, tribal customary
25 adoption, and has no one willing to accept legal guardianship as
26 of the hearing date, then the court may, only under these
27 circumstances, order that the child remain in foster care with a
28 permanent plan of return home, adoption, tribal customary adoption
29 in the case of an Indian child, legal guardianship, or placement
30 with a fit and willing relative, as appropriate. If the child is 16
31 years of age or older or is a nonminor dependent, and no other
32 permanent plan is appropriate at the time of the hearing, the court
33 may order another planned permanent living arrangement, as
34 described in paragraph (2) of subdivision (i) of Section 16501.
35 The court shall make factual findings identifying any barriers to
36 achieving the permanent plan as of the hearing date. On and after
37 January 1, 2012, the nonminor dependent's legal status as an adult
38 is in and of itself a compelling reason not to hold a hearing pursuant
39 to Section 366.26. The court may order that a nonminor dependent
40 who otherwise is eligible pursuant to Section 11403 remain in a

1 planned, permanent living arrangement. If the court orders that a
2 child who is 10 years of age or older remain in foster care, the
3 court shall determine whether the agency has made reasonable
4 efforts to maintain the child's relationships with individuals other
5 than the child's siblings who are important to the child, consistent
6 with the child's best interests, and may make any appropriate order
7 to ensure that those relationships are maintained. The hearing shall
8 be held no later than 120 days from the date of the subsequent
9 permanency review hearing. The court shall also order termination
10 of reunification services to the parent or legal guardian. The court
11 shall continue to permit the parent or legal guardian to visit the
12 child unless it finds that visitation would be detrimental to the
13 child. The court shall determine whether reasonable services have
14 been offered or provided to the parent or legal guardian. For
15 purposes of this paragraph, evidence of any of the following
16 circumstances shall not, in and of themselves, be deemed a failure
17 to provide or offer reasonable services:

18 (A) The child has been placed with a foster family that is eligible
19 to adopt a child, or has been placed in a preadoptive home.

20 (B) The case plan includes services to make and finalize a
21 permanent placement for the child if efforts to reunify fail.

22 (C) Services to make and finalize a permanent placement for
23 the child, if efforts to reunify fail, are provided concurrently with
24 services to reunify the family.

25 (b) (1) Whenever a court orders that a hearing pursuant to
26 Section 366.26 shall be held, it shall direct the agency supervising
27 the child and the county adoption agency, or the State Department
28 of Social Services when it is acting as an adoption agency, to
29 prepare an assessment that shall include:

30 (A) Current search efforts for an absent parent or parents.

31 (B) A review of the amount of, and nature of, any contact
32 between the child and his or her parents and other members of his
33 or her extended family since the time of placement. Although the
34 extended family of each child shall be reviewed on a case-by-case
35 basis, "extended family" for the purposes of this paragraph shall
36 include, but not be limited to, the child's siblings, grandparents,
37 aunts, and uncles.

38 (C) An evaluation of the child's medical, developmental,
39 scholastic, mental, and emotional status.

1 (D) A preliminary assessment of the eligibility and commitment
2 of any identified prospective adoptive parent or legal guardian,
3 including a prospective tribal customary adoptive parent,
4 particularly the caretaker, to include a social history including
5 screening for criminal records and prior referrals for child abuse
6 or neglect, the capability to meet the child's needs, and the
7 understanding of the legal and financial rights and responsibilities
8 of adoption and guardianship. If a proposed legal guardian is a
9 relative of the minor, the assessment shall also consider, but need
10 not be limited to, all of the factors specified in subdivision (a) of
11 Section 361.3 and in Section 361.4. *The assessment of a legal*
12 *guardian may also include the development of a plan for a*
13 *successor guardian in the case of the incapacity or death of the*
14 *guardian.*

15 (E) The relationship of the child to any identified prospective
16 adoptive parent or legal guardian, including a prospective tribal
17 customary adoptive parent, the duration and character of the
18 relationship, the degree of attachment of the child to the prospective
19 relative guardian or adoptive parent, the relative's or adoptive
20 parent's strong commitment to caring permanently for the child,
21 the motivation for seeking adoption or legal guardianship, a
22 statement from the child concerning placement and the adoption
23 or legal guardianship, and whether the child, if over 12 years of
24 age, has been consulted about the proposed relative guardianship
25 arrangements, unless the child's age or physical, emotional, or
26 other condition precludes his or her meaningful response, and if
27 so, a description of the condition.

28 (F) An analysis of the likelihood that the child will be adopted
29 if parental rights are terminated.

30 (G) In the case of an Indian child, in addition to subparagraphs
31 (A) to (F), inclusive, an assessment of the likelihood that the child
32 will be adopted, when, in consultation with the child's tribe, a
33 tribal customary adoption, as defined in Section 366.24, is
34 recommended. If tribal customary adoption is recommended, the
35 assessment shall include an analysis of both of the following:

36 (i) Whether tribal customary adoption would or would not be
37 detrimental to the Indian child and the reasons for reaching that
38 conclusion.

1 (ii) Whether the Indian child cannot or should not be returned
2 to the home of the Indian parent or Indian custodian and the reasons
3 for reaching that conclusion.

4 (2) (A) A relative caregiver's preference for legal guardianship
5 over adoption, if it is due to circumstances that do not include an
6 unwillingness to accept legal or financial responsibility for the
7 child, shall not constitute the sole basis for recommending removal
8 of the child from the relative caregiver for purposes of adoptive
9 placement.

10 (B) Regardless of his or her immigration status, a relative
11 caregiver shall be given information regarding the permanency
12 options of guardianship and adoption, including the long-term
13 benefits and consequences of each option, prior to establishing
14 legal guardianship or pursuing adoption. If the proposed permanent
15 plan is guardianship with an approved relative caregiver for a
16 minor eligible for aid under the Kin-GAP Program, as provided
17 for in Article 4.7 (commencing with Section 11385) of Chapter 2
18 of Part 3 of Division 9, the relative caregiver shall be informed
19 about the terms and conditions of the negotiated agreement
20 pursuant to Section 11387 and shall agree to its execution prior to
21 the hearing held pursuant to Section 366.26. A copy of the executed
22 negotiated agreement shall be attached to the assessment.

23 (c) If, at any hearing held pursuant to Section 366.26, a
24 guardianship is established for the minor with an approved relative
25 caregiver, and juvenile court dependency is subsequently
26 dismissed, the minor shall be eligible for aid under the Kin-GAP
27 Program, as provided for in Article 4.5 (commencing with Section
28 11360) or Article 4.7 (commencing with Section 11385), as
29 applicable, of Chapter 2 of Part 3 of Division 9.

30 (d) As used in this section, "relative" means an adult who is
31 related to the minor by blood, adoption, or affinity within the fifth
32 degree of kinship, including stepparents, stepsiblings, and all
33 relatives whose status is preceded by the words "great,"
34 "great-great," or "grand," or the spouse of any of those persons
35 even if the marriage was terminated by death or dissolution. If the
36 proposed permanent plan is guardianship with an approved relative
37 caregiver for a minor eligible for aid under the Kin-GAP Program,
38 as provided in Article 4.7 (commencing with Section 11385) of
39 Chapter 2 of Part 3 of Division 9, "relative" as used in this section

- 1 has the same meaning as “relative” as defined in subdivision (c)
- 2 of Section 11391.

O

AMENDED IN SENATE APRIL 6, 2017
AMENDED IN SENATE MARCH 20, 2017

SENATE BILL

No. 508

Introduced by Senator Roth

February 16, 2017

An act to *amend Section 14149.8 of, and to add Article 2.93* (commencing with Section 14091.40) to Chapter 7 of Part 3 of Division 9 ~~of~~ of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as amended, Roth. Medi-Cal: dental health.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed by, and funded pursuant to, federal Medicaid program provisions. Existing law provides for a schedule of benefits provided under the Medi-Cal program, which includes certain dental services that are referred to as the Medi-Cal dental program, or Denti-Cal. Existing law requires the department to work with dental managed care plans that contract with the department for the purposes of implementing Denti-Cal, as specified.

This bill would authorize the department, no sooner than July 1, 2019, and to the extent that federal financial participation is available and any necessary federal approvals have been obtained, to authorize a Dental Health Collaboration Pilot Program for Medi-Cal beneficiaries enrolled in Medi-Cal managed care health plans that serve the County of Riverside, the County of San Bernardino, or both of those counties, using a hybrid collaboration model that coordinates the efforts of participating health plans, dental managed care plans, and the

department. The bill would authorize the department to undertake specified activities in support of the pilot program, such as providing technical assistance to participating health plans and dental managed care plans and providing an innovative payment structure, including payment incentives, that facilitates the pilot program's health and dental objectives. The bill would require participating health plans and dental managed care plans to collaborate with each other and *would require a dental managed care plan to collaborate* with the department on the design and implementation of the pilot program for an operating period of up to 5 years. The bill would require participating health plans and dental managed care plans to, among other things, deliver Denti-Cal services to participating beneficiaries, engage in specified beneficiary outreach activities, and coordinate patient care. The bill would authorize a participating dental managed care plan to implement and demonstrate innovative payment methods, including incentive payments. The bill would authorize a participating health plan or dental managed care plan to terminate its participation in the program by giving specific notice to the department, beneficiaries, and participating health plans or dental managed care plans, as applicable.

This bill would require a Medi-Cal dental managed care plan to work with the department to ensure access to, and the provision of, quality dental services to Medi-Cal beneficiaries, and would also require a managed care plan in connection therewith to undertake specified activities, such as ensuring enrolled beneficiaries have access to primary and specialist dental care, maintaining a utilization management program, and conducting or participating in quality improvement projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Article 2.93 (commencing with Section 14091.40)
2 is added to Chapter 7 of Part 3 of Division 9 of the Welfare and
3 Institutions Code, to read:

4

5 Article 2.93. Dental Health Collaboration Pilot Program

6

7 14091.40. The following definitions shall apply for the purposes
8 of this article:

1 (a) “Dental managed care plan” means a plan that contracts with
2 the department for the purpose of implementing the Medi-Cal
3 dental program, which includes, but is not limited to, contracts
4 authorized pursuant to Sections 14087.46, 14089, and 14104.3
5 that provide beneficiaries with access to dental plan liaisons to
6 assist in the coordination of care for enrolled members.

7 (b) “Oral health care” means health care that works toward a
8 state of being free from chronic mouth and facial pain, oral and
9 throat cancer, oral sores, birth defects such as cleft lip and palate,
10 periodontal (gum) disease, tooth decay and tooth loss, and other
11 diseases and disorders that affect the oral cavity.

12 (c) “Oral hygiene education” means education on the practice
13 brushing and flossing to keep the mouth clean and to prevent tooth
14 decay and gum disease.

15 14091.41. The Legislature finds and declares all of the
16 following:

17 (a) Untreated tooth decay affects more children than any other
18 chronic infectious disease in the United States, leading to pain and
19 suffering, loss of school days, and even death, despite being a
20 largely preventable disease, as noted by the Pediatric Oral Health
21 Research and Policy Center.

22 (b) Children at increased risk of developing caries often lack
23 access to dental care and many do not have good home care
24 prevention practices.

25 (c) According to the California State Auditor’s report of
26 December 2014, in 2013 less than one-half of the children enrolled
27 in California’s Medi-Cal dental program, also known as Denti-Cal,
28 were able to access basic dental care.

29 (d) Recent estimates by the State Department of Health Care
30 Services indicate that only 25 percent of adults enrolled in
31 Denti-Cal accessed any dental treatment benefits during 2014,
32 even though adult benefits were partially restored.

33 (e) The Medi-Cal Dental Services Rate Review, dated July 1,
34 2015, reflects that California’s reimbursement rates for Denti-Cal
35 were considerably lower than the comparable states of Florida,
36 New York, and Texas, and only 31 percent of the national average
37 for commercial dental insurance.

38 (f) Research has identified associations between chronic oral
39 infections and diabetes, heart and lung disease, stroke, and poor
40 birth outcomes.

1 (g) The federal Centers for Medicare and Medicaid Services
2 (CMS) is encouraging states to emphasize new approaches to
3 integrated whole-person care, including dental care, as well as
4 developing innovative payment methods for state Medicaid
5 programs.

6 (h) Several states have demonstrated successful outcomes with
7 redesigning their dental programs under Medicaid.

8 (i) Innovative models of health and dental collaboration and
9 innovative payment methods need to be tested in California to
10 improve the overall health of Medi-Cal beneficiaries and to ensure
11 an efficient and effective Denti-Cal program.

12 (j) Documented experience in the Counties of San Bernardino
13 and Riverside has identified a lack of dentists accepting new
14 Medi-Cal beneficiaries and difficulty for Medi-Cal beneficiaries
15 in navigating dental providers.

16 (k) Strategic payment incentive approaches to attract and retain
17 dentists and effectively drive the timely and appropriate use of
18 dental services have been effective in several state Medicaid
19 programs.

20 14091.42. (a) It is the intent of the Legislature to establish the
21 Dental Health Collaboration Pilot Program to test and examine
22 the efficacy of using a hybrid collaboration model to provide
23 comprehensive oral health care, including oral hygiene education,
24 prevention services, and dental treatment, under the auspices of a
25 dental managed care plan and in collaboration with a health plan
26 that is a Medi-Cal managed care health plan that serves the County
27 of San Bernardino or the County of Riverside, or both of those
28 counties.

29 (b) It is the intent of the Legislature for the Dental Health
30 Collaboration Pilot Program to do all of the following, as permitted
31 by federal law:

32 (1) Design and implement an oral hygiene education
33 collaborative to provide parents, caregivers, children, and adults
34 with applicable information and motivation to adopt positive oral
35 health behaviors.

36 (2) Provide direct linkage between health care and dental care
37 for Medi-Cal beneficiaries, including an ongoing relationship with
38 the beneficiary and dental provider.

1 (3) Establish objectives for improving access to comprehensive
2 oral health care, including access to dental prevention services and
3 pediatric dentistry.

4 (4) Establish objectives for improving dental utilization, as
5 medically indicated, for Medi-Cal beneficiaries.

6 (5) Test innovative payment models.

7 (6) Enroll eligible Medi-Cal beneficiaries into the pilot program
8 on a voluntary basis.

9 (7) Achieve improved health and dental outcomes for enrolled
10 Medi-Cal beneficiaries.

11 (8) Collect, measure, and analyze data in collaboration with the
12 department.

13 (9) Conduct ongoing quality improvement to facilitate
14 attainment of pilot program objectives.

15 14091.43. (a) No sooner than July 1, 2019, and subject to any
16 necessary federal approvals and in accordance with this article,
17 the department may authorize a Dental Health Collaboration Pilot
18 Program for Medi-Cal beneficiaries.

19 (b) The department may authorize implementation of the pilot
20 program for a period of up to five years.

21 (c) The department may seek any federal approvals as necessary,
22 including state plan amendments or waivers.

23 (d) The department may provide an innovative payment structure
24 through the pilot program to specifically facilitate health and dental
25 objectives as identified in the pilot program, including health care
26 savings attributable to improved dental access and the use of
27 payment incentives to facilitate dental provider participation and
28 the cost-effective utilization of oral health care services.

29 (e) The department may facilitate and assist in any necessary
30 exchange of data between the participating health plan and the
31 participating dental managed care plan as needed to implement
32 the pilot program.

33 (f) The department may provide technical assistance as necessary
34 to participating health plans and participating dental managed care
35 plans.

36 ~~(g) The department may develop specific contract language~~
37 ~~with a participating health plan for the purposes of implementing~~
38 ~~the Dental Health Collaboration Pilot Program that shall be~~
39 ~~incorporated into the contracts of each affected health plan.~~

40 (h)

1 (g) The department may develop specific contract language
2 with a participating dental managed care plan for the purposes of
3 implementing the Dental Health Collaboration Pilot Program that
4 shall be incorporated into the contracts of each affected dental
5 managed care plan.

6 14091.44. (a) A health plan that is a Medi-Cal managed care
7 plan and that serves the County of San Bernardino or the County
8 of Riverside, or both of those counties, may choose to participate
9 in the Dental Health Collaboration Pilot Program in accordance
10 with this section.

11 (b) A health plan that chooses to participate in the pilot program
12 ~~shall do all of the following:~~ *may participate as follows:*

13 (1) Engage with the ~~department and the~~ participating dental
14 managed care plan as deemed appropriate to design and implement
15 the pilot program for an operating period of up to five years.

16 (2) In collaboration with the department and the participating
17 dental managed care plan, as deemed appropriate, ~~identify and~~
18 establish core objectives for improving dental utilization ~~and~~
19 ~~overall health care~~ for Medi-Cal beneficiaries who opt to participate
20 in the pilot program.

21 (3) Collaborate with the participating dental managed care plan
22 to engage in ~~consistent and ongoing~~ outreach to Medi-Cal
23 beneficiaries for the purpose of ~~obtaining their participation in~~
24 ~~medically appropriate usage of Denti-Cal and enrollment into~~
25 *participation* in the pilot program. Outreach activities may include,
26 but are not limited to, the following:

27 (A) ~~Identifying~~ *At the initial dental screening, as described in*
28 *paragraph (1) of subdivision (g) of Section 14149.8, identifying*
29 Medi-Cal beneficiaries who are not utilizing or underutilizing
30 Denti-Cal program services, as appropriate.

31 (B) Providing notification *to beneficiaries* regarding the pilot
32 program, as appropriate.

33 (C) Participating in health and dental community-based events.

34 (4) Provide ~~linkage with~~ *linkage, as applicable, between* the
35 participating dental managed care plan ~~to ensure a warm handoff~~
36 ~~of identified~~ *and* Medi-Cal beneficiaries who have opted into the
37 pilot program.

38 (5) ~~Actively engage~~ *Engage* in patient care coordination
39 functions with the participating dental managed care plans,
40 including, but not limited to, ~~the following:~~ *advising patients of*

1 *the availability of the Dental Health Collaboration Pilot Program,*
2 *as applicable.*

3 ~~(A) Identifying, as applicable, patients with special health care~~
4 ~~and dental care needs.~~

5 ~~(B) Developing an overall health and dental care strategy that~~
6 ~~meets the patient's medical needs.~~

7 ~~(C) Coordinating and monitoring patient care with the goal of~~
8 ~~achieving optimum health care and dental care outcomes in an~~
9 ~~efficient and cost-effective manner.~~

10 ~~(D) Arranging for patient consultations and postreview activities~~
11 ~~for continued quality improvement and improved patient~~
12 ~~compliance with the patient's health and dental plan.~~

13 ~~(6) Collect, measure, and analyze data in collaboration~~
14 *Collaborate with the department and participating dental managed*
15 *care plans to identify lessons learned and pilot program*
16 *achievements. The participating dental managed care plan shall*
17 *be the lead entity in this collaboration with the department.*

18 14091.45. (a) A dental managed care plan that chooses to
19 participate in the Dental Health Collaboration Pilot Program in
20 accordance with this section, and that is under contract with the
21 department to serve Medi-Cal beneficiaries in the County of San
22 Bernardino, the County of Riverside, or both of those counties,
23 shall do all of the following:

24 (1) Engage with the department and the participating health
25 plan as deemed appropriate to design and implement the pilot
26 program for an operating period of up to five years.

27 (2) In collaboration with the department and participating health
28 plans, as deemed appropriate, identify and establish core objectives
29 for improving dental utilization ~~and overall health care~~ for
30 Medi-Cal beneficiaries who opt to participate in the pilot program.

31 (3) Collaborate with the participating health ~~plans~~ *plans, as*
32 *deemed appropriate*, to engage in consistent and ongoing outreach
33 to Medi-Cal beneficiaries for the purpose of obtaining their
34 participation in medically appropriate usage of Denti-Cal and
35 enrollment into the pilot program. Outreach activities may include,
36 but are not limited to, the following:

37 (A) Identifying Medi-Cal beneficiaries who are not utilizing or
38 underutilizing Denti-Cal program services.

39 (B) Providing notification regarding the pilot program, as
40 appropriate.

- 1 (C) Scheduling appointments and providing regular appointment
2 reminders.
- 3 (D) Providing interpreters.
- 4 (E) Providing transportation.
- 5 (F) Facilitating communication between the Medi-Cal
6 beneficiary and his or her dental provider.
- 7 (G) Participating in health and dental community-based events.
- 8 (4) Provide culturally appropriate oral hygiene education
9 programs with special emphasis on underserved children.
- 10 (5) Provide linkage with the participating health ~~plan~~ *plan, as*
11 *applicable*, to ensure a warm handoff of identified Medi-Cal
12 beneficiaries who have opted into the pilot program.
- 13 (6) Actively engage in patient care coordination functions with
14 the participating health plan, *as applicable*, including, but not
15 limited to, the following:
- 16 (A) Identifying, as applicable, patients with special health care
17 and dental care needs.
- 18 (B) Engaging with referred patients to ensure that a high level,
19 integrated, and personalized dental care plan is implemented.
- 20 (C) Developing an overall ~~health and~~ dental care strategy that
21 meets the patient's medical needs.
- 22 (D) Coordinating and monitoring patient care with the goal of
23 achieving ~~optimum~~ health care and dental care outcomes in an
24 efficient and cost-effective manner.
- 25 (E) Arranging for patient consultations and post-review activities
26 for continued quality improvement and improved patient
27 compliance with the patient's ~~health and~~ dental plan.
- 28 (7) Monitor dental providers for performance and outcomes,
29 including ongoing quality improvement as necessary.
- 30 (8) Collect, measure, and analyze data in collaboration with the
31 department, the participating health ~~plan~~ *plan, as necessary*, and
32 dental providers to identify lessons learned and pilot program
33 achievements. *The participating dental managed care plan shall*
34 *be the lead entity in this collaboration with the department and*
35 *dental providers.*
- 36 (b) Upon the approval of the department, a participating dental
37 managed care plan may implement and demonstrate innovative
38 payment methods designed to provide actuarially sound
39 reimbursement to dental providers, along with incentive payments
40 ~~the that~~ recognize established outcome measures and objectives.

1 14091.46. A health plan may terminate its participation in the
2 pilot program by notifying the department at least 120 days before
3 the termination. The health plan shall give participating Medi-Cal
4 beneficiaries and dental managed care plans at least 90 days' notice
5 of termination.

6 14091.47. A dental managed care plan may terminate its
7 participation in the pilot program by notifying the department at
8 least 120 days before the termination. The dental managed care
9 plan shall give participating Medi-Cal beneficiaries and health
10 plans at least 90 ~~days~~ *days*' notice of termination.

11 14091.48. Contracts entered into pursuant to this article may
12 be on a bid or nonbid basis, and shall be exempt from Chapter 2
13 (commencing with Section 10290) of Part 2 of Division 2 of the
14 Public Contract Code.

15 14091.49. This article shall not be construed to limit or
16 eliminate services provided by the Medi-Cal program or Denti-Cal.

17 14091.50. This article shall be implemented only to the extent
18 that federal financial participation is available and any necessary
19 federal approvals have been obtained.

20 14091.51. Notwithstanding Chapter 3.5 (commencing with
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
22 Code, the department may implement, interpret, or make specific
23 this article by means of all-county letters, plan letters, plan or
24 provider bulletins, or similar instructions, without taking regulatory
25 action.

26 *SEC. 2. Section 14149.8 of the Welfare and Institutions Code*
27 *is amended to read:*

28 14149.8. (a) The department shall expedite the enrollment of
29 Medi-Cal dental providers by streamlining the Medi-Cal provider
30 enrollment process. The department shall pursue and implement
31 all of the following activities, to the extent permitted by federal
32 law:

33 (1) Create a dental-specific enrollment form.

34 (2) Pursue an alternative automatic enrollment process for a
35 provider already commercially credentialed by either a dental
36 fee-for-service contractor or an administrative services contractor
37 for the purpose of providing services as a commercial provider.

38 (3) Discontinue requiring providers to resubmit an enrollment
39 application that has been deemed incomplete if the missing
40 information is available elsewhere within the application packet.

1 (4) To the extent that the department expedites the enrollment
2 of Medi-Cal dental providers by streamlining the Medi-Cal
3 provider enrollment process, the department shall publish the
4 criteria for those processes in applicable provider bulletins and
5 manuals.

6 (b) (1) The department shall maintain the provider network on
7 a monthly basis by deactivating a billing provider who has not,
8 over a continuous 12-month period, submitted a claim for
9 reimbursement for services rendered.

10 (2) Prior to deactivating a provider described in paragraph (1),
11 the department shall send a notice to the provider informing the
12 provider that the provider shall be deactivated from the dental
13 program unless the provider requests reactivation within six months
14 after the date of the notice. The department shall not disenroll a
15 provider until six months after the date of that notice. This
16 paragraph shall not be implemented until the date the department
17 implements and programs the necessary system changes to the
18 California Dental Medicaid Management Information Systems to
19 implement this paragraph, or no sooner than July 1, 2017,
20 whichever is later.

21 (3) In order to improve the quality of the dental provider
22 network, the department also shall exercise additional measures
23 as appropriate and permitted by law, including, but not limited to,
24 temporary suspensions. The parameters and criteria developed by
25 the department for additional measures for deactivations and
26 disenrollments shall be published in applicable provider bulletins
27 and manuals.

28 (c) (1) The department shall monitor access and utilization of
29 Medi-Cal dental services in the fee-for-service and managed care
30 delivery systems to assess opportunities to improve access and
31 utilization, including an annual review of the treatment
32 authorization review process.

33 (2) The department shall assess opportunities to develop and
34 implement innovative payment reform proposals within the
35 Medi-Cal dental programs.

36 (d) The department shall explore additional opportunities to
37 improve the Medi-Cal Dental Program, in consultation with
38 stakeholders and as deemed appropriate by the department and to
39 the extent permitted by federal law, including, but not limited to,
40 the following:

1 (1) Aligning the provision of dental anesthesia services with
2 that of medical anesthesia services, including the ability to bill for
3 applicable facility fees and ancillary services.

4 (2) Adjusting other utilization controls for specialty services,
5 as appropriate, to promote access to care while still protecting
6 program integrity.

7 (3) Expanding the scope of beneficiary outreach activities
8 required by an entity that is contracted with the department to more
9 broadly address underutilization throughout the state.

10 (e) Prior to implementing an action pursuant to subdivision (d),
11 the department shall post the proposed action on its Internet Web
12 site at least 30 days before implementation.

13 (f) The department shall work with dental managed care plans
14 that contract with the department for the purposes of implementing
15 the Medi-Cal Dental Program, which includes, but is not limited
16 to, contracts authorized pursuant to Sections 14087.46, 14089, and
17 14104.3, to provide beneficiaries with access to dental plan liaisons
18 to assist in the coordination of care for enrolled members.

19 (g) *A Medi-Cal dental managed care plan shall work with the*
20 *department to ensure access to, and the provision of, quality dental*
21 *services to Medi-Cal beneficiaries, and its activities in connection*
22 *therewith shall include, but not be limited to, all of the following:*

23 (1) *Maintaining licensure pursuant to the Knox-Keene Health*
24 *Care Service Plan Act of 1975 (Chapter 2.2 (commencing with*
25 *Section 1340) of Division 2 of the Health and Safety Code).*

26 (2) *Ensuring each enrolled Medi-Cal beneficiary has an*
27 *available primary care dentist.*

28 (3) *Ensuring each enrolled Medi-Cal beneficiary has access to*
29 *specialists for medically necessary covered services.*

30 (4) *Implementing and actively maintaining a utilization*
31 *management program to ensure appropriate processes are used*
32 *to review and approve the provision of medically necessary dental*
33 *services as identified in the Manual of Criteria and Schedule of*
34 *Maximum Allowances contained in the Medi-Cal Dental Program*
35 *Provider Handbook.*

36 (5) *Maintaining a full-time dentist as dental director pursuant*
37 *to Section 53913.5 of Title 22 of the California Code of*
38 *Regulations.*

39 (6) *Complying with Title 28 of the California Code of*
40 *Regulations, including Sections 1300.67.2 and 1300.70, regarding*

1 *accessibility of services and requirements for ongoing quality*
2 *assurance systems, respectively.*

3 (7) *Monitoring contracting dental providers using quality*
4 *improvement thresholds as established by the department.*

5 (8) *Developing and submitting to the department an annual*
6 *quality improvement report that describes activities undertaken*
7 *and evaluates areas of success and needed improvements.*

8 (9) *Conducting or participating in quality improvement projects*
9 *as approved by the department.*

10 ~~(g)~~

11 (h) A Medi-Cal managed care health plan shall do all of the
12 following:

13 (1) Provide dental screenings for every eligible beneficiary as
14 a part of the beneficiary's initial health assessment.

15 (2) Ensure that an eligible beneficiary is referred to an
16 appropriate Medi-Cal dental provider.

17 (3) Identify plan liaisons available to dental managed care
18 contractors and dental fee-for-service contractors to assist with
19 referrals to health plan covered services.

20 ~~(h)~~

21 (i) (1) To increase the efficiency and timeliness of changes,
22 any contract amendment, modification, or change order to any
23 contract entered into by the department for the purposes of
24 implementing the state Medi-Cal Dental Program shall be exempt,
25 except as provided in paragraph (2), from Part 2 (commencing
26 with Section 10100) of Division 2 of the Public Contract Code, as
27 well as Sections 11545 and 11546 of the Government Code, in
28 addition to any policies, procedures, or regulations authorized by
29 those provisions.

30 (2) Paragraph (1) shall not exempt the department from
31 establishing a competitive bid process for awarding new contracts
32 pursuant to Section 14104.3, as well as for awarding new dental
33 contracts pursuant to Sections 14087.46 and 14089.

34 ~~(i)~~

35 (j) Prior to implementing any change pursuant to this section,
36 the department shall consult with, and provide notification to,
37 stakeholders, including representatives from counties, local dental
38 societies, nonprofit entities, legal aid entities, and other interested
39 parties.

40 ~~(j)~~

1 (k) (1) Notwithstanding Chapter 3.5 (commencing with Section
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
3 the department, without taking any further regulatory action, shall
4 implement, interpret, or make specific policies and procedures
5 pertaining to the dental fee-for-service program and dental managed
6 care plans, as well as applicable federal waivers and state plan
7 amendments, including the provisions set forth in this section, by
8 means of all-county letters, plan letters, plan or provider bulletins,
9 or similar instructions until regulations are adopted.

10 (2) No later than December 31, 2018, the department shall adopt
11 regulations in accordance with the requirements of Chapter 3.5
12 (commencing with Section 11340) of Part 1 of Division 3 of Title
13 2 of the Government Code. Beginning six months after the effective
14 date of this section, and notwithstanding Section 10231.5 of the
15 Government Code, the department shall provide a status report to
16 the Legislature on a semiannual basis until regulations have been
17 adopted.

18 ~~(k)~~

19 (l) This section shall be implemented only to the extent that all
20 of the following occur:

21 (1) The department obtains any federal approvals necessary to
22 implement this section.

23 (2) The department obtains federal matching funds to the extent
24 permitted by federal law.

AMENDED IN SENATE MARCH 28, 2017

SENATE BILL

No. 729

Introduced by Senator Stone

February 17, 2017

An act to amend Section 8685.4 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

SB 729, as amended, Stone. Local emergencies: ~~state response.~~
applications for state assistance.

The California ~~Emergency Services Disaster Assistance Act~~ establishes the ~~Office of Emergency Services~~ headed by *provides for the allocation of funds to local agencies for certain purposes* by the Director of Emergency ~~Services~~ and ~~provides that the office is responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies. The act requires the director, during a state of war emergency, a state of emergency, or a local emergency, to coordinate the emergency activities of all state agencies in connection with that emergency and further requires every state agency and officer to cooperate with the director in rendering all possible assistance in carrying out the provisions of the act. Services after the proclamation of a local emergency or state of emergency, as specified. The act sets forth the process by which a local agency may apply for those allocations and, as part of this process, generally provides for completion of a state agency investigation and report to the director on the proposed work within 60 days from the date of the application.~~

This bill would ~~state the intent of the Legislature to enact legislation to establish specific guidelines and timeframes with respect to the state's~~

~~response to a local proclamation of an emergency as set forth in a specified provision of the act. require the director to notify the local agency of all approved costs within 60 days from the date that investigation is completed.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

1 SECTION 1. Section 8685.4 of the Government Code is
2 amended to read:

3 8685.4. A local agency shall make application to the director
4 for state financial assistance within 60 days after the date of the
5 proclamation of a local emergency. The director may extend the
6 time for this filing only under unusual circumstances. No financial
7 aid shall be provided until a state agency, upon the request of the
8 director, has first investigated and reported upon the proposed
9 work, has estimated the cost of the work, and has filed its report
10 with the director within 60 days from the date the local agency
11 made application, unless the director extends the time because of
12 unusual circumstances. The estimate of cost of the work may
13 include expenditures made by the local agency for the work prior
14 to the making of the estimate. If the reporting state agency fails to
15 report its findings within the 60-day period, and time is not
16 extended by the director, the director may complete the
17 investigation and recover a proportionate amount allocated to the
18 state agency for the balance of the investigation. *The director shall*
19 *notify the local agency of all approved costs within 60 days from*
20 *the date the investigation is completed.* "Unusual circumstances,"
21 as used above, are unavoidable delays that result from recurrence
22 of a disaster, prolonged severe weather within a one-year period,
23 or other conditions beyond the control of the applicant. Delays
24 resulting from administrative procedures are not unusual
25 circumstances which warrant extensions of time.

26 ~~SECTION 1. It is the intent of the Legislature to enact~~
27 ~~legislation to establish specific guidelines and timeframes with~~
28 ~~respect to the state's response to a local proclamation of an~~
29 ~~emergency as set forth in Section 8588 of the Government Code.~~

O

Introduced by Senator Morrell

February 17, 2017

An act relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as introduced, Morrell. Public records.

Existing law, the California Public Records Act, requires a local agency, as defined, to make public records available for inspection, subject to certain exceptions. In addition to maintaining public records for public inspection during the office hours of the public agency, existing law authorizes a public agency to make a public record available for inspection by posting it on its Internet Web site and, in response to a request for a public record posted on the Internet Web site, directing a member of the public to the location on the Internet Web site where the public record is posted.

This bill would state the intent of the Legislature to subsequently amend this bill to include provisions that would require the exploration and promotion of efficiencies and modernization in the storage of, and public access to, local government documents and recordings.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. It is the intent of the Legislature to subsequently
- 2 amend this measure to include provisions that would require the
- 3 exploration and promotion of efficiencies and modernization in

- 1 the storage of, and public access to, local government documents
- 2 and recordings.

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