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CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 366

Introduced by Assembly Member Blanca Rubio
(Coauthors: Assembly Members Gipson, Stone, Ting, and Bauer-Kahan)
(Coauthor: Senator Wiener)

February 1, 2021

An act to *repeal Section 1505.2 of the Health and Safety Code, and to* amend Sections 16002 and 16519.5 of, and to repeal ~~and add~~ Section 16004 of, the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 366, as amended, Blanca Rubio. Foster youth: placement of siblings.

Existing law provides for the implementation of the resource family approval process, which replaces the multiple processes for licensing foster family homes, certifying foster homes by foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families. Existing law defines a resource family as an individual or family who has successfully met both the home environment assessment standards and

permanency assessment criteria, as specified, necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. Existing law requires the State Department of Social Services to adopt standards pertaining to the home environment and permanency assessments of a resource family according to specified standards, including that the total number of children residing in the home of a resource family be no more than the total number of children the resource family can properly care for, regardless of status, and may not exceed 6 children, except as specified.

Existing law states the intent of the Legislature for siblings to be placed in foster care together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling, and requires the responsible local agency to make a diligent effort in all out-of-home placements of dependent children and wards in foster care, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships.

~~This bill would instead establish a presumption that an approved resource family has the size and space to place siblings together if each child has an age-appropriate place to sleep and there are no other safety risks.~~

~~The bill would require the department, by July 1, 2022, to update the written directives and any other regulation that governs the approval of a resource family home or foster family home to reflect the requirement that the responsible local agency make a diligent effort to place siblings together. The bill would make related intent statements.~~

Existing law requires the court to suspend sibling interaction if it determines by clear and convincing evidence that sibling interaction is detrimental to the well-being of any of the siblings.

This bill would prohibit the physical capacity of the home from being the sole reason to deny placement of a sibling group if each child in the home has an age-appropriate place to sleep and there are no other safety risks.

The bill would repeal an obsolete requirement on the department to provide specified recommendations and would make conforming changes consistent with the implementation of the resource family approval process.

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

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

SECTION 1. Section 1505.2 of the Health and Safety Code is repealed.

~~1505.2. A licensing agency may authorize a foster family home to provide 24-hour care for up to eight foster children, for the purpose of placing siblings or half siblings together in foster care. This authorization may be granted only if all of the following conditions are met:~~

~~(A) The foster family home is not a specialized foster care home as defined in subdivision (i) of Section 17710 of the Welfare and Institutions Code.~~

~~(B) The home is sufficient in size to accommodate the needs of all children in the home.~~

~~(C) For each child to be placed, the child's placement social worker has determined that the child's needs will be met and has documented that determination.~~

~~The licensing agency may authorize a foster family home to provide 24-hour care for more than eight children only if the foster family home specializes in the care of sibling groups, that placement is solely for the purpose of placing together one sibling group that exceeds eight children, and all of the above listed conditions are met.~~

~~SECTION 1.~~

SEC. 2. Section 16002 of the Welfare and Institutions Code is amended to read:

16002. (a) (1) It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group on one occurrence or individually on separate occurrences, the siblings will be placed together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. ~~Capacity alone shall not be reason to find that placement of the siblings together is contrary to the safety or well-being of any sibling.~~ The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

(2) It is also the intent of the Legislature to preserve and strengthen a child's sibling relationship so that when a child has

been removed from the child's home and the child has a sibling or siblings who remain in the custody of a parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling.

(b) The responsible local agency shall make a diligent effort in all out-of-home placements of dependent children and wards in foster care, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker or probation officer shall explain why the siblings are not placed together and what efforts the social worker or probation officer is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the reasons for the determination shall be noted in the court order, and interaction shall be suspended. *The physical capacity of the home shall not be the sole reason to deny placement of a sibling group if each child in the home has an age-appropriate place to sleep and there are no other safety risks.*

(c) When there has been a judicial suspension of sibling interaction, the reasons for the suspension shall be reviewed at each periodic review hearing pursuant to Section 366 or 727.3. In order for the suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child. When the court determines that sibling interaction can be safely resumed, that determination shall be noted in the court order and the case plan shall be revised to provide for sibling interaction.

(d) If the case plan for the child has provisions for sibling interaction, the child, or the child's parent or legal guardian, shall have the right to comment on those provisions. If a person wishes to assert a sibling relationship with a dependent child or ward, the person may file a petition in the juvenile court having jurisdiction

over the dependent child pursuant to subdivision (b) of Section 388 or the ward in foster care pursuant to Section 778.

(e) If parental rights are terminated and the court orders a dependent child or ward to be placed for adoption, the county adoption agency or the State Department of Social Services shall take all of the following steps to facilitate ongoing sibling contact, except in those cases provided in subdivision (b) where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child:

(1) Include in training provided to prospective adoptive parents information about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships.

(2) Provide prospective adoptive parents with information about siblings of the child, except the address where the siblings of the children reside. However, this address may be disclosed by court order for good cause shown.

(3) (A) To the extent practicable, the county placing agency shall convene a meeting with the child, the sibling or siblings of the child, the prospective adoptive parent or parents, and a facilitator for the purpose of deciding whether to voluntarily execute a postadoption sibling contact agreement pursuant to Section 8616.5 of the Family Code on a date after termination of parental rights and prior to finalization of the adoption. The county placing agency may comply with the requirements of this paragraph by allowing a nonprofit organization authorized to provide permanency placement and postadoption mediation for adoptive and birth families to facilitate the meeting and develop the agreement.

(B) The county placing agency is not required to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement pursuant to Section 8616.5 of the Family Code in either of the following circumstances:

(i) The county placing agency determines that such a meeting or postadoption sibling contact agreement would be contrary to the safety and well-being of the child.

(ii) The child requests that a meeting shall not occur.

(C) The child may petition the court for an order requiring the county placing agency to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement

pursuant to Section 8616.5 of the Family Code. If the court determines by a preponderance of the evidence that a postadoption sibling contact agreement or a meeting for the purpose of deciding whether to voluntarily execute such an agreement is contrary to the safety and well-being of the child, the reasons for the determination shall be noted in the court order, and the meeting is not required to occur.

(D) Counsel to the child and counsel to the siblings who are dependents of the court shall be notified of, and may attend, both the meeting and the hearing described in this paragraph.

(E) This paragraph shall not require attendance by a child, sibling, or other party at a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement pursuant to Section 8616.5 of the Family Code if the child, sibling, or other party cannot be located or does not wish to attend the meeting. This paragraph shall not prohibit a county placing agency from convening a meeting if not all of the parties are secured to attend.

(f) Information regarding sibling interaction, contact, or visitation that has been authorized or ordered by the court shall be provided to the foster parent, relative caretaker, or legal guardian of the child as soon as possible after the court order is made, in order to facilitate the interaction, contact, or visitation.

(g) 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.

(h) The court documentation on sibling placements required under this section shall not require the modification of existing court order forms until the Child Welfare Services/Case Management System (CWS/CMS) is implemented on a statewide basis.

~~SEC. 2.~~

SEC. 3. Section 16004 of the Welfare and Institutions Code is repealed.

~~SEC. 3. Section 16004 is added to the Welfare and Institutions Code, to read:~~

~~16004. (a) The Legislature finds and declares that there are continuing barriers that hinder sibling groups from being placed together in out-of-home care when removed from the custody of their parents or guardians due to child abuse or neglect. These barriers, including resource family approval requirements, limit~~

~~or prevent the county placement agency from fulfilling its obligation pursuant to subdivision (b) of Section 16002 to place siblings together. Therefore, the Legislature declares its intent that siblings should be placed together regardless of capacity unless it is contrary to the safety or well-being of any sibling.~~

~~(b) By July 1, 2022, the department shall update the written directives and any other regulation that govern the approval of a resource family home or foster family home to reflect the requirement that the responsible local agency make a diligent effort in all out-of-home placements to place siblings together.~~

~~SEC. 4.~~

SEC. 4. Section 16519.5 of the Welfare and Institutions Code is amended to read:

16519.5. (a) The State Department of Social Services, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, certifying foster homes by licensed foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families.

(b) (1) Counties shall be selected to participate on a voluntary basis as early implementation counties for the purpose of participating in the initial development of the approval process. Early implementation counties shall be selected according to criteria developed by the department in consultation with the County Welfare Directors Association of California. In selecting the five early implementation counties, the department shall promote diversity among the participating counties in terms of size and geographic location.

(2) Additional counties may participate in the early implementation of the program upon authorization by the department.

(3) The State Department of Social Services shall be responsible for all of the following:

(A) Selecting early implementation counties, based on criteria established by the department in consultation with the County Welfare Directors Association of California.

(B) Establishing timeframes for participating counties to submit an implementation plan, enter into terms and conditions for early implementation participation in the program, train appropriate staff, and accept applications from resource families.

(C) Entering into terms and conditions for early implementation participation in the program by counties.

(4) Counties participating in the early implementation of the program shall be responsible for all of the following:

(A) Submitting an implementation plan.

(B) Entering into terms and conditions for early implementation participation in the program.

(C) Consulting with the county probation department in the development of the implementation plan.

(D) Training appropriate staff.

(E) Accepting applications from resource families within the timeframes established by the department.

(5) (A) Approved relatives and nonrelative extended family members, licensed foster family homes, or approved adoptive homes that have completed the license or approval process prior to statewide implementation of the program shall not be considered part of the program. The otherwise applicable assessment and oversight processes shall continue to be administered for families and facilities not included in the program.

(B) Upon implementation of the program in a county, that county shall not accept new applications for the licensure of foster family homes, the approval of relative and nonrelative extended family members, or the approval of prospective guardians and adoptive homes.

(6) The department may waive regulations that pose a barrier to the early implementation and operation of this program. The waiver of any regulations by the department pursuant to this section shall apply to only those counties or foster family agencies participating in the early implementation of the program and only for the duration of the program.

(7) This subdivision shall become inoperative on January 1, 2017.

(c) (1) For purposes of this article, “resource family” means an individual or family that has successfully met both the home environment assessment standards and the permanency assessment criteria adopted pursuant to subdivision (d) necessary for providing

care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. A resource family shall demonstrate all of the following:

(A) An understanding of the safety, permanence, and well-being needs of children who have been victims of child abuse and neglect, and the capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, or a support structure in place, or both.

(B) An understanding of children's needs and development, effective parenting skills or knowledge about parenting, and the capacity to act as a reasonable, prudent parent in day-to-day decisionmaking.

(C) An understanding of the role of the individual or family as a resource family and the capacity to work cooperatively with the agency and other service providers in implementing the child's case plan.

(D) The financial ability within the household to ensure the stability and financial security of the family. An applicant who will rely on the funding described in subdivision (*l*) to meet additional household expenses incurred due to the placement of a child shall not, for this reason, be denied approval as a resource family.

(E) An ability and willingness to provide a family setting that promotes normal childhood experiences that serves the needs of the child.

(2) For purposes of this article, and unless otherwise specified, references to a "child" shall include a "nonminor dependent" and "nonminor former dependent or ward," as defined in subdivision (v) and paragraph (1) of subdivision (aa) of Section 11400.

(3) There is no fundamental right to approval as a resource family. Emergency placement of a child pursuant to Section 309, 361.45, or 727.05, or placement with a resource family applicant pursuant to subdivision (e), does not entitle an applicant approval as a resource family.

(4) (A) A resource family shall be considered eligible to provide foster care for children in out-of-home placement and approved for adoption and guardianship.

(B) (i) Notwithstanding subparagraph (A), a county may approve a resource family to care for a specific child, as specified

in the written directives or regulations adopted pursuant to this section.

(ii) In the case of an Indian child for whom the child's tribe is not exercising its right to approve a home, the county shall apply the prevailing social and cultural standards of the Indian community to resource family approval for that child, as required by subdivision (f) of Section 361.31 and the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.). The department shall engage in the tribal consultation process and develop regulations to implement this clause. 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 this clause through all-county letters or other similar instruction, and provide guidance to counties regarding consistent implementation of this clause.

(5) For purposes of this article, "resource family approval" means that the applicant or resource family successfully meets the home environment assessment and permanency assessment standards. This approval is in lieu of a foster family home license issued pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, a certificate of approval issued by a licensed foster family agency, as described in subdivision (b) of Section 1506 of the Health and Safety Code, relative or nonrelative extended family member approval, guardianship approval, and the adoption home study approval.

(6) Approval of a resource family does not guarantee an initial, continued, or adoptive placement of a child with a resource family or with a relative or nonrelative extended family member. Approval of a resource family does not guarantee the establishment of a legal guardianship of a child with a resource family.

(7) (A) Notwithstanding paragraphs (1) to (6), inclusive, the county shall, consistent with Sections 1520.3 and 1558.1 of the Health and Safety Code, cease any further review of an application if the applicant has had a previous application denial by the department or a county within the preceding year, or if the applicant has had a previous rescission, revocation, or exemption denial or exemption rescission by the department or a county within the preceding two years.

(B) Notwithstanding subparagraph (A), the county may continue to review an application if it has determined that the reasons for the previous denial, rescission, or revocation were due to circumstances and conditions that either have been corrected or are no longer in existence. If an individual was excluded from a resource family home or facility licensed by the department, the county shall cease review of the individual's application unless the excluded individual has been reinstated pursuant to subdivision (g) of Section 16519.6 of this code or pursuant to Section 1569.53, subdivision (h) of Section 1558, subdivision (h) of Section 1569.58, or subdivision (h) of Section 1596.8897, of the Health and Safety Code.

(C) (i) The county may cease any further review of an application if, after written notice to the applicant, the applicant fails to complete an application without good faith effort and within 30 days of the date of the notice, as specified in the written directives or regulations adopted pursuant to this section.

(ii) Clause (i) does not apply if a child is placed with the applicant pursuant to Section 309, 361.45, 727.05, or paragraph (1) of subdivision (e) of Section 16519.5.

(D) The cessation of an application review pursuant to this paragraph shall not constitute a denial of the application for purposes of this section or any other law.

(E) For purposes of this section, the date of a previous denial, rescission, revocation, exemption denial or exemption rescission, or exclusion shall be either of the following:

(i) The effective date of a final decision or order upholding a notice of action or exclusion order.

(ii) The date on the notice of the decision to deny, rescind, revoke, or exclude if the notice was not appealed or otherwise constitutes a final decision.

(8) A resource family shall meet the approval standards set forth in this section, and, as applicable, Chapter 6.3 (commencing with Section 18360) of Part 6, to maintain approval. A resource family shall comply with the written directives or regulations adopted pursuant to this section and applicable laws in order to maintain approval.

(9) A resource family may be approved by a county child welfare department or a probation department pursuant to this

section or by a foster family agency pursuant to Section 1517 of the Health and Safety Code.

(10) A resource family shall not be licensed to operate a residential facility, as defined in Section 1502 of the Health and Safety Code, a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or a residential care facility for persons with chronic life-threatening illnesses, as defined in Section 1568.01 of the Health and Safety Code, on the same premises used as the residence of the resource family.

(11) (A) An applicant who withdraws an application prior to its approval or denial may resubmit the application within 12 months of the withdrawal.

(B) This paragraph does not preclude a county from requiring an applicant to complete an application activity, even if that activity was previously completed.

(d) (1) The department shall adopt standards pertaining to the home environment and permanency assessments of a resource family.

(2) Resource family home environment assessment standards shall include, but not be limited to, all of the following:

(A) (i) (I) A criminal record clearance of each applicant and all adults residing in, or regularly present in, the home, and not exempted from fingerprinting, as set forth in subdivision (b) of Section 1522 of the Health and Safety Code, pursuant to Section 8712 of the Family Code, utilizing a check of the Child Abuse Central Index pursuant to Section 1522.1 of the Health and Safety Code, and receipt of a fingerprint-based state and federal criminal offender record information search response. The criminal history information shall include subsequent notifications pursuant to Section 11105.2 of the Penal Code.

(II) Consideration of any substantiated allegations of child abuse or neglect against the applicant and any other adult residing in, or regularly present in, the home pursuant to Section 1522.1 of the Health and Safety Code.

(III) If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, home approval shall be denied. If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (C) of paragraph (2) of

subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal records exemption has been granted pursuant to subclause (IV).

(IV) If the resource family parent, applicant, or any other person specified in subclause (I) has been convicted of a crime other than a minor traffic violation or arrested for an offense specified in subdivision (e) of Section 1522 of the Health and Safety Code, except for the civil penalty language, the criminal background check provisions specified in subdivisions (d) through (f) of Section 1522 of the Health and Safety Code shall apply. Exemptions from the criminal records clearance requirements set forth in this section may be granted by the department or the county, if that county has been granted permission by the department to issue criminal records exemptions pursuant to Section 361.4, using the exemption criteria currently used for foster care licensing, as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(V) If it is determined, on the basis of the fingerprint images and related information submitted to the Department of Justice, that subsequent to obtaining a criminal record clearance or exemption from disqualification, the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the department or county shall notify the resource family to act immediately to remove or bar the person from entering the resource family's home. The department or county, as applicable, may subsequently grant an exemption from disqualification pursuant to subdivision (g) of Section 1522 of the Health and Safety Code. If the conviction or arrest was for another crime, the resource family shall, upon notification by the department or county, act immediately to either remove or bar the person from entering the resource family's home, or require the person to seek an exemption from disqualification pursuant to subdivision (g) of Section 1522 of the Health and Safety Code. The department or county, as applicable, shall determine if the person shall be allowed to remain in the home until a decision on the exemption from disqualification is rendered.

(ii) For public foster family agencies approving resource families, the criminal records clearance process set forth in clause (i) shall be utilized.

(iii) For private foster family agencies approving resource families, the criminal records clearance process set forth in clause (i) shall be utilized, but the Department of Justice shall disseminate a fitness determination resulting from the federal criminal offender record information search.

(B) A home and grounds evaluation to ensure the health and safety of children.

(C) In addition to the foregoing requirements, the resource family home environment assessment standards shall require the following:

(i) That the applicant demonstrates an understanding of the rights of children in care and the applicant's responsibility to safeguard those rights.

(ii) That the total number of children residing in the home of a resource family shall be no more than the total number of children the resource family can properly care for, regardless of status, and shall not exceed six children, unless exceptional circumstances that are documented in the foster child's case file exist to permit a resource family to care for more children, including, but not limited to, the need to place siblings~~ together. An approved resource family shall be presumed to have the size and space to place siblings together, consistent with Section 16002, so long as each child has an age-appropriate place to sleep and there are no other safety risks.~~ *together, consistent with Section 16002.*

(iii) That the applicant understands the applicant's responsibilities with respect to acting as a reasonable and prudent parent, and maintaining the least restrictive environment that serves the needs of the child.

(3) The resource family permanency assessment standards shall include, but not be limited to, all of the following:

(A) Caregiver training, as described in subdivisions (g) and (h).

(B) A family evaluation, which shall include, but not be limited to, interviews of an applicant to assess the applicant's personal history, family dynamic, and need for support or resources, and a risk assessment.

(i) When the applicant is a relative or nonrelative extended family member to an identified child, the family evaluation shall consider the nature of the relationship between the relative or nonrelative extended family member and the child. The relative or nonrelative extended family member's expressed desire to only

care for a specific child or children shall not be a reason to deny the approval.

(ii) A caregiver risk assessment shall include, but not be limited to, physical and mental health, alcohol and other substance use and abuse, family and domestic violence, and the factors listed in paragraph (1) of subdivision (c).

(iii) A county may review and discuss data contained in the statewide child welfare database with an applicant for purposes of conducting a family evaluation, as specified in the written directives or regulations adopted pursuant to this section.

(C) Completion of any other activities that relate to the ability of an applicant or a resource family to achieve permanency with a child.

(4) (A) For a child placed on an emergency basis pursuant to Section 309, 361.45, or 727.05, the home environment assessment, the permanency assessment, and the written report shall be completed within 90 days of the placement, unless good cause exists based upon the needs of the child.

(B) If additional time is needed to complete the home environment assessment or the permanency assessment, the county shall document the extenuating circumstances for the delay and generate a timeframe for the completion of those assessments.

(C) The county shall report to the department, on a quarterly basis, the number of families with emergency placements whose home environment assessment or permanency assessment goes beyond 90 days and summarize the reasons for these delays.

(e) (1) A county may place a child with a resource family applicant who has successfully completed the home environment assessment prior to completion of a permanency assessment only if a compelling reason for the placement exists based on the needs of the child.

(A) The permanency assessment and the written report described in paragraph (5) of subdivision (g) shall be completed within 90 days of the child's placement in the home, unless good cause exists.

(B) If additional time is needed to comply with subparagraph (A), the county shall document the extenuating circumstances for the delay and generate a timeframe for the completion of the permanency assessment.

(C) The county shall report to the department, on a quarterly basis, the number of applicants for whom the requirements of

subparagraph (A) exceed 90 days and summarize the reasons for these delays.

(2) The home environment and permanency assessments, and the written report described in paragraph (5) of subdivision (g), shall be completed within 90 days of a child's placement with a relative or nonrelative extended family member pursuant to Section 309, 361.45, or 727.05, unless good cause exists.

(3) For any placement made pursuant to this subdivision, AFDC-FC funding shall not be available until approval of the resource family has been completed.

(4) Any child placed pursuant to this subdivision shall be afforded all the rights set forth in Section 16001.9.

(5) This section shall not limit the county's authority to inspect the home of a resource family applicant as often as necessary to ensure the quality of care provided.

(6) This subdivision does not limit the county's obligation under law to assess and give placement consideration to relatives and nonrelative extended family members and to place a child pursuant to Section 309, 361.3, 361.45, 706.6, or 727.1.

(f) The State Department of Social Services shall be responsible for all of the following:

(1) (A) Until regulations are adopted, administering the program through the issuance of written directives that shall have the same force and effect as regulations. Any directive affecting Article 1 (commencing with Section 700) of Chapter 7 of Division 1 of Title 11 of the California Code of Regulations shall be approved by the Department of Justice. The directives shall be exempt from 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.

(B) Adopting, amending, or repealing, in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, any reasonable rules, regulations, and standards that may be necessary or proper to carry out the purposes and intent of this article and to enable the department to exercise the powers and perform the duties conferred upon it by this section, consistent with the laws of this state.

(2) Approving and requiring the use of a single standard for resource family approval.

(3) Adopting and requiring the use of standardized documentation for the home environment and permanency assessments of resource families. The department shall permit counties to maintain documentation relating to the resource family approval process in an electronic format.

(4) Adopting core competencies for county staff to participate in the assessment and evaluation of an applicant or resource family.

(5) Requiring counties to monitor county-approved resource families, including, but not limited to, both of the following:

(A) Investigating complaints regarding resource families.

(B) Developing and monitoring resource family corrective action plans to correct identified deficiencies and to rescind resource family approval if compliance with corrective action plans is not achieved.

(6) Ongoing oversight and monitoring of county systems and operations including all of the following:

(A) Reviewing the county's implementation plan and implementation of the program.

(B) Reviewing an adequate number of county-approved resource families in each county to ensure that approval standards are being properly applied. The review shall include case file documentation and may include onsite inspection of individual resource families. The review shall occur on a biennial basis and more frequently if the department becomes aware that a county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against counties.

(E) Requiring corrective action of counties that are not in full compliance with this section.

(7) Excluding a resource family parent, applicant, or other individual from presence in any resource family home, consistent with the established standard for any of the reasons specified in Section 16519.61.

(8) Implementing due process procedures, including, but not limited to, all of the following:

(A) Providing a statewide fair hearing process for application denials, rescissions of approval, exclusion actions, or criminal record exemption denials or rescissions by a county or the department.

(B) Providing an excluded individual with due process pursuant to Section 16519.6.

(C) Amending the department's applicable state hearing procedures and regulations or using the Administrative Procedure Act, when applicable, as necessary for the administration of the program.

(g) Counties shall be responsible for all of the following:

(1) Submitting an implementation plan and consulting with the county probation department in the development of the implementation plan.

(2) Complying with the written directives or regulations adopted pursuant to this section.

(3) Implementing the requirements for resource family approval and utilizing standardized documentation established by the department. A county may maintain documentation relating to the resource family approval process in an electronic format.

(4) Training appropriate staff, including ensuring staff have the education and experience or core competencies necessary to participate in the assessment and evaluation of an applicant or resource family.

(5) (A) Taking the following actions, as applicable, for any of the reasons specified in Section 16519.61:

(i) (I) Approving or denying resource family applications, including preparing a written report that evaluates an applicant's capacity to foster, adopt, and provide legal guardianship of a child based on all of the information gathered through the resource family application and assessment processes.

(II) The applicant's preference to provide a specific level of permanency, including adoption, guardianship, or, in the case of a relative, placement with a fit and willing relative, shall not be a basis to deny an application.

(ii) Rescinding approvals of resource families.

(iii) When applicable, referring a case to the department for an action to exclude a resource family parent, applicant, or other individual from presence in any resource family home, consistent with the established standard.

(iv) Issuing a temporary suspension order that suspends the resource family approval prior to a hearing when, in the opinion of the county, urgent action is needed to protect a child from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The county shall serve the resource family with the temporary suspension order and a copy of available discovery in the possession of the county, including, but not limited to, affidavits, declarations, names of witnesses, and other evidence upon which the county relied in issuing the temporary suspension order. The temporary suspension order shall be served upon the resource family with a notice of action, and if the matter is to be heard before the Office of Administrative Hearings, an accusation. The temporary suspension order shall list the effective date on the order.

(v) Granting, denying, or rescinding criminal record exemptions.

(B) Providing a resource family parent, applicant, or individual who is the subject of a criminal record exemption denial or rescission with due process pursuant to Section 16519.6.

(C) Notifying the department of any decisions denying an application for resource family approval, rescinding the approval of a resource family, or denying or rescinding a criminal record exemption and, if applicable, notifying the department of the results of an administrative action.

(6) (A) Updating resource family approval biennially and as necessary to address any changes that have occurred in the resource family's circumstances, including, but not limited to, moving to a new home location or commencing operation of a family daycare home, as defined in Section 1596.78 of the Health and Safety Code.

(B) A county shall conduct an announced inspection of a resource family home during the biennial update, and as necessary to address any changes specified in subparagraph (A), in order to ensure that the resource family is conforming to all applicable laws and the written directives or regulations adopted pursuant to this section.

(7) Monitoring resource families through all of the following:

(A) Ensuring that social workers who identify a condition in the home that may not meet the approval standards set forth in subdivision (d) while in the course of a routine visit to children placed with a resource family take appropriate action as needed.

(B) Requiring resource families to meet the approval standards set forth in this section and to comply with the written directives or regulations adopted pursuant to this section, other applicable laws, and corrective action plans as necessary to correct identified deficiencies. If corrective action is not completed, as specified in the plan, the county may rescind the resource family approval.

(C) Requiring resource families to report any incidents consistent with the reporting requirements pursuant to the written directives or regulations adopted pursuant to this section.

(D) Inspecting resource family homes as often as necessary to ensure the quality of care provided.

(8) (A) Investigating all complaints against a resource family and taking action as necessary, including, but not limited to, investigating any incidents reported about a resource family indicating that the approval standard is not being maintained and inspecting the resource family home.

(B) The child's social worker shall not conduct the investigation into the complaint received concerning a family providing services pursuant to the standards required by subdivision (d). To the extent that adequate resources are available, complaints shall be investigated by a worker who did not conduct the home environment assessment or family evaluation or prepare the written report determining approval of the resource family.

(C) Upon conclusion of the complaint investigation, the final disposition shall be reviewed and approved by a supervising staff member.

(D) The department shall be notified of any serious incidents or serious complaints or any incident that falls within the definition of Section 11165.5 of the Penal Code. If those incidents or complaints result in an investigation, the department shall also be notified as to the status and disposition of that investigation.

(9) Performing corrective action as required by the department.

(10) Assessing county performance in related areas of the California Child and Family Services Review System, and remedying problems identified.

(11) Submitting information and data that the department determines is necessary to study, monitor, and prepare the update specified in paragraph (7) of subdivision (f).

(12) Ensuring resource family applicants and resource families have the necessary knowledge, skills, and abilities to support

children in foster care by completing caregiver training. The training should include a curriculum that supports the role of a resource family in parenting vulnerable children and should be ongoing in order to provide resource families with information on trauma-informed practices and requirements and other topics within the foster care system.

(13) Ensuring that a resource family applicant completes a minimum of 12 hours of preapproval caregiver training. The training shall include, but not be limited to, all of the following courses:

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

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

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

(D) Health issues in foster care.

(E) Accessing services and supports to address education needs, physical, mental, and behavioral health, and substance use disorders, including culturally relevant services.

(F) The rights of a child in foster care and the resource family's responsibility to safeguard those rights, including the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(G) Cultural needs of children, including instruction on cultural competency and sensitivity, and related best practices for providing adequate care for children or youth across diverse ethnic and racial backgrounds, as well as children or youth identifying as lesbian, gay, bisexual, or transgender.

(H) Basic instruction on existing laws and procedures regarding the safety of foster youth at school.

(I) Permanence, well-being, and education needs of children.

(J) Child and adolescent development, including sexual orientation, gender identity, and expression.

(K) The role of resource families, including working cooperatively with the child welfare or probation agency, the

child's family, and other service providers implementing the case plan.

(L) The role of a resource family on the child and family team as defined in paragraph (4) of subdivision (a) of Section 16501.

(M) A resource family's responsibility to act as a reasonable and prudent parent, as described in subdivision (c) of Section 1522.44 of the Health and Safety Code, and to provide a family setting that promotes normal childhood experiences and that serves the needs of the child.

(N) An overview of the specialized training identified in subdivision (h).

(O) The information described in subdivision (i) of Section 16521.5. The program may use the curriculum created pursuant to subdivision (h), and described in subdivision (i), of Section 16521.5.

(P) Information on providing care and supervision to children who have been commercially sexually exploited. For purposes of this subparagraph, "information" may include, but not be limited to, informational pamphlets addressing the identification of victims of commercial sexual exploitation and the provision of existing resources, such as crisis hotline numbers, survivor and caregiver supports, and contact information for law enforcement entities.

(14) Ensuring resource families complete a minimum of eight hours of caregiver training annually, a portion of which shall be from subparagraph (M) of paragraph (13) and from one or more of the other topics listed in paragraph (13).

(15) (A) Ensuring that resource families that care for children who are 10 years of age or older attend, within 12 months of approval as a resource family, a training on understanding how to use best practices for providing care and supervision to children who have been commercially sexually exploited. This training shall be survivor informed, culturally relevant and appropriate, and address issues relating to stigma. The training required by this subparagraph shall address all of the following topics:

(i) Recognizing indicators of commercial sexual exploitation.

(ii) Harm reduction.

(iii) Trauma-informed care.

(iv) Available county and state resources.

(v) Perspectives of individuals or families who have experiences with commercial sexual exploitation.

(B) The information provided in subparagraph (P) of paragraph (13) shall also be provided during the training described in this paragraph.

(C) After completing the training required by subparagraph (A), a resource family shall not be required to attend training relating to children who have been commercially sexually exploited, except as required pursuant to subdivision (h).

(D) Nothing in this section prevents an entity from providing the training specified in this paragraph in person, virtually, by recorded means, or by any other available means.

(h) In addition to any training required by this section, a county may require a resource family or applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care. This training may include, but is not limited to, the following:

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

(2) Understanding how to use best practices for providing care and supervision to lesbian, gay, bisexual, and transgender children.

(3) Understanding the requirements and best practices regarding psychotropic medications, including, but not limited to, court authorization, benefits, uses, side effects, interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications.

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

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

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

(7) Understanding the different permanency options and the services and benefits associated with the options.

(i) This section shall not preclude a county from requiring training in excess of the requirements in this section.

(j) (1) Resource families who move home locations shall retain their resource family status pending the outcome of the update conducted pursuant to paragraph (6) of subdivision (g).

(2) (A) If a resource family moves from one county to another county, the department, or the county to which a resource family has moved, shall submit a written request to the Department of Justice to transfer the individual's subsequent arrest notification, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

(B) A request to transfer a subsequent arrest notification shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department 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 family homes licensed prior to January 1, 2017, or as specified in subparagraph (C), until the license is revoked or forfeited by operation of law pursuant to Section 1517.1 of the Health and Safety Code.

(B) (i) On and after January 1, 2017, a county shall approve resource families in lieu of approving relative and nonrelative extended family members.

(ii) Notwithstanding clause (i), the existing approval and oversight processes shall continue to be administered for relatives and nonrelative extended family members approved prior to January 1, 2017, or as specified in subparagraph (C), until the approval is revoked or forfeited by operation of law pursuant to this section.

(C) Notwithstanding subparagraph (D), a county shall approve or deny all applications for foster family home licenses and requests for relative or nonrelative extended family member approvals received on or before December 31, 2016, in accordance with Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code or provisions providing for the approval of relatives or nonrelative extended family members, as applicable.

(D) On and after January 1, 2017, a county shall not accept applications for foster family home licenses or requests to approve relatives or nonrelative extended family members.

(3) No later than July 1, 2019, each county shall provide the following information to all licensed foster family homes and

approved relatives and nonrelative extended family members licensed or approved by the county:

(A) A detailed description of the resource family approval program.

(B) Notification that, in order to care for a foster child, resource family approval is required by December 31, 2020.

(C) Notification that a foster family home license and an approval of a relative or nonrelative extended family member shall be forfeited by operation of law, as specified in paragraph (8).

(4) The following shall apply to all licensed foster family homes and approved relative and nonrelative extended family members:

(A) A licensed foster family home or an approved relative or nonrelative extended family member with an approved adoptive home study completed prior to January 1, 2018, shall be deemed to be a resource family.

(B) A licensed foster family home or an approved relative or nonrelative extended family member who had a child in placement at any time between January 1, 2017, and December 31, 2017, inclusive, may be approved as a resource family on the date of successful completion of a family evaluation.

(C) A licensed foster family home that provided county-authorized respite services at any time between January 1, 2017, and December 31, 2017, inclusive, may be approved as a resource family on the date of successful completion of a family evaluation.

(5) A county may provide supportive services to all licensed foster family homes, relatives, and nonrelative extended family members with a child in placement to assist with the resource family transition and to minimize placement disruptions.

(6) (A) In order to approve a licensed foster family home or approved relative or nonrelative extended family member as a resource family pursuant to paragraph (4), a county shall submit a written request to the Department of Justice to transfer any subsequent arrest and Child Abuse Central Index notifications, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

(B) A request to transfer a subsequent arrest notification shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(7) An individual who is a member of a resource family approved pursuant to subparagraph (B) or (C) of paragraph (4) shall be fingerprinted pursuant to Section 8712 of the Family Code upon filing an application for adoption.

(8) All foster family licenses and approvals of relatives and nonrelative extended family members shall be forfeited by operation of law on December 31, 2020, except as provided in this paragraph or Section 1524 of the Health and Safety Code:

(A) All licensed foster family homes that did not have a child in placement or did not provide county-authorized respite services at any time between January 1, 2017, and December 31, 2017, inclusive, shall forfeit the license by operation of law on January 1, 2018.

(B) For foster family home licensees and approved relatives or nonrelative extended family members who have a pending resource family application on December 31, 2020, the foster family home license or relative and nonrelative extended family member approval shall be forfeited by operation of law upon approval as a resource family. If approval is denied, forfeiture by operation of law shall occur on the date of completion of any proceedings required by law to ensure due process.

(C) A foster family home license shall be forfeited by operation of law, pursuant to Section 1517.1 of the Health and Safety Code, upon approval as a resource family.

(D) Approval as a relative or nonrelative extended family member shall be forfeited by operation of law upon approval as a resource family.

(q) On and after January 1, 2017, all licensed foster family agencies shall approve resource families in lieu of certifying foster homes, as set forth in Section 1517 of the Health and Safety Code.

(r) The department may establish participation conditions, and select and authorize foster family agencies that voluntarily submit implementation plans and revised plans of operation in accordance with requirements established by the department, to approve resource families in lieu of certifying foster homes.

(1) Notwithstanding any other law, a participating foster family agency shall require resource families to meet and maintain the resource family approval standards and requirements set forth in this chapter and in the written directives adopted consistent with the chapter prior to approval and in order to maintain approval.

(2) A participating foster family agency shall implement the resource family approval program pursuant to Section 1517 of the Health and Safety Code.

(3) This section does not limit the authority of the department to inspect, evaluate, or investigate a complaint or incident, or initiate a disciplinary action against a foster family agency pursuant to Article 5 (commencing with Section 1550) of Chapter 3 of Division 2 of the Health and Safety Code, or to take any action it may deem necessary for the health and safety of children placed with the foster family agency.

(4) The department may adjust the foster family agency AFDC-FC rate pursuant to Section 11463 for implementation of this subdivision.

(5) This subdivision is inoperative on January 1, 2017.

(s) The department or a county is authorized to obtain any arrest or conviction records or reports from any court or law enforcement agency as necessary to the performance of its duties, as provided in this section or subdivision (e) of Section 1522 of the Health and Safety Code.

(t) A resource family approved pursuant to this section shall forfeit its approval concurrent with resource family approval by a foster family agency.

(u) This section shall become operative on January 1, 2021.

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