

Senate Bill No. 354

Passed the Senate September 10, 2021

Secretary of the Senate

Passed the Assembly September 10, 2021

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1522, 1568.09, 1569.17, and 1596.871, and to add and repeal Section 1521.7 of, the Health and Safety Code, and to amend Sections 309, 319, 361.2, 361.4, 727.05, 11461.3, 11461.36, and 16519.5 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, Skinner. Public social services.

Existing law authorizes, in certain circumstances, a child who has been removed from their parent or guardian to be placed with a relative or nonrelative extended family member if the relative or nonrelative extended family member is either an approved resource family or has been assessed by a county social worker or a county probation agency and, among other things, the relative or nonrelative extended family member has not been convicted of a crime for which a criminal record exemption cannot be granted, has been granted a criminal record exemption, or, in certain circumstances, a criminal record exemption is pending.

This bill would, notwithstanding those provisions, authorize the court to order placement with a relative, regardless of the status of any criminal exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child. The bill would require the county welfare department, if the sole issue preventing an emergency placement of a child with a relative or nonrelative extended family member is a lack of resources, to use reasonable efforts to assist the relative or nonrelative extended family member in obtaining the necessary items. By imposing new duties of county welfare departments, this bill would impose a state-mandated local program.

Existing law establishes the Approved Relative Caregiver Funding Program (ARC) for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them who are ineligible for Aid to Families with Dependent Children-Foster Care program (AFDC-FC) payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments. Existing law also provides financial support to

emergency caregivers with a pending resource family approval application who have a child placed in their home who is ineligible for AFDC-FC payments. Existing law requires a county to pay an approved relative caregiver or an emergency caregiver a per child per month rate that is equal to the basic rate paid to foster care providers and that is funded, in part, through the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

This bill would expand eligibility for ARC to include relatives with whom a child is authorized to be placed by the court, as described above, when the placement is ineligible for emergency caregiver financial support or AFDC-FC payments due to the denial of resource family approval. The bill would also expand eligibility for emergency caregiver financial support to include emergency caregivers who had a child placed with them pursuant to additional provisions of law. By expanding county duties relative to these funding programs, this bill would impose a state-mandated local program.

Existing law subjects foster care provider applicants, resource family applicants, and certain other adults in those homes, to a criminal records check and requires the applicant or other adult in the applicant's home to obtain a criminal record clearance or criminal record exemption prior to licensure or approval. Existing law prohibits the State Department of Social Services or other approving entity from granting a criminal record exemption to an applicant or other adult in the applicant's home who has been convicted of certain felonies. With regard to an applicant or other adult in the applicant's home who has been convicted of a crime other than those for which an exemption cannot be granted, existing law either authorizes or requires, depending on the crime for which an applicant or other adult in the applicant's home has been convicted, the department or other approving entity to grant an exemption if, among other things, the applicant or other adult in the applicant's home is of present good character, as specified.

This bill would instead limit the convictions for which an exemption cannot be granted to those that occurred within the last 10 years. The bill would authorize the State Department of Social Services or other approving entity, for the purpose of the resource family approval process described below, to grant an exemption from disqualification for the conviction of a felony for which a criminal record exemption cannot be granted if the applicant is

seeking placement of a specific relative child or children, the applicant or other adult living in the home is of present good character necessary to justify granting the exemption, and the applicant or other adult living in the home has not been convicted of certain felonies within the last 5 years. The bill would specify that a criminal record exemption granted pursuant to this provision is not transferrable to another community care facility. This bill would also expand the types of convictions for which the department or other approving entity is required to grant an exemption and revise the standards used to determine if a permissive exemption should be granted. The bill would require the department to submit a report to the Legislature, by July 1, 2024, regarding certain data relating to criminal record exemptions for resource family applicants who have applied for resource family approval, or tribally approved homes who applied for approval, to care for a relative child. The bill would require foster family agencies to submit that data to the department. Because the failure of a foster family agency to comply with this requirement would be a crime, this bill would expand the scope of a crime, thereby imposing a state-mandated local program.

Existing law generally does not require a criminal record exemption for foster care provider applicants, resource family applicants, and certain other individuals in those homes, or for applicants for licensure or a special permit to operate certain community care facilities and other individuals associated with those community care facilities, if an individual only has a conviction for a minor traffic violation.

This bill would instead specify that a criminal record exemption is not required if those individuals only have a conviction for an infraction.

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, among other things, requires a resource family to demonstrate the financial ability within the household to ensure the stability and financial security of the family.

This bill would authorize that requirement to be waived for relative and nonrelative extended family member resource families on a case-by-case basis and would specify that, for the purposes of that requirement, there is not a minimum income requirement.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would provide that the continuous appropriation would not be made for purposes of implementing the bill.

This bill would incorporate additional changes to Section 16519.5 of the Welfare and Institutions Code proposed by AB 366 and SB 584 to be operative only if this bill and AB 366, this bill and SB 584, or all 3 bills are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

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

SECTION 1. Section 1521.7 is added to the Health and Safety Code, to read:

1521.7. (a) (1) The State Department of Social Services shall submit a report to the Legislature by July 1, 2024, that includes all of the following data, which shall be collected beginning no later than January 1, 2023:

(A) The number of resource family applicants who applied for resource family approval, or tribally approved homes who applied for approval, to care for a relative child and who were denied a criminal record exemption for a crime not listed in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522.

(B) The number of resource family applicants who applied for resource family approval, or tribally approved homes who applied for approval, to care for a relative child and who were ineligible for a criminal record exemption pursuant to subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522.

(C) The total number of administrative appeals filed by resource family applicants or tribally approved home applicants described

in subparagraph (A) or (B) in response to the denial of a criminal record exemption or a determination of ineligibility for a criminal record exemption and the number of those administrative appeals in which the denial or determination of the department or other approving entity was upheld.

(D) The number of resource family applicants who applied for resource family approval, or tribally approved homes who applied for approval, to care for a relative child and who were granted a criminal record exemption pursuant to paragraph (2) of subdivision (d) of Section 16519.5 of the Welfare and Institutions Code.

(2) (A) The department shall stratify the data required pursuant to paragraph (1) by a variety of demographic characteristics, including, at a minimum, by race and income level.

(B) The department shall also stratify the data required pursuant to subparagraph (C) of paragraph (1) by county.

(b) Foster family agencies shall report to the department the information specified in subdivision (a) for each resource family applicant, as applicable, as determined by the department in written directives or regulations adopted pursuant to Section 16519.5 of the Welfare and Institutions Code.

(c) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, certified family home or resource family of a licensed foster family agency, or a tribally approved home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the

intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before the individual's initial presence in a community care facility or certified family home.

(a) (1) Before and, as applicable, subsequent to issuing a license or special permit to a person to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has been convicted of a crime other than an infraction or arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than an infraction, the application shall be denied, unless the department grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than an infraction the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds, after licensure, that the licensee, or any other person specified in paragraph (1) of subdivision (b), has been convicted of a crime

other than an infraction, the license may be revoked, unless the department grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that the person has never been convicted of a crime in the United States, other than an infraction. If, after licensure, or the issuance of a certificate of approval of a certified family home by a foster family agency, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the department may revoke the license, or require a foster family agency to revoke the certificate of approval, pursuant to Section 1550. The department may also suspend the license or require a foster family agency to suspend the certificate of approval pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of the individual's exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other law, the department is authorized to provide an individual with a copy of the individual's state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be

sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in the individual's written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b) (1) In addition to the applicant, this section shall be applicable to criminal record clearances and exemptions for the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any adult, other than a client, residing in the facility, certified family home, resource family home, or tribally approved home.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of their current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility or in a certified family home or resource family home of a foster family agency. This paragraph does not restrict the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility or certified family home or resource family home of a foster family agency pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) Any adult who works in a community care facility that is eligible to accept placement of a dependent child.

(F) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional, as defined in department regulations, who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility, certified family home, or resource family home and are in the facility, certified family home, or resource family home at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility, certified family home, resource family home, or tribally approved home or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility, certified family home, or resource family home premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, resource family homes, certified family homes, tribally approved homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the foster parent, who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the foster parent are not left alone with the foster children. However, the foster parent, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friend when the foster child is visiting the friend's home and the friend, foster parent, or both are also present. However, the foster parent, acting as a reasonable and prudent parent, may allow the parent of the foster child's friend to act as an appropriate, occasional short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by a foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in

selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following apply:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) This subdivision does not prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State

Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or comply with paragraph (1) of subdivision (h). These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images.

Documentation of the individual's clearance or exemption from disqualification shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in subdivision (b) who are exempt from fingerprinting, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted. If it is determined by the State Department of Social Services, 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 pursuant to subdivision (g), 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 State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption from disqualification pursuant to subdivision (g). If the conviction or arrest was for another crime, except an infraction, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment,

remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption from disqualification pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption from disqualification is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day and shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption from disqualification on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption from disqualification pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of the right to seek an exemption from disqualification pursuant to subdivision (g). The individual may seek an exemption from disqualification only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before and, as applicable, subsequent to issuing a license or certificate of approval to any person or persons to operate a foster family home, certified family home as described in Section 1506, or resource family pursuant to Section 1517 of this code or Section 16519.5 of the Welfare and Institutions Code, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than an infraction or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1,

1994, paragraph (2) of Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g). The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home, certified family home, or resource family applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) who are not exempt from fingerprinting have convictions that would make the applicant's home unfit as a foster family home, a certified family home, or resource family, the license, special permit, certificate of approval, or presence shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) who is not exempt from fingerprinting is awaiting trial for a crime other than an infraction, the State Department of Social Services or other approving authority may cease processing the criminal record information until the conclusion of the trial.

(C) For purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving authority.

(D) To the same extent required for federal funding, a person specified in subdivision (b) who is not exempt from fingerprinting shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the criminal records search required by subdivision (a).

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under

penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse, or any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) Subsequent to initial licensure, certification, or approval, a person specified in subdivision (b) who is not exempt from fingerprinting shall obtain both a California and Federal Bureau of Investigation criminal record clearance, or an exemption from disqualification pursuant to subdivision (g), prior to employment, residence, or initial presence in the foster family home, certified family home, or resource family home. A foster family home licensee or foster family agency shall submit fingerprint images and related information of persons specified in subdivision (b) who are not exempt from fingerprinting to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (h). A foster family home licensee's or a foster family agency's failure to either prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g), or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family home licensee or the foster family

agency pursuant to Section 1550. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services or other approving authority finds that the applicant, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than an infraction, the application or presence shall be denied, unless the department grants an exemption from disqualification pursuant to subdivision (g).

(8) If the State Department of Social Services or other approving authority finds, after licensure or the granting of the certificate of approval, that the licensee, certified foster parent, resource family, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than an infraction, the license or certificate of approval may be revoked or rescinded by the department or the foster family agency, whichever is applicable, unless the department grants an exemption from disqualification pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, rescind, or terminate any application, license, certificate of approval, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct

by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a, of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g), prior to the completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) Except as otherwise provided in this subdivision with respect to a foster care provider applicant, including a relative caregiver, nonrelative extended family member, or resource family, after review of the record, the department may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the department has substantial and convincing evidence to support a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is rehabilitated and is presently of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the department may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(C) (i) Notwithstanding clause (ii) of subparagraph (A), an exemption shall not be granted pursuant to this subdivision to any applicant for licensure of a community care facility eligible to accept placement of a dependent child if either that applicant or any other person specified in subdivision (b) who is associated with the facility has a felony conviction for either of the following offenses:

(I) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subclause, a crime involving violence means a violent crime specified in clause (i) of subparagraph (A) or subparagraph (B).

(II) A felony conviction for physical assault, battery, or a drug- or alcohol-related offense that occurred within the last five years.

(ii) This subparagraph shall be operative to the extent that compliance with these provisions is required by federal law as a condition for receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(2) (A) For a foster care provider applicant, a resource family applicant, a tribally approved home applicant, or a prospective respite care provider, as described in Section 16501.01 of the Welfare and Institutions Code, except as specified in clause (iv), an exemption shall not be granted if that applicant, or any individual subject to the background check requirements of this section pursuant to foster care provider applicant, resource family approval, tribally approved home, or respite care provider standards, has a conviction within the past 10 years for any of the following offenses:

(i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(iii) Except as specified in clause (iv), an exemption shall not be granted pursuant to this subdivision to any foster care provider applicant, including a tribally approved home applicant, if that applicant, or any other person specified in subdivision (b) in those homes, has a felony conviction for either of the following offenses:

(I) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subparagraph, a crime involving violence means a violent crime specified in clause (i) of subparagraph (A), or clause (ii) of this subparagraph.

(II) A felony conviction, within the last five years, for physical assault, battery, or a drug- or alcohol-related offense.

(III) This clause shall not apply to licenses or approvals wherein a caregiver was granted an exemption to a criminal conviction described in clause (i) prior to the enactment of this clause.

(IV) This clause shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition for receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(iv) For the sole purpose of approving a home pursuant to subparagraph (B) of paragraph (4) of subdivision (c) of Section 16519.5 of the Welfare and Institutions Code, the department or other approving entity may grant an exemption for a relative or any other adult living in the home, who has been convicted of an offense described in this subparagraph if the applicant is seeking placement of a specific child or children with whom the applicant is related, the applicant or other adult living in the home is of present good character necessary to justify granting the exemption pursuant to the factors described in subparagraph (C), and the applicant or other adult living in the home does not have a felony conviction within the last five years for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any other crime against a child, including child pornography. An exemption granted pursuant to this clause shall only be valid for purposes of the relative's child-specific resource family approval and shall not be transferrable to any other setting pursuant to subdivision (h).

(B) The department or other approving entity may grant an exemption from disqualification to a foster care provider, resource

family applicant, tribally approved home applicant, or any individual subject to the background check requirements of this section pursuant to foster care provider applicant, resource family approval, tribally approved home, or respite care provider standards, if the department or other approving entity has substantial and convincing evidence to support a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption and the conviction is for one of the following offenses:

(i) (I) Any misdemeanor conviction within the last three years that is not otherwise prohibited by subparagraph (A).

(II) Notwithstanding subparagraph (A), a misdemeanor conviction for statutory rape, as defined in Section 261.5 of the Penal Code, a misdemeanor conviction for indecent exposure, as defined in Section 314 of the Penal Code, or a misdemeanor conviction for financial abuse against an elder, as defined in Section 368 of the Penal Code, shall be eligible for the consideration of an exemption as set forth in subparagraph (C).

(ii) Any felony conviction within the last five years that is not otherwise prohibited by subparagraph (A).

(C) When granting an exemption for a crime listed in subparagraph (B), the department or other approving entity shall consider all reasonably available information, including, but not limited to, the following:

(i) The nature of the crime or crimes.

(ii) The period of time since the crime was committed.

(iii) Any longstanding pattern of criminal conduct.

(iv) Circumstances surrounding the commission of the crime indicating the likelihood of future criminal activity.

(v) Activities since conviction, including employment, participation in therapy, education, or treatment.

(vi) Whether the person convicted has successfully completed probation or parole, obtained a certificate of rehabilitation, or been granted a pardon by the Governor.

(vii) Any character references or other evidence submitted by the applicant.

(viii) Whether the person convicted demonstrated honesty and truthfulness concerning the crime or crimes during the application and approval process.

(D) (i) The department or other approving entity shall grant an exemption from disqualification to a foster care provider applicant, resource family applicant, tribally approved home applicant, or any person subject to the background check requirements of this section pursuant to foster care provider applicant, resource family approval, tribally approved home, or respite care provider standards, who has been convicted of an offense not listed in subparagraph (A) or (B), if the individual's state and federal criminal history information received from the Department of Justice independently supports a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption.

(ii) Notwithstanding the fact that an individual meets the criteria described in clause (i), the department or other approving entity, at its discretion, as necessary to protect the health and safety of a child, may evaluate a person described in clause (i), for purposes of making an exemption decision, pursuant to the criteria described in subparagraphs (B) and (C).

(E) This paragraph shall not apply to licenses or approvals for which a caregiver was granted an exemption for a criminal conviction prior to January 1, 2018.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility, certified family home, or resource family home on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558 of this code or Section 16519.6 of the Welfare and Institutions Code, as applicable.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a

California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of three years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) A criminal record clearance or exemption processed by the department, a county office with clearance and exemption authority pursuant to Section 16519.5 of the Welfare and Institutions Code, or a county office with department-delegated licensing authority shall be accepted by the department or county upon notification of transfer.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code and Section 1522.1 concerning an individual whose criminal record clearance was originally processed by the department, a county office with clearance and exemption authority pursuant to Section 16519.5 of the Welfare and Institutions Code, or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department, a county office with department-delegated licensing authority, or a county child welfare agency with criminal record clearance and exemption authority, a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) The State Department of Social Services may charge a reasonable fee for the costs of processing electronic fingerprint images and related information.

SEC. 3. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the electronic fingerprint images of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

It is the intent of the Legislature, in enacting this section, to require the electronic fingerprint images of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before the individual's initial presence in a residential care facility for persons with a chronic, life-threatening illness.

(a) (1) Before and, as applicable, subsequent to issuing a license to a person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than an infraction or arrested for

any crime specified in subdivision (c) of Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or another person specified in subdivision (b), has been convicted of a crime, other than an infraction, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or another person specified in subdivision (b), is awaiting trial for a crime other than an infraction, the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than an infraction, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by this subdivision. If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that they have never been convicted of a crime in the United States, other than an infraction.

If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to subdivision (a) of Section 1568.082. The department may also suspend the license pending an administrative hearing pursuant to subdivision (b) of Section 1568.082.

(b) In addition to the applicant, this section shall be applicable to criminal record clearances and exemptions for the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) A person, other than a resident, residing in the facility.

(3) A person who provides resident assistance in dressing, grooming, bathing, or personal hygiene. A nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of their current certification, prior to providing care, to the residential care facility for persons with a chronic, life-threatening illness. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. This paragraph does not restrict the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for persons with a chronic, life-threatening illness pursuant to Section 1568.092.

(4) (A) A staff person, volunteer, or employee who has contact with the residents.

(B) A volunteer shall be exempt from the requirements of this subdivision if the volunteer is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer does not provide direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, close friend, or family member and provides direct care and supervision to that resident only at the request of the resident. The department

may define in regulations persons similar to those described in this subparagraph who may be exempt from the requirements of this subdivision.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) (1) (A) Subsequent to initial licensure, a person specified in subdivision (b) and not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification, pursuant to subdivision (f), from the State Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g), prior to the person's employment, residence, or initial presence in the residential care facility.

(B) These fingerprint images and related information shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and the Department of Justice, for the purpose of obtaining a permanent set of fingerprints. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30

days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082. The State Department of Social Services may assess civil penalties for continued violations as allowed in Section 1568.0822. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. The licensee shall maintain and make available for inspection documentation of the individual's clearance or exemption.

(2) A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082. The department may assess civil penalties for continued violations as permitted by Section 1568.0822.

(3) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible. The Department of Justice shall notify the department, as required by Section 1522.04, and shall notify the licensee by mail within 14 days of electronic transmission of the fingerprint images to the Department of Justice, if the person has no criminal history record.

(4) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a

felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except an infraction, the licensee shall, upon notification by the department, act immediately to either (A) terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (B) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1568.082.

(5) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(6) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of the right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that the

department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw their plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a, of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain arrest or conviction records or reports from a law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with Section 1568.092.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles,

or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) (1) The Department of Justice shall charge a fee sufficient to cover its cost in providing services to comply with the 14-day requirement contained in subdivision (c) for provision to the department of criminal record information.

(2) Paragraph (1) shall cease to be implemented when the department adopts emergency regulations pursuant to Section 1522.04, and shall become inoperative when permanent regulations are adopted under that section.

(j) Notwithstanding any other law, the department may provide an individual with a copy of their state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 4. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a residential care facility for the elderly. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before their initial presence in a residential care facility for the elderly.

(a) (1) Before and, as applicable, subsequent to issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than an infraction or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than an infraction, the application or presence shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than an infraction, the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than an infraction, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that they have never been convicted of a crime in the United States, other than an infraction. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal record clearances and exemptions for the following persons:

(1) (A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or

after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of their current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in a similar capacity.

(F) Additional officers of the governing body of the applicant or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of a client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by a client and at the facility at the request or by permission of that client. These individuals shall not be left alone with other clients.

(E) Licensed or certified medical professionals are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident's legal decisionmaker are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(c) (1) (A) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption, pursuant to subdivision (f), from the State Department of Social Services prior to employment, residence, or initial presence in a facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and

federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (g) prior to the person's employment, residence, or initial presence in the residential care facility for the elderly.

(B) These fingerprint images and related information shall be electronically transmitted in a manner approved by the State Department of Social Services and the Department of Justice. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50. The State Department of Social Services may assess civil penalties for continued violations as permitted by Section 1569.49. The licensee shall then submit these fingerprint images to the State Department of Social Services for processing. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. The Department of Justice shall notify the department, as required by Section 1522.04, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50. The department may assess civil penalties for continued violations as permitted by Section 1569.49.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided

for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprint images were illegible.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If the State Department of Social Services determines, on the basis of the fingerprint images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of the receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except an infraction, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of

one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(4) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of the right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting a person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice or documents admissible in a criminal action pursuant to Section 969b of the Penal Code shall be prima facie evidence of the conviction, notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a record exemption pursuant to subdivision (f), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994,

paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The director shall notify in writing the licensee or the applicant of their decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the director for the rendering of a decision pursuant to this subdivision.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1569.58.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be submitted in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred under this section.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the department that the employee has

a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) Notwithstanding any other law, the department may provide an individual with a copy of their state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 5. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a childcare center or family childcare home. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before the individual's initial presence in a child day care facility.

(a) (1) Before and, as applicable, subsequent to issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than an infraction or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of

Section 273a, of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f).

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than an infraction, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than an infraction, the State Department of Social Services may cease processing the criminal record information until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than an infraction, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that the person has never been convicted of a crime in the United States, other than an infraction. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department

may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

(b) (1) In addition to the applicant, this section shall be applicable to criminal record clearances and exemptions for the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a child, residing in the facility.

(C) Any person who provides care and supervision to the children.

(D) Any staff person, volunteer, or employee who has contact with the children.

(i) A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.

(ii) A student enrolled or participating at an accredited educational institution shall be exempt from the requirements of this subdivision if the student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the facility has an agreement with the educational institution concerning the placement of the student, the student spends no more than 16 hours per week at the facility, and the student is not left alone with children in care.

(iii) A volunteer who is a relative, legal guardian, or foster parent of a client in the facility shall be exempt from the requirements of this subdivision.

(iv) A contracted repair person retained by the facility, if not left alone with children in care, shall be exempt from the requirements of this subdivision.

(v) Any person similar to those described in this subdivision, as defined by the department in regulations.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(F) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(H) This section does not apply to employees of childcare and development programs under contract with the State Department of Education who have completed a criminal record clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of childcare and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a childcare and development program under contract with the State Department of Education.

(I) This section does not apply to employees of a childcare and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal record clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(2) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

(c) (1) (A) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempt from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification, pursuant to subdivision (f), from the State Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision

(b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, or comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) These fingerprint images and related information shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints. A licensee's failure to submit fingerprint images and related information to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886. The State Department of Social Services may assess civil penalties for repeated or continued violations permitted by Sections 1596.99 and 1597.58. The fingerprint images and related information shall then be submitted to the department for processing. Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined

in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886. The department may assess civil penalties for repeated or continued violations, as permitted by Sections 1596.99 and 1597.58.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except an infraction, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred

dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(3) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(4) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of the right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction,

notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (f), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) or (b) of Section 451 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprint images.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice, only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department or a county office with department-delegated licensing authority a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) Notwithstanding any other law, the department may provide an individual with a copy of the individual's state or federal level criminal offender record information search response as provided

to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in the individual's written request. The department shall retain a copy of the individual's written request and the response and date provided.

(j) The State Department of Social Services may charge a reasonable fee for the costs of processing electronic fingerprint images and related information.

SEC. 6. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the social worker of a child who has been taken into temporary custody under this article, the social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent, guardian, Indian custodian, or relative, regardless of the parent's, guardian's, Indian custodian's, or relative's immigration status, unless one or more of the following conditions exist:

(1) The child has no parent, guardian, Indian custodian, or relative willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in their home or the home of a relative.

(3) If it is known or there is reason to know the child is an Indian child, the child has been physically removed from the custody of a parent or parents or an Indian custodian, continued detention of the child continues to be necessary to prevent imminent physical damage or harm to the child, and there are no reasonable means by which the child can be protected if maintained in the physical custody of their parent or parents or Indian custodian.

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

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

(6) The parent or other person having lawful custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code and did not reclaim the child within the 14-day period specified in subdivision (g) of that section.

(b) In any case in which there is reasonable cause for believing that a child who is under the care of a physician and surgeon or a hospital, clinic, or other medical facility, cannot be immediately moved, and is a person described in Section 300, the child shall be deemed to have been taken into temporary custody and delivered to the social worker for the purposes of this chapter while the child is at the office of the physician and surgeon or the medical facility.

(c) If the child is not released to their parent or guardian, the child shall be deemed detained for purposes of this chapter.

(d) (1) If a relative, as defined in Section 319, an extended family member of an Indian child, as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.), or a nonrelative extended family member, as defined in Section 362.7, is available and requests emergency placement of the child pending the detention hearing, or after the detention hearing and pending the dispositional hearing conducted pursuant to Section 358, the county welfare department shall initiate an assessment of the relative's or nonrelative extended family member's suitability for emergency placement pursuant to Section 361.4.

(2) Upon completion of the assessment pursuant to Section 361.4, the child may be placed in the home on an emergency basis. Following the emergency placement of the child, the county welfare department shall evaluate and approve or deny the home pursuant to Section 16519.5. If the home in which the Indian child is placed is licensed or approved by the child's tribe, the provisions of Section 16519.5 do not apply for further approval. The county shall require the relative or nonrelative extended family member to submit an application for approval as a resource family and

initiate the home environment assessment no later than five business days after the placement.

(3) If the sole issue preventing an emergency placement of a child with a relative or nonrelative extended family member is a lack of resources, including, but not limited to, physical items such as cribs and car seats, the agency shall use reasonable efforts to assist the relative or nonrelative extended family member in obtaining the necessary items within existing available resources. The department shall work with counties and stakeholders to issue guidance regarding reasonable efforts requirements.

(e) (1) If the child is removed, the social worker shall conduct, within 30 days, an investigation in order to identify and locate all grandparents, parents of a sibling of the child, if the parent has legal custody of the sibling, adult siblings, other adult relatives of the child, as defined in paragraph (2) of subdivision (h) of Section 319, including any other adult relatives suggested by the parents, and, if it is known or there is reason to know the child is an Indian child, any extended family members as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.). 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. The social worker shall provide to all adult relatives who are located, except when that relative’s history of family or domestic violence makes notification inappropriate, within 30 days of removal of the child, written notification and shall also, whenever appropriate, provide oral notification, in person or by telephone, of all the following information:

(A) The child has been removed from the custody of their parent or parents, guardian or guardians, or Indian custodian.

(B) An explanation of the various options to participate in the care and placement of the child and support for the child’s family, including any options that may be lost by failing to respond. The notice shall provide information about providing care for the child while the family receives reunification services with the goal of returning the child to the parent or guardian, how to become a resource family, and additional services and support that are available in out-of-home placements, and, if it is known or there is reason to know the child is an Indian child, the option of obtaining approval for placement through the tribe’s license or

approval procedure. The notice shall also include information regarding the Kin-GAP Program (Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9), the CalWORKs program for approved relative caregivers (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9), adoption, and adoption assistance (Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9), as well as other options for contact with the child, including, but not limited to, visitation. The State Department of Social Services, in consultation with the County Welfare Directors Association of California and other interested stakeholders, shall develop the written notice.

(2) The social worker shall also provide the adult relatives notified pursuant to paragraph (1) with a relative information form to provide information to the social worker and the court regarding the needs of the child. The form shall include a provision whereby the relative may request the permission of the court to address the court, if the relative so chooses. The Judicial Council, in consultation with the State Department of Social Services and the County Welfare Directors Association of California, shall develop the form.

(3) The social worker shall use due diligence in investigating the names and locations of the relatives pursuant to paragraph (1), including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives. Each county welfare department shall create and make public a procedure by which relatives of a child who has been removed from their parents or guardians may identify themselves to the county welfare department and be provided with the notices required by paragraphs (1) and (2).

SEC. 7. Section 319 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(c) The court shall order the release of the child from custody unless a prima facie showing has been made that the child comes within Section 300, the court finds that continuance in the parent's

or guardian's home is contrary to the child's welfare, and any of the following circumstances exist:

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

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

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

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

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

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

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

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

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

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

(f) (1) The court shall also make a determination on the record, referencing the social worker's report or other evidence relied upon, as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from their home,

pursuant to subdivision (b) of Section 306, and whether there are available services that would prevent the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, transportation, and any other child welfare services authorized by the State Department of Social Services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. The court shall also review whether the social worker has considered whether a referral to public assistance services pursuant to Chapter 2 (commencing with Section 11200) and Chapter 7 (commencing with Section 14000) of Part 3 of, Chapter 1 (commencing with Section 17000) of Part 5 of, and Chapter 10 (commencing with Section 18900) of Part 6 of, Division 9 would have eliminated the need to take temporary custody of the child or would prevent the need for further detention.

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

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

(4) In order to preserve the bond between the child and the parent and to facilitate family reunification, the court shall consider whether the child can be returned to the custody of their parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with their parent. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with their parent shall not be, for that reason alone, prima facie evidence of

substantial danger. The court shall specify the factual basis for its conclusion that the return of the child to the custody of their parent would pose a substantial danger or would not pose a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child.

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

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

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

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

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

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

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

(C) If the court knows or has reason to know that the child is an Indian child, the Indian child shall be detained in a home that complies with the placement preferences set forth in Section 361.31 and in the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.), unless the court finds good cause exists pursuant to Section 361.31 not to follow the placement preferences. If the court finds good cause not to follow the placement preferences for

detention, this finding does not affect the requirement that a diligent search be made for a subsequent placement within the placement preferences.

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

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

(i) In the case of an Indian child, any order detaining the child pursuant to this section shall be considered an emergency removal within the meaning of Section 1922 of the federal Indian Child Welfare Act of 1978. The emergency proceeding shall terminate if the child is returned to the custody of the parent, parents, or Indian custodian, the child has been transferred to the custody and jurisdiction of the child’s tribe, or the agency or another party to the proceeding recommends that the child be removed from the physical custody of their parent or parents or Indian custodian pursuant to Section 361 or 361.2.

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

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

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

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

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

(3) If the court cannot identify a responsible adult to make educational decisions for the child and the appointment of a surrogate parent, as defined in subdivision (a) of Section 56050 of the Education Code, is not warranted, the court may, with the input of any interested person, make educational decisions for the child. If the child is receiving services from a regional center, the provision of any developmental services related to the court's decision shall be consistent with the child's individual program plan and pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)). If the court cannot identify a responsible adult to make developmental services decisions for the child, the court may, with the input of any interested person, make developmental services decisions for the child. If the court makes educational or developmental services decisions for the child, the court shall also issue appropriate orders

to ensure that every effort is made to identify a responsible adult to make future educational or developmental services decisions for the child.

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

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

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

(k) For a placement made on or after October 1, 2021, each temporary placement of the child pursuant to subdivision (h) in a short-term residential therapeutic program shall comply with the requirements of Section 4096 and be reviewed by the court pursuant to Section 361.22.

SEC. 8. Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2. (a) If a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the

child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with their parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.

(b) If the court places the child with that parent, the court may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files their report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, this paragraph does not imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding, either in writing or on the record, of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code shall apply to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent, as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, or the home of a relative who has been assessed pursuant to Section 361.4 and is pending approval pursuant to Section 16519.5, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member, as defined in Section 362.7, or the home of a nonrelative extended family member who has been assessed pursuant to Section 361.4 and is pending approval pursuant to Section 16519.5.

(4) The approved home of a resource family, as defined in Section 16519.5, or a home that is pending approval pursuant to paragraph (1) of subdivision (e) of Section 16519.5.

(5) A foster home considering first a foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

(6) If it is known or there is reason to know that the child is an Indian child, as defined by Section 224.1, a home or facility in accordance with the placement preferences contained in Section 361.31 and the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(7) A suitable licensed community care facility, except a youth homelessness prevention center licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(8) With a foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, to be placed in a suitable family home certified or approved by the agency, with prior approval of the county placing agency.

(9) A community care facility licensed as a group home for children or a short-term residential therapeutic program, as defined in subdivision (ad) of Section 11400 of this code and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code. A child of any age who is placed in a community care facility licensed as a group home for children or a short-term residential therapeutic program shall have a case plan that indicates that placement is for purposes of providing short-term, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (d) of Section 16501.1, and the case plan includes transitioning the child to a less restrictive environment and the projected timeline by which the child will be transitioned to a less restrictive environment. Any placement longer than six months shall be documented consistent with paragraph (3) of subdivision (a) of Section 16501.1 and, unless subparagraph (A) or (B) applies to the child, shall be approved by the deputy director or director of the county child welfare department no less frequently than every six months.

(A) A child under six years of age shall not be placed in a community care facility licensed as a group home for children, or a short-term residential therapeutic program except under the following circumstances:

(i) When the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section 11467.1 of this code, and the deputy director or director of the county child welfare department has approved the case plan.

(ii) The short-term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of

clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or director of the county child welfare department shall approve the continued placement no less frequently than every 60 days.

(iv) In addition, if a case plan indicates that placement is for purposes of providing family reunification services, the facility shall offer family reunification services that meet the needs of the individual child and their family, permit parents, guardians, or Indian custodians to have reasonable access to their children 24 hours a day, encourage extensive parental involvement in meeting the daily needs of their children, and employ staff trained to provide family reunification services. In addition, one of the following conditions exists:

(I) The child's parent, guardian, or Indian custodian is also under the jurisdiction of the court and resides in the facility.

(II) The child's parent, guardian, or Indian custodian is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(III) Placement in the facility is the only alternative that permits the parent, guardian, or Indian custodian to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

(B) A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children or a short-term residential therapeutic program under the following conditions:

(i) The deputy director of the county welfare department shall approve the case prior to initial placement.

(ii) The short-term, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented

by the caseworker and approved by a deputy director or director of the county child welfare department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of this subparagraph shall apply to each extension. In addition, the deputy director or director of the county child welfare department shall approve the continued placement no less frequently than every 60 days.

(10) Any child placed in a short-term residential therapeutic program shall be either of the following:

(A) A child who has been assessed as meeting one of the placement requirements set forth in subdivisions (b) and (h) of Section 11462.01.

(B) A child under six years of age who is placed with their minor parent or for the purpose of reunification pursuant to clause (iv) of subparagraph (A) of paragraph (9).

(11) The home of a relative in which the juvenile court has authorized placement, regardless of the status of any criminal record exemption or resource family approval, if the court has found that the placement does not pose a risk to the health and safety of the child.

(12) This subdivision does not allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

(f) (1) A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and shall show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, all of the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, “outside the United States” shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This subdivision shall not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

(g) (1) If the child is taken from the physical custody of the child’s parent, guardian, or Indian custodian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child’s parent, guardian, or Indian custodian in order to facilitate reunification of the family.

(2) If there are no appropriate placements available in the parent’s, guardian’s, or Indian custodian’s county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent’s, guardian’s, or Indian custodian’s community of residence.

(3) This section does not require multiple disruptions of the child’s placement corresponding to frequent changes of residence by the parent, guardian, or Indian custodian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent’s, guardian’s, or Indian custodian’s reason for the move.

(4) If it has been determined that it is necessary for a child to be placed in a county other than the child’s parent’s, guardian’s, or Indian custodian’s county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child’s case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) If it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) If it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

(h) (1) Subject to paragraph (2), if the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until the social worker has served written notice on the parent, guardian, Indian custodian, the child's tribe, the child's attorney, and, if the child is 10 years

of age or older, on the child, at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons that require placement outside the county. The child or parent, guardian, Indian custodian, or the child's tribe may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

(2) (A) The notice required prior to placement, as described in paragraph (1), may be waived if the child and family team has determined that the identified placement is in the best interest of the child, no member of the child and family team objects to the placement, and the child's attorney has been informed of the intended placement and has no objection, and, if applicable, the Indian custodian or child's tribe has been informed of the intended placement and has no objection.

(B) If the child is transitioning from a temporary shelter care facility, as described in Section 11462.022, and all of the circumstances set forth in subparagraph (A) do not exist, the county shall provide oral notice to the child's parents, guardian, Indian custodian, the child's tribe, the child's attorney, and, if the child is 10 years of age or older, to the child no later than one business day after the determination that out-of-county placement is necessary and the circumstances in subparagraph (A) do not exist. The oral notice shall state the reasons that require placement outside the county and shall be immediately followed by written notice stating the reasons. The child, parent, guardian, Indian custodian, or tribe may object to the placement not later than seven days after oral notice is provided and, upon objection, the court shall hold a hearing not later than two judicial days after the objection is made. The court may authorize that the child remain in the temporary shelter care facility pending the outcome of the hearing. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county. This subparagraph does not preclude placement of the child without prior notice if the child's health or well-being is

endangered by delaying the action or would be endangered if prior notice were given.

(i) If the court has ordered removal of the child from the physical custody of the child's parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

(j) If the court has ordered removal of the child from the physical custody of the child's parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the nature of the relationship between the child and their siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

(k) (1) An agency shall ensure placement of a child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive family setting that promotes normal childhood experiences and that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote normal childhood experiences for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are age appropriate to meet the needs of the child. This section does not permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 9. Section 361.4 of the Welfare and Institutions Code is amended to read:

361.4. (a) Prior to making the emergency placement of a child pursuant to subdivision (d) of Section 309 or Section 361.45, the county welfare department shall do all of the following:

(1) Conduct an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs.

(2) Cause a state-level criminal records check to be conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5 for all of the following:

(A) All persons over 18 years of age living in the home of the relative or nonrelative extended family member seeking emergency placement of the child, excluding any person who is a nonminor dependent, as defined in subdivision (v) of Section 11400.

(B) At the discretion of the county welfare department, any other person over 18 years of age known to the department to be regularly present in the home, other than professionals providing professional services to the child.

(C) At the discretion of the county welfare department, any person over 14 years of age living in the home who the department believes may have a criminal record. This subparagraph shall not apply to a child under the jurisdiction of the juvenile court.

(3) Conduct a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home.

(b) (1) If CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has no criminal record, the child may be placed in the home on an emergency basis.

(2) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal record exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(3) Notwithstanding paragraph (2), a child may be placed on an emergency basis if the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense not described in subclause (II) of

clause (i) of subparagraph (B) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal record exemption decision based on live scan fingerprint results if all of the following conditions are met:

(A) The conviction does not involve an offense against a child.

(B) The deputy director or director of the county welfare department, or their designee, determines that the placement is in the best interests of the child.

(C) No party to the case objects to the placement.

(4) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the child shall not be placed on an emergency basis in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the deputy director or director of the county welfare department, or their designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.

(5) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) 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, the child shall not be placed in the home on an emergency basis.

(6) Notwithstanding paragraphs (2) and (5), or the placement recommendation of the county placing agency, the court may authorize the placement of a child on an emergency basis in the home of a relative, regardless of the status of any criminal record exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child.

(c) Within 10 calendar days following the criminal records check conducted through the CLETS or five business days of making the emergency placement, whichever is sooner, the social worker shall ensure that a fingerprint clearance check of the relative or nonrelative extended family member and any other person whose criminal record was obtained pursuant to this section is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the CLETS and ensure criminal record clearance of the relative or nonrelative extended

family member and all adults in the home pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 16519.5 and any associated written directives or regulations.

(d) An identification card from a foreign consulate or foreign passport shall be considered a valid form of identification for conducting a criminal records check pursuant to this section.

SEC. 10. Section 727.05 of the Welfare and Institutions Code is amended to read:

727.05. (a) Notwithstanding paragraph (4) of subdivision (a) of Section 727, the probation agency may make an emergency placement of a minor ordered into its care, custody, and control with a relative or nonrelative extended family member.

(b) Prior to making the emergency placement, the probation agency shall do all of the following:

(1) Conduct an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the minor's needs.

(2) Ensure that a state-level criminal records check is conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5 for all of the following:

(A) Any person over 18 years of age living in the home of the relative or nonrelative extended family member who seeks emergency placement of the minor, excluding any person who is a nonminor dependent, as defined in subdivision (v) of Section 11400.

(B) At the discretion of the probation agency, any person over 18 years of age known to the agency to be regularly present in the home, other than any professional providing professional services to the minor.

(C) At the discretion of the agency, any person over 14 years of age living in the home who the agency believes may have a criminal record, excluding any child who is under the jurisdiction of the juvenile court.

(3) Conduct a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home.

(c) (1) If the CLETS information that is obtained pursuant to paragraph (2) of subdivision (b) indicates that a person has no

criminal record, the probation agency may place the minor in the home on an emergency basis.

(2) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that a person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the minor shall not be placed in the home unless a criminal records exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(3) Notwithstanding paragraph (2), a minor may be placed on an emergency basis if the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been convicted of an offense not described in subclause (II) of clause (i) of subparagraph (B) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal records exemption decision based on live scan fingerprint results if all of the following conditions are met:

(A) The conviction does not involve an offense against a child.

(B) The chief probation officer, or their designee, determines that the placement is in the best interests of the minor.

(C) No party to the case objects to the placement.

(4) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the minor shall not be placed on an emergency basis in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the chief probation officer, or their designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.

(5) If the CLETS information obtained pursuant to paragraph (2) of subdivision (b) 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, the minor shall not be placed in the home on an emergency basis.

(6) Notwithstanding paragraphs (2) and (5), or the placement recommendation of the county probation agency, the court may authorize the placement of a child on an emergency basis in the

home of a relative, regardless of the status of any criminal record exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child.

(d) If the relative or nonrelative extended family member has not submitted an application for approval as a resource family at the time of the emergency placement, the probation agency shall require the relative or nonrelative extended family member to submit the application and initiate the home environment assessment no later than five business days after the emergency placement.

(e) Unless the fingerprint clearance check has already been initiated, the probation agency shall ensure that, within five days of the emergency placement, a fingerprint clearance check of the relative or nonrelative extended family member and any other person whose criminal record was obtained pursuant to this section is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the CLETS and to ensure criminal record clearance of the relative or nonrelative extended family member and all adults in the home pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 16519.5 and any associated written directives or regulations.

(f) An identification card from a foreign consulate or foreign passport shall be considered a valid form of identification for conducting a criminal records check pursuant to this section.

SEC. 11. Section 11461.3 of the Welfare and Institutions Code is amended to read:

11461.3. (a) The Approved Relative Caregiver Funding Program is hereby established for the purpose of making the amount paid to approved relative caregivers for the in-home care of children and nonminor dependents placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children and nonminor dependents who are eligible for AFDC-FC payments.

(b) Unless the child or nonminor dependent is eligible for the dual agency rate pursuant to Section 11464, the county with payment responsibility shall pay an approved relative caregiver a per child per month rate at the child's or nonminor dependent's assessed level of care, as set forth in subdivision (g) of Section 11461 and Section 11463, in return for the care and supervision,

as defined in subdivision (b) of Section 11460, of the child or nonminor dependent if all of the following conditions are met:

(1) The child or nonminor dependent resides in California.

(2) The child or nonminor dependent is described by subdivision (b), (c), or (e) of Section 11401 and the county welfare department or the county probation department is responsible for the placement and care of the child or nonminor dependent.

(3) The child or nonminor dependent is not eligible for AFDC-FC while placed with the approved relative caregiver because the child or nonminor dependent is not eligible for federal financial participation in the AFDC-FC payment.

(c) Subdivision (b) shall not be interpreted to prevent a county from supplementing the payment made to the approved relative caregiver with any county optional program, including, but not limited to, a specialized care increment, as described in subdivision (e) of Section 11461, or a clothing allowance, as described in subdivision (f) of Section 11461.

(d) Any income or benefits received by an eligible child or the approved relative caregiver on behalf of the eligible child or nonminor dependent that would be offset against the rate paid to a foster care provider shall be offset from any funds that are not CalWORKs funds paid to the approved relative caregiver pursuant to this section.

(e) Counties shall recoup an overpayment in the Approved Relative Caregiver Funding Program received by an approved relative caregiver using the standards and processes for overpayment recoupment that are applicable to overpayments to an approved resource family, as specified in Section 11466.24. Recouped overpayments shall not be subject to remittance to the federal government. Any overpaid funds that are collected by the counties shall be remitted to the state after subtracting both of the following:

(1) An amount not to exceed the county share of the CalWORKs portion of the Approved Relative Caregiver Funding Program payment, if any.

(2) Any other county funds that were included in the Approved Relative Caregiver Funding Program payment.

(f) To the extent permitted by federal law, payments received by the approved relative caregiver from the Approved Relative

Caregiver Funding Program shall not be considered income for the purpose of determining other public benefits.

(g) Prior to referral of any individual or recipient, or that person's case, to the local child support agency for child support services pursuant to Section 17415 of the Family Code, the county human services agency shall determine if an applicant or recipient has good cause for noncooperation, as set forth in Section 11477.04. If the applicant or recipient claims good cause exception at any subsequent time to the county human services agency or the local child support agency, the local child support agency shall suspend child support services until the county social services agency determines the good cause claim, as set forth in Section 11477.04. If good cause is determined to exist, the local child support agency shall suspend child support services until the applicant or recipient requests their resumption, and shall take other measures that are necessary to protect the applicant or recipient and the children. If the applicant or recipient is the parent of the child for whom aid is sought and the parent is found to have not cooperated without good cause as provided in Section 11477.04, the applicant's or recipient's family grant shall be reduced by 25 percent for the time the failure to cooperate lasts.

(h) Consistent with Section 17552 of the Family Code, if aid is paid under this chapter on behalf of a child who is under the jurisdiction of the juvenile court and whose parent or guardian is receiving reunification services, the county human services agency shall determine, prior to referral of the case to the local child support agency for child support services, whether the referral is in the best interest of the child, taking into account both of the following:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

(i) For purposes of this section, an "approved relative caregiver" includes a relative, as defined by paragraph (2) of subdivision (h)

of Section 319, who has been approved as a resource family pursuant to Section 16519.5.

(j) (1) Notwithstanding subdivision (b) and effective the first of the month following the date the department issues comprehensive policy, fiscal, and claiming instructions that will enable counties to implement this subdivision pending the establishment of a new aid code, if needed, a child or nonminor dependent placed out of state in the home of a relative shall be eligible for payment pursuant to this section under the following conditions:

(A) The home of the relative is licensed or approved consistent with the requirements of the state in which the home is located.

(B) The child is described by paragraphs (2) and (3) of subdivision (b).

(C) All other eligibility conditions are met.

(2) Payments made pursuant to this section shall be equal to, but not exceed, the foster care rate set by the rate-setting authority of the state in which the home is located, subject to any offset required pursuant to subdivision (d).

(k) The department shall adopt emergency regulations implementing this section no later than January 1, 2023. The department may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, any emergency regulation previously adopted pursuant to this section. The initial adoption of regulations pursuant to this section and one readoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State, and each shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

(l) Notwithstanding any other law, when the placement of a child with a relative, as defined by paragraph (2) of subdivision (h) of Section 319, has been authorized by the juvenile court and the placement is ineligible for both emergency caregiver funding

pursuant to Section 11461.36 and AFDC-FC due to the denial of resource family approval, the placement shall be funded pursuant to the provisions of this section.

SEC. 12. Section 11461.36 of the Welfare and Institutions Code is amended to read:

11461.36. (a) It is the intent of the Legislature to provide support to emergency caregivers, as defined in subdivision (c), who care for children and nonminor dependents before approval of an application under the Resource Family Approval Program.

(b) For placements made on and after July 1, 2018, each county shall provide a payment equivalent to the resource family basic level rate of the home-based family care rate structure, pursuant to Section 11463, to an emergency caregiver on behalf of a child or nonminor dependent placed in the home of the caregiver pursuant to subdivision (d) of Section 309, Section 361.45, Section 727.05, or clause (i) of subparagraph (A) of paragraph (1) of subdivision (h) of Section 319, or based on a compelling reason pursuant to subdivision (e) of Section 16519.5, subject to the availability of state and federal funds pursuant to subdivision (e), if all of the following criteria are met:

(1) The child or nonminor dependent is not otherwise eligible for AFDC-FC or the Approved Relative Caregiver Funding Program, pursuant to Section 11461.3, while placed in the home of the emergency caregiver.

(2) The child or nonminor dependent resides in California.

(3) The emergency caregiver has signed and submitted to the county an application for resource family approval.

(4) An application for the Emergency Assistance Program has been completed.

(c) For purposes of this section, an “emergency caregiver” means an individual who has a pending resource family application filed with an appropriate agency on or after July 1, 2018, and who meets one of the following requirements:

(1) The individual has been assessed pursuant to Section 361.4.

(2) The individual has successfully completed the home environment assessment portion of the resource family approval pursuant to paragraph (2) of subdivision (d) of Section 16519.5.

(d) The beginning date of aid for payments made pursuant to subdivision (b) shall be the date of placement.

(e) Funding for payments made pursuant to subdivision (b) shall be as follows:

(1) For emergency or compelling reason placements made during the 2018–19 fiscal year:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state’s Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state’s Temporary Assistance for Needy Families block grant, 70 percent of the cost of emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), beyond 180 days, or, if the conditions of subparagraph (E) are met, beyond 365 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 180 days of payments, and up to 365 days of payments, if all of the following conditions are met:

(i) On a monthly basis, the county has documented good cause for the delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or their designee, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 90 days and the reason for the delays.

(2) For emergency or compelling reason placements made during the 2019–20 fiscal year:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state’s Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state’s Temporary Assistance for Needy Families block grant, 70 percent of the cost of emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), or beyond 120 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 120 days of payments, and up to 365 days of payments, if all of the following conditions are met:

(i) On a monthly basis, the county has documented good cause for the delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or their designee, or the chief probation officer, or their designee, as applicable, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 120 days and the reason for the delays.

(3) For emergency or compelling reason placements made during the 2020–21 fiscal year:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant, 70 percent of the cost of emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), or beyond 120 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 120 days of payments, and up to 365 days of payments, if all of the following conditions are met:

(i) On a monthly basis, the county has documented good cause for delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or their designees, or the chief probation officer, or their designee, as applicable, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 120 days and the reasons for the delays.

(F) The 365-day payment limitation pursuant to subparagraph (E) and accompanying rules and regulations is suspended through June 30, 2021, subject to guidance from the State Department of Social Services.

(4) For emergency or compelling reason placements made during the 2021–22 fiscal year:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant, 70 percent of the cost of emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), or beyond 120 days, whichever occurs first.

(E) Notwithstanding subparagraph (D), the federal and state share of payment made pursuant to this paragraph shall be available beyond 120 days of payments, and up to 365 days of payments, if all of the following conditions are met:

(i) On a monthly basis, the county has documented good cause for delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or their designees, or the chief probation officer, or their designee, as applicable, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 120 days and the reasons for the delays.

(5) For emergency or compelling reason placements made during the 2022–23 fiscal year, and each fiscal year thereafter:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant, 70 percent of the cost of the emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), or beyond 90 days, whichever occurs first.

(E) The department shall consider extending the payments required pursuant to subdivision (b) beyond the 90-day limit identified in subparagraph (D) if it makes a determination that the resource family approval process cannot be completed within 90 days due to circumstances outside of a county's control.

(f) (1) An emergency caregiver eligible for payments pursuant to subdivision (b) of Section 11461.35, as that section read on June 30, 2018, shall continue to be eligible for those payments on and after July 1, 2018, until the emergency caregiver's resource family application is approved or denied.

(2) Funding for a payment described in paragraph (1) shall be as follows:

(A) If the emergency caregiver was eligible to receive payments funded through the Approved Relative Caregiver Funding Program, payments shall be made through that program until the application for resource family approval is approved or denied.

(B) If the emergency caregiver was eligible to receive payments funded through the Emergency Assistance Program, payments shall be made through that program, subject to the following conditions:

(i) Up to 180 total days or, if the conditions of subparagraph (D) are met, up to 365 total days of payments shall be made to the emergency caregiver through the Emergency Assistance Program. For the purpose of this subdivision, "total days of payments" includes all payments made to the emergency caregiver through

the Emergency Assistance Program pursuant to this section and Section 11461.35, as that section read on June 30, 2018.

(ii) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), beyond 180 days, or, if the conditions of subparagraph (D) are met, beyond 365 days, whichever occurs first.

(D) The federal and state share of payment made pursuant to this subdivision shall be available beyond 180 total days of payments, and up to 365 total days of payments, when the following conditions are met:

(i) On a monthly basis, the county has documented good cause for the delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or their designee, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 90 days, the number of cases that have received more than 90 total days of payments pursuant to this section and Section 11461.35, and the reason for the delays in approval or denial of the resource family applications.

(g) (1) If the application for resource family approval is approved, the funding source for the placement shall be changed to AFDC-FC or the Approved Relative Caregiver Funding Program, as appropriate and consistent with existing eligibility requirements.

(2) If the application for resource family approval is denied, eligibility for funding pursuant to this section shall be terminated.

(h) A county shall not be liable for any federal disallowance or penalty imposed on the state as a result of a county's action in

reliance on the state's instruction related to implementation of this section.

(i) (1) For the 2018–19 and 2019–20 fiscal years, the department shall determine, on a county-by-county basis, whether the timeframe for the resource family approval process resulted in net assistance costs or net assistance savings for assistance payments, pursuant to this section.

(2) For the 2018–19 and 2019–20 fiscal years, the department shall also consider, on a county-by-county basis, the impact to the receipt of federal Title IV-E funding that may result from implementation of this section.

(3) The department shall work with the California State Association of Counties to jointly determine the timeframe for subsequent reviews of county costs and savings beyond the 2019–20 fiscal year.

(j) (1) The department shall monitor the implementation of this section, including, but not limited to, tracking the usage and duration of Emergency Assistance Program payments made pursuant to this section and evaluating the duration of time a child or nonminor dependent is in a home pending resource family approval. The department may conduct county reviews or case reviews, or both, to monitor the implementation of this section and to ensure successful implementation of the county plan, submitted pursuant to subparagraph (B) of paragraph (2) of subdivision (e) of Section 11461.35, to eliminate any resource family approval backlog by September 1, 2018.

(2) The department may request information or data necessary to oversee the implementation of this section until data collection is available through automation. Pending the completion of automation, information or data collected manually shall be determined in consultation with the County Welfare Directors Association of California.

(k) An appropriation shall not be made pursuant to Section 15200 for purposes of implementing this section.

(l) (1) On and after July 1, 2019, each county shall provide a payment equivalent to the resource family basic level rate of the home-based family care rate structure, pursuant to Section 11463, on behalf of an Indian child, as defined in subdivision (a) of Section 224.1, placed in the home of the caregiver who is pending approval

as a tribally approved home, as defined in subdivision (r) of Section 224.1, if all of the following criteria are met:

(A) The placement is made pursuant to subdivision (d) of Section 309, Section 361.45, Section 727.05, or clause (i) of subparagraph (A) of paragraph (1) of subdivision (h) of Section 319.

(B) The caregiver has been assessed pursuant to Section 361.4.

(C) The child is not otherwise eligible for AFDC-FC or the Approved Relative Caregiver Funding Program, pursuant to Section 11461.3, while placed in the home of the caregiver.

(D) The child resides in California.

(E) The tribe or tribal agency has initiated the process for the home to become tribally approved.

(F) An application for the Emergency Assistance Program has been completed by the placing agency.

(2) The beginning date of aid for payments made pursuant to this subdivision shall be the date of placement.

(3) The funding source for the placement shall be changed to AFDC-FC or the Approved Relative Caregiver Funding Program, as appropriate and consistent with existing eligibility requirements, when the caregiver is approved as a tribally approved home. If the approval is denied, payments made pursuant to this subdivision shall cease.

(4) Subdivision (e) and subdivisions (h) to (k), inclusive, shall apply to payments made pursuant to this subdivision.

(m) 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 and administer this section through an all-county letter or similar instructions, which shall include instructions regarding the eligibility standards for emergency assistance until regulations are adopted.

SEC. 13. 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. This requirement may be waived for relative and nonrelative extended family member

resource families on a case-by-case basis. For purposes of this subparagraph, there is no minimum income requirement and 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, 319, 361.45, or 727.05, or with a resource family applicant pursuant to subdivision (e), does not entitle an applicant to 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. Child-specific approval shall be considered if the applicant is a relative or nonrelative extended family member who has an established and significant relationship with a child or a child is already placed in the home of the relative or nonrelative extended family member pursuant to subdivision (e) or Section 309, 319, 361.45, or 727.05.

(ii) When child-specific approval is granted to a relative who has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child’s placement shall be funded pursuant to Section 11461.3 and the relative shall not be eligible for federal financial participation while the child is placed with them.

(iii) 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 unless the person has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code. If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal record 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 an infraction 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 record 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.

(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 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), 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.

SEC. 13.1. 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. This requirement may be waived for relative and nonrelative extended family member resource families on a case-by-case basis. For purposes of this subparagraph, there is no minimum income requirement and 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, 319, 361.45, or 727.05, or with a resource family applicant pursuant to subdivision (e), does not entitle an applicant to 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. Child-specific approval shall be considered if the applicant is a relative or nonrelative extended family member who has an established and significant relationship with a child or a child is already placed in the home of the relative or nonrelative extended family member pursuant to subdivision (e) or Section 309, 319, 361.45, or 727.05.

(ii) When child-specific approval is granted to a relative who has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child’s placement shall be funded pursuant to Section 11461.3 and the relative shall not be eligible for federal financial participation while the child is placed with them.

(iii) 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 unless the person has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code. If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal record 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 an infraction 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 record 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, 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 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), 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.

SEC. 13.2. 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 a regulation by the department pursuant to this section applies 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 is 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. This requirement may be waived for relative and nonrelative extended family member resource families on a case-by-case basis. For purposes of this subparagraph, there is no minimum income requirement and 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” 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, 319, 361.45, or 727.05, or with a resource family applicant pursuant to subdivision (e), does not entitle an applicant to 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. Child-specific approval shall be considered if the applicant is a relative or nonrelative extended family member who has an established and significant relationship with a child or a child is already placed in the home of the relative or nonrelative extended family member pursuant to subdivision (e) or Section 309, 319, 361.45, or 727.05.

(ii) When child-specific approval is granted to a relative who has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child's placement shall be funded pursuant to Section 11461.3 and the relative shall not be eligible for federal financial participation while the child is placed with them.

(iii) 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 does 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 unless the person has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code. If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal record 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 an infraction 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 record 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.

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

(5) This section does 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 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), 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 or who have been victims of child labor trafficking. 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 child labor trafficking and the provision of existing resources, including 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 or who have been victims of child labor trafficking. 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 and child labor trafficking.

(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 and child labor trafficking.

(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 or who have been victims of child labor trafficking, except as required pursuant to subdivision (h).

(D) This section does not prevent 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 and children who have been victims of child labor trafficking.

(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 does 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 applies 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.

SEC. 13.3. 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 a regulation by the department pursuant to this section applies 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 is 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. This requirement may be waived for relative and nonrelative extended family member resource families on a case-by-case basis. For purposes of this subparagraph, there is no minimum income requirement and 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” 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, 319, 361.45, or 727.05, or with a resource family applicant pursuant to subdivision (e), does not entitle an applicant to 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. Child-specific approval shall be considered if the applicant is a relative or nonrelative extended family member who has an established and significant relationship with a child or a child is already placed in the home of the relative or nonrelative extended

family member pursuant to subdivision (e) or Section 309, 319, 361.45, or 727.05.

(ii) When child-specific approval is granted to a relative who has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child's placement shall be funded pursuant to Section 11461.3 and the relative shall not be eligible for federal financial participation while the child is placed with them.

(iii) 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 does 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 unless the person has received a criminal records exemption pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code. If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal record 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 an infraction 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 record 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, 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) A child placed pursuant to this subdivision shall be afforded all the rights set forth in Section 16001.9.

(5) This section does 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 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), 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 or who have been victims of child labor trafficking. 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 child labor trafficking and the provision of existing resources, including 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 or who have been victims of child labor trafficking. 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 and child labor trafficking.

(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 and child labor trafficking.

(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 or who have been victims of child labor trafficking, except as required pursuant to subdivision (h).

(D) This section does not prevent 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 and children who have been victims of child labor trafficking.

(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 does 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 applies 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.

SEC. 14. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of this act.

SEC. 15. (a) Section 13.1 of this bill incorporates amendments to Section 16519.5 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 366. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 16519.5 of the Welfare and Institutions Code, (3) Senate Bill 584 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 366, in which case Sections 13, 13.2, and 13.3 of this bill shall not become operative.

(b) Section 13.2 of this bill incorporates amendments to Section 16519.5 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 584. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 16519.5 of the Welfare and Institutions Code, (3) Assembly Bill 366 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 584, in which case Sections 13, 13.1, and 13.3 of this bill shall not become operative.

(c) Section 13.3 of this bill incorporates amendments to Section 16519.5 of the Welfare and Institutions Code proposed by both this bill, Assembly Bill 366, and Senate Bill 584. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2022, (2) all three bills amend Section 16519.5 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 366 and Senate Bill 584, in which case Sections 13, 13.1, and 13.2 of this bill shall not become operative.

SEC. 16. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency

pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

With regard to certain other costs that may be incurred by a local agency or school district, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2021

Governor