

# Resource Family Approval Written Directives



**VERSION 6.1**  
**EFFECTIVE DATE: 01/07/2020**

Prepared by:

California Department of Social Services



## RESOURCE FAMILY APPROVAL PROGRAM

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361.45, whichever is sooner, initiate a Home Environment Assessment, including a background check, as specified in this section and Section 6-03A.

### **SECTION 6-03A: Background Check**

- (a) A County shall conduct a background check for an applicant and all adults residing or regularly present in the home of an applicant or Resource Family and not exempt pursuant to Subsection (g).
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#### **Handbook**

The Resource Family Approval [Background Assessment Guide \(BAG\) website](#) is available as a resource for the RFA background check procedures.

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- (b) A background check shall include all of the following:
- (1) A review of an individual's state and federal criminal record information, pursuant to Welfare and Institutions Code section 16519.5(d), to determine whether a criminal record clearance or exemption may be granted.
    - (A) A County shall obtain from an applicant and all adults residing or regularly present in the home a completed form RFA-01B: Resource Family Criminal Record Statement.
  - (2) Consideration of all substantiated allegations of child abuse and severe neglect listed on the Child Abuse Central Index (CACI), pursuant to Health and Safety Code section 1522.1, to determine whether the individual poses a risk or threat to the health and safety, protection, or well-being of a child, nonminor dependent, or other individual.
    - (A) Consideration of the allegations described in paragraph (2) shall include a review of the investigation report and file prepared by the child protective agency.
    - (B) A County may not deny an application or take any other administrative action based upon a CACI report unless the County obtains an investigation report, documentation, interviews, child welfare system records, or other evidence that supports the substantiated allegation of child abuse or severe neglect.
    - (C) If the applicant or any adult residing in the home has lived in another state within five years before the applicant has applied for Resource Family Approval, then an out-of-state child abuse and neglect registry check shall be conducted using form LIC 198B: Out-of-State Child Abuse/Neglect Report Request, or an equivalent form from a responding State if that State requires its own, state-specific form.
  - (3) A Megan's Law registered sex offender check.
  - (4) A Department of Motor Vehicles check on an applicant and any adults residing or regularly present in the home who may frequently transport a child or nonminor dependent.
  - (5) A check for prior licensing-related administrative actions contained in the Administrative Action Records System (AARS) database maintained by the Department.
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- (6) A check for prior licensing history and criminal record exemption denial or rescission actions contained in the Licensing Information System (LIS) maintained by the Department.
  - (7) A check for prior Resource Family-related administrative actions contained in the Administrative Action Records System (AARS) and Notice of Action (NOA) databases maintained by the Department.
- (c) Prior to approval, a County may conduct a reference check pursuant to Welfare and Institutions Code section 16519.55(c).
- (d) Prior to initial presence in a Resource Family's home, any individual described in subdivision (a) shall obtain one of the following:
- (1) A criminal record clearance, or criminal record exemption pursuant to Section 6-03B.
  - (2) An approved transfer of a criminal record clearance pursuant to subdivision (i).
  - (3) An approved transfer of a criminal record exemption pursuant to Section 6-03B(q).
    - (A) Violation of this subdivision may result in a denial of the application, rescission of the Resource Family's approval or other administrative action.
- (e) If an individual's criminal record indicates an arrest for an offense specified in Health and Safety Code section 1522(e), a County shall not grant the individual a clearance or exemption until an investigation has been completed.
- (1) If an individual's criminal record indicates an arrest for an offense not specified in Health and Safety Code section 1522(e), a County shall consider the information pursuant to Family Code section 8712 and may conduct an investigation as described in subparagraph (A) to ensure compliance with Resource Family Approval standards.
  - (2) An investigation of the facts regarding arrests, CACI entries, or convictions may lead to a denial of Resource Family Approval, an exclusion action, or both.
  - (3) If a County finds that an individual described in subdivision (a) has been convicted of a crime other than a minor traffic violation, the application shall be denied or approval shall be rescinded, as applicable, unless the County grants a criminal record exemption pursuant to Section 6-03B.
  - (4) If a County finds that an individual is awaiting trial, or has an active warrant for an arrest, then the County may cease processing the criminal record information and close the case provided that closure of the case does not pose an imminent risk to a child or nonminor dependent in placement. If the County chooses to close the case, the individual may resubmit fingerprints when criminal proceedings have concluded. For purposes of this subsection, cease processing and case closure shall not constitute a denial of a clearance or a criminal record exemption.
  - (5) A County shall verify that a subsequent arrest notification (rap back) service, as specified in Penal Code section 11105.2, is in place for each applicant and all adults residing or regularly present in the home of an applicant or Resource Family.
  - (6) Any action which a County is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or 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 Penal Code sections 1203.4 and 1203.4a permitting the person to withdraw his or her 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, 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.

- (7) For purposes of this subsection, a “minor traffic violation” means a violation of the Vehicle Code which has been deemed an infraction or a violation of any other law which has been deemed an infraction.
  
- (f) A County or the Department 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 Health and Safety Code section 1522(e) and Welfare and Institutions Code section 16519.5(s).
  
- (g) The following individuals are exempt from the background check requirements of this section:
  - (1) A medical professional, who holds a valid license or certification from the governing California medical care regulatory entity and who is not employed, retained, or contracted by the Resource Family, if all of the following apply:
    - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
    - (B) The individual is providing time-limited specialized clinical care or services.
    - (C) The individual is providing care or services within the applicable scope of practice.
    - (D) The individual is not a licensed, certified, or approved caregiver or an employee of the Resource Family.
  - (2) A third-party repair person, or similar retained contractor, if all the following apply:
    - (A) The individual is hired for a defined, time-limited job.
    - (B) The individual is not left alone with a child or nonminor dependent.
    - (C) When a child or nonminor dependent is present in the room in which the repairperson or contractor is working, a Resource Parent who has a criminal record clearance or exemption is also present.
  - (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract for a child or nonminor dependent in the home, and are in the home at the request of the child’s or nonminor dependent’s authorized representative.
    - (A) The exemption shall not apply to an individual who is a licensed, certified, or approved caregiver or an employee of the Resource Family.
  - (4) Clergy and other spiritual caregivers who are performing services in common areas of the home, or who are advising a child or nonminor dependent at the request of, or with the permission of, the child or nonminor dependent or his or her authorized representative.
    - (A) This exemption shall not apply to an individual who is a licensed, certified, or approved caregiver or an employee of the Resource Family.

- (5) Members of fraternal, service and similar organizations who conduct group activities for a child or nonminor dependent if all the following apply:
    - (A) Members are not left alone with a child or nonminor dependent.
    - (B) Members do not take a child or nonminor dependent from the home.
    - (C) The same group does not conduct such activities more often than once a month.
  - (6) Adult friends and family of the Resource Family who come into the home to visit, for a length of time no longer than 30 calendar days provided they are not left alone with a child or nonminor dependent.
  - (7) Parents of friends of a child or nonminor dependent when a child or nonminor dependent is visiting the friend's home and the friend, Resource Family, or both are also present.
  - (8) Occasional short-term babysitters.
  - (9) Individuals who come into the home for the purpose of facilitating an extracurricular, enrichment, cultural, or social activity as described in Section 11-14, provided they are not left alone with a child or nonminor dependent.
- (h) Nothing in this section shall prevent a County from requiring a background check for an individual specified in subsection (g), provided that the individual has contact that may pose a risk to the health and safety of a child or nonminor dependent placed with an applicant or Resource Family.
- (i) (1) A County may accept the transfer of a criminal record clearance that has been issued by the same County, another County, or the Department for a Resource Family, an approved relative or nonrelative extended family member, or licensed foster family home. The request to transfer shall be in writing to the County evaluating the applicant or Resource Family and shall include a copy of a proof of identification accepted by the California Department of Justice for Live Scan purposes. The County shall verify whether the individual has a clearance that can be transferred.
- (2) With respect to notifications issued by the California Department of Justice pursuant to Penal Code section 11105.2 concerning an individual whose criminal record clearance was originally processed by another County or the Department, the following shall apply:
- (A) The California Department of Justice shall process a request from the County to receive the notifications only if all of the following conditions are met:
    - (i) The request shall be submitted to the California Department of Justice by the agency to be substituted to receive the notification.
    - (ii) The request shall be for the same California Department of Justice applicant type as the type for which the original criminal record clearance was obtained.
    - (iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the California Department and the Department of Justice.

- (j) A nonminor dependent shall not be subject to a background check for purposes of Resource Family Approval.
- (k)
  - (1) After a County and the Department have determined that an administrative action for the record will not be filed, pursuant to Section 12-04, a County shall request that the California Department of Justice terminate the subsequent arrest notification (rap back) service for an individual at the following times:
    - (A) When an applicant withdraws his or her application prior to the approval or denial of the application.
    - (B) When a County ceases processing an application pursuant to Section 5-03B.
    - (C) When a Resource Family surrenders approval.
    - (D) When an individual no longer resides or is regularly present in a Resource Family's home.
  - (2) A County shall request that the California Department of Justice terminate the subsequent arrest notification (rap back) service for an individual if the County denies an application, rescinds approval, or denies or rescinds a criminal record exemption, or the Department excludes an individual, and, pursuant to Section 12-04, it was determined that the time for appeal or late appeal for good cause has lapsed, or that there was an appeal of the denial, rescission, or exclusion, and there has been a final determination in the administrative action and the time for reconsideration or rehearing has lapsed.

**SECTION 6-03B: Criminal Record Exemption**

- (a)
  - (1) The county shall notify a Resource Family to act immediately to remove from the home or bar from entering the home any person described in Section 6-03A(a), while the county considers granting or denying an exemption, as follows:
    - (A) Any person who has been convicted of or is awaiting trial for a sex offense against a minor.
    - (B) Any person who has been convicted of a felony.
    - (C) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1522(c)(3).
  - (2) Upon notification, the Resource Family shall comply with the notice. If the individual who is the subject of the notice is the Resource Family, the Resource parent's spouse or a dependent adult, the county shall not order the Resource Family to remove the individual from the home but shall act to temporarily suspend the approval, if applicable, in accordance with Welfare and Institutions Code section 16519.5(g)(5)(iv), or take other appropriate action.
- (b) A County may grant criminal record exemptions if the County has been granted permission by the Department pursuant to Welfare and Institutions Code section 361.4 prior to January 1, 2017.

- (c) A County may not grant a criminal record exemption for an individual whose criminal record indicates a conviction for any offense specified in Health and Safety Code section 1522(g)(2)(A).
- (1) A County shall, in writing, separately notify the individual and the applicant or Resource Family when the individual has been convicted of a crime for which an exemption may not be granted.
    - (A) Only the notice to the individual shall indicate the specific criminal conviction(s) for which an exemption may not be granted, including the crime, date, and location of the conviction, and shall include a copy of criminal offender record information received from the California Department of Justice.
    - (B) For purposes of this subsection, “spousal abuse,” as referenced in Health and Safety Code section 1522(g)(2)(A)(iii)(I), means the abuse of an individual to whom the perpetrator is legally married or registered as a domestic partner.
  - (2) If the individual is convicted of an offense for which the County is prohibited from granting a criminal record exemption, the Resource Family’s approval shall not be forfeited pursuant to Welfare and Institutions Code section 16519.501(b) prior to the provision of due process as described in Article 12, including, but not limited to, written notification of a denied or rescinded criminal record exemption and an opportunity to appeal.
- (d) A County shall grant an exemption using the simplified exemption process based solely on criminal record information collected pursuant to Section 6-03A, and without an exemption request as described in subsections (e) through (i), if the County determines that the individual has a criminal conviction and meets all the following criteria:
- (1) The individual does not have a misdemeanor conviction within the last five years.
  - (2) The individual does not have a felony conviction within the last seven years.
  - (3) The individual has not been convicted of a crime described in Health and Safety Code section 1522(g)(2)(A) or (g)(2)(B).
  - (4) The individual’s criminal history does not indicate a risk or threat to the health and safety, protection, or well-being of a child or nonminor dependent.
- (e) At a County’s discretion, an individual who is otherwise eligible for the simplified exemption process, pursuant to subsection (c), may be required to request an exemption as described in subsections (e) through (i), if the County determines such action is necessary to protect the health and safety of children and nonminor dependents.
- (f) If any criminal record information collected pursuant to Section 6-03A indicates an individual has been convicted of a crime described at Health and Safety Code section 1522(g)(2)(B), a County shall, in writing, separately notify the individual and if applicable, separately notify the applicant or Resource Family of the following:
- (1) The individual must be granted an exemption in order to reside or be regularly present in a Resource Family home.
  - (2) The authority and criteria for the granting of a criminal record exemption.

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- (A) Only the notice to the individual shall indicate the specific criminal conviction(s) for which an exemption is needed, including the crime, date, and location of the conviction, and shall include a copy of the criminal offender record information received from the California Department of Justice.
  - (3) The individual, applicant or Resource Family acting on the individual's behalf, has the right to request a criminal record exemption and the right to appeal if the exemption is denied.
  - (4) The individual shall be excluded for a period of two years in accordance with subsection (q) if a criminal record exemption is denied.
- (g) If an individual, or the applicant or Resource Family acting on the individual's behalf, chooses to request an exemption, then the person making the request shall submit the following documents to a County within forty-five (45) calendar days of the date on the exemption needed notice provided by the County:
- (1) A letter indicating that an exemption is being requested, signed by the individual or by the applicant or Resource Family on behalf of the individual.
  - (2) A detailed description of the individual's role as it applies to the Resource Family or applicant.
  - (3) A signed copy of the form RFA-01B: Resource Family Criminal Record Statement.
  - (4) A signed statement describing any and all convictions within or outside the state, including approximate dates, what happened, and how and where it happened. The statement shall describe the actions the individual has taken since the conviction to demonstrate he or she has been rehabilitated and is presently of good character.
    - (A) The individual need not disclose any marijuana-related offenses covered by the marijuana reform legislation codified at Health and Safety Code sections 11361.5 and 11361.7, or any conviction related to human trafficking for which relief has been granted pursuant to Penal Code section 1203.49.
  - (5) Documentation relevant to the conviction(s), including, but not limited to, minute orders, court dockets, transcripts, or other court records, law enforcement records, county probation department letters or records, parole records, or California Department of Corrections and Rehabilitation records.
    - (A) If the law enforcement agency or court will not release a record to an individual, the individual shall notify the County, and the County shall request the record.
    - (B) If the County determines that it is too burdensome for the individual to obtain the record, the County shall request the record.
  - (6) Verification of trainings, classes, courses, treatment, or counseling, or other documentation relevant to rehabilitation.
  - (7) Three signed, original, and current character references, including the reference's contact telephone number and mailing address.
    - (A) An individual listed as a reference on form RFA 01A: Resource Family Application may be the same individual providing a character reference for a criminal record exemption request.



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- (B) If an individual submits fewer than three character references, a County may approve an exemption provided sufficient evidence of rehabilitation exists, as provided in Subdivision (i).
- (h) A County may grant a criminal record exemption for a crime listed in Health and Safety Code section 1522(g)(2)(B) if all of the following occurs:
- (1) The individual requests an exemption or the applicant or Resource Family requests an exemption on the individual's behalf, pursuant to subsection (g).
  - (2) The individual, applicant, or Resource Family presents substantial and convincing evidence satisfactory to the County that the individual has been rehabilitated and presently is of such good character as to justify the granting of an exemption.
  - (3) The individual was not convicted of a crime listed in Health and Safety Code section 1522(g)(2)(A).
- (i) The following factors may be considered to support a determination that an individual has been rehabilitated and is presently of good character:
- (1) The nature of the crime or conduct did not involve acts of violence or physical harm to another person.
  - (2) A substantial period of time has elapsed since the crime was committed or since the conduct occurred.
  - (3) The number of offenses does not indicate a longstanding pattern of criminal conduct.
  - (4) The circumstances surrounding the commission of the crime or conduct indicate that repetition is not likely.
  - (5) The individual has engaged in positive activities since the conviction or conduct that would indicate changed behavior, including, but not limited to, employment, education, or participation in counseling or treatment.
  - (6) Granting by the Governor of a full and unconditional pardon.
  - (7) Character references indicate present good character.
    - (A) A character reference that demonstrates a knowledge and understanding of the individual's criminal background and an awareness of the individual's changed behavior and rehabilitation shall be given more weight than those that do not demonstrate such knowledge, understanding, and awareness.
  - (8) A certificate of rehabilitation from a superior court.
  - (9) Evidence of honesty and truthfulness as revealed in the application documents, interviews, and conversations between the individual and the County or Department.
- (j) The following factors may be considered to support a determination, but are not conclusive evidence, that an individual requiring a criminal record exemption has not been rehabilitated or is not presently of good character:
- (1) False or misleading statements on forms, letters, other documents, or in conversations between the individual or others and the County, in order to obtain or maintain approval or to obtain or maintain a criminal record exemption. This includes the individual's knowing failure to fully disclose his or her criminal history or child abuse or neglect history when required to do so in application documents or interviews.
  - (2) The individual is currently on probation.

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- (3) The individual's statements or testimony denies or minimizes guilt or attempts to impeach a conviction.
  - (4) The individual has not sought counseling, treatment, or aftercare for an alcohol or substance abuse problem.
  - (5) The individual has not paid full restitution or interest to a victim or only paid it when faced with jail or another consequence.
  - (6) The individual's statements or testimony fails to accept full responsibility for criminal conduct that resulted in a conviction, or the individual fails to express remorse for the conduct that is the subject of an allegation at issue.
  - (7) The individual has a recent conviction within the last five years for fraud or theft from a government program within the Department's jurisdiction.
- (k) A County may grant a criminal record exemption that places conditions on an individual's approval or presence in a Resource Family's home.
- (l) A County may deny a criminal record exemption if any of the following occurs:
- (1) The individual, or applicant or Resource Family acting on the individual's behalf, fails to provide the documents specified in subsection (g) within 45 calendar days of the date on the exemption needed notice provided by the County.
  - (2) The individual, or applicant or Resource Family acting on the individual's behalf, fails to cooperate in the exemption process.
  - (3) The County determines the individual is not of good character or has not been rehabilitated.
- (m) A County may rescind an individual's criminal record exemption if any of the following occurs:
- (1) The exemption was granted in error.
  - (2) The exemption does not comply with current exemption laws or regulations.
  - (3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.
  - (4) Evidence obtained after the exemption was granted shows that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, any of the following:
    - (A) Violation of any applicable law or regulation.
    - (B) Any conduct by the individual indicating the individual may pose a risk to the health and safety of any child or nonminor dependent who is or may be placed with a Resource Family.
    - (C) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the County, even if it occurred before the exemption was granted.
    - (D) The individual is convicted of a subsequent crime.
- (n) If a County denies a criminal record exemption or rescinds an exemption, the County shall provide the individual with a notice of the denial or rescission that conforms to the requirements of Section 12-05 and includes the following:

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- (1) The authority to deny a criminal record exemption or to rescind an exemption.
  - (2) The specific criminal conviction for which the exemption was denied.
    - (A) Only the notice to the individual shall indicate the specific criminal conviction(s) for which an exemption was denied, including the crime, date, and location of the conviction.
  - (3) The individual's right to appeal the County's decision pursuant to Article 12.
- (o) If an individual, applicant, or Resource Family appeals a County's decision to deny a criminal record exemption or to rescind an exemption, the County shall provide due process as specified in Welfare and Institutions Code section 16519.5 et seq. and Article 12.
- (p) A County shall take the following actions if a criminal record exemption is denied or rescinded:
- (1) For an applicant, denial of the application.
  - (2) For a Resource Family, rescission of Resource Family Approval.
  - (3) For an adult who resides or is regularly present in the home, if the individual will continue to reside or be regularly present in the home, then denial of the application or rescission of the approval.
  - (4) If applicable, conduct a visit to the home as set forth in Section 12-07(e) to verify that an adult who had a criminal record exemption denied or rescinded is no longer residing or present in the home.
- (q) (1) If an exemption has been denied or an exemption is rescinded, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to subsection (b).
- (A) The Department shall have authority to not impose the exclusion in accordance with Welfare and Institutions Code section 16519.6(g)(5) and Health and Safety Code section 1558.1(e).
  - (B) Exclusion or removal of an individual pursuant to this paragraph shall not be considered an order of exclusion for purposes of Health and Safety Code section 1558, Section 16519.6 of the Welfare and Institutions Code, or any other applicable law.
- (2) If an exemption has been denied or an exemption has been rescinded based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
- (r) A County shall maintain written documentation containing the reasons for granting, denying, or rescinding a criminal record exemption.
- (s) (1) A County may accept the transfer of a criminal record exemption that has been issued by the same County, another County, or the Department for a resource family, an approved relative or nonrelative extended family member or licensed foster family home. The request to transfer shall be in writing to the County evaluating the applicant or Resource Family and shall include a copy of a proof of identification accepted by the California Department of Justice for Live Scan

- purposes. The County shall verify whether the individual has an exemption that can be transferred, and subsequent to an approved transfer, continue to enforce and incorporate, as part of an approved exemption notification, any condition(s) placed on the individual pursuant to the previously granted exemption.
- (2) With respect to notifications issued by the California Department of Justice pursuant to Penal Code section 11105.2 concerning an individual whose criminal record exemption was originally processed by another County, or the Department, the following shall apply:
- (A) The California Department of Justice shall process a request from the County to receive the notifications only if all the following conditions are met:
- (i) The request shall be submitted to the California Department of Justice by the agency to be substituted to receive the notification.
  - (ii) The request shall be for the same California Department of Justice applicant type as the type for which the original exemption was obtained.
  - (iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the Department and the California Department of Justice.

**SECTION 6-04: Permanency Assessment**

- (a) A County shall conduct a Permanency Assessment that includes all of the following:
- (1) Verification that each applicant completed pre-approval training as specified in Section 6-06.
  - (2) A family evaluation of each applicant as specified in Section 6-05.
  - (3) Verification of the completion of any other activities related to an applicant's ability to achieve permanency with a child or nonminor dependent.

**SECTION 6-05: Family Evaluation**

- (a) A County shall conduct interviews as follows:
- (1) A minimum of two face-to-face interviews with an applicant.
    - (A) If there is more than one applicant, then one individual interview of each applicant and one joint interview of all applicants shall occur.
    - (B) If an applicant refuses to participate in an interview, a County shall deny the application.
    - (C) One of the required interviews shall occur at the applicant's residence and shall include observation of the family environment, and if applicable, any parent-child interaction.

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Flexibility with the applicant's schedule should be considered when scheduling the interviews. Interviews may occur prior to or after a child and family team meeting, monthly caseworker visit, during the home health and safety assessment, or other convenient times or locations for the family.

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