

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 212**

---

---

**Introduced by Assembly Member Beall**

January 31, 2011

---

---

An act to amend *Section 17552 of the Family Code*, and to amend Sections 366.31, 366.4, 388, 391, 727.3, 727.31, 728, 785, 11363, 11386, 11400, ~~and 11403~~ *11403, 16120, and 16504.5* of, and to add Section 11403.01 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 212, as amended, Beall. California Fostering Connections to Success Act.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to the provision of cash assistance and other services to and for the benefit of certain foster and adopted children, and other children who have been placed in out-of-home care, including children who receive Aid to Families with Dependent Children-Foster Care (AFDC-FC), Adoption Assistance Program, California Work Opportunity and Responsibility to Kids (CalWORKs), and Kinship Guardianship Assistance Payment (Kin-GAP) benefits. Among other provisions, the act extends specified foster care benefits to youth up to 19, 20, and 21 years of age, if specified conditions are met, commencing January 1, 2012.

Existing law, through the Kin-GAP program, which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker. Existing law provides state-funded Kin-GAP assistance for youth not eligible under the

federally funded program and requires the state to exercise its option under specified federal law to establish a kinship guardianship assistance payment program, as specified, for youth eligible for federal financial participation for Kin-GAP.

Under existing law, CalWORKs benefits may not be granted to or on behalf of any child who has attained 18 years of age, unless the child is attending high school or the equivalent level of vocational or technical training on a full-time basis, and is expected to complete the educational or training program before his or her 19th birthday.

This bill would establish similar provisions authorizing certain Kin-GAP recipients to continue to receive Kin-GAP aid after 18 years of age, if they are attending high school or vocational or technical training, as specified. By increasing county responsibilities in administering the Kin-GAP program, this bill would impose a state-mandated local program. The bill would make related conforming changes.

*Existing law imposes specified duties on the State Department of Social Services and local child support agencies regarding the collection and enforcement of child support in cases where a child has been removed from the parental home.*

*This bill would modify these provisions to incorporate nonminor dependents within the existing authority, including specifying that a nonminor dependent over 19 years of age is not a child for purposes of referral to the local child support agency.*

*Existing law requires a county welfare department to provide certain information, documents, and services to a court prior to a hearing to terminate dependency jurisdiction, as specified.*

*This bill would expand the documents required to be provided under the above circumstances, to include, among other things, an advance health care directive form. By increasing the duties of county welfare departments, the bill would impose a state-mandated local program.*

Under existing law, when a minor who is a ward of the juvenile court is placed in out-of-home care and the court orders a hearing to consider permanently terminating parental rights to free the minor for adoption, the court is required to direct the agency supervising the minor and the licensed county adoption agency or the State Department of Social Services, as specified, to prepare an assessment that includes specified information.

This bill would revise the contents of the required assessment including requiring consideration of the effect of a relative caregiver's

preference for legal guardianship over adoption, as specified. To the extent that this requirement would increase the duties of county adoption agencies, the bill would impose a state-mandated local program.

This bill also would make various technical ~~and~~, nonsubstantive, *and conforming* changes to provisions of the California Fostering Connections to Success Act.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1     SECTION 1. Section 17552 of the Family Code is amended to  
2 read:

3     17552. (a) The State Department of Social Services, in  
4 consultation with the Department of Child Support Services, shall  
5 promulgate regulations by which the county child welfare  
6 department, in any case of separation or desertion of a parent or  
7 parents from a child that results in foster care assistance payments  
8 under Section 11400 of, or CalWORKs payments to a caretaker  
9 relative of a child who comes within the jurisdiction of the juvenile  
10 court under Section 300, 601, or 602 of the Welfare and Institutions  
11 Code, who has been removed from the parental home and placed  
12 with the caretaker relative by court order, and who is under the  
13 supervision of the county child welfare agency or probation  
14 department under Section 11250 of, or Kin-GAP payments under  
15 Article 4.5 (commencing with Section 11360) or Article 4.7  
16 (commencing with Section 11385) of, or aid under subdivision (c)  
17 of Section 10101 of, the Welfare and Institutions Code, shall  
18 determine whether it is in the best interests of the child *or nonminor*  
19 to have the case referred to the local child support agency for child  
20 support services. If reunification services are not offered or are  
21 terminated, the case may be referred to the local child support  
22 agency, unless the child's permanent plan is legal guardianship

1 with a relative who is receiving Kin-GAP and the payment of  
2 support by the parent may compromise the stability of the current  
3 placement with the related guardian, *or the permanent plan is*  
4 *transitional foster care for the nonminor under Section 11403 of*  
5 *the Welfare and Institutions Code*. In making the determination,  
6 the department regulations shall provide the factors the county  
7 child welfare department shall consider, including:

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

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

16 (b) The department regulations shall provide that, where the  
17 county child welfare department determines that it is not in the  
18 best interests of the child to seek a support order against the parent,  
19 the county child welfare department shall refrain from referring  
20 the case to the local child support agency. The regulations shall  
21 define those circumstances in which it is not in the best interest of  
22 the child to refer the case to the local child support agency.

23 (c) The department regulations shall provide, where the county  
24 child welfare department determines that it is not in the child's  
25 best interest to have his or her case referred to the local child  
26 support agency, the county child welfare department shall review  
27 that determination—~~annually~~ *periodically* to coincide with the  
28 redetermination of AFDC-FC eligibility under Section 11401.5  
29 of, or the CalWORKs eligibility under Section 11265 of, or  
30 Kin-GAP eligibility under Article 4.5 (commencing with Section  
31 11360) or Article 4.7 (commencing with Section 11385) of Chapter  
32 2 of Part 3 of Division 9 of, the Welfare and Institutions Code,  
33 and shall refer the child's case to the local child support agency  
34 upon a determination that, due to a change in the child's  
35 circumstances, it is no longer contrary to the child's best interests  
36 to have his or her case referred to the local child support agency.

37 (d) The State Department of Social Services shall promulgate  
38 all necessary regulations pursuant to this section on or before  
39 October 1, 2002.

1 (e) Notwithstanding any other provision of law, a nonminor  
2 dependent, as described in subdivision (v) of Section 11400 of the  
3 Welfare and Institutions Code, who is over 19 years of age, is not  
4 a child for purposes of referral to the local child support agency  
5 for collection or enforcement of child support.

6 **SECTION 1.**

7 **SEC. 2.** Section 366.31 of the Welfare and Institutions Code  
8 is amended to read:

9 366.31. (a) On and after January 1, 2012, with respect to a  
10 nonminor dependent, as defined in subdivision (v) of Section  
11 11400, who has a permanent plan of long-term foster care that was  
12 ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26 the  
13 court may continue jurisdiction of the nonminor as a dependent  
14 of the juvenile court or may dismiss dependency jurisdiction  
15 pursuant to Section 391.

16 (b) If the court continues dependency jurisdiction of the  
17 nonminor as a dependent of the juvenile court, the court shall order  
18 the development of a planned permanent living arrangement of a  
19 placement under a mutual agreement, pursuant to Section 11403,  
20 which may include continued placement with the current caregiver  
21 or another licensed or approved caregiver or in a supervised  
22 independent living setting, as defined in subdivision (w) of Section  
23 11400, consistent with the youth's transitional independent living  
24 case plan.

25 (c) If the court terminates its dependency jurisdiction over a  
26 nonminor dependent pursuant to subdivision (a), it shall retain  
27 jurisdiction over the youth pursuant to Section 303. Consistent  
28 with paragraph (e) of Section 1356.21 of Title 45 of the Code of  
29 Federal Regulations, the court shall authorize a period of trial  
30 independence as defined in subdivision (y) of Section 11400. The  
31 court shall set the end date of the trial independence to be the day  
32 prior to the day the nonminor attains 21 years of age, unless to do  
33 so is not in the nonminor's best interests. If the court has dismissed  
34 dependency jurisdiction pursuant to subdivision (d) of Section  
35 391, the nonminor, who has not attained 21 years of age, may  
36 subsequently file a petition pursuant to subdivision (e) of Section  
37 388 to have dependency jurisdiction resumed and the court may  
38 vacate its previous order dismissing dependency jurisdiction over  
39 the nonminor dependent.

1     ~~SEC. 2.~~

2     SEC. 3. Section 366.4 of the Welfare and Institutions Code is  
3 amended to read:

4     366.4. (a) Any minor for whom a guardianship has been  
5 established resulting from the selection or implementation of a  
6 permanency plan pursuant to Section 366.26, or for whom a related  
7 guardianship has been established pursuant to Section 360, or, on  
8 and after the date that the director executes a declaration pursuant  
9 to Section 11217, a nonminor who is receiving Kin-GAP payments  
10 pursuant to Section 11363 or 11386, or, on or after January 1,  
11 2012, a nonminor former dependent child of the juvenile court  
12 who is receiving AFDC-FC benefits pursuant to Section 11405,  
13 is within the jurisdiction of the juvenile court. For those minors,  
14 Part 2 (commencing with Section 1500) of Division 4 of the  
15 Probate Code, relating to guardianship, shall not apply. If no  
16 specific provision of this code or the California Rules of Court is  
17 applicable, the provisions applicable to the administration of estates  
18 under Part 4 (commencing with Section 2100) of Division 4 of the  
19 Probate Code govern so far as they are applicable to like situations.

20     (b) Nonrelated legal guardians of the person of a guardianship  
21 pursuant to Section 360 or 366.26 shall be exempt from the  
22 provisions of Sections 2850 and 2851 of the Probate Code.

23     ~~SEC. 3.~~

24     SEC. 4. Section 388 of the Welfare and Institutions Code is  
25 amended to read:

26     388. (a) Any parent or other person having an interest in a  
27 child who is a dependent child of the juvenile court or the child  
28 himself or herself through a properly appointed guardian may,  
29 upon grounds of change of circumstance or new evidence, petition  
30 the court in the same action in which the child was found to be a  
31 dependent child of the juvenile court or in which a guardianship  
32 was ordered pursuant to Section 360 for a hearing to change,  
33 modify, or set aside any order of court previously made or to  
34 terminate the jurisdiction of the court. The petition shall be verified  
35 and, if made by a person other than the child, shall state the  
36 petitioner’s relationship to or interest in the child and shall set forth  
37 in concise language any change of circumstance or new evidence  
38 that ~~are~~ is alleged to require the change of order or termination of  
39 jurisdiction.

1 (b) Any person, including a child who is a dependent of the  
2 juvenile court, may petition the court to assert a relationship as a  
3 sibling related by blood, adoption, or affinity through a common  
4 legal or biological parent to a child who is, or is the subject of a  
5 petition for adjudication as, a dependent of the juvenile court, and  
6 may request visitation with the dependent child, placement with  
7 or near the dependent child, or consideration when determining  
8 or implementing a case plan or permanent plan for the dependent  
9 child or make any other request for an order which may be shown  
10 to be in the best interest of the dependent child. The court may  
11 appoint a guardian ad litem to file the petition for the dependent  
12 child asserting the sibling relationship if the court determines that  
13 the appointment is necessary for the best interests of the dependent  
14 child. The petition shall be verified and shall set forth the  
15 following:

16 (1) Through which parent he or she is related to the dependent  
17 child.

18 (2) Whether he or she is related to the dependent child by blood,  
19 adoption, or affinity.

20 (3) The request or order that the petitioner is seeking.

21 (4) Why that request or order is in the best interest of the  
22 dependent child.

23 (c) (1) Any party, including a child who is a dependent of the  
24 juvenile court, may petition the court, prior to the hearing set  
25 pursuant to subdivision (f) of Section 366.21 for a child described  
26 by subparagraph (A) of paragraph (1) of subdivision (a) of Section  
27 361.5, or prior to the hearing set pursuant to subdivision (e) of  
28 Section 366.21 for a child described by subparagraph (B) or (C)  
29 of paragraph (1) of subdivision (a) of Section 361.5, to terminate  
30 court-ordered reunification services provided under subdivision  
31 (a) of Section 361.5 only if one of the following conditions exists:

32 (A) It appears that a change of circumstance or new evidence  
33 exists that satisfies a condition set forth in subdivision (b) or (e)  
34 of Section 361.5 justifying termination of court-ordered  
35 reunification services.

36 (B) The action or inaction of the parent or guardian creates a  
37 substantial likelihood that reunification will not occur, including,  
38 but not limited to, the parent or guardian's failure to visit the child,  
39 or the failure of the parent or guardian to participate regularly and  
40 make substantive progress in a court-ordered treatment plan.

1 (2) In determining whether the parent or guardian has failed to  
2 visit the child or participate regularly or make progress in the  
3 treatment plan, the court shall consider factors including, but not  
4 limited to, the parent or guardian's incarceration,  
5 institutionalization, or participation in a court-ordered residential  
6 substance abuse treatment program.

7 (3) The court shall terminate reunification services during the  
8 above-described time periods only upon a finding by a  
9 preponderance of evidence that reasonable services have been  
10 offered or provided, and upon a finding of clear and convincing  
11 evidence that one of the conditions in subparagraph (A) or (B) of  
12 paragraph (1) exists.

13 (4) If the court terminates reunification services, it shall order  
14 that a hearing pursuant to Section 366.26 be held within 120 days.

15 (d) If it appears that the best interests of the child may be  
16 promoted by the proposed change of order, recognition of a sibling  
17 relationship, termination of jurisdiction, or clear and convincing  
18 evidence supports revocation or termination of court-ordered  
19 reunification services, the court shall order that a hearing be held  
20 and shall give prior notice, or cause prior notice to be given, to the  
21 persons and by the means prescribed by Section 386, and, in those  
22 instances in which the means of giving notice is not prescribed by  
23 those sections, then by means the court prescribes.

24 (e) (1) On and after January 1, 2012, a nonminor who has not  
25 attained 19 years of age, or, commencing January 1, 2013, 20 years  
26 of age, or, commencing January 1, 2014, 21 years of age, for whom  
27 the court has dismissed dependency jurisdiction pursuant to Section  
28 391, or delinquency jurisdiction pursuant to subdivision (e) of  
29 Section 785, but has retained general jurisdiction under Section  
30 303, and has ordered a period of trial independence pursuant to  
31 Section 366.31, may petition the court in the same action in which  
32 the child was found to be a dependent or delinquent child of the  
33 juvenile court for a hearing to resume the dependency or  
34 delinquency jurisdiction of the court. The petition shall be filed  
35 within the period of trial independence.

36 (2) (A) The petition to resume dependency or delinquency  
37 jurisdiction may be filed in the juvenile court that retains  
38 jurisdiction under subdivision (b) of Section 303 or the juvenile  
39 court in the county where the youth resides. The juvenile court  
40 having jurisdiction under Section 303 shall receive the petition

1 from the court in which the petition is filed within five court days  
2 of the filing if the petition is filed in the county of residence. Upon  
3 filing of the petition, the court shall order that a hearing be held,  
4 if there is a prima facie showing that the nonminor is able to satisfy  
5 at least one of the conditions in subdivision (b) of Section 11403,  
6 and agrees to supervised placement pursuant to the mutual  
7 agreement. Upon ordering a hearing, the court shall give prior  
8 *satisfies the following criteria:*

9 (i) *He or she was previously under juvenile court jurisdiction,*  
10 *and was granted a period of trial independence, which has not*  
11 *expired.*

12 (ii) *He or she intends to satisfy at least one of the conditions set*  
13 *forth in subdivision (b) of Section 11403.*

14 (iii) *He or she wants assistance either in maintaining or securing*  
15 *appropriate housing, or is in need of immediate placement and*  
16 *agrees to supervised placement pursuant to the mutual agreement.*

17 (B) *Upon ordering a hearing, the court shall give prior notice,*  
18 *or cause prior notice to be given, to the persons and by the means*  
19 *prescribed by Section 386, except that notice to parents or former*  
20 *guardians shall not be provided if the nonminor objects, in writing,*  
21 *on the face of the petition.*

22 (3) The Judicial Council, by January 1, 2012, shall adopt rules  
23 of court to allow for telephonic appearances by nonminor former  
24 dependents or delinquents in these proceedings, *and for telephonic*  
25 *appearances by nonminor dependents in any proceeding in which*  
26 *the nonminor dependent is a party, and he or she declines to*  
27 *appear and elects a telephonic appearance.*

28 (4) Prior to the hearing on a petition to resume dependency or  
29 delinquency jurisdiction, the court shall order the county child  
30 welfare or probation department or Indian tribe that has entered  
31 into an agreement pursuant to Section 10553.1 to prepare a report  
32 for the court addressing whether the nonminor ~~is able~~ *intends* to  
33 satisfy at least one of the criteria set forth in subdivision (b) of  
34 Section 11403. When the recommendation is for the nonminor  
35 dependent to be placed in a setting where minor dependents also  
36 reside, the results of a background check of the petitioning  
37 nonminor conducted pursuant to Section 16504.5, used by the  
38 placing agency to determine appropriate placement options for the  
39 nonminor. The existence of a criminal conviction is not a bar to

1 eligibility for reentry or resumption of dependency jurisdiction of  
2 a nonminor.

3 (5) The court, if it finds that the nonminor ~~is able~~ *intends* to  
4 satisfy, and agrees to satisfy, at least one of the criteria set forth  
5 in subdivision (b) of Section 11403, shall resume dependency or  
6 delinquency jurisdiction and order the county child welfare or  
7 probation department or tribe to develop a new transitional  
8 independent living case plan with the youth, which shall be  
9 presented to the court within 60 days of the resumption of the  
10 dependency or delinquency jurisdiction.

11 (f) ~~A~~ *Either the child himself or herself, or a parent or other*  
12 *person having an interest in a child, or the child himself or herself*  
13 ~~when the child was removed~~ *who was removed* from his or her  
14 parents or guardian and placed in foster care under jurisdiction  
15 established pursuant to Section 601 or 602, and that jurisdiction  
16 is to be terminated, may file a supplemental petition with the court,  
17 consistent with subdivision (d) of Section 241.1, to modify the  
18 court's jurisdiction in order to establish jurisdiction pursuant to  
19 Section 300, if the child appears to come within the description of  
20 Section 300 and cannot be returned home safely. *If the child who*  
21 *is the subject of the supplemental petition has not previously been*  
22 *subject to the jurisdiction of the court as a result of a petition filed*  
23 *pursuant to Section 325, then a supplemental petition filed pursuant*  
24 *to this subdivision shall be handled in the same manner as a*  
25 *petition filed pursuant to Section 325.*

26 ~~SEC. 4.~~

27 *SEC. 5.* Section 391 of the Welfare and Institutions Code, as  
28 added by Section 28 of Chapter 559 of the Statutes of 2010, is  
29 amended to read:

30 391. (a) The court shall not terminate jurisdiction over a  
31 dependent youth who has reached 18 years of age unless a hearing  
32 is conducted pursuant to this section.

33 (b) At any hearing for a dependent youth who has attained 18  
34 years of age at which the court is considering termination of the  
35 jurisdiction of the juvenile court and the accompanying foster care  
36 services as described in Section 11403, the county welfare  
37 department shall do all of the following:

38 (1) Ensure that the dependent is present in court, unless the  
39 dependent does not wish to appear in court, *and elects a telephonic*  
40 *appearance*, or document efforts by the county welfare department

1 to locate the ~~child when the child~~ *youth when the youth* is not  
2 available.

3 (2) Submit a report describing whether it is in the youth's best  
4 interests to remain under the court's dependency jurisdiction, which  
5 includes a recommended transitional independent living case plan  
6 for any youth who is continuing dependency as a nonminor.

7 (3) If the dependent has indicated that he or she does not want  
8 dependency jurisdiction to continue, the report shall address the  
9 advisability of a court-ordered period of trial independence.

10 (c) The court shall continue dependency jurisdiction for a  
11 nonminor dependent, as defined in subdivision (v) of Section  
12 11400, who is eligible pursuant to Section 11403 unless the court  
13 finds that after reasonable and documented efforts the nonminor  
14 cannot be located or does not wish to remain subject to dependency  
15 jurisdiction. In making this finding, the court shall ensure that the  
16 nonminor has been informed of his or her options including the  
17 right to file a petition pursuant to Section 388 to resume  
18 dependency jurisdiction, and had an opportunity to confer with  
19 his or her counsel if counsel has been appointed pursuant to Section  
20 317. The court shall terminate dependency jurisdiction for a  
21 nonminor dependent if it finds that the nonminor dependent is not  
22 eligible pursuant to subdivision (b) of Section 11403.

23 (d) If the court terminates dependency jurisdiction, the nonminor  
24 shall remain within the jurisdiction of the court until the nonminor  
25 attains 21 years of age, although no review proceedings shall be  
26 required. As authorized in paragraph (e) of Section 1356.21 of  
27 Title 45 of the Code of Federal Regulations, the court shall  
28 authorize a period of trial independence, as defined in subdivision  
29 (y) of Section 11400. In order to ensure eligibility for federal  
30 financial participation, the court shall set the end date of the period  
31 of trial independence to be the day prior to the day the nonminor  
32 attains 21 years of age, unless to do so is not in the nonminor's  
33 best interests. A nonminor may petition the court pursuant to  
34 subdivision (e) of Section 388 to resume dependency jurisdiction  
35 at any time before attaining 21 years of age.

36 ~~(e) Unless the nonminor does not wish to remain under the~~  
37 ~~dependency or delinquency jurisdiction of the court, or, after~~  
38 ~~reasonable efforts by the county welfare department the nonminor~~  
39 ~~cannot be located, the court shall not terminate dependency or~~

1 (e) *The court shall not terminate dependency or delinquency*  
2 *jurisdiction over a nonminor dependent who has reached 18 years*  
3 *of age until a hearing is conducted pursuant to this section and the*  
4 *department has submitted a report verifying that the following*  
5 *information, documents, and services have been provided to the*  
6 *child youth, or in the case of a youth who, after reasonable efforts*  
7 *by the county welfare department, cannot be located, verifying the*  
8 *efforts made to make the following available to the youth:*

9 (1) Written information concerning the ~~child's~~ youth's  
10 dependency case, including any known information regarding the  
11 ~~child's~~ youth's Indian heritage or tribal connections, if applicable,  
12 his or her family history and placement history, any photographs  
13 of the child or his or her family in the possession of the county  
14 welfare department, other than forensic photographs, the  
15 whereabouts of any siblings under the jurisdiction of the juvenile  
16 court, unless the court determines that sibling contact would  
17 jeopardize the safety or welfare of the sibling, directions on how  
18 to access the documents the child is entitled to inspect under  
19 Section 827, and the date on which the jurisdiction of the juvenile  
20 court would be terminated.

21 (2) The following documents:

22 (A) Social security card.

23 (B) Certified copy of his or her birth certificate.

24 (C) Health and education summary, as described in subdivision  
25 (a) of Section 16010.

26 (D) Driver's license, as described in Section 12500 of the  
27 Vehicle Code, or identification card, as described in Section 13000  
28 of the Vehicle Code.

29 (E) A letter prepared by the county welfare department that  
30 includes the following information:

31 (i) The child's name and date of birth.

32 (ii) The dates during which the child was within the jurisdiction  
33 of the juvenile court.

34 (iii) A statement that the child was a foster youth in compliance  
35 with state and federal financial aid documentation requirements.

36 (F) If applicable, the death certificate of the parent or parents.

37 (G) If applicable, proof of the child's citizenship or legal  
38 residence.

39 (H) *An advance health care directive form.*

1 (I) *The Judicial Council form that the nonminor would use to*  
2 *file a petition pursuant to subdivision (e) of Section 388 to resume*  
3 *dependency jurisdiction.*

4 (J) *The written 90-day transition plan prepared pursuant to*  
5 *Section 16501.1.*

6 (3) Assistance in completing an application for Medi-Cal or  
7 assistance in obtaining other health insurance.

8 (4) Referrals to transitional housing, if available, or assistance  
9 in securing other housing.

10 (5) Assistance in obtaining employment or other financial  
11 support.

12 (6) Assistance in applying for admission to college or to a  
13 vocational training program or other educational institution and  
14 in obtaining financial aid, where appropriate.

15 (7) Assistance in maintaining relationships with individuals  
16 who are important to a child who has been in out-of-home  
17 placement for six months or longer from the date the child entered  
18 foster care, based on the child's best interests.

19 (8) For nonminors between 18 and 21 years of age, assistance  
20 in accessing the Independent Living Aftercare Program in the  
21 nonminor's county of residence, and, upon the nonminor's request,  
22 assistance in filing a petition pursuant to subdivision (e) of Section  
23 388 to resume dependency jurisdiction.

24 (f) At the hearing closest to and before a dependent child's 18th  
25 birthday and every review hearing thereafter, the department shall  
26 submit a report describing efforts toward completing the items  
27 described in paragraph (2) of subdivision (e).

28 (g) The Judicial Council shall develop and implement standards,  
29 and develop and adopt appropriate forms necessary to implement  
30 this provision.

31 (h) This section shall become operative on January 1, 2012.

32 ~~SEC. 5.~~

33 *SEC. 6.* Section 727.3 of the Welfare and Institutions Code is  
34 amended to read:

35 727.3. The purpose of this section is to provide a means to  
36 monitor the safety and well-being of every minor in foster care  
37 who has been declared a ward of the juvenile court pursuant to  
38 Section 601 or 602 and to ensure that everything reasonably  
39 possible is done to facilitate the safe and early return of the minor

1 to his or her own home or to establish an alternative permanent  
2 plan for the minor.

3 (a) (1) For every minor declared a ward and ordered to be  
4 placed in foster care, a permanency planning hearing shall be  
5 conducted within 12 months of the date the minor entered foster  
6 care, as defined in paragraph (4) of subdivision (d) of Section  
7 727.4. Subsequent permanency planning hearings shall be  
8 conducted periodically, but no less frequently than once every 12  
9 months thereafter during the period of placement. It shall be the  
10 duty of the probation officer to prepare a written social study report  
11 including an updated case plan and a recommendation for a  
12 permanent plan, pursuant to subdivision (c) of Section 706.5, and  
13 submit the report to the court prior to each permanency planning  
14 hearing, pursuant to subdivision (b) of Section 727.4.

15 (2) Prior to any permanency planning hearing involving a minor  
16 in the physical custody of a community care facility or foster family  
17 agency, the facility or agency may file with the court a report  
18 containing its recommendations, in addition to the probation  
19 officer's social study. Prior to any permanency planning hearing  
20 involving the physical custody of a foster parent, relative caregiver,  
21 preadoptive parent, or legal guardian, that person may present to  
22 the court a report containing his or her recommendations. The  
23 court shall consider all reports and recommendations filed pursuant  
24 to this subdivision.

25 (3) If the minor has a continuing involvement with his or her  
26 parents or legal guardians, the parents or legal guardians shall be  
27 involved in the planning for a permanent placement. The court  
28 order placing the minor in a permanent placement shall include a  
29 specification of the nature and frequency of visiting arrangements  
30 with the parents or legal guardians.

31 (4) At each permanency planning hearing, the court shall order  
32 a permanent plan for the minor, as described in subdivision (b).  
33 The court shall also make findings, as described in subdivision (e)  
34 of Section 727.2. In the case of a minor who has reached 16 years  
35 of age or older, the court shall, in addition, determine the services  
36 needed to assist the minor to make the transition from foster care  
37 to independent living. The court shall make all of these  
38 determinations on a case-by-case basis and make reference to the  
39 probation officer's report, the case plan, or other evidence relied  
40 upon in making its decisions.

1 (b) At all permanency planning hearings, the court shall  
2 determine the permanent plan for the minor. The court shall order  
3 one of the following permanent plans, which are, in order of  
4 priority:

5 (1) Return of the minor to physical custody of the parent or legal  
6 guardian. The court shall order the return of the minor to the  
7 physical custody of his or her parent or legal guardian unless:

8 (A) Reunification services were not offered, pursuant to  
9 subdivision (b) of Section 727.2.

10 (B) The court finds, by a preponderance of the evidence, that  
11 the return of the minor to his or her parent or legal guardian would  
12 create a substantial risk of detriment to the safety, protection, or  
13 physical or emotional well-being of the minor. The probation  
14 department shall have the burden of establishing that detriment.  
15 In making its determination, the court shall review and consider  
16 the social study report and recommendations pursuant to Section  
17 706.5, the report and recommendations of any child advocate  
18 appointed for the minor in the case, and any other reports submitted  
19 pursuant to paragraph (2) of subdivision (a), and shall consider  
20 the efforts or progress, or both, demonstrated by the minor and  
21 family and the extent to which the minor availed himself or herself  
22 of the services provided.

23 (2) Order that the permanent plan for the minor will be to return  
24 the minor to the physical custody of the parent or legal guardian,  
25 order further reunification services to be provided to the minor  
26 and his or her parent or legal guardian for a period not to exceed  
27 six months and continue the case for up to six months for a  
28 subsequent permanency planning hearing, provided that the  
29 subsequent hearing shall occur within 18 months of the date the  
30 minor was originally taken from physical custody of his or her  
31 parent or legal guardian. The court shall continue the case only if  
32 it finds that there is a substantial probability that the minor will be  
33 returned to the physical custody of his or her parent or legal  
34 guardian and safely maintained in the home within the extended  
35 period of time or that reasonable services have not been provided  
36 to the parent or guardian. For purposes of this section, in order to  
37 find that there is a substantial probability that the minor will be  
38 returned to the physical custody of his or her parent or legal  
39 guardian, the court shall be required to find that the minor and his

1 or her parent or legal guardian have demonstrated the capacity and  
2 ability to complete the objectives of the case plan.

3 The court shall inform the parent or legal guardian that if the  
4 minor cannot be returned home by the next permanency planning  
5 hearing, a proceeding pursuant to Section 727.31 may be initiated.

6 The court shall not continue the case for further reunification  
7 services if it has been 18 months or more since the date the minor  
8 was originally taken from the physical custody of his or her parent  
9 or legal guardian.

10 (3) Identify adoption as the permanent plan and order that a  
11 hearing be held within 120 days, pursuant to the procedures  
12 described in Section 727.31. The court shall only set a hearing  
13 pursuant to Section 727.31 if there is clear and convincing evidence  
14 that reasonable services have been provided or offered to the  
15 parents. When the court sets a hearing pursuant to Section 727.31,  
16 it shall order that an adoption assessment report be prepared,  
17 pursuant to subdivision (b) of Section 727.31.

18 (4) Order a legal guardianship, pursuant to procedures described  
19 in subdivisions (c) to (f), inclusive, of Section 728.

20 (5) Place the minor with a fit and willing relative. “Placement  
21 with a fit and willing relative” means placing the minor with an  
22 appropriate relative on a permanent basis. When a minor is placed  
23 with a fit and willing relative, the court may authorize the relative  
24 to provide the same legal consent for the minor’s medical, surgical,  
25 and dental care, and education as the custodial parent of the minor.

26 (6) Place the minor in a planned permanent living arrangement.  
27 A “planned permanent living arrangement” means any permanent  
28 living arrangement described in Section 11402 and not listed in  
29 paragraphs (1) to (5), inclusive, such as placement in a specific,  
30 identified foster family home, program, or facility on a permanent  
31 basis, or placement in a transitional housing placement facility.  
32 When the court places a minor in a planned permanent living  
33 arrangement, the court shall specify the goal of the placement,  
34 which may include, but shall not be limited to, return home,  
35 emancipation, guardianship, or permanent placement with a  
36 relative.

37 The court shall only order that the minor remain in a planned  
38 permanent living arrangement if the court finds by clear and  
39 convincing evidence, based upon the evidence already presented  
40 to it that there is a compelling reason, as defined in subdivision

1 (c), for determining that a plan of termination of parental rights  
2 and adoption is not in the best interest of the minor.

3 (c) A compelling reason for determining that a plan of  
4 termination of parental rights and adoption is not in the best interest  
5 of the minor is any of the following:

6 (1) Documentation by the probation department that adoption  
7 is not in the best interest of the minor and is not an appropriate  
8 permanency goal. That documentation may include, but is not  
9 limited to, documentation that:

10 (A) The minor is 12 years of age or older and objects to  
11 termination of parental rights.

12 (B) The minor is an older teen who specifically requests that  
13 emancipation be established as his or her permanent plan. On and  
14 after January 1, 2012, this includes a minor who requests that his  
15 or her transitional independent living case plan include  
16 modification of his or her jurisdiction to that of dependent pursuant  
17 to subdivision (d) of Section 241.1, in order to be eligible as a  
18 nonminor dependent for the extended benefits pursuant to Section  
19 11403.

20 (C) The parent or guardian and the minor have a significant  
21 bond, but the parent or guardian is unable to care for the minor  
22 because of an emotional or physical disability, and the minor's  
23 caregiver has committed to raising the minor to the age of majority  
24 and facilitating visitation with the disabled parent or guardian.

25 (D) The minor agrees to continued placement in a residential  
26 treatment facility that provides services specifically designed to  
27 address the minor's treatment needs, and the minor's needs could  
28 not be served by a less restrictive placement.

29 The probation department's recommendation that adoption is  
30 not in the best interest of the minor shall be based on the present  
31 family circumstances of the minor and shall not preclude a different  
32 recommendation at a later date if the minor's family circumstances  
33 change.

34 (2) Documentation by the probation department that no grounds  
35 exist to file for termination of parental rights.

36 (3) Documentation by the probation department that the minor  
37 is an unaccompanied refugee minor, or there are international legal  
38 obligations or foreign policy reasons that would preclude  
39 terminating parental rights.

1 (4) A finding by the court that the probation department was  
2 required to make reasonable efforts to reunify the minor with the  
3 family pursuant to subdivision (a) of Section 727.2, and did not  
4 make those efforts.

5 (5) Documentation by the probation department that the minor  
6 is living with a relative who is unable or unwilling to adopt the  
7 minor because of exceptional circumstances that do not include  
8 an unwillingness to accept legal or financial responsibility for the  
9 minor, but who is willing and capable of providing the minor with  
10 a stable and permanent home environment, and the removal of the  
11 minor from the physical custody of his or her relative would be  
12 detrimental to the minor's emotional well-being.

13 (d) Nothing in this section shall be construed to limit the ability  
14 of a parent to voluntarily relinquish his or her child to the State  
15 Department of Social Services when it is acting as an adoption  
16 agency in counties that are not served by a county adoption agency  
17 or to a licensed county adoption agency at any time while the minor  
18 is a ward of the juvenile court if the department or agency is willing  
19 to accept the relinquishment.

20 (e) Any change in the permanent plan of a minor placed with a  
21 fit and willing relative or in a planned permanent living  
22 arrangement shall be made only by order of the court pursuant to  
23 a Section 778 petition or at a regularly scheduled and noticed status  
24 review hearing or permanency planning hearing. Any change in  
25 the permanent plan of a minor placed in a guardianship shall be  
26 made only by order of the court pursuant to a motion filed in  
27 accordance with Section 728.

28 ~~SEC. 6.~~

29 *SEC. 7.* Section 727.31 of the Welfare and Institutions Code  
30 is amended to read:

31 727.31. (a) This section applies to all minors placed in  
32 out-of-home care pursuant to Section 727.2 or 727.3 and for whom  
33 the juvenile court orders a hearing to consider permanently  
34 terminating parental rights to free the minor for adoption.

35 Except for subdivision (j) of Section 366.26, the procedures for  
36 permanently terminating parental rights for minors described by  
37 this section shall proceed exclusively pursuant to Section 366.26.

38 At the beginning of any proceeding pursuant to this section, if  
39 the minor is not being represented by previously retained or  
40 appointed counsel, the court shall appoint counsel to represent the

1 minor, and the minor shall be present in court unless the minor or  
2 the minor's counsel so requests and the court so orders. If a parent  
3 appears without counsel and is unable to afford counsel, the court  
4 shall appoint counsel for the parent, unless this representation is  
5 knowingly and intelligently waived. The same counsel shall not  
6 be appointed to represent both the minor and the parent. Private  
7 counsel appointed under this section shall receive a reasonable  
8 sum for compensation and expenses as specified in subdivision  
9 (f) of paragraph (3) of Section 366.26.

10 (b) Whenever the court orders that a hearing pursuant to this  
11 section shall be held, it shall direct the agency supervising the  
12 minor and the licensed county adoption agency, or the State  
13 Department of Social Services when it is acting as an adoption  
14 agency in counties that are not served by a county adoption agency,  
15 to prepare an assessment that shall include all of the following:

16 (1) Current search efforts for an absent parent or parents.

17 (2) A review of the amount and nature of any contact between  
18 the minor and his or her parents and other members of his or her  
19 extended family since the time of placement. Although the  
20 extended family of each minor shall be reviewed on a case-by-case  
21 basis, "extended family" for the purpose of the paragraph shall  
22 include, but not be limited to, the minor's siblings, grandparents,  
23 aunts, and uncles.

24 (3) An evaluation of the minor's medical, developmental,  
25 scholastic, mental, and emotional status.

26 (4) A preliminary assessment of the eligibility and commitment  
27 of any identified prospective adoptive parent or guardian,  
28 particularly the caretaker, to include a social history, including  
29 screening for criminal records and prior referrals for child abuse  
30 or neglect, the capability to meet the minor's needs, and the  
31 understanding of the legal and financial rights and responsibilities  
32 of adoption and guardianship. If a proposed guardian is a relative  
33 of the minor, and the relative was assessed for foster care placement  
34 of the minor prior to January 1, 1998, the assessment shall also  
35 consider, but need not be limited to, all of the factors specified in  
36 subdivision (a) of Section 361.3 and Section 361.4.

37 (5) The relationship of the minor to any identified prospective  
38 adoptive parent or guardian, the duration and character of the  
39 relationship, the degree of attachment of the child to the prospective  
40 relative guardian or adoptive parent, the relative's or adoptive

1 parent’s strong commitment to caring permanently for the child,  
2 the motivation for seeking adoption or guardianship, a statement  
3 from the minor concerning placement and the adoption or  
4 guardianship, and whether the minor, if over 12 years of age, has  
5 been consulted about the proposed relative guardianship  
6 arrangements, unless the minor’s age or physical, emotional, or  
7 other condition precludes his or her meaningful response, and if  
8 so, a description of the condition.

9 (6) An analysis of the likelihood that the minor will be adopted  
10 if parental rights are terminated.

11 (c) A relative caregiver’s preference for legal guardianship over  
12 adoption, if it is due to circumstances that do not include an  
13 unwillingness to accept legal or financial responsibility for the  
14 child, shall not constitute the sole basis for recommending removal  
15 of the child from the relative caregiver for purposes of adoptive  
16 placement. A relative caregiver shall be given information  
17 regarding the permanency options of guardianship and adoption,  
18 including the long-term benefits and consequences of each option,  
19 prior to establishing legal guardianship or pursuing adoption.

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

27 (e) For purposes of this section, “relative” means an adult who  
28 is related to the child by blood, adoption, or affinity within the  
29 fifth degree of kinship, including stepparents, stepsiblings, and all  
30 relatives whose status is preceded by the words “great,”  
31 “great-great,” or “grand,” or the spouse of any of those persons,  
32 even if the marriage was terminated by death or dissolution.

33 (f) Whenever the court orders that a hearing pursuant to  
34 procedures described in this section be held, it shall order that the  
35 licensed county adoption agency, or the State Department of Social  
36 Services when it is acting as an adoption agency in counties that  
37 are not served by a county adoption agency, has exclusive  
38 responsibility for determining the adoptive placement and making  
39 all adoption-related decisions.

1 (g) If the court, by order of judgment declares the minor free  
2 from the custody and control of both parents, or one parent if the  
3 other does not have custody and control, the court shall at the same  
4 time order the minor referred to the State Department of Social  
5 Services when it is acting as an adoption agency in counties that  
6 are not served by a county adoption agency or a licensed county  
7 adoption agency for adoptive placement by the agency. The order  
8 shall state that responsibility for custody of the minor shall be held  
9 jointly by the probation department and the State Department of  
10 Social Services when it is acting as an adoption agency in counties  
11 that are not served by a county adoption agency or the licensed  
12 county adoption agency. The order shall also state that the State  
13 Department of Social Services when it is acting as an adoption  
14 agency in counties that are not served by a county adoption agency  
15 or the licensed county adoption agency has exclusive responsibility  
16 for determining the adoptive placement and for making all  
17 adoption-related decisions. However, no petition for adoption may  
18 be granted until the appellate rights of the natural parents have  
19 been exhausted.

20 (h) The notice procedures for terminating parental rights for  
21 minors described by this section shall proceed exclusively pursuant  
22 to Section 366.23.

23 *SEC. 8. Section 728 of the Welfare and Institutions Code is*  
24 *amended to read:*

25 728. (a) The juvenile court may terminate or modify a  
26 guardianship of the person of a minor previously established under  
27 the Probate Code, or appoint a coguardian or successor guardian  
28 of the person of the minor, if the minor is the subject of a petition  
29 filed under Section 300, 601, or 602. If the probation officer  
30 supervising the minor provides information to the court regarding  
31 the minor's present circumstances and makes a recommendation  
32 to the court regarding a motion to terminate or modify a  
33 guardianship established in any county under the Probate Code,  
34 or to appoint a coguardian or successor guardian, of the person of  
35 a minor who is before the juvenile court under a petition filed  
36 under Section 300, 601, or 602, the court shall order the appropriate  
37 county department, or the district attorney or county counsel, to  
38 file the recommended motion. The motion may also be made by  
39 the guardian or the minor's attorney. The hearing on the motion  
40 may be held simultaneously with any regularly scheduled hearing

1 held in proceedings to declare the minor a dependent child or ward  
2 of the court, or at any subsequent hearing concerning the dependent  
3 child or ward. Notice requirements of Section ~~1511 of the Probate~~  
4 ~~Code 294~~ shall apply to the proceedings in juvenile court under  
5 this subdivision.

6 (b) If the juvenile court decides to terminate or modify a  
7 guardianship previously established under the Probate Code  
8 pursuant to subdivision (a), the juvenile court shall provide notice  
9 of that decision to the court in which the guardianship was  
10 originally established. The clerk of the superior court, upon receipt  
11 of the notice, shall file the notice with other documents and records  
12 of the pending proceeding and send by first-class mail a copy of  
13 the notice to all parties of record in the superior court.

14 (c) If, at any time during the period a minor under the age of 18  
15 years is a ward of the juvenile court, the probation officer  
16 supervising the minor recommends to the court that the court  
17 establish a guardianship of the person of the minor and appoint a  
18 specific adult to act as guardian, or on the motion of the minor's  
19 attorney, or on the order of the court that a guardianship shall be  
20 established as the minor's permanent plan pursuant to paragraph  
21 (4) of subdivision (b) of Section 727.3, the court shall set a hearing  
22 to consider the recommendation or motion and shall order the clerk  
23 to notice the minor's parents and relatives as required in Section  
24 ~~1511 of the Probate Code 294~~. If the motion is not made by the  
25 minor's attorney, the court may appoint the district attorney or  
26 county counsel to prosecute the action.

27 ~~(d) At the hearing described in subdivision (c), the court shall~~  
28 ~~determine if the appointment of a guardian of the person of the~~  
29 ~~minor appears necessary or convenient, and is consistent with the~~  
30 ~~rehabilitation and protection of the minor and with public safety,~~  
31 ~~and if the court so determines, it shall appoint a guardian of the~~  
32 ~~person of the minor and order that letters of guardianship issue~~  
33 ~~pursuant to the standards and procedures specified in the Probate~~  
34 ~~Code.~~

35 *(d) The procedures for appointment of a guardian shall be*  
36 *conducted exclusively pursuant to Section 366.26, except that*  
37 *subdivision (j) of Section 366.26 shall not apply.*

38 (e) Upon the appointment of a guardian pursuant to subdivision  
39 (d), the court may continue wardship and conditions of probation,  
40 or may terminate the wardship of the minor.

1 (f) Notwithstanding Section 1601 of the Probate Code, the  
2 proceedings to modify or terminate a guardianship granted under  
3 this section shall be held in the juvenile court unless the termination  
4 is due to the emancipation or adoption of the minor.

5 (g) The Judicial Council shall develop rules of court and adopt  
6 appropriate forms for the findings and orders under this section.

7 ~~SEC. 7.~~

8 *SEC. 9.* Section 785 of the Welfare and Institutions Code is  
9 amended to read:

10 785. (a) Where a minor is a ward of the juvenile court, the  
11 wardship did not result in the minor's commitment to the Youth  
12 Authority, and the minor is found not to be a fit and proper subject  
13 to be dealt with under the juvenile court law with respect to a  
14 subsequent allegation of criminal conduct, any parent or other  
15 person having an interest in the minor, or the minor, through a  
16 properly appointed guardian, the prosecuting attorney, or probation  
17 officer, may petition the court in the same action in which the  
18 minor was found to be a ward of the juvenile court for a hearing  
19 for an order to terminate or modify the jurisdiction of the juvenile  
20 court. The court shall order that a hearing be held and shall give  
21 prior notice, or cause prior notice to be given, to those persons and  
22 by the means prescribed by Sections 776 and 779, or where the  
23 means of giving notice is not prescribed by those sections, then  
24 by such means as the court prescribes.

25 (b) The petition shall be verified and shall state why jurisdiction  
26 should be terminated or modified in concise language.

27 (c) In determining whether or not the wardship shall terminate  
28 or be modified, the court shall be guided by the policies set forth  
29 in Section 202.

30 (d) On and after January 1, 2012, at any hearing pursuant to this  
31 section involving a minor who was removed from the physical  
32 custody of his or her parent or guardian and placed in foster care  
33 at the time the court adjudged the child a delinquent ward, or who  
34 was removed from his or her parents or guardian and placed in  
35 foster care as a dependent child immediately prior to the court  
36 adjudging the child a delinquent ward, the court shall consider, as  
37 an alternative to terminating jurisdiction, whether to modify its  
38 jurisdiction and declare the minor to be a dependent child, pursuant  
39 to Section 300. If the court finds that the ward no longer requires  
40 delinquency supervision, but is at risk of abuse or neglect and

1 cannot be returned home safely, the court shall set a hearing  
2 pursuant to Section 241.1 to determine whether a modification of  
3 its jurisdiction as described in subdivision (d) of Section 241.1 is  
4 appropriate.

5 (e) On and after January 1, 2012, the court shall continue  
6 delinquency jurisdiction for a nonminor dependent, as defined in  
7 subdivision (v) of Section 11400, who is eligible to remain in foster  
8 care pursuant to Section 11403, unless the court finds that after  
9 reasonable and documented efforts, the nonminor cannot be located  
10 or does not wish to remain a nonminor dependent. In making this  
11 finding, the court shall ensure that the nonminor has been informed  
12 of his or her options, including the right to file a petition pursuant  
13 to Section 388 to resume delinquency jurisdiction, and has had an  
14 opportunity to confer with his or her counsel. As authorized in  
15 paragraph (e) of Section 1356.21 of Title 45 of the Code of Federal  
16 Regulations, the court shall authorize a period of trial  
17 independence, as defined in subdivision (y) of Section 11400. In  
18 order to ensure eligibility for federal financial participation, the  
19 court shall set the end date of the trial period of departure from  
20 foster care to be the day before the nonminor attains 21 years of  
21 age unless it is not in the nonminor's best interests.

22 (f) In addition to its authority under this chapter, the Judicial  
23 Council shall adopt rules providing criteria for the consideration  
24 of the juvenile court in determining whether or not to terminate or  
25 modify jurisdiction pursuant to this section.

26 ~~SEC. 8:~~

27 *SEC. 10.* Section 11363 of the Welfare and Institutions Code,  
28 as added by Section 34 of Chapter 559 of the Statutes of 2010, is  
29 amended to read:

30 11363. (a) Aid in the form of state-funded Kin-GAP shall be  
31 provided under this article on behalf of any child under 18 years  
32 of age and to any eligible youth under 19 years of age as provided  
33 in Section 11403, who satisfies all of the following conditions:

34 (1) Has been adjudged a dependent child of the juvenile court  
35 pursuant to Section 300, or, effective October 1, 2006, a ward of  
36 the juvenile court pursuant to Section 601 or 602.

37 (2) Has been residing for at least six consecutive months in the  
38 approved home of the prospective relative guardian while under  
39 the jurisdiction of the juvenile court or a voluntary placement  
40 agreement.

1 (3) Has had a kinship guardianship established pursuant to  
2 Section 360 or 366.26.

3 (4) Has had his or her dependency jurisdiction terminated after  
4 January 1, 2000, pursuant to Section 366.3, or his or her wardship  
5 terminated pursuant to subdivision (e) of Section 728, concurrently  
6 or subsequently to the establishment of the kinship guardianship.

7 (b) If the conditions specified in subdivision (a) are met and,  
8 subsequent to the termination of dependency jurisdiction, any  
9 parent or person having an interest files with the juvenile court a  
10 petition pursuant to Section 388 to change, modify, or set aside an  
11 order of the court, Kin-GAP payments shall continue unless and  
12 until the juvenile court, after holding a hearing, orders the child  
13 removed from the home of the guardian, terminates the  
14 guardianship, or maintains dependency jurisdiction after the court  
15 concludes the hearing on the petition filed under Section 388.

16 (c) A child or nonminor shall be eligible for Kin-GAP payments  
17 if he or she meets one of the following age criteria:

18 (1) He or she is under 18 years of age.

19 (2) He or she is under 21 years of age and has a physical or  
20 mental disability that warrants the continuation of assistance.

21 (3) Through December 31, 2011, he or she satisfies the  
22 conditions of Section 11403, and on and after January 1, 2012, he  
23 or she satisfies the conditions of Section 11403.01.

24 (4) He or she satisfies the conditions as described in subdivision  
25 (d).

26 (d) Commencing January 1, 2012, state-funded Kin-GAP  
27 payments shall continue for youths who have attained 18 years of  
28 age and are under 19 years of age if they attained 16 years of age  
29 before the Kin-GAP aid payments commenced. Effective January  
30 1, 2013, Kin-GAP payments shall continue for youths who have  
31 attained 18 years of age and who are under 20 years of age, if they  
32 reached 16 years of age before the Kin-GAP negotiated payments  
33 commenced. Effective January 1, 2014, Kin-GAP payments shall  
34 continue for youths who have attained 18 years of age and are  
35 under 21 years of age, if they reached 16 years of age before the  
36 Kin-GAP negotiated payments commenced. To be eligible for  
37 continued payments, the youth shall satisfy one or more of the  
38 conditions specified in *paragraphs (1) to (5), inclusive, of*  
39 *subdivision (b) of Section 11403. Payments made to a nonminor*  
40 *pursuant to the conditions specified in subdivision (b) of Section*

1 11403 may be paid in whole or ~~part to the eligible youth directly,~~  
 2 ~~as specified in subdivision (d) of Section 11403.~~ *in part to the*  
 3 *eligible youth directly, pursuant to the youth's mutual agreement,*  
 4 *as specified in subdivision (u) of Section 11400.*

5 (e) Termination of the guardianship with a kinship guardian  
 6 shall terminate eligibility for Kin-GAP unless the conditions in  
 7 Section 11403 apply; provided, however, that if an alternate  
 8 guardian or coguardian is appointed pursuant to Section 366.3 who  
 9 is also a kinship guardian, the alternate or coguardian shall be  
 10 entitled to receive Kin-GAP on behalf of the child pursuant to this  
 11 article. A new period of six months of placement with the alternate  
 12 guardian or coguardian shall not be required if that alternate  
 13 guardian or coguardian has been assessed pursuant to Sections  
 14 361.3 and 361.4 and the court terminates dependency jurisdiction.

15 ~~SEC. 9.~~

16 *SEC. 11.* Section 11386 of the Welfare and Institutions Code  
 17 is amended to read:

18 11386. Aid shall be provided under this article on behalf of a  
 19 child under 18 years of age, and to any eligible youth under 19  
 20 years of age, as provided in Section 11403, under all of the  
 21 following conditions:

- 22 (a) The child satisfies both of the following requirements:
  - 23 (1) He or she has been removed from his or her home pursuant
  - 24 to a voluntary placement agreement, or as a result of judicial
  - 25 determination, including being adjudged a dependent child of the
  - 26 court, pursuant to Section 300, or a ward of the court, pursuant to
  - 27 Section 601 or 602, to the effect that continuation in the home
  - 28 would be contrary to the welfare of the child.
  - 29 (2) He or she has been eligible for federal foster care
  - 30 maintenance payments under Article 5 (commencing with Section
  - 31 11400) while residing for at least six consecutive months in the
  - 32 approved home of the prospective relative guardian while under
  - 33 the jurisdiction of the juvenile court or a voluntary placement
  - 34 agreement.
  - 35 (b) Being returned to the parental home or adopted are not
  - 36 appropriate permanency options for the child.
  - 37 (c) The child demonstrates a strong attachment to the relative
  - 38 guardian, and the relative guardian has a strong commitment to
  - 39 caring permanently for the child and, with respect to the child who

1 has attained 12 years of age, the child has been consulted regarding  
2 the kinship guardianship arrangement.

3 (d) The child has had a kinship guardianship established  
4 pursuant to Section 360 or Section 366.26.

5 (e) The child has had his or her dependency jurisdiction  
6 terminated pursuant to Section 366.3, or his or her wardship  
7 terminated pursuant to subdivision (e) of Section 728, concurrently  
8 or subsequently to the establishment of the kinship guardianship.

9 (f) If the conditions specified in subdivisions (a) through (e),  
10 inclusive, are met and, subsequent to the termination of dependency  
11 jurisdiction, any parent or person having an interest files with the  
12 juvenile court a petition pursuant to Section 388 to change, modify,  
13 or set aside an order of the court, Kin-GAP payments shall continue  
14 unless and until the juvenile court orders the child removed from  
15 the home of the guardian, terminates the guardianship, or maintains  
16 dependency jurisdiction after the court concludes the hearing on  
17 the petition filed under Section 388.

18 (g) A child or nonminor shall be eligible for Kin-GAP payments  
19 if he or she meets one of the following age criteria:

20 (1) He or she is under 18 years of age.

21 (2) He or she is under 21 years of age and has a physical or  
22 mental disability that warrants the continuation of assistance.

23 (3) Through December 31, 2011, he or she satisfies the  
24 conditions of Section 11403, and on and after January 1, 2012, he  
25 or she satisfies the conditions of Section 11403.01.

26 (4) He or she satisfies the conditions as described in subdivision  
27 (h).

28 (h) Effective January 1, 2012, Kin-GAP payments shall continue  
29 for youths who have attained 18 years of age and are under 19  
30 years of age if they attained 16 years of age before the Kin-GAP  
31 negotiated agreement payments commenced. Effective January 1,  
32 2013, Kin-GAP payments shall continue for youths who have  
33 attained 18 years of age and are under 20 years of age, if they  
34 reached 16 years of age before the Kin-GAP negotiated payments  
35 commenced. Effective January 1, 2014, Kin-GAP payments shall  
36 continue for youths who have attained 18 years of age and are  
37 under 21 years of age, if they reached 16 years of age before the  
38 Kin-GAP negotiated payments commenced. To be eligible for  
39 continued payments, the youth shall satisfy one or more of the

1 conditions specified in *paragraphs (1) to (5), inclusive, of*  
 2 *subdivision (b) of Section 11403.*

3 Payments made to a nonminor pursuant to the conditions  
 4 specified in Section 11403 may be paid in whole or ~~part to the~~  
 5 ~~eligible youth directly, as specified in subdivision (d) of Section~~  
 6 ~~11403. in part to the eligible youth directly, pursuant to the youth's~~  
 7 ~~mutual agreement, as specified in subdivision (u) of Section 11400.~~

8 (i) Termination of the guardianship with a kinship guardian  
 9 shall terminate eligibility for Kin-GAP, unless the conditions of  
 10 Section 11403 apply, provided, however, that if an alternate  
 11 guardian or coguardian is appointed pursuant to Section 366.3 who  
 12 is also a kinship guardian, the alternate or coguardian shall be  
 13 entitled to receive Kin-GAP on behalf of the child pursuant to this  
 14 article. A new period of six months of placement with the alternate  
 15 guardian or coguardian shall not be required if that alternate  
 16 guardian or coguardian has been assessed pursuant to Section 361.3  
 17 and Section 361.4 and the court terminates dependency jurisdiction,  
 18 subject to available federal funding.

19 ~~SEC. 10.~~

20 *SEC. 12.* Section 11400 of the Welfare and Institutions Code  
 21 is amended to read:

22 11400. For the purposes of this article, the following definitions  
 23 shall apply:

24 (a) "Aid to Families with Dependent Children-Foster Care  
 25 (AFDC-FC)" means the aid provided on behalf of needy children  
 26 in foster care under the terms of this division.

27 (b) "Case plan" means a written document that, at a minimum,  
 28 specifies the type of home in which the child shall be placed, the  
 29 safety of that home, and the appropriateness of that home to meet  
 30 the child's needs. It shall also include the agency's plan for  
 31 ensuring that the child receive proper care and protection in a safe  
 32 environment, and shall set forth the appropriate services to be  
 33 provided to the child, the child's family, and the foster parents, in  
 34 order to meet the child's needs while in foster care, and to reunify  
 35 the child with the child's family. In addition, the plan shall specify  
 36 the services that will be provided or steps that will be taken to  
 37 facilitate an alternate permanent plan if reunification is not possible.

38 (c) "Certified family home" means a family residence certified  
 39 by a licensed foster family agency and issued a certificate of

1 approval by that agency as meeting licensing standards, and used  
2 only by that foster family agency for placements.

3 (d) “Family home” means the family residency of a licensee in  
4 which 24-hour care and supervision are provided for children.

5 (e) “Small family home” means any residential facility, in the  
6 licensee’s family residence, which provides 24-hour care for six  
7 or fewer foster children who have mental disorders or  
8 developmental or physical disabilities and who require special care  
9 and supervision as a result of their disabilities.

10 (f) “Foster care” means the 24-hour out-of-home care provided  
11 to children whose own families are unable or unwilling to care for  
12 them, and who are in need of temporary or long-term substitute  
13 parenting.

14 (g) “Foster family agency” means any individual or organization  
15 engaged in the recruiting, certifying, and training of, and providing  
16 professional support to, foster parents, or in finding homes or other  
17 places for placement of children for temporary or permanent care  
18 who require that level of care as an alternative to a group home.  
19 Private foster family agencies shall be organized and operated on  
20 a nonprofit basis.

21 (h) “Group home” means a nondetention privately operated  
22 residential home, organized and operated on a nonprofit basis only,  
23 of any capacity, or a nondetention licensed residential care home  
24 operated by the County of San Mateo with a capacity of up to 25  
25 beds, that provides services in a group setting to children in need  
26 of care and supervision, as required by paragraph (1) of subdivision  
27 (a) of Section 1502 of the Health and Safety Code.

28 (i) “Periodic review” means review of a child’s status by the  
29 juvenile court or by an administrative review panel, that shall  
30 include a consideration of the safety of the child, a determination  
31 of the continuing need for placement in foster care, evaluation of  
32 the goals for the placement and the progress toward meeting these  
33 goals, and development of a target date for the child’s return home  
34 or establishment of alternative permanent placement.

35 (j) “Permanency planning hearing” means a hearing conducted  
36 by the juvenile court in which the child’s future status, including  
37 whether the child shall be returned home or another permanent  
38 plan shall be developed, is determined.

39 (k) “Placement and care” refers to the responsibility for the  
40 welfare of a child vested in an agency or organization by virtue of

1 the agency or organization having (1) been delegated care, custody,  
2 and control of a child by the juvenile court, (2) taken responsibility,  
3 pursuant to a relinquishment or termination of parental rights on  
4 a child, (3) taken the responsibility of supervising a child detained  
5 by the juvenile court pursuant to Section 319 or 636, or (4) signed  
6 a voluntary placement agreement for the child's placement; or to  
7 the responsibility designated to an individual by virtue of his or  
8 her being appointed the child's legal guardian.

9 (l) "Preplacement preventive services" means services that are  
10 designed to help children remain with their families by preventing  
11 or eliminating the need for removal.

12 (m) "Relative" means an adult who is related to the child by  
13 blood, adoption, or affinity within the fifth degree of kinship,  
14 including stepparents, stepsiblings, and all relatives whose status  
15 is preceded by the words "great," "great-great," or "grand" or the  
16 spouse of any of these persons even if the marriage was terminated  
17 by death or dissolution.

18 (n) "Nonrelative extended family member" means an adult  
19 caregiver who has an established familial or mentoring relationship  
20 with the child, as described in Section 362.7.

21 (o) "Voluntary placement" means an out-of-home placement  
22 of a child by (1) the county welfare department, probation  
23 department, or Indian tribe that has entered into an agreement  
24 pursuant to Section 10553.1, after the parents or guardians have  
25 requested the assistance of the county welfare department and have  
26 signed a voluntary placement agreement; or (2) the county welfare  
27 department licensed public or private adoption agency, or the  
28 department acting as an adoption agency, after the parents have  
29 requested the assistance of either the county welfare department,  
30 the licensed public or private adoption agency, or the department  
31 acting as an adoption agency for the purpose of adoption planning,  
32 and have signed a voluntary placement agreement.

33 (p) "Voluntary placement agreement" means a written agreement  
34 between either the county welfare department, probation  
35 department, or Indian tribe that has entered into an agreement  
36 pursuant to Section 10553.1, licensed public or private adoption  
37 agency, or the department acting as an adoption agency, and the  
38 parents or guardians of a child that specifies, at a minimum, the  
39 following:

40 (1) The legal status of the child.

1 (2) The rights and obligations of the parents or guardians, the  
2 child, and the agency in which the child is placed.

3 (q) “Original placement date” means the most recent date on  
4 which the court detained a child and ordered an agency to be  
5 responsible for supervising the child or the date on which an agency  
6 assumed responsibility for a child due to termination of parental  
7 rights, relinquishment, or voluntary placement.

8 (r) “Transitional housing placement facility” means either of  
9 the following:

10 (1) A community care facility licensed by the State Department  
11 of Social Services pursuant to Section 1559.110 of the Health and  
12 Safety Code to provide transitional housing opportunities to persons  
13 at least 16 years of age, and not more than 18 years of age unless  
14 they satisfy the requirements of Section 11403, who are in  
15 out-of-home placement under the supervision of the county  
16 department of social services or the county probation department,  
17 and who are participating in an independent living program.

18 (2) A facility certified to provide transitional housing services  
19 pursuant to subdivision (e) of Section 1559.110 of the Health and  
20 Safety Code.

21 (s) “Transitional housing placement program” means a program  
22 that provides supervised housing opportunities to eligible youth  
23 and nonminor dependents pursuant to Article 4 (commencing with  
24 Section 16522) of Chapter 5 of Part 4.

25 (t) “Whole family foster home” means a new or existing family  
26 home, approved relative caregiver or nonrelative extended family  
27 member’s home, the home of a nonrelated legal guardian whose  
28 guardianship was established pursuant to Section 366.26 or 360,  
29 certified family home that provides foster care for a minor or  
30 nonminor dependent parent and his or her child, and is specifically  
31 recruited and trained to assist the minor or nonminor dependent  
32 parent in developing the skills necessary to provide a safe, stable,  
33 and permanent home for his or her child. The child of the minor  
34 or nonminor dependent parent need not be the subject of a petition  
35 filed pursuant to Section 300 to qualify for placement in a whole  
36 family foster home.

37 (u) “Mutual agreement” means either of the following:

38 (1) An agreement of consent for placement in a supervised  
39 setting between a minor or, on and after January 1, 2012, a  
40 nonminor dependent, and the agency responsible for the foster

1 care placement, that documents the nonminor’s continued need  
2 for supervised out-of-home placement and the nonminor’s and  
3 social worker’s or probation officer’s agreement to work together  
4 to facilitate implementation of the mutually developed supervised  
5 placement agreement and transitional living plan.

6 (2) On and after January 1, 2012, an agreement between a  
7 nonminor in receipt of Kin-GAP aid under Article 4.5  
8 (commencing with Section 11360) or Article 4.7 (commencing  
9 with Section 11385), and the agency responsible for the Kin-GAP  
10 benefits, provided that the nonminor satisfies the conditions  
11 described in Section 11403.01 or ~~subdivision (d)~~ *one or more of*  
12 *the conditions described in paragraphs (1) to (5), inclusive, of*  
13 *subdivision (b) of Section 11403.*

14 (v) “Nonminor dependent” means, on and after January 1, 2012,  
15 a foster child, as described in Section 675(8)(B) of Title 42 of the  
16 United States Code under the federal Social Security Act who is  
17 a current ~~or former~~ dependent child or ward of the juvenile court  
18 who satisfies all of the following criteria:

19 (1) He or she has attained 18 years of age but is less than 21  
20 years of age.

21 (2) He or she is in foster care under the responsibility of the  
22 county welfare department, county probation department, or Indian  
23 tribe that entered into an agreement pursuant to Section 10553.1.

24 (3) He or she is participating in a transitional independent living  
25 case plan pursuant to Section 475(8) of the federal Social Security  
26 Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering  
27 Connections to Success and Increasing Adoptions Act of 2008  
28 (Public Law 110-351).

29 (w) “Supervised independent living setting” means, on and after  
30 January 1, 2012, a supervised setting, as specified in a nonminor  
31 dependent’s transitional independent living case plan, in which  
32 the youth is living independently, pursuant to Section 472(c)(2)  
33 of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

34 (x) “THP-Plus Foster Care” means, on and after January 1,  
35 2012, a placement that offers supervised housing opportunities  
36 and supportive services to eligible nonminor dependents at least  
37 18 years of age, on and after January 1, 2013, 19 years of age, and  
38 on and after January 1, 2014, 20 years of age, and not more than  
39 21 years of age, who are in out-of-home placement under the  
40 supervision of the county department of social services or the

1 county probation department or Indian tribe that entered into an  
2 agreement pursuant to Section 10553.1, and who are described in  
3 paragraph (3) of subdivision (a) of Section 11403.2.

4 (y) “Trial independence” means, on or after January 1, 2012,  
5 consistent with paragraph (e) of Section 1356.21 of Title 45 of the  
6 Code of Federal Regulations, a period not to exceed six months,  
7 unless the juvenile court authorizes a longer period, during which  
8 the court may terminate and subsequently resume the nonminor’s  
9 dependency jurisdiction, and the nonminor’s Title IV-E foster care  
10 benefits may be resumed if the nonminor otherwise is eligible  
11 pursuant to Section 11403. Operation of this subdivision shall be  
12 contingent upon receipt of all necessary federal approvals.

13 ~~SEC. 11.~~

14 *SEC. 13.* Section 11403 of the Welfare and Institutions Code,  
15 as added by Section 47 of Chapter 559 of the Statutes of 2010, is  
16 amended to read:

17 11403. (a) It is the intent of the Legislature to exercise the  
18 option afforded states under Section 475(8) (42 U.S.C. Sec.  
19 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the  
20 federal Social Security Act, as contained in the Fostering  
21 Connections to Success and Increasing Adoptions Act of 2008  
22 (Public Law 110-351), to receive federal financial participation  
23 for current or former dependent children or wards of the juvenile  
24 court who satisfy the conditions of subdivision (b), consistent with  
25 their transitional living case plan. Effective January 1, 2012, these  
26 nonminor dependents shall be eligible to receive support up to 19  
27 years of age, effective January 1, 2013, up to 20 years of age, and  
28 effective January 1, 2014, up to 21 years of age, consistent with  
29 their transitional independent living case plan. It is the intent of  
30 the Legislature both at the time of initial determination of the  
31 nonminor dependent’s eligibility and throughout the time the  
32 nonminor dependent is eligible for aid pursuant to this section,  
33 that the social worker or probation officer or Indian tribe and the  
34 nonminor dependent shall work together to ensure the nonminor  
35 dependent’s ongoing eligibility. All case planning shall be a  
36 collaborative effort between the nonminor dependent and the social  
37 worker, probation officer, or Indian tribe, with the nonminor  
38 dependent assuming increasing levels of responsibility and  
39 independence.

1 (b) A nonminor dependent receiving aid pursuant to this chapter,  
2 who satisfies the age criteria set forth in subdivision (a), shall  
3 continue to receive aid so long as the nonminor has signed a mutual  
4 agreement as set forth in subdivision ~~(d)~~ (u) of Section 11400, and  
5 is otherwise eligible for AFDC-FC payments pursuant to Section  
6 11401 or CalWORKs payments pursuant to Section 11253 or, as  
7 a nonminor former dependent or ward, aid pursuant to Kin-GAP  
8 under Article 4.5 (commencing with Section 11360) or Article 4.7  
9 (commencing with Section 11385) or adoption assistance payments  
10 as specified in Chapter 2.1 (commencing with Section 16115) of  
11 Part 4. Effective January 1, 2012, a nonminor former dependent  
12 child or ward of the juvenile court who is receiving AFDC-FC  
13 benefits pursuant to Section 11405 shall be eligible to continue to  
14 receive aid up to 19 years of age, effective January 1, 2013, up to  
15 20 years of age, and effective January 1, 2014, up to 21 years of  
16 age, as long as the nonminor is otherwise eligible for AFDC-FC  
17 benefits under this subdivision. This subdivision shall apply when  
18 one or more of the following conditions exist:

19 (1) The nonminor is completing secondary education or a  
20 program leading to an equivalent credential.

21 (2) The nonminor is enrolled in an institution which provides  
22 postsecondary or vocational education.

23 (3) The nonminor is participating in a program or activity  
24 designed to promote, or remove barriers to employment.

25 (4) The nonminor is employed for at least 80 hours per month.

26 (5) The nonminor is incapable of doing any of the activities  
27 described in subparagraphs (1) to (4), inclusive, due to a medical  
28 condition, and that incapability is supported by regularly updated  
29 information in the case plan of the nonminor. *The requirement to*  
30 *update the case plan under this paragraph shall not apply to*  
31 *nonminor former dependents or wards in receipt of Kin-GAP*  
32 *program or Adoption Assistance Program payments.*

33 (c) The county child welfare or probation department or Indian  
34 tribe that has entered into an agreement pursuant to Section  
35 10553.1, shall work together with a nonminor dependent who is  
36 in foster care on his or her 18th birthday and thereafter or a  
37 nonminor former dependent receiving aid pursuant to Section  
38 11405, to satisfy one or more of the conditions described in  
39 paragraphs (1) to (5), inclusive, of subdivision (b) and shall certify  
40 the nonminor's applicable condition or conditions in the

1 nonminor's six-month transitional independent living case plan  
2 update, and provide the certification to the eligibility worker and  
3 to the court at each six-month case plan review hearing for the  
4 nonminor dependent. Relative guardians who receive Kin-GAP  
5 payments and adoptive parents who receive adoption assistance  
6 payments shall be responsible for reporting to the county welfare  
7 agency that the nonminor does not satisfy at least one of the  
8 conditions described in subdivision (b). The social worker,  
9 probation officer, or tribe shall verify and obtain assurances that  
10 the nonminor dependent continues to satisfy at least one of the  
11 conditions in paragraphs (1) to (5), inclusive, of subdivision (b)  
12 at each six-month transitional independent living case plan update.  
13 The six-month case plan update shall certify the nonminor's  
14 eligibility pursuant to subdivision (b) for the next six-month period.  
15 During the six-month certification period, the payee and nonminor  
16 shall report any change in placement or other relevant changes in  
17 circumstances that may affect payment. The nonminor dependent  
18 or a nonminor former dependent receiving aid pursuant to Section  
19 11405, shall be afforded all due process requirements in accordance  
20 with state and federal law prior to an involuntary termination of  
21 aid. The nonminor dependent or nonminor former dependent  
22 receiving aid pursuant to Section 11405 shall be informed of all  
23 due process requirements, in accordance with state and federal  
24 law, prior to an involuntary termination of aid, and shall  
25 simultaneously be provided with a written explanation of how to  
26 exercise his or her due process rights and obtain referrals to legal  
27 assistance. Any notices of action regarding eligibility shall be sent  
28 to the nonminor dependent or former dependent, his or her counsel,  
29 and the placing worker, in addition to any other payee.

30 (d) A nonminor dependent may receive all or a portion of the  
31 payment directly provided that the nonminor is living  
32 independently in a supervised setting, and that both the youth and  
33 the agency responsible for the foster care placement have signed  
34 a mutual agreement, as defined in subdivision (u) of Section 11400,  
35 if the youth is capable of making an informed agreement, that  
36 documents the continued need for supervised out-of-home  
37 placement, and the nonminor's and social worker's or probation  
38 officer's agreement to work together to facilitate implementation  
39 of the mutually developed supervised placement agreement and  
40 transitional living plan.

1 (e) Eligibility for aid under this section shall not terminate until  
2 the nonminor attains 21 years of age but aid may be suspended  
3 and resumed at request of the nonminor pursuant to subdivision  
4 (e) of Section 388 or after a court terminates dependency  
5 jurisdiction pursuant to Section 391, or delinquency jurisdiction  
6 pursuant to Section 785. Consistent with paragraph (e) of Section  
7 1356.21 of Title 45 of the Code of Federal Regulations, for the  
8 nonminor who returns to supervised placement within the  
9 six-month trial period, or if the court authorized a period of trial  
10 independence that exceeded six months in duration and ends prior  
11 to the day before the nonminor attains 21 years of age, as described  
12 in subdivision (y) of Section 11400, the county welfare department  
13 is not required to establish a new Title IV-E eligibility  
14 determination for the nonminor for whom dependency jurisdiction  
15 is resumed by the court. The county welfare department, tribe, or  
16 county probation department shall provide a nonminor dependent  
17 who wishes to continue receiving aid with the assistance necessary  
18 to meet and maintain eligibility.

19 (f) (1) The county having jurisdiction of the nonminor  
20 dependent shall remain the county of payment under this section  
21 regardless of the youth's physical residence. Nonminor dependents  
22 receiving aid pursuant to Section 11405 shall be paid by their  
23 county of residence. Counties may develop courtesy supervision  
24 agreements to provide case management and independent living  
25 services by the county of residence pursuant to the youth's  
26 transitional independent living case plan. Placements made out of  
27 state are subject to the requirements of the Interstate Compact on  
28 Placement of Children, pursuant to Part 5 (commencing with  
29 Section 7900) of Division 12 of the Family Code.

30 (2) The county welfare department, tribe, or county probation  
31 department shall notify all foster youth who attain 16 years of age  
32 and are under the jurisdiction of that county or tribe, including  
33 those receiving Kin-GAP, and AAP, of the existence of the aid  
34 prescribed by this section.

35 (3) Aid under this section shall be paid on the first of the month  
36 for that month. Notwithstanding any other provision of law, when  
37 a child attains 18 years of age those payments shall continue to  
38 the end of that calendar month and the AFDC-FC, Kin-GAP, or  
39 AAP payments under this section shall begin the first day of the  
40 following month.

1 (4) The department shall seek any waiver to amend its Title  
2 IV-E State Plan with the Secretary of the United States Department  
3 of Health and Human Services necessary to implement this section.

4 (g) (1) Subject to paragraph (3), a county shall contribute to  
5 the cost of extending aid pursuant to this section to eligible  
6 nonminor dependents who have reached 18 years of age and who  
7 are under the jurisdiction of the county, including AFDC-FC  
8 payments pursuant to Section 11401, CalWORKs payments  
9 pursuant to Section 11253, aid pursuant to Kin-GAP under Article  
10 4.5 (commencing with Section 11360) or Article 4.7 (commencing  
11 with Section 11385), adoption assistance payments as specified  
12 in Chapter 2.1 (commencing with Section 16115) of Part 4, and  
13 aid pursuant to Section 11405 for nonminor dependents who are  
14 residing in the county as provided in paragraph (1) of subdivision  
15 (f), at the statutory sharing ratios for each of these programs in  
16 effect on January 1, 2012.

17 (2) Subject to paragraph (3), a county shall contribute to the  
18 cost of providing permanent placement services pursuant to  
19 subdivision (c) of Section 16508 and administering the Aid to  
20 Families with Dependent Children Foster Care program pursuant  
21 to Section 15204.9 at the statutory sharing ratio for these services  
22 in effect on January 1, 2012. For purposes of budgeting, the  
23 department shall use a standard for the permanent placement  
24 services that is equal to the midpoint between the budgeting  
25 standards for family maintenance services and family reunification  
26 services.

27 (3) Notwithstanding any other provision of law, a county's total  
28 contribution pursuant to paragraphs (1) and (2) shall not exceed  
29 the savings in Kin-GAP assistance grant expenditures realized by  
30 the county from the receipt of federal funds due to the  
31 implementation of Article 4.7 (commencing with Section 11385).  
32 The department shall work with the County Welfare Directors  
33 Association to determine a methodology for calculating each  
34 county's costs and savings pursuant to this section.

35 (h) It is the intent of the Legislature that no county currently  
36 participating in the Child Welfare Demonstration Capped  
37 Allocation Project be adversely impacted by the department's  
38 exercise of its option to extend foster care benefits pursuant to  
39 Section 673(a)(4) and Section 675(8) of Title 42 of the United  
40 States Code in the federal Social Security Act, as contained in the

1 Fostering Connections to Success and Increasing Adoptions Act  
2 of 2008 (Public Law 110-351). Therefore, the department shall  
3 negotiate with the United States Department of Health and Human  
4 Services on behalf of those counties that are currently participating  
5 in the demonstration project to ensure that those counties receive  
6 reimbursement for these new programs outside of the provisions  
7 of those counties' waiver under Subtitle IV-E (commencing with  
8 Section 470) of the federal Social Security Act (42 U.S.C. Sec.  
9 670 et seq.).

10 (i) The department, on or before July 1, 2012, shall develop  
11 regulations to implement this section in consultation with  
12 concerned stakeholders, including, but not limited to,  
13 representatives of the Legislature, the County Welfare Directors  
14 Association, the Chief Probation Officers of California, the Judicial  
15 Council, representatives of Indian tribes, the California Youth  
16 Connection, former foster youth, child advocacy organizations,  
17 labor organizations, juvenile justice advocacy organizations, foster  
18 caregiver organizations, and researchers. In the development of  
19 these regulations, the department shall consider its Manual of  
20 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,  
21 and 917, as guidelines for developing regulations that are  
22 appropriate for young adults who can exercise incremental  
23 responsibility concurrently with their growth and development.  
24 The department, in its consultation with stakeholders, shall take  
25 into consideration the impact to the Automated Child Welfare  
26 Services Case Management Services (CWS-CMS) and required  
27 modifications needed to accommodate eligibility determination  
28 under this section, benefit issuance, case management across  
29 counties, and recognition of the legal status of nonminor  
30 dependents as adults, as well as changes to data tracking and  
31 reporting requirements as required by the Child Welfare System  
32 Improvement and Accountability Act as specified in Section  
33 10601.2, and federal outcome measures as required by the John  
34 H. Chafee Foster Care Independence Program (42 U.S.C. Sec.  
35 677(f)). In addition, the department, in its consultation with  
36 stakeholders, shall define the supervised independent living setting  
37 which shall include, but not be limited to, apartment living, room  
38 and board arrangements, college or university dormitories, and  
39 shared roommate settings, and define how those settings meet  
40 health and safety standards suitable for nonminors. The department,

1 in its consultation with stakeholders, shall define the six-month  
2 certification of the conditions of eligibility pursuant to subdivision  
3 (b) to be consistent with the flexibility provided by federal policy  
4 guidance, to ensure that there are ample supports for a nonminor  
5 to achieve the goals of his or her transition independent living case  
6 plan. The department, in its consultation with stakeholders, shall  
7 ensure that notices of action and other forms created to inform the  
8 nonminor of due process rights and how to access them shall be  
9 developed, using language consistent with the special needs of the  
10 nonminor dependent population.

11 (j) Notwithstanding the Administrative Procedure Act, Chapter  
12 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
13 Title 2 of the Government Code, the department shall prepare for  
14 implementation of the applicable provisions of this section by  
15 publishing, after consultation with the stakeholders listed in  
16 subdivision (i), all-county letters or similar instructions from the  
17 director by October 1, 2011, to be effective January 1, 2012.  
18 Emergency regulations to implement the applicable provisions of  
19 this act may be adopted by the director in accordance with the  
20 Administrative Procedure Act. The initial adoption of the  
21 emergency regulations and one readoption of the emergency  
22 regulations shall be deemed to be an emergency and necessary for  
23 the immediate preservation of the public peace, health, safety, or  
24 general welfare. Initial emergency regulations and the first  
25 readoption of those emergency regulations shall be exempt from  
26 review by the Office of Administrative Law. The emergency  
27 regulations authorized by this section shall be submitted to the  
28 Office of Administrative Law for filing with the Secretary of State  
29 and shall remain in effect for no more than 180 days.

30 (k) Notwithstanding any other provision of law, the extension  
31 of benefits to nonminor dependents between 20 and 21 years of  
32 age, as provided for in this section, shall be contingent upon an  
33 appropriation by the Legislature.

34 (l) This section shall become operative on January 1, 2012.

35 ~~SEC. 12.~~

36 *SEC. 14.* Section 11403.01 is added to the Welfare and  
37 Institutions Code, to read:

38 11403.01. On and after January 1, 2012, a nonminor who is  
39 receiving Kin-GAP benefits under Article 4.5 (commencing with  
40 Section 11360) or Article 4.7 (commencing with Section 11385)

1 and whose Kin-GAP payments began prior to the child's 16th  
2 birthday and who is receiving aid pursuant to this chapter, and  
3 who is attending high school or the equivalent level of vocational  
4 or technical training on a full-time basis, or is in the process of  
5 pursuing a high school equivalency certificate, prior to his or her  
6 18th birthday, may continue to receive aid under those articles  
7 following his or her 18th birthday so long as the child continues  
8 to reside in foster care placement, remains otherwise eligible for  
9 Kin-GAP payments, and continues to attend high school or the  
10 equivalent level of vocational or technical training on a full-time  
11 basis, or continues to pursue a high school equivalency certificate,  
12 and the child may reasonably be expected to complete the  
13 educational or training program or to receive a high school  
14 equivalency certificate, before his or her 19th birthday. Aid shall  
15 be provided to an individual pursuant to this section provided that  
16 both the individual and the agency responsible for the foster care  
17 placement have signed a mutual agreement, if the individual is  
18 capable of making an informed agreement, documenting the  
19 continued need for out-of-home placement.

20 *SEC. 15. Section 16120 of the Welfare and Institutions Code,*  
21 *as amended by Section 58 of Chapter 559 of the Statutes of 2010,*  
22 *is amended to read:*

23 16120. A child shall be eligible for Adoption Assistance  
24 Program benefits if all of the conditions specified in subdivisions  
25 (a) to (l), inclusive, are met or if the conditions specified in  
26 subdivision (m) are met.

27 (a) It has been determined that the child cannot or should not  
28 be returned to the home of his or her parents as evidenced by a  
29 petition for termination of parental rights, a court order terminating  
30 parental rights, or a signed relinquishment, or, in the case of a  
31 tribal customary adoption, if the court has given full faith and  
32 credit to a tribal customary adoption order as provided for pursuant  
33 to paragraph (2) of subdivision (e) of Section 366.26.

34 (b) The child has at least one of the following characteristics  
35 that are barriers to his or her adoption:

36 (1) Adoptive placement without financial assistance is unlikely  
37 because of membership in a sibling group that should remain intact  
38 or by virtue of race, ethnicity, color, language, three years of age  
39 or older, or parental background of a medical or behavioral nature

1 that can be determined to adversely affect the development of the  
2 child.

3 (2) Adoptive placement without financial assistance is unlikely  
4 because the child has a mental, physical, emotional, or medical  
5 disability that has been certified by a licensed professional  
6 competent to make an assessment and operating within the scope  
7 of his or her profession. This paragraph shall also apply to children  
8 with a developmental disability, as defined in subdivision (a) of  
9 Section 4512, including those determined to require out-of-home  
10 nonmedical care, as described in Section 11464.

11 (c) The need for adoption subsidy is evidenced by an  
12 unsuccessful search for an adoptive home to take the child without  
13 financial assistance, as documented in the case file of the  
14 prospective adoptive child. The requirement for this search shall  
15 be waived when it would be against the best interest of the child  
16 because of the existence of significant emotional ties with  
17 prospective adoptive parents while in the care of these persons as  
18 a foster child.

19 (d) The child satisfies any of the following criteria:

20 (1) He or she is under 18 years of age.

21 (2) He or she is under 21 years of age and has a mental or  
22 physical handicap that warrants the continuation of assistance.

23 (3) Effective January 1, 2012, he or she is under 19 years of  
24 age, effective January 1, 2013, he or she is under 20 years of age,  
25 and effective January 1, 2014, he or she is under 21 years of age  
26 and attained 16 years of age before the adoption assistance  
27 agreement became effective, and one or more of the conditions  
28 specified in *paragraphs (1) to (5), inclusive, of* subdivision (b) of  
29 Section 11403.

30 (e) The adoptive family is responsible for the child pursuant to  
31 the terms of an adoptive placement agreement or a final decree of  
32 adoption and has signed an adoption assistance agreement.

33 (f) The adoptive family is legally responsible for the support of  
34 the child and the child is receiving support from the adoptive  
35 parent.

36 (g) The department or the county responsible for determining  
37 the child's Adoption Assistance Program eligibility status and for  
38 providing financial aid, and the prospective adoptive parent, prior  
39 to or at the time the adoption decree is issued by the court, have

1 signed an adoption assistance agreement that stipulates the need  
2 for, and the amount of, Adoption Assistance Program benefits.

3 (h) The prospective adoptive parent or any adult living in the  
4 prospective adoptive home has completed the criminal background  
5 check requirements pursuant to Section 671(a)(20)(A) and (C) of  
6 Title 42 of the United States Code.

7 (i) To be eligible for state funding, the child is the subject of an  
8 agency adoption, as defined in Section 8506 of the Family Code  
9 and was any of the following:

10 (1) Under the supervision of a county welfare department as  
11 the subject of a legal guardianship or juvenile court dependency.

12 (2) Relinquished for adoption to a licensed California private  
13 or public adoption agency, or another public agency operating a  
14 Title IV-E program on behalf of the state, and would have  
15 otherwise been at risk of dependency as certified by the responsible  
16 public child welfare agency.

17 (3) Committed to the care of the department pursuant to Section  
18 8805 or 8918 of the Family Code.

19 (4) The child is an Indian child and the subject of an order of  
20 adoption based on tribal customary adoption of an Indian child,  
21 as described in Section 366.24. Notwithstanding Section 8600.5  
22 of the Family Code, for purposes of this subdivision a tribal  
23 customary adoption shall be considered an agency adoption.

24 (j) To be eligible for federal funding, in the case of a child who  
25 is not an applicable child for the federal fiscal year as defined in  
26 subdivision (n), the child satisfies any of the following criteria:

27 (1) Prior to the finalization of an agency adoption, as defined  
28 in Section 8506 of the Family Code, or an independent adoption,  
29 as defined in Section 8524 of the Family Code, is filed, the child  
30 has met the requirements to receive federal supplemental security  
31 income benefits pursuant to Subchapter 16 (commencing with  
32 Section 1381) of Chapter 7 of Title 42 of the United States Code,  
33 as determined and documented by the federal Social Security  
34 Administration.

35 (2) The child was removed from the home of a specified relative  
36 and the child would have been AFDC-eligible in the home of  
37 removal according to Section 606(a) or 607 of Title 42 of the  
38 United States Code, as those sections were in effect on July 16,  
39 1996, in the month of the voluntary placement agreement or in the  
40 month court proceedings are initiated to remove the child, resulting

1 in a judicial determination that continuation in the home would be  
2 contrary to the child's welfare. The child must have been living  
3 with the specified relative from whom he or she was removed  
4 within six months of the month the voluntary placement agreement  
5 was signed or the petition to remove was filed.

6 (3) The child was voluntarily relinquished to a licensed public  
7 or private adoption agency, or another public agency operating a  
8 Title IV-E program on behalf of the state, and there is a petition  
9 to the court to remove the child from the home within six months  
10 of the time the child lived with a specified relative and a subsequent  
11 judicial determination that remaining in the home would be  
12 contrary to the child's welfare.

13 (4) Title IV-E foster care maintenance was paid on behalf of  
14 the child's minor parent and covered the cost of the minor parent's  
15 child while the child was in the foster family home or child care  
16 institution with the minor parent.

17 (5) The child is an Indian child and the subject of an order of  
18 adoption based on tribal customary adoption of an Indian child,  
19 as described in Section 366.24.

20 (k) To be eligible for federal funding, in the case of a child who  
21 is an applicable child for the federal fiscal year, as defined in  
22 subdivision (n), the child meets any of the following criteria:

23 (1) At the time of initiation of adoptive proceedings was in the  
24 care of a public or licensed private child placement agency or  
25 Indian tribal organization pursuant to either of the following:

26 (A) An involuntary removal of the child from the home in  
27 accordance with a judicial determination to the effect that  
28 continuation in the home would be contrary to the welfare of the  
29 child.

30 (B) A voluntary placement agreement or a voluntary  
31 relinquishment.

32 (2) He or she meets all medical or disability requirements of  
33 Title XVI with respect to eligibility for supplemental security  
34 income benefits.

35 (3) He or she was residing in a foster family home or a child  
36 care institution with the child's minor parent, and the child's minor  
37 parent was in the foster family home or child care institution  
38 pursuant to either of the following:

39 (A) An involuntary removal of the child from the home in  
40 accordance with a judicial determination to the effect that

1 continuation in the home would be contrary to the welfare of the  
2 child.

3 (B) A voluntary placement agreement or voluntary  
4 relinquishment.

5 (4) The child is an Indian child and the subject of an order of  
6 adoption based on tribal customary adoption of an Indian child,  
7 as described in Section 366.24.

8 (l) The child is a citizen of the United States or a qualified alien  
9 as defined in Section 1641 of Title 8 of the United States Code. If  
10 the child is a qualified alien who entered the United States on or  
11 after August 22, 1996, and is placed with an unqualified alien, the  
12 child must meet the five-year residency requirement pursuant to  
13 Section 673(a)(2)(B) of Title 42 of the United States Code, unless  
14 the child is a member of one of the excepted groups pursuant to  
15 Section 1612(b) of Title 8 of the United States Code.

16 (m) A child shall be eligible for Adoption Assistance Program  
17 benefits if the following conditions are met:

18 (1) The child received Adoption Assistance Program benefits  
19 with respect to a prior adoption and the child is again available for  
20 adoption because the prior adoption was dissolved and the parental  
21 rights of the adoptive parents were terminated or because the  
22 child's adoptive parents died and the child meets the special needs  
23 criteria described in subdivisions (a) to (c), inclusive.

24 (2) To receive federal funding, the citizenship requirements in  
25 subdivision (l).

26 (n) (1) Except as provided in this subdivision, "applicable child"  
27 means a child for whom an adoption assistance agreement is  
28 entered into under this section during any federal fiscal year  
29 described in this subdivision if the child attained the applicable  
30 age for that federal fiscal year before the end of that federal fiscal  
31 year.

32 (A) For federal fiscal year 2010, the applicable age is 16 years.

33 (B) For federal fiscal year 2011, the applicable age is 14 years.

34 (C) For federal fiscal year 2012, the applicable age is 12 years.

35 (D) For federal fiscal year 2013, the applicable age is 10 years.

36 (E) For federal fiscal year 2014, the applicable age is eight years.

37 (F) For federal fiscal year 2015, the applicable age is six years.

38 (G) For federal fiscal year 2016, the applicable age is four years.

39 (H) For federal fiscal year 2017, the applicable age is two years.

40 (I) For federal fiscal year 2018 and thereafter, any age.

1 (2) Beginning with the 2010 federal fiscal year, the term  
2 “applicable child” shall include a child of any age on the date on  
3 which an adoption assistance agreement is entered into on behalf  
4 of the child under this section if the child meets both of the  
5 following criteria:

6 (A) He or she has been in foster care under the responsibility  
7 of the state for at least 60 consecutive months.

8 (B) He or she meets the requirements of subdivision (k).

9 (3) Beginning with the 2010 federal fiscal year, an applicable  
10 child shall include a child of any age on the date that an adoption  
11 assistance agreement is entered into on behalf of the child under  
12 this section, without regard to whether the child is described in  
13 paragraph (2), if the child meets all of the following criteria:

14 (A) He or she is a sibling of a child who is an applicable child  
15 for the federal fiscal year, under subdivision (n) or paragraph (2).

16 (B) He or she is to be placed in the same adoption placement  
17 as an “applicable child” for the federal fiscal year who is their  
18 sibling.

19 (C) He or she meets the requirements of subdivision (k).

20 (o) This section shall remain in effect only until January 1, 2014,  
21 and as of that date is repealed, unless a later enacted statute, that  
22 is enacted before January 1, 2014, deletes or extends that date.

23 *SEC. 16. Section 16120 of the Welfare and Institutions Code,*  
24 *as amended by Section 59 of Chapter 559 of the Statutes of 2010,*  
25 *is amended to read:*

26 16120. A child shall be eligible for Adoption Assistance  
27 Program benefits if all of the conditions specified in subdivisions  
28 (a) to (l), inclusive, are met or if the conditions specified in  
29 subdivision (m) are met.

30 (a) It has been determined that the child cannot or should not  
31 be returned to the home of his or her parents as evidenced by a  
32 petition for termination of parental rights, a court order terminating  
33 parental rights, or a signed relinquishment.

34 (b) The child has at least one of the following characteristics  
35 that are barriers to his or her adoption:

36 (1) Adoptive placement without financial assistance is unlikely  
37 because of membership in a sibling group that should remain intact  
38 or by virtue of race, ethnicity, color, language, three years of age  
39 or older, or parental background of a medical or behavioral nature

1 that can be determined to adversely affect the development of the  
2 child.

3 (2) Adoptive placement without financial assistance is unlikely  
4 because the child has a mental, physical, emotional, or medical  
5 disability that has been certified by a licensed professional  
6 competent to make an assessment and operating within the scope  
7 of his or her profession. This paragraph shall also apply to children  
8 with a developmental disability, as defined in subdivision (a) of  
9 Section 4512, including those determined to require out-of-home  
10 nonmedical care, as described in Section 11464.

11 (c) The need for adoption subsidy is evidenced by an  
12 unsuccessful search for an adoptive home to take the child without  
13 financial assistance, as documented in the case file of the  
14 prospective adoptive child. The requirement for this search shall  
15 be waived when it would be against the best interest of the child  
16 because of the existence of significant emotional ties with  
17 prospective adoptive parents while in the care of these persons as  
18 a foster child.

19 (d) The child satisfies any of the following criteria:

20 (1) He or she is under 18 years of age.

21 (2) He or she is under 21 years of age and has a mental or  
22 physical handicap that warrants the continuation of assistance.

23 (3) Effective January 1, 2012, he or she is under 19 years of  
24 age, effective January 1, 2013, he or she is under 20 years of age,  
25 and effective January 1, 2014, he or she is under 21 years of age  
26 and attained 16 years of age before the adoption assistance  
27 agreement became effective, and one or more of the conditions  
28 specified in *paragraphs (1) to (5), inclusive, of* subdivision (b) of  
29 Section 11403.

30 (e) The adoptive family is responsible for the child pursuant to  
31 the terms of an adoptive placement agreement or a final decree of  
32 adoption and has signed an adoption assistance agreement.

33 (f) The adoptive family is legally responsible for the support of  
34 the child and the child is receiving support from the adoptive  
35 parent.

36 (g) The department or the county responsible for determining  
37 the child's Adoption Assistance Program eligibility status and for  
38 providing financial aid, and the prospective adoptive parent, prior  
39 to or at the time the adoption decree is issued by the court, have

1 signed an adoption assistance agreement that stipulates the need  
2 for, and the amount of, Adoption Assistance Program benefits.

3 (h) The prospective adoptive parent or any adult living in the  
4 prospective adoptive home has completed the criminal background  
5 check requirements pursuant to Section 671(a)(20)(A) and (C) of  
6 Title 42 of the United States Code.

7 (i) To be eligible for state funding, the child is the subject of an  
8 agency adoption, as defined in Section 8506 of the Family Code  
9 and was any of the following:

10 (1) Under the supervision of a county welfare department as  
11 the subject of a legal guardianship or juvenile court dependency.

12 (2) Relinquished for adoption to a licensed California private  
13 or public adoption agency, or another public agency operating a  
14 Title IV-E program on behalf of the state, and would have  
15 otherwise been at risk of dependency as certified by the responsible  
16 public child welfare agency.

17 (3) Committed to the care of the department pursuant to Section  
18 8805 or 8918 of the Family Code.

19 (j) To be eligible for federal funding, in the case of a child who  
20 is not an applicable child for the federal fiscal year as defined in  
21 subdivision (n), the child satisfies any of the following criteria:

22 (1) Prior to the finalization of an agency adoption, as defined  
23 in Section 8506 of the Family Code, or an independent adoption,  
24 as defined in Section 8524 of the Family Code, is filed, the child  
25 has met the requirements to receive federal supplemental security  
26 income benefits pursuant to Subchapter 16 (commencing with  
27 Section 1381) of Chapter 7 of Title 42 of the United States Code,  
28 as determined and documented by the federal Social Security  
29 Administration.

30 (2) The child was removed from the home of a specified relative  
31 and the child would have been AFDC-eligible in the home of  
32 removal according to Section 606(a) or 607 of Title 42 of the  
33 United States Code, as those sections were in effect on July 16,  
34 1996, in the month of the voluntary placement agreement or in the  
35 month court proceedings are initiated to remove the child, resulting  
36 in a judicial determination that continuation in the home would be  
37 contrary to the child's welfare. The child must have been living  
38 with the specified relative from whom he or she was removed  
39 within six months of the month the voluntary placement agreement  
40 was signed or the petition to remove was filed.

1 (3) The child was voluntarily relinquished to a licensed public  
2 or private adoption agency, or another public agency operating a  
3 Title IV-E program on behalf of the state, and there is a petition  
4 to the court to remove the child from the home within six months  
5 of the time the child lived with a specified relative and a subsequent  
6 judicial determination that remaining in the home would be  
7 contrary to the child's welfare.

8 (4) Title IV-E foster care maintenance was paid on behalf of  
9 the child's minor parent and covered the cost of the minor parent's  
10 child while the child was in the foster family home or child care  
11 institution with the minor parent.

12 (k) To be eligible for federal funding, in the case of a child who  
13 is an applicable child for the federal fiscal year, as defined in  
14 subdivision (n), the child meets any of the following criteria:

15 (1) At the time of initiation of adoptive proceedings was in the  
16 care of a public or licensed private child placement agency or  
17 Indian tribal organization pursuant to either of the following:

18 (A) An involuntary removal of the child from the home in  
19 accordance with a judicial determination to the effect that  
20 continuation in the home would be contrary to the welfare of the  
21 child.

22 (B) A voluntary placement agreement or a voluntary  
23 relinquishment.

24 (2) He or she meets all medical or disability requirements of  
25 Title XVI with respect to eligibility for supplemental security  
26 income benefits.

27 (3) He or she was residing in a foster family home or a child  
28 care institution with the child's minor parent, and the child's minor  
29 parent was in the foster family home or child care institution  
30 pursuant to either of the following:

31 (A) An involuntary removal of the child from the home in  
32 accordance with a judicial determination to the effect that  
33 continuation in the home would be contrary to the welfare of the  
34 child.

35 (B) A voluntary placement agreement or voluntary  
36 relinquishment.

37 (l) The child is a citizen of the United States or a qualified alien  
38 as defined in Section 1641 of Title 8 of the United States Code. If  
39 the child is a qualified alien who entered the United States on or  
40 after August 22, 1996, and is placed with an unqualified alien, the

1 child must meet the five-year residency requirement pursuant to  
2 Section 673(a)(2)(B) of Title 42 of the United States Code, unless  
3 the child is a member of one of the excepted groups pursuant to  
4 Section 1612(b) of Title 8 of the United States Code.

5 (m) A child shall be eligible for Adoption Assistance Program  
6 benefits if the following conditions are met:

7 (1) The child received Adoption Assistance Program benefits  
8 with respect to a prior adoption and the child is again available for  
9 adoption because the prior adoption was dissolved and the parental  
10 rights of the adoptive parents were terminated or because the  
11 child's adoptive parents died and the child meets the special needs  
12 criteria described in subdivisions (a) to (c), inclusive.

13 (2) To receive federal funding, the citizenship requirements in  
14 subdivision (l).

15 (n) (1) Except as provided in this subdivision, "applicable child"  
16 means a child for whom an adoption assistance agreement is  
17 entered into under this section during any federal fiscal year  
18 described in this subdivision if the child attained the applicable  
19 age for that federal fiscal year before the end of that federal fiscal  
20 year.

21 (A) For federal fiscal year 2010, the applicable age is 16 years.

22 (B) For federal fiscal year 2011, the applicable age is 14 years.

23 (C) For federal fiscal year 2012, the applicable age is 12 years.

24 (D) For federal fiscal year 2013, the applicable age is 10 years.

25 (E) For federal fiscal year 2014, the applicable age is eight years.

26 (F) For federal fiscal year 2015, the applicable age is six years.

27 (G) For federal fiscal year 2016, the applicable age is four years.

28 (H) For federal fiscal year 2017, the applicable age is two years.

29 (I) For federal fiscal year 2018 and thereafter, any age.

30 (2) Beginning with the 2010 federal fiscal year, the term  
31 "applicable child" shall include a child of any age on the date on  
32 which an adoption assistance agreement is entered into on behalf  
33 of the child under this section if the child meets both of the  
34 following criteria:

35 (A) He or she has been in foster care under the responsibility  
36 of the state for at least 60 consecutive months.

37 (B) He or she meets the requirements of subdivision (k).

38 (3) Beginning with the 2010 federal fiscal year, an applicable  
39 child shall include a child of any age on the date that an adoption  
40 assistance agreement is entered into on behalf of the child under

1 this section, without regard to whether the child is described in  
2 paragraph (2), if the child meets all of the following criteria:

3 (A) He or she is a sibling of a child who is an applicable child  
4 for the federal fiscal year, under subdivision (n) or paragraph (2).

5 (B) He or she is to be placed in the same adoption placement  
6 as an applicable child for the federal fiscal year who is his or her  
7 sibling.

8 (C) He or she meets the requirements of subdivision (k).

9 (o) This section shall become operative on January 1, 2014.

10 *SEC. 17. Section 16504.5 of the Welfare and Institutions Code*  
11 *is amended to read:*

12 16504.5. (a) (1) Notwithstanding any other provision of law,  
13 pursuant to subdivision (b) of Section 11105 of the Penal Code, a  
14 child welfare agency may secure from an appropriate governmental  
15 criminal justice agency the state summary criminal history  
16 information, as defined in subdivision (a) of Section 11105 of the  
17 Penal Code, through the California Law Enforcement  
18 Telecommunications System pursuant to subdivision (d) of Section  
19 309, and subdivision (a) of Section 1522 of the Health and Safety  
20 Code for the following purposes:

21 (A) To conduct an investigation pursuant to Section 11166.3 of  
22 the Penal Code or an investigation involving a child in which the  
23 child is alleged to come within the jurisdiction of the juvenile court  
24 under Section 300.

25 (B) (i) To assess the appropriateness and safety of placing a  
26 child who has been detained or is a dependent of the court, in the  
27 home of a relative assessed pursuant to Section 309 or 361.4, or  
28 in the home of a nonrelative extended family member assessed as  
29 described in Section 362.7 during an emergency situation.

30 (ii) When a relative or nonrelative family member who has been  
31 assessed pursuant to clause (i) and approved as a caregiver moves  
32 to a different county and continued placement of the child with  
33 that person is intended, the move shall be considered an emergency  
34 situation for purposes of this subparagraph.

35 (C) To attempt to locate a parent or guardian pursuant to Section  
36 311 of a child who is the subject of dependency court proceedings.

37 (D) To obtain information about the background of a nonminor  
38 who has petitioned to reenter foster care under subdivision (e) of  
39 Section 388, in order to assess the appropriateness and safety of

1 placing the nonminor in a foster care or other placement setting  
2 with minor dependent children.

3 (2) Any time that a child welfare agency initiates a criminal  
4 background check through the California Law Enforcement  
5 Telecommunications System for the purpose described in  
6 subparagraph (B) of paragraph (1), the agency shall ensure that a  
7 state-level fingerprint check is initiated within 10 calendar days  
8 of the check, unless the whereabouts of the subject of the check  
9 are unknown or the subject of the check refuses to submit to the  
10 fingerprint check. The Department of Justice shall provide the  
11 requesting agency a copy of all criminal history information  
12 regarding an individual that it maintains pursuant to subdivision  
13 (b) of Section 11105 of the Penal Code.

14 (b) Criminal justice personnel shall cooperate with requests for  
15 criminal history information authorized pursuant to this section  
16 and shall provide the information to the requesting entity in a  
17 timely manner.

18 (c) Any law enforcement officer or person authorized by this  
19 section to receive the information who obtains the information in  
20 the record and knowingly provides the information to a person not  
21 authorized by law to receive the information is guilty of a  
22 misdemeanor as specified in Section 11142 of the Penal Code.

23 (d) Information obtained pursuant to this section shall not be  
24 used for any purposes other than those described in subdivision  
25 (a).

26 (e) Nothing in this section shall preclude ~~a nonminor~~ *a nonminor*  
27 petitioning to reenter foster care or a relative or other person living  
28 in a relative's home from refuting any of the information obtained  
29 by law enforcement if the individual believes the state- or  
30 federal-level criminal records check revealed erroneous  
31 information.

32 (f) (1) A state or county welfare agency may submit to the  
33 Department of Justice fingerprint images and related information  
34 required by the Department of Justice of parents or legal guardians  
35 when determining their suitability for reunification with a  
36 dependent child subject to the jurisdiction of the juvenile court,  
37 for the purposes of obtaining information as to the existence and  
38 content of a record of state or federal convictions and state or  
39 federal arrests, as well as information as to the existence and  
40 content of a record of state or federal arrests for which the

1 Department of Justice establishes that the person is free on bail or  
2 on his or her own recognizance pending trial or appeal. Of the  
3 information received by the Department of Justice pursuant to this  
4 subdivision, only the parent's or legal guardian's criminal history  
5 for the time period following the removal of the child from the  
6 parent or legal guardian shall be considered.

7 (2) A county welfare agency or county probation office may  
8 submit to the Department of Justice fingerprint images and related  
9 information required by the Department of Justice of nonminors  
10 petitioning to reenter foster care under Section 388, in order to  
11 assess the appropriateness and safety of placing the nonminor in  
12 a foster care or other placement setting with minor dependent  
13 children.

14 (3) When received, the Department of Justice shall forward to  
15 the Federal Bureau of Investigation requests for federal summary  
16 criminal history information received pursuant to this subdivision.  
17 The Department of Justice shall review the information returned  
18 from the Federal Bureau of Investigation and respond to the state  
19 or county welfare agency.

20 (4) The Department of Justice shall provide a response to the  
21 state or county welfare agency pursuant to subdivision (p) of  
22 Section 11105 of the Penal Code.

23 (5) The state or county welfare agency shall not request from  
24 the Department of Justice subsequent arrest notification service,  
25 as provided pursuant to Section 11105.2 of the Penal Code, for  
26 individuals described in this subdivision.

27 (6) The Department of Justice shall charge a fee sufficient to  
28 cover the costs of processing the request described in this  
29 subdivision.

30 (7) This subdivision shall become operative on July 1, 2007.

31 (g) A fee, determined by the Federal Bureau of Investigation  
32 and collected by the Department of Justice, shall be charged for  
33 each federal-level criminal offender record information request  
34 submitted pursuant to this section and Section 361.4.

35 ~~SEC. 13.~~

36 *SEC. 18.* If the Commission on State Mandates determines  
37 that this act contains costs mandated by the state, reimbursement  
38 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O