

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 985

Introduced by Assembly Member Cooley

February 22, 2013

An act to amend Sections 11363 ~~and~~, 11386, *and 11403.01* of, ~~and to repeal Section 11403.01 of~~, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 985, as amended, Cooley. Guardianship and adoption assistance. Existing law, through the Kinship Guardianship Assistance Payment Program (state-funded Kin-GAP), which is a part of the CalWORKs program, provides state-funded assistance on behalf of eligible children who are placed in the home of a relative caretaker. Under existing law, state-funded Kin-GAP aid is provided on behalf of any eligible youth under 21 years of age who meets specified requirements, including that his or her Kin-GAP payments began after his or her 16th birthday and he or she is completing secondary education or a program leading to an equivalent credential. ~~Existing law also allows a nonminor whose state-funded Kin-GAP payments began before his or her 16th birthday to continue to receive Kin-GAP aid after his or her 18th birthday if he or she continues to reside in the relative's home, remains otherwise eligible for Kin-GAP payments, and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis, or continues to pursue a high school equivalency certificate, and~~

~~is reasonably expected to complete the educational or training program or to receive a high school equivalency certificate before his or her 19th birthday.~~

Existing law, through the Kinship Guardianship Assistance Payments for Children program (federally funded Kin-GAP), provides federally funded assistance on behalf of eligible children who are placed in the home of a relative caretaker. Under federal law, a child who is between 18 and 21 years of age is eligible for federally funded Kin-GAP assistance if he or she meets specified requirements, including that his or her federally funded Kin-GAP payments commenced after his or her 16th birthday. *Existing law also allows a nonminor whose state or federally funded Kin-GAP payments began prior to his or her 16th birthday to continue to receive Kin-GAP aid after his or her 18th birthday if he or she meets specified criteria, including that the nonminor is attending high school or an equivalent program and is reasonably expected to graduate or complete that program before his or her 19th birthday.*

This bill would instead authorize a nonminor whose state-funded Kin-GAP payments began prior to his or her 16th birthday to receive state-funded Kin-GAP benefits if he or she is 21 years of age or younger and meets any of certain criteria, including, among others, that he or she attends a postsecondary institution of higher education or is employed at least 80 hours per month. The bill would also authorize a youth who has attained 18 or 19 years of age, *as specified*, while receiving federally funded Kin-GAP benefits and *who* is no longer eligible for those federally funded benefits to receive Kin-GAP payments under the ~~state~~ *state-funded* program if the youth meets specified requirements. The bill would also require a county social worker, in redetermining the eligibility of a child receiving state or federally funded Kin-GAP, to determine whether the child has a mental or physical disability that warrants the continuation of assistance beyond the child's 18th birthday. By expanding eligibility for state-funded Kin-GAP and increasing county responsibilities in administering the program, this bill would impose a state-mandated local program.

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

This bill would declare that no appropriation would be made for purposes of the bill.

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 11363 of the Welfare and Institutions
2 Code is amended to read:

3 11363. (a) Aid in the form of state-funded Kin-GAP shall be
4 provided under this article on behalf of any child under 18 years
5 of age and to any eligible youth under 21 years of age as provided
6 in Section 11403, who satisfies all of the following conditions:

7 (1) Has been adjudged a dependent child of the juvenile court
8 pursuant to Section 300 or a ward of the juvenile court pursuant
9 to Section 601 or 602.

10 (2) Has been residing for at least six consecutive months in the
11 approved home of the prospective relative guardian while under
12 the jurisdiction of the juvenile court or a voluntary placement
13 agreement.

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

16 (4) Has had his or her dependency jurisdiction terminated after
17 January 1, 2000, pursuant to Section 366.3, or his or her wardship
18 terminated pursuant to subdivision (d) of Section 728, concurrently
19 or subsequently to the establishment of the kinship guardianship.

20 (b) If the conditions specified in subdivision (a) are met and,
21 subsequent to the termination of dependency jurisdiction, any
22 parent or person having an interest files with the juvenile court a
23 petition pursuant to Section 388 to change, modify, or set aside an
24 order of the court, Kin-GAP payments shall continue unless and
25 until the juvenile court, after holding a hearing, orders the child
26 removed from the home of the guardian, terminates the
27 guardianship, or maintains dependency jurisdiction after the court
28 concludes the hearing on the petition filed under Section 388.

1 (c) A child or nonminor former dependent or ward shall be
2 eligible for Kin-GAP payments if he or she meets one of the
3 following age criteria:
4 (1) He or she is under 18 years of age.
5 (2) He or she is under 21 years of age and has a physical or
6 mental disability that warrants the continuation of assistance.
7 (3) He or she satisfies the conditions described in either
8 paragraph (1) or (2) of subdivision (d).
9 (d) (1) Kin-GAP payments shall continue for youths who have
10 attained 18 years of age and are under 21 years of age, if the
11 relative guardian continues to be responsible for the support of the
12 youth and the youth meets one or more of the conditions specified
13 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
14 11403.
15 (2) A youth who has attained 18 years of age while receiving
16 federally funded Kin-GAP benefits pursuant to Article 4.7
17 (commencing with Section 11385), but is no longer eligible for
18 benefits under that program, shall be eligible for benefits under
19 this section until the youth attains 21 years of age if all of the
20 following conditions are met:
21 (A) The youth's relationship to the kinship guardian is defined
22 in paragraph (1) of subdivision (c) of Section 11391.
23 (B) The youth was under 16 years of age at the commencement
24 of the Kin-GAP payments under Article 4.7 (commencing with
25 Section 11385) and does not have a mental or physical disability
26 that warrants the continuation of assistance.
27 (C) The guardian continues to be responsible for the support of
28 the youth.
29 (D) The youth meets one or more of the conditions of eligibility
30 described in paragraphs (1) to (5), inclusive, of subdivision (b) of
31 Section 11403.
32 (e) Termination of the guardianship with a kinship guardian
33 shall terminate eligibility for Kin-GAP unless the conditions in
34 Section 11403 apply; provided, however, that if an alternate
35 guardian or coguardian is appointed pursuant to Section 366.3 who
36 is also a kinship guardian, the alternate or coguardian shall be
37 entitled to receive Kin-GAP on behalf of the child pursuant to this
38 article. A new period of six months of placement with the alternate
39 guardian or coguardian shall not be required if that alternate

1 guardian or coguardian has been assessed pursuant to Sections
2 361.3 and 361.4 and the court terminates dependency jurisdiction.

3 (f) At the time of redetermination of eligibility closest to the
4 child's 18th birthday, the county social worker shall determine
5 whether the child has a mental or physical disability that warrants
6 continuation of assistance pursuant to paragraph (2) of subdivision
7 (c).

8 SEC. 2. Section 11386 of the Welfare and Institutions Code is
9 amended to read:

10 11386. Aid shall be provided under this article on behalf of a
11 child under 18 years of age, and to any eligible youth under 19
12 years of age, as provided in Section 11403, under all of the
13 following conditions:

14 (a) The child satisfies both of the following requirements:

15 (1) He or she has been removed from his or her home pursuant
16 to a voluntary placement agreement, or as a result of judicial
17 determination, including being adjudged a dependent child of the
18 court, pursuant to Section 300, or a ward of the court, pursuant to
19 Section 601 or 602, to the effect that continuation in the home
20 would be contrary to the welfare of the child.

21 (2) He or she has been eligible for federal foster care
22 maintenance payments under Article 5 (commencing with Section
23 11400) while residing for at least six consecutive months in the
24 approved home of the prospective relative guardian while under
25 the jurisdiction of the juvenile court or a voluntary placement
26 agreement.

27 (b) Being returned to the parental home or adopted are not
28 appropriate permanency options for the child.

29 (c) The child demonstrates a strong attachment to the relative
30 guardian, and the relative guardian has a strong commitment to
31 caring permanently for the child and, with respect to the child who
32 has attained 12 years of age, the child has been consulted regarding
33 the kinship guardianship arrangement.

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

36 (e) The child has had his or her dependency jurisdiction
37 terminated pursuant to Section 366.3, or his or her wardship
38 terminated pursuant to subdivision (d) of Section 728, concurrently
39 or subsequently to the establishment of the kinship guardianship.

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

10 (g) A child or nonminor former dependent or ward shall be
11 eligible for Kin-GAP payments if he or she meets one of the
12 following age criteria:

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

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

16 (3) He or she satisfies the conditions ~~as~~ described in subdivision
17 (h).

18 (4) *He or she satisfies the conditions of Section 11403.01.*

19 (h) Effective January 1, 2012, Kin-GAP payments shall continue
20 for youths who have attained 18 years of age and are under 19
21 years of age, if they reached 16 years of age before the Kin-GAP
22 negotiated agreement payments commenced, and as described in
23 Section 10103.5. Effective January 1, 2013, Kin-GAP payments
24 shall continue for youths who have attained 18 years of age and
25 are under 20 years of age, if they reached 16 years of age before
26 the Kin-GAP negotiated agreement payments commenced, and as
27 described in Section 10103.5. Effective January 1, 2014, Kin-GAP
28 payments shall continue for youths who have attained 18 years of
29 age and are under 21 years of age, if they reached 16 years of age
30 before the Kin-GAP negotiated agreement payments commenced.
31 To be eligible for continued payments, the youth shall satisfy one
32 or more of the conditions specified in paragraphs (1) to (5),
33 inclusive, of subdivision (b) of Section 11403.

34 (i) Termination of the guardianship with a kinship guardian
35 shall terminate eligibility for Kin-GAP, unless the conditions of
36 Section 11403 apply, provided, however, that if an alternate
37 guardian or coguardian is appointed pursuant to Section 366.3 who
38 is also a kinship guardian, the alternate or coguardian shall be
39 entitled to receive Kin-GAP on behalf of the child pursuant to this
40 article. A new period of six months of placement with the alternate

1 guardian or coguardian shall not be required if that alternate
2 guardian or coguardian has been assessed pursuant to ~~Section~~
3 ~~Sections~~ 361.3 and ~~Section~~ 361.4 and the court terminates
4 dependency jurisdiction, subject to federal approval of amendments
5 to the state plan.

6 (j) At the time of redetermination of eligibility closest to the
7 child's 18th birthday, the county social worker shall determine
8 whether the child has a mental or physical disability that warrants
9 continuation of assistance pursuant to paragraph (2) of subdivision
10 (g).

11 ~~SEC. 3. Section 11403.01 of the Welfare and Institutions Code~~
12 ~~is repealed.~~

13 *SEC. 3. Section 11403.01 of the Welfare and Institutions Code*
14 *is amended to read:*

15 ~~11403.01. On and after January 1, 2012, a~~

16 *11403.01. (a) A nonminor who is receiving Kin-GAP benefits*
17 *under Article 4.5 (commencing with Section 11360) or Article 4.7*
18 *(commencing with Section 11385) and whose Kin-GAP payments*
19 *began prior to the child's his or her 16th birthday and who is*
20 *receiving aid pursuant to those articles, and who is attending high*
21 *school or the equivalent level of vocational or technical training*
22 *on a full-time basis, or is in the process of pursuing a high school*
23 *equivalency certificate, prior to his or her 18th birthday, may*
24 *continue to receive aid under those articles that article following*
25 *his or her 18th birthday so long as the child continues to reside in*
26 *the relative's home nonminor continues to receive assistance and*
27 *support from the relative with whom he or she was placed, remains*
28 *otherwise eligible for Kin-GAP payments, and continues to attend*
29 *high school or the equivalent level of vocational or technical*
30 *training on a full-time basis, or continues to pursue a high school*
31 *equivalency certificate, and the child nonminor may reasonably*
32 *be expected to complete the educational or training program or to*
33 *receive a high school equivalency certificate; before his or her*
34 *19th birthday. Aid shall be provided to an individual pursuant to*
35 *this section provided that both the individual and the agency*
36 *responsible for the related guardianship placement have signed a*
37 *mutual agreement, if the individual is capable of making an*
38 *informed agreement, documenting the continued need for*
39 *out-of-home placement.*

1 ***(b) After the nonminor completes the educational or training***
 2 ***program or receives a high school equivalency certificate or attains***
 3 ***19 years of age, whichever occurs first, the nonminor shall be***
 4 ***eligible to receive Kin-GAP benefits pursuant to Article 4.5***
 5 ***(commencing with Section 11360) until the nonminor attains 21***
 6 ***years of age if all the following conditions are met:***

7 ***(1) The nonminor’s relationship to the kinship guardian is***
 8 ***defined in paragraph (1) of subdivision (c) of Section 11391.***

9 ***(B) The nonminor was under 16 years of age when the Kin-GAP***
 10 ***negotiated agreement payments commenced and does not have a***
 11 ***mental or physical disability that warrants the continuation of***
 12 ***assistance.***

13 ***(C) The guardian continues to be responsible for the support***
 14 ***of the nonminor.***

15 ***(D) The nonminor meets one or more of the conditions of***
 16 ***eligibility described in paragraphs (1) to (5), inclusive, of***
 17 ***subdivision (b) of Section 11403.***

18 **SEC. 4. No appropriation pursuant to Section 15200 of the**
 19 **Welfare and Institutions Code shall be made for the purposes of**
 20 **this act.**

21 **SEC. 5. If the Commission on State Mandates determines that**
 22 **this act contains costs mandated by the state, reimbursement to**
 23 **local agencies and school districts for those costs shall be made**
 24 **pursuant to Part 7 (commencing with Section 17500) of Division**
 25 **4 of Title 2 of the Government Code.**