

AMENDED IN SENATE MAY 27, 2014

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1502

Introduced by Assembly Member Mullin

January 13, 2014

An act to amend Sections ~~11250 and~~ 11320.3 and 11401 of, to add Section 11250.2 to, and to repeal and add ~~Section~~ Sections 11201 and 11250 of, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1502, as amended, Mullin. CalWORKs: Family Unity Act of 2015.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families block grant program, state, and county funds. Existing law requires that aid be granted to families with related children under 18 years of age who have been deprived of parental support or care due to the unemployment, *continued absence, death, incapacity, or incarceration* of a parent. Existing law also provides, however, that a family receiving aid under this chapter with a child who is considered to be deprived of parental support or care due to unemployment may continue to receive assistance regardless of the number of hours his or her parent ~~works provided~~ works, if the family does not exceed the applicable gross or net income limits and is otherwise eligible for assistance.

This bill would instead require that aid be granted to a family with a related child who is under 18 years of age if the family meets applicable eligibility requirements, without regard to the employment status of the parent. *The bill would also specify that the absence of a parent is not a condition of eligibility to receive CalWORKs benefits.*

As part of the CalWORKs program, recipients, unless specifically exempted, are required to participate in welfare-to-work activities. Existing law exempts from these welfare-to-work requirements a nonparent caretaker relative who has primary responsibility for providing care for a child who is a dependent or ward of the juvenile court or is at risk of entering foster care, if the county determines that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities such that they impair the caretaker relative’s ability to be regularly employed or to participate in welfare-to-work activities.

This bill would expand that exemption to apply to ~~any~~ a nonparent caretaker relative who has primary responsibility for providing care for a child *who is not his or her biological or adoptive child, if the caretaker relative is not also receiving aid for a biological or adopted child. The bill would also exempt a nonparent caretaker relative who is receiving aid for a biological or adoptive child if he or she is caring for a child who is a dependent or ward of the court or who is at risk of placement in foster care.* The bill would also delete obsolete provisions and make other technical and conforming changes.

This bill would require the department to issue an all-county letter or similar instructions by July 1, 2015, and to adopt regulations to implement the provisions of the bill by July 1, 2017.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 CalWORKs Family Unity Act of 2015.
- 3 SEC. 2. Section 11201 of the Welfare and Institutions Code is
- 4 repealed.
- 5 SEC. 3. Section 11201 is added to the Welfare and Institutions
- 6 Code, to read:
- 7 11201. For purposes of this chapter, “parent” means a natural
- 8 or adoptive parent with whom an eligible child is living.

1 ~~SEC. 4. Section 11250 of the Welfare and Institutions Code is~~
2 ~~amended to read:~~

3 ~~11250. (a) Aid, services, or both shall be granted under the~~
4 ~~provisions of this chapter, and subject to the regulations of the~~
5 ~~department, to families with related children under the age of 18~~
6 ~~years, except as provided in Section 11253, in need thereof, if the~~
7 ~~family meets the eligibility requirements specified in this chapter.~~

8 ~~(b) For purposes of this chapter, “absence of a parent” means~~
9 ~~the continued absence of a parent from the home due to divorce,~~
10 ~~separation, desertion, or any other reason, except absence~~
11 ~~occasioned solely by reason of the performance of active duty in~~
12 ~~the uniformed services of the United States. A continued absence~~
13 ~~exists when the nature of the absence is such as either to interrupt~~
14 ~~or to terminate the parent’s functioning as a provider of~~
15 ~~maintenance, physical care, or guidance for the child, and the~~
16 ~~known or indefinite duration of the absence precludes counting~~
17 ~~on the parent’s performance of the function of planning for the~~
18 ~~present support or care of the child. If these conditions exist, the~~
19 ~~parent may be absent for any reason, and may have left only~~
20 ~~recently or some time previously.~~

21 ~~SEC. 4. Section 11250 of the Welfare and Institutions Code is~~
22 ~~repealed.~~

23 ~~11250. Aid, services, or both shall be granted under the~~
24 ~~provisions of this chapter, and subject to the regulations of the~~
25 ~~department, to families with related children under the age of 18~~
26 ~~years, except as provided in Section 11253, in need thereof because~~
27 ~~they have been deprived of parental support or care due to:~~

28 ~~(a) The death, physical or mental incapacity, or incarceration~~
29 ~~of a parent.~~

30 ~~(b) The unemployment of a parent or parents.~~

31 ~~(c) Continued absence of a parent from the home due to divorce,~~
32 ~~separation, desertion, or any other reason, except absence~~
33 ~~occasioned solely by reason of the performance of active duty in~~
34 ~~the uniformed services of the United States. “Continued absence”~~
35 ~~exists when the nature of the absence is such as either to interrupt~~
36 ~~or to terminate the parent’s functioning as a provider of~~
37 ~~maintenance, physical care, or guidance for the child, and the~~
38 ~~known or indefinite duration of the absence precludes counting~~
39 ~~on the parent’s performance of the function of planning for the~~
40 ~~present support or care of the child. If these conditions exist, the~~

1 ~~parent may be absent for any reason, and may have left only~~
2 ~~recently or some time previously.~~

3 *SEC. 5. Section 11250 is added to the Welfare and Institutions*
4 *Code, to read:*

5 *11250. (a) Aid, services, or both shall be granted under this*
6 *chapter, and subject to the regulations of the department, to*
7 *families with related children under 18 years of age, except as*
8 *provided in Section 11253, in need thereof, if the family meets the*
9 *eligibility requirements specified in this chapter.*

10 *(b) Notwithstanding any other law, the absence of a parent, as*
11 *defined in Section 11250.2, is not a condition of eligibility to*
12 *receive benefits under this chapter.*

13 *SEC. 6. Section 11250.2 is added to the Welfare and Institutions*
14 *Code, to read:*

15 *11250.2. For purposes of this chapter, “absence of a parent”*
16 *means the continued absence of a parent from the home due to*
17 *divorce, separation, desertion, or any other reason. A continued*
18 *absence exists when the nature of the absence is such as either to*
19 *interrupt or to terminate the parent’s functioning as a provider of*
20 *maintenance, physical care, or guidance for the child, and the*
21 *known or indefinite duration of the absence precludes counting*
22 *on the parent’s performance of the function of planning for the*
23 *present support or care of the child. If these conditions exist, the*
24 *parent may be absent for any reason, and may have left only*
25 *recently or some time previously.*

26 ~~SEC. 5:~~

27 *SEC. 7. Section 11320.3 of the Welfare and Institutions Code*
28 *is amended to read:*

29 *11320.3. (a) (1) Except as provided in subdivision (b) or if*
30 *otherwise exempt, every individual, as a condition of eligibility*
31 *for aid under this chapter, shall participate in welfare-to-work*
32 *activities under this article.*

33 *(2) Individuals eligible under Section 11331.5 shall be required*
34 *to participate in the Cal-Learn Program under Article 3.5*
35 *(commencing with Section 11331) during the time that article is*
36 *operative, in lieu of the welfare-to-work requirements, and*
37 *subdivision (b) shall not apply to that individual.*

38 *(b) The following individuals shall not be required to participate*
39 *in welfare-to-work for so long as the condition continues to exist:*

40 *(1) An individual under 16 years of age.*

1 (2) (A) A child attending an elementary, secondary, vocational,
2 or technical school on a full-time basis.

3 (B) A person who is 16 or 17 years of age, or a person described
4 in subdivision (d) who loses this exemption, shall not requalify
5 for the exemption by attending school as a required activity under
6 this article.

7 (C) Notwithstanding subparagraph (B), a person who is 16 or
8 17 years of age who has obtained a high school diploma or its
9 equivalent and is enrolled or is planning to enroll in a
10 postsecondary education, vocational, or technical school training
11 program shall also not be required to participate for so long as the
12 condition continues to exist.

13 (D) For purposes of subparagraph (C), a person shall be deemed
14 to be planning to enroll in a postsecondary education, vocational,
15 or technical school training program if he or she, or his or her
16 parent, acting on his or her behalf, submits a written statement
17 expressing his or her intent to enroll in such a program for the
18 following term. The exemption from participation shall not
19 continue beyond the beginning of the term, unless verification of
20 enrollment is provided or obtained by the county.

21 (3) An individual who meets either of the following conditions:

22 (A) The individual is disabled as determined by a doctor's
23 verification that the disability is expected to last at least 30 days
24 and that it significantly impairs the recipient's ability to be
25 regularly employed or participate in welfare-to-work activities,
26 ~~provided that~~ *if* the individual is actively seeking appropriate
27 medical treatment.

28 (B) The individual is of advanced age.

29 (4) A nonparent caretaker relative who ~~has primary~~
30 ~~responsibility for providing care for any child.~~ *meets either of the*
31 *following conditions:*

32 (A) *He or she has primary responsibility for providing care for*
33 *a child who is not his or her biological or adoptive child, if the*
34 *caretaker relative is not also receiving aid for a biological or*
35 *adopted child.*

36 (B) *He or she is caring for a child who is a dependent or ward*
37 *of the court or who is at risk of placement in foster care, if the*
38 *caretaker relative is receiving aid for a biological or adoptive*
39 *child.*

1 (5) An individual whose presence in the home is required
2 because of illness or incapacity of another member of the household
3 and whose caretaking responsibilities impair the recipient’s ability
4 to be regularly employed or to participate in welfare-to-work
5 activities.

6 ~~(6) A parent or other relative who meets the criteria in~~
7 ~~subparagraph (A) or (B):~~

8 ~~(A) (i) The parent~~

9 (6) (A) A parent or other relative *who* has primary responsibility
10 for personally providing care to a child six months of age or under,
11 except that, on a case-by-case basis, and based on criteria
12 developed by the county, this period may be reduced to the first
13 12 weeks after the birth or adoption of the child, or increased to
14 the first 12 months after the birth or adoption of the child. An
15 individual may be exempt only once under this clause.

16 ~~(ii)~~

17 (B) An individual who received an exemption pursuant to ~~clause~~
18 ~~(i)~~ *subparagraph (A)* shall be exempt for a period of 12 weeks,
19 upon the birth or adoption of any subsequent children, except that
20 this period may be extended on a case-by-case basis to six months,
21 based on criteria developed by the county.

22 ~~(iii)~~

23 (C) In making the determination to extend the period of
24 exception under ~~clause (i) or (ii)~~, *subparagraph (A) or (B)*, the
25 following may be considered:

26 ~~(I)~~

27 (i) The availability of child care.

28 ~~(II)~~

29 (ii) Local labor market conditions.

30 ~~(III)~~

31 (iii) Other factors determined by the county.

32 ~~(iv)~~

33 (D) Effective January 1, 2013, the parent or other relative has
34 primary responsibility for personally providing care to one child
35 from birth to 23 months, inclusive. The exemption provided for
36 under this ~~clause~~ *subparagraph* shall be available in addition to
37 any other exemption provided for under this ~~subparagraph~~
38 *paragraph*. An individual may be exempt only once under this
39 ~~clause~~ *subparagraph*.

40 ~~(E)~~

1 (E) In a family eligible for aid under this ~~chapter due to the~~
2 ~~unemployment, underemployment, or low wages of the principal~~
3 ~~wage earner, chapter~~, the exemption criteria contained in
4 ~~subparagraph (A)~~ *subparagraphs (A) to (D), inclusive*, shall be
5 applied to only one parent.

6 (7) A woman who is pregnant and for whom it has been
7 medically verified that the pregnancy impairs her ability to be
8 regularly employed or participate in welfare-to-work activities or
9 the county has determined that, at that time, participation will not
10 readily lead to employment or that a training activity is not
11 appropriate. If a pregnant woman is unable to secure this medical
12 verification, but is otherwise eligible for an exemption from
13 welfare-to-work requirements under this section, including good
14 cause for temporary illness related to the pregnancy, she shall be
15 exempt from participation.

16 (c) Any individual not required to participate may choose to
17 participate voluntarily under this article, and end that participation
18 at any time without loss of eligibility for aid under this chapter, if
19 his or her status has not changed in a way that would require
20 participation.

21 (d) (1) Notwithstanding subdivision (a), a custodial parent who
22 is under 20 years of age and who has not earned a high school
23 diploma or its equivalent, and who is not exempt or whose only
24 basis for exemption is paragraph (1), (2), (5), (6), (7), or (8) of
25 subdivision (b), shall be required to participate solely for the
26 purpose of earning a high school diploma or its equivalent. During
27 the time that Article 3.5 (commencing with Section 11331) is
28 operative, this subdivision shall only apply to a custodial parent
29 who is 19 years of age.

30 (2) Section 11325.25 shall apply to a custodial parent who is
31 18 or 19 years of age and who is required to participate under this
32 article.

33 (e) Notwithstanding paragraph (1) of subdivision (d), the county
34 may determine that participation in education activities for the
35 purpose of earning a high school diploma or equivalent is
36 inappropriate for an 18 or 19 year old custodial parent only if that
37 parent is reassigned pursuant to an evaluation under Section
38 11325.25, or, at appraisal is already in an educational or vocational
39 training program that is approvable as a self-initiated program as
40 specified in Section 11325.23. If that determination is made, the

1 parent shall be allowed to continue participation in the self-initiated
2 program subject to Section 11325.23. During the time that Article
3 3.5 (commencing with Section 11331) is operative, this subdivision
4 shall only apply to a custodial parent who is 19 years of age.

5 (f) A recipient shall be excused from participation for good
6 cause when the county has determined there is a condition or other
7 circumstance that temporarily prevents or significantly impairs
8 the recipient's ability to be regularly employed or to participate in
9 welfare-to-work activities. The county welfare department shall
10 review the good cause determination for its continuing
11 appropriateness in accordance with the projected length of the
12 condition, or circumstance, but not less than every three months.
13 The recipient shall cooperate with the county welfare department
14 and provide information, including written documentation, as
15 required to complete the review. Conditions that may be considered
16 good cause include, but are not limited to, the following:

17 (1) Lack of necessary supportive services.

18 (2) In accordance with Article 7.5 (commencing with Section
19 11495), the applicant or recipient is a victim of domestic violence,
20 but only if participation under this article is detrimental to or
21 unfairly penalizes that individual or his or her family.

22 (3) Licensed or license-exempt child care for a child 10 years
23 of age or younger is not reasonably available during the
24 individual's hours of training or employment including commuting
25 time, or arrangements for child care have broken down or have
26 been interrupted, or child care is needed for a child who meets the
27 criteria of subparagraph (C) of paragraph (1) of subdivision (a) of
28 Section 11323.2, but who is not included in the assistance unit.
29 For purposes of this paragraph, "reasonable availability" means
30 child care that is commonly available in the recipient's community
31 to a person who is not receiving aid and that is in conformity with
32 the requirements of Public Law 104-193. The choices of child care
33 shall meet either licensing requirements or the requirements of
34 Section 11324. This good cause criterion shall include the
35 unavailability of suitable special needs child care for children with
36 identified special needs, including, but not limited to, disabilities
37 or chronic illnesses.

38 (g) (1) A recipient who was not required to participate in
39 welfare-to-work activities on December 31, 2012, because he or
40 she is a parent or other relative who has primary responsibility for

1 personally providing care to one child who is from 12 to 23 months
2 of age, inclusive, or two or more children who are under six years
3 of age shall not be required to participate until the county welfare
4 department reengages the recipient in welfare-to-work activities.

5 (2) For purposes of this subdivision, reengagement in
6 welfare-to-work activities shall include the development of a
7 welfare-to-work plan in accordance with Section 11325.21 and
8 the provision of necessary supportive services pursuant to Section
9 11323.2.

10 (3) County welfare departments shall reengage all recipients
11 described in paragraph (1) by January 1, 2015, unless the recipient
12 is otherwise eligible for an exemption under subdivision (b).

13 (4) A recipient reengaged in accordance with this subdivision
14 who has received assistance under this chapter, or from any state
15 pursuant to the Temporary Assistance for Needy Families program
16 (Part A (commencing with Section 401) of Title IV of the federal
17 Social Security Act (42 U.S.C. Sec. 601 et seq.)), may continue
18 in a welfare-to-work plan that meets the requirements of Section
19 11322.6 for a cumulative period of 24 months commencing the
20 first day of the first month after he or she is reengaged, unless or
21 until he or she exceeds the 48-month time limitation described in
22 Section 11454.

23 (5) All months of assistance described in paragraph (4) prior to
24 the reengagement of the recipient shall not be applied to the
25 24-month limitation described in paragraph (1) of subdivision (a)
26 of Section 11322.85.

27 *SEC. 8. Section 11401 of the Welfare and Institutions Code is*
28 *amended to read:*

29 11401. Aid in the form of AFDC-FC shall be provided under
30 this chapter on behalf of any child under 18 years of age, and, on
31 and after January 1, 2012, to any nonminor dependent who meets
32 the conditions of any of the following subdivisions:

33 (a) The child has been relinquished, for purposes of adoption,
34 to a licensed adoption agency, or the department, or the parental
35 rights of either or both of his or her parents have been terminated
36 after an action under the Family Code has been brought by a
37 licensed adoption agency or the department, provided that the
38 licensed adoption agency or the department, if responsible for
39 placement and care, provides to those children all services as
40 required by the department to children in foster care.

1 (b) The child has been removed from the physical custody of
2 his or her parent, relative, or guardian as a result of a voluntary
3 placement agreement or a judicial determination that continuance
4 in the home would be contrary to the child's welfare and that, if
5 the child was placed in foster care, reasonable efforts were made,
6 consistent with Chapter 5 (commencing with Section 16500) of
7 Part 4, to prevent or eliminate the need for removal of the child
8 from his or her home and to make it possible for the child to return
9 to his or her home, and any of the following applies:

10 (1) The child has been adjudged a dependent child of the court
11 on the grounds that he or she is a person described by Section 300.

12 (2) The child has been adjudged a ward of the court on the
13 grounds that he or she is a person described by Sections 601 and
14 602, or, on or after January 1, 2012, the nonminor is under the
15 transition jurisdiction of the juvenile court pursuant to Section
16 450.

17 (3) The child has been detained under a court order, pursuant
18 to Section 319 or 636, that remains in effect.

19 (4) The child's or nonminor's dependency jurisdiction, or
20 transition jurisdiction pursuant to Section 450, has resumed
21 pursuant to Section 387, or subdivision (a) or (e) of Section 388.

22 (c) The child has been voluntarily placed by his or her parent
23 or guardian pursuant to Section 11401.1.

24 (d) The child is living in the home of a nonrelated legal guardian.

25 (e) On and after January 1, 2012, the child is a nonminor
26 dependent who is placed pursuant to a mutual agreement as set
27 forth in subdivision (u) of Section 11400, under the placement and
28 care responsibility of the county child welfare services department,
29 an Indian tribe that entered into an agreement pursuant to Section
30 10553.1, or the county probation department, or the child is a
31 nonminor dependent reentering foster care placement pursuant to
32 a voluntary agreement, as set forth in subdivision (z) of Section
33 11400.

34 (f) The child has been placed in foster care under the federal
35 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
36 not be construed as limiting payments to Indian children, as defined
37 in the federal Indian Child Welfare Act, placed in accordance with
38 that act.

1 (g) To be eligible for federal financial participation, the
2 conditions described in paragraph (1), (2), (3), or (4) shall be
3 satisfied:

4 (1) (A) The child meets the conditions of subdivision (b).

5 (B) The child has been deprived of parental support or care for
6 any of the reasons set forth in Section 11250. *care*.

7 (C) The child has been removed from the home of a relative as
8 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
9 Regulations, as amended.

10 (D) The requirements of Sections 671 and 672 of Title 42 of
11 the United States Code, as amended, have been met.

12 (2) (A) The child meets the requirements of subdivision (h).

13 (B) The requirements of Sections 671 and 672 of Title 42 of
14 the United States Code, as amended, have been met.

15 (C) This paragraph shall be implemented only if federal financial
16 participation is available for the children described in this
17 paragraph.

18 (3) (A) The child has been removed from the custody of his or
19 her parent, relative, or guardian as a result of a voluntary placement
20 agreement or a judicial determination that continuance in the home
21 would be contrary to the child's welfare and that, if the child was
22 placed in foster care, reasonable efforts were made, consistent with
23 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
24 or eliminate the need for removal of the child from his or her home
25 and to make it possible for the child to return to his or her home,
26 or the child is a nonminor dependent who satisfies the removal
27 criteria in Section ~~472(a)(2)(A)(i)~~ 472(a)(2)(A)(i) of the federal
28 Social Security Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and agrees
29 to the placement and care responsibility of the placing agency by
30 signing the voluntary reentry agreement, as set forth in subdivision
31 (z) of Section 11400, and any of the following applies:

32 (i) The child has been adjudged a dependent child of the court
33 on the grounds that he or she is a person described by Section 300.

34 (ii) The child has been adjudged a ward of the court on the
35 grounds that he or she is a person described by Sections 601 and
36 602 or, on or after January 1, 2012, the nonminor is under the
37 transition jurisdiction of the juvenile court, pursuant to Section
38 450.

39 (iii) The child has been detained under a court order, pursuant
40 to Section 319 or 636, that remains in effect.

1 (iv) The child’s or nonminor’s dependency jurisdiction, or
 2 transition jurisdiction pursuant to Section 450, has resumed
 3 pursuant to Section 387, or subdivision (a) or (e) of Section 388.

4 (B) The child has been placed in an eligible foster care
 5 placement, as set forth in Section 11402.

6 (C) The requirements of Sections 671 and 672 of Title 42 of
 7 the United States Code have been satisfied.

8 (D) This paragraph shall be implemented only if federal financial
 9 participation is available for the children described in this
 10 paragraph.

11 (4) With respect to a nonminor dependent, in addition to meeting
 12 the conditions specified in paragraph (1), the requirements of
 13 Section 675(8)(B) of Title 42 of the United States Code have been
 14 satisfied. With respect to a former nonminor dependent who
 15 reenters foster care placement by signing the voluntary reentry
 16 agreement, as set forth in subdivision (z) of Section 11400, the
 17 requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of
 18 Title 42 of the United States Code are satisfied based on the
 19 nonminor’s status as a child-only case, without regard to the
 20 parents, legal guardians, or others in the assistance unit in the home
 21 from which the nonminor was originally removed.

22 (h) The child meets all of the following conditions:

23 (1) The child has been adjudged to be a dependent child or ward
 24 of the court on the grounds that he or she is a person described in
 25 Section 300, 601, or 602.

26 (2) The child’s parent also has been adjudged to be a dependent
 27 child or nonminor dependent of the court on the grounds that he
 28 or she is a person described by Section 300, 450, 601, or 602 and
 29 is receiving benefits under this chapter.

30 (3) The child is placed in the same licensed or approved foster
 31 care facility in which his or her parent is placed and the child’s
 32 parent is receiving reunification services with respect to that child.

33 *SEC. 9. (a) Notwithstanding the Administrative Procedure*
 34 *Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of*
 35 *Division 3 of Title 2 of the Government Code), the State*
 36 *Department of Social Services shall implement this act through*
 37 *an all-county letter or similar instructions from the director no*
 38 *later than July 1, 2015.*

39 *(b) The department shall adopt regulations as necessary to*
 40 *implement this act no later than July 1, 2017.*

O