

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2236**

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**Introduced by Assembly Member Stone**

February 21, 2014

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An act to amend Section ~~11404.1~~ 11403 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2236, as amended, Stone. Aid to Families with Dependent Children-Foster Care. Care: nonminors.

*Existing law provides aid and services to children placed in out-of-home care through various social service programs, including the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program. Under existing law, a nonminor dependent, defined to include a person between 18 and 21 years of age and still within the jurisdiction of the juvenile court, continues to be eligible for those social service programs until 21 years of age if he or she is otherwise eligible for that program and one or more other specified conditions are met. Under existing law, a nonminor former dependent child or ward of the juvenile court who resides with a nonrelated legal guardian and is receiving AFDC-FC benefits on that basis, as provided, is eligible to continue to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits.*

*This bill would instead provide that a nonminor former dependent child or ward who is eligible for AFDC-FC benefits because he or she resides with a nonrelated legal guardian, as provided, continues to be eligible for those benefits for as long as he or she meets the age criteria described above and any other program requirements. Because the bill*

would expand the number of nonminors who are eligible for the AFDC-FC program, which is administered and partially funded by counties, this bill would impose a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to pay for the state’s share of AFDC-FC costs.

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

~~Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Existing law requires a child to receive certain periodic reviews and permanency hearings, as specified, in order to be eligible for AFDC-FC.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

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

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

- 1 SECTION 1. Section 11403 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 11403. (a) It is the intent of the Legislature to exercise the
- 4 option afforded states under Section 475(8) (42 U.S.C. Sec.
- 5 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
- 6 federal Social Security Act, as contained in the federal Fostering
- 7 Connections to Success and Increasing Adoptions Act of 2008
- 8 (Public Law 110-351), to receive federal financial participation
- 9 for nonminor dependents of the juvenile court who satisfy the
- 10 conditions of subdivision (b), consistent with their transitional
- 11 independent living case plan. Effective January 1, 2012, these
- 12 nonminor dependents shall be eligible to receive support up to 19

1 years of age, effective January 1, 2013, up to 20 years of age, and  
2 effective January 1, 2014, up to 21 years of age, consistent with  
3 their transitional independent living case plan and as described in  
4 Section 10103.5. It is the intent of the Legislature both at the time  
5 of initial determination of the nonminor dependent's eligibility  
6 and throughout the time the nonminor dependent is eligible for aid  
7 pursuant to this section, that the social worker or probation officer  
8 or Indian tribal placing entity and the nonminor dependent shall  
9 work together to ensure the nonminor dependent's ongoing  
10 eligibility. All case planning shall be a collaborative effort between  
11 the nonminor dependent and the social worker, probation officer,  
12 or Indian tribe, with the nonminor dependent assuming increasing  
13 levels of responsibility and independence.

14 (b) A nonminor dependent receiving aid pursuant to this chapter,  
15 who satisfies the age criteria set forth in subdivision (a), shall meet  
16 the legal authority for placement and care by being under a foster  
17 care placement order by the juvenile court, or the voluntary reentry  
18 agreement as set forth in subdivision (z) of Section 11400, and is  
19 otherwise eligible for AFDC-FC payments pursuant to Section  
20 11401. A nonminor who satisfies the age criteria set forth in  
21 subdivision (a), and who is otherwise eligible, shall continue to  
22 receive CalWORKs payments pursuant to Section 11253 or, as a  
23 nonminor former dependent or ward, aid pursuant to Kin-GAP  
24 under Article 4.5 (commencing with Section 11360) or Article 4.7  
25 (commencing with Section 11385) or adoption assistance payments  
26 as specified in Chapter 2.1 (commencing with Section 16115) of  
27 Part 4. ~~Effective January 1, 2012, a~~ A nonminor former dependent  
28 child or ward of the juvenile court who is ~~receiving eligible to~~  
29 *receive AFDC-FC benefits pursuant to Section 11405 and who*  
30 *shall continue to be eligible for as long as he or she* satisfies the  
31 *age criteria set forth in subdivision (a) shall be eligible to continue*  
32 *to receive aid as long as the nonminor is otherwise eligible for*  
33 ~~AFDC-FC benefits under this subdivision and any other program~~  
34 *requirements.* This subdivision shall apply when one or more of  
35 the following conditions exist:

- 36 (1) The nonminor is completing secondary education or a  
37 program leading to an equivalent credential.  
38 (2) The nonminor is enrolled in an institution which provides  
39 postsecondary or vocational education.

1 (3) The nonminor is participating in a program or activity  
2 designed to promote, or remove barriers to employment.  
3 (4) The nonminor is employed for at least 80 hours per month.  
4 (5) The nonminor is incapable of doing any of the activities  
5 described in subparagraphs (1) to (4), inclusive, due to a medical  
6 condition, and that incapability is supported by regularly updated  
7 information in the case plan of the nonminor. The requirement to  
8 update the case plan under this section shall not apply to nonminor  
9 former dependents or wards in receipt of Kin-GAP program or  
10 Adoption Assistance Program payments.  
11 (c) The county child welfare or probation department, Indian  
12 tribe, consortium of tribes, or tribal organization that has entered  
13 into an agreement pursuant to Section 10553.1, shall work together  
14 with a nonminor dependent who is in foster care on his or her 18th  
15 birthday and thereafter or a nonminor former dependent receiving  
16 aid pursuant to Section 11405, to satisfy one or more of the  
17 conditions described in paragraphs (1) to (5), inclusive, of  
18 subdivision (b) and shall certify the nonminor's applicable  
19 condition or conditions in the nonminor's six-month transitional  
20 independent living case plan update, and provide the certification  
21 to the eligibility worker and to the court at each six-month case  
22 plan review hearing for the nonminor dependent. Relative  
23 guardians who receive Kin-GAP payments and adoptive parents  
24 who receive adoption assistance payments shall be responsible for  
25 reporting to the county welfare agency that the nonminor does not  
26 satisfy at least one of the conditions described in subdivision (b).  
27 The social worker, probation officer, or tribal entity shall verify  
28 and obtain assurances that the nonminor dependent continues to  
29 satisfy at least one of the conditions in paragraphs (1) to (5),  
30 inclusive, of subdivision (b) at each six-month transitional  
31 independent living case plan update. The six-month case plan  
32 update shall certify the nonminor's eligibility pursuant to  
33 subdivision (b) for the next six-month period. During the six-month  
34 certification period, the payee and nonminor shall report any  
35 change in placement or other relevant changes in circumstances  
36 that may affect payment. The nonminor dependent, or nonminor  
37 former dependent receiving aid pursuant to subdivision (e) of  
38 Section 11405, shall be informed of all due process requirements,  
39 in accordance with state and federal law, prior to an involuntary  
40 termination of aid, and shall simultaneously be provided with a

1 written explanation of how to exercise his or her due process rights  
2 and obtain referrals to legal assistance. Any notices of action  
3 regarding eligibility shall be sent to the nonminor dependent or  
4 former dependent, his or her counsel, as applicable, and the placing  
5 worker, in addition to any other payee. Payments of aid pursuant  
6 to Kin-GAP under Article 4.5 (commencing with Section 11360)  
7 or Article 4.7 (commencing with Section 11385), adoption  
8 assistance payments as specified in Chapter 2.1 (commencing with  
9 Section 16115) of Part 4, or aid pursuant to subdivision (e) of  
10 Section 11405 that are made on behalf of a nonminor former  
11 dependent shall terminate subject to the terms of the agreements.  
12 Subject to federal approval of amendments to the state plan, aid  
13 payments may be suspended and resumed based on changes of  
14 circumstances that affect eligibility. Nonminor former dependents,  
15 as identified in paragraph (2) of subdivision (aa) of Section 11400,  
16 are not eligible for reentry under subdivision (e) of Section 388 as  
17 nonminor dependents under the jurisdiction of the juvenile court,  
18 unless (1) the nonminor former dependent was receiving aid  
19 pursuant to Kin-GAP under Article 4.5 (commencing with Section  
20 11360) or Article 4.7 (commencing with Section 11385), or the  
21 nonminor former dependent was receiving aid pursuant to  
22 subdivision (e) of Section 11405, or the nonminor was receiving  
23 adoption assistance payments as specified in Chapter 2.1  
24 (commencing with Section 16115) of Part 3 and (2) the nonminor's  
25 former guardian or adoptive parent dies after the nonminor turns  
26 18 years of age but before the nonminor turns 21 years of age.  
27 Nonminor former dependents requesting the resumption of  
28 AFDC-FC payments pursuant to subdivision (e) of Section 11405  
29 shall complete the applicable portions of the voluntary reentry  
30 agreement, as described in subdivision (z) of Section 11400.

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

1 to facilitate implementation of the mutually developed supervised  
2 placement agreement and transitional independent living case plan.  
3 (e) Eligibility for aid under this section shall not terminate until  
4 the nonminor dependent attains the age criteria, as set forth in  
5 subdivision (a), but aid may be suspended when the nonminor  
6 dependent no longer resides in an eligible facility, as described in  
7 Section 11402, or is otherwise not eligible for AFDC-FC benefits  
8 under Section 11401, or terminated at the request of the nonminor,  
9 or after a court terminates dependency jurisdiction pursuant to  
10 Section 391, delinquency jurisdiction pursuant to Section 607.2,  
11 or transition jurisdiction pursuant to Section 452. AFDC-FC  
12 benefits to nonminor dependents, may be resumed at the request  
13 of the nonminor by completing a voluntary reentry agreement  
14 pursuant to subdivision (z) of Section 11400, before or after the  
15 filing of a petition filed pursuant to subdivision (e) of Section 388  
16 after a court terminates dependency or transitional jurisdiction  
17 pursuant to Section 391, or delinquency jurisdiction pursuant to  
18 Section 607.2. The county welfare or probation department or  
19 Indian tribal entity that has entered into an agreement pursuant to  
20 Section 10553.1 shall complete the voluntary reentry agreement  
21 with the nonminor who agrees to satisfy the criteria of the  
22 agreement, as described in subdivision (z) of Section 11400. The  
23 county welfare department or tribal entity shall establish a new  
24 child-only Title IV-E eligibility determination based on the  
25 nonminor's completion of the voluntary reentry agreement pursuant  
26 to Section 11401. The beginning date of aid for either federal or  
27 state AFDC-FC for a reentering nonminor who is placed in foster  
28 care is the date the voluntary reentry agreement is signed or the  
29 nonminor is placed, whichever is later. The county welfare  
30 department, county probation department, or tribal entity shall  
31 provide a nonminor dependent who wishes to continue receiving  
32 aid with the assistance necessary to meet and maintain eligibility.  
33 (f) (1) The county having jurisdiction of the nonminor  
34 dependent shall remain the county of payment under this section  
35 regardless of the youth's physical residence. Nonminor former  
36 dependents receiving aid pursuant to subdivision (e) of Section  
37 11405 shall be paid by their county of residence. Counties may  
38 develop courtesy supervision agreements to provide case  
39 management and independent living services by the county of  
40 residence pursuant to the nonminor dependent's transitional

1 independent living case plan. Placements made out of state are  
2 subject to the applicable requirements of the Interstate Compact  
3 on Placement of Children, pursuant to Part 5 (commencing with  
4 Section 7900) of Division 12 of the Family Code.

5 (2) The county welfare department, county probation  
6 department, or tribal entity shall notify all foster youth who attain  
7 16 years of age and are under the jurisdiction of that county or  
8 tribe, including those receiving Kin-GAP, and AAP, of the  
9 existence of the aid prescribed by this section.

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

13 (g) (1) Subject to paragraph (3), a county shall pay the  
14 nonfederal share of the cost of extending aid pursuant to this  
15 section to eligible nonminor dependents who have reached 18  
16 years of age and who are under the jurisdiction of the county,  
17 including AFDC-FC payments pursuant to Section 11401, aid  
18 pursuant to Kin-GAP under Article 4.7 (commencing with Section  
19 11385), adoption assistance payments as specified in Chapter 2.1  
20 (commencing with Section 16115) of Part 4, and aid pursuant to  
21 Section 11405 for nonminor dependents who are residing in the  
22 county as provided in paragraph (1) of subdivision (f). A county  
23 shall contribute to the CalWORKs payments pursuant to Section  
24 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing  
25 with Section 11360) at the statutory sharing ratios in effect on  
26 January 1, 2012.

27 (2) Subject to paragraph (3), a county shall pay the nonfederal  
28 share of the cost of providing permanent placement services  
29 pursuant to subdivision (c) of Section 16508 and administering  
30 the Aid to Families with Dependent Children Foster Care program  
31 pursuant to Section 15204.9. For purposes of budgeting, the  
32 department shall use a standard for the permanent placement  
33 services that is equal to the midpoint between the budgeting  
34 standards for family maintenance services and family reunification  
35 services.

36 (3) (A) (i) Notwithstanding any other law, a county's required  
37 total contribution pursuant to paragraphs (1) and (2), excluding  
38 costs incurred pursuant to Section 10103.5, shall not exceed the  
39 amount of savings in Kin-GAP assistance grant expenditures  
40 realized by the county from the receipt of federal funds due to the

1 implementation of Article 4.7 (commencing with Section 11385),  
 2 and the amount of funding specifically included in the Protective  
 3 Services Subaccount within the Support Services Account within  
 4 the Local Revenue Fund 2011, plus any associated growth funding  
 5 from the Support Services Growth Subaccount within the Sales  
 6 and Use Tax Growth Account to pay the costs of extending aid  
 7 pursuant to this section.

8 (ii) A county, at its own discretion, may expend additional funds  
 9 beyond the amounts identified in clause (i). These additional  
 10 amounts shall not be included in any cost and savings calculations  
 11 or comparisons performed pursuant to this section.

12 (B) Beginning in the 2011–12 fiscal year, and for each fiscal  
 13 year thereafter, funding and expenditures for programs and  
 14 activities under this section shall be in accordance with the  
 15 requirements provided in Sections 30025 and 30026.5 of the  
 16 Government Code. In addition, the following are available to the  
 17 counties for the purpose of funding costs pursuant to this section:

18 (i) The savings in Kin-GAP assistance grant expenditures  
 19 realized from the receipt of federal funds due to the implementation  
 20 of Article 4.7 (commencing with Section 11385).

21 (ii) The savings realized from the change in federal funding for  
 22 adoption assistance resulting from the enactment of Public Law  
 23 110-351 and consistent with subdivision (d) of Section 16118.

24 (4) (A) The limit on the county’s total contribution pursuant to  
 25 paragraph (3) shall be assessed by the State Department of Social  
 26 Services, in conjunction with the California State Association of  
 27 Counties, in 2015–16, to determine if it shall be removed. The  
 28 assessment of the need for the limit shall be based on a  
 29 determination on a statewide basis of whether the actual county  
 30 costs of providing extended care pursuant to this section, excluding  
 31 costs incurred pursuant to Section 10103.5, are fully funded by  
 32 the amount of savings in Kin-GAP assistance grant expenditures  
 33 realized by the counties from the receipt of federal funds due to  
 34 the implementation of Article 4.7 (commencing with Section  
 35 11385) and the amount of funding specifically included in the  
 36 Protective Services Subaccount within the Support Services  
 37 Account within the Local Revenue Fund 2011 plus any associated  
 38 growth funding from the Support Services Growth Subaccount  
 39 within the Sales and Use Tax Growth Account to pay the costs of  
 40 extending aid pursuant to this section.

1 (B) If the assessment pursuant to subparagraph (A) shows that  
2 the statewide total costs of extending aid pursuant to this section,  
3 excluding costs incurred pursuant to Section 10103.5, are fully  
4 funded by the amount of savings in Kin-GAP assistance grant  
5 expenditures realized by the counties from the receipt of federal  
6 funds due to the implementation of Article 4.7 (commencing with  
7 Section 11385) and the amount of funding specifically included  
8 in the Protective Services Subaccount within the Support Services  
9 Account within the Local Revenue Fund 2011 plus any associated  
10 growth funding from the Support Services Growth Subaccount  
11 within the Sales and Use Tax Growth Account to pay the costs of  
12 extending aid pursuant to this section, the Department of Finance  
13 shall certify that fact, in writing, and shall post the certification on  
14 its Internet Web site, at which time subparagraph (A) of paragraph  
15 (3) shall no longer be implemented.

16 (h) It is the intent of the Legislature that no county currently  
17 participating in the Child Welfare Demonstration Capped  
18 Allocation Project be adversely impacted by the department's  
19 exercise of its option to extend foster care benefits pursuant to  
20 Section 673(a)(4) and Section 675(8) of Title 42 of the United  
21 States Code in the federal Social Security Act, as contained in the  
22 federal Fostering Connections to Success and Increasing Adoptions  
23 Act of 2008 (Public Law 110-351). Therefore, the department shall  
24 negotiate with the United States Department of Health and Human  
25 Services on behalf of those counties that are currently participating  
26 in the demonstration project to ensure that those counties receive  
27 reimbursement for these new programs outside of the provisions  
28 of those counties' waiver under Subtitle IV-E (commencing with  
29 Section 470) of the federal Social Security Act (42 U.S.C. Sec.  
30 670 et seq.).

31 (i) The department, on or before July 1, 2013, shall develop  
32 regulations to implement this section in consultation with  
33 concerned stakeholders, including, but not limited to,  
34 representatives of the Legislature, the County Welfare Directors  
35 Association, the Chief Probation Officers of California, the Judicial  
36 Council, representatives of Indian tribes, the California Youth  
37 Connection, former foster youth, child advocacy organizations,  
38 labor organizations, juvenile justice advocacy organizations, foster  
39 caregiver organizations, and researchers. In the development of  
40 these regulations, the department shall consider its Manual of

1 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,  
2 and 917, as guidelines for developing regulations that are  
3 appropriate for young adults who can exercise incremental  
4 responsibility concurrently with their growth and development.  
5 The department, in its consultation with stakeholders, shall take  
6 into consideration the impact to the Automated Child Welfare  
7 Services Case Management Services (CWS-CMS) and required  
8 modifications needed to accommodate eligibility determination  
9 under this section, benefit issuance, case management across  
10 counties, and recognition of the legal status of nonminor  
11 dependents as adults, as well as changes to data tracking and  
12 reporting requirements as required by the Child Welfare System  
13 Improvement and Accountability Act as specified in Section  
14 10601.2, and federal outcome measures as required by the federal  
15 John H. Chafee Foster Care Independence Program (42 U.S.C.  
16 Sec. 677(f)). In addition, the department, in its consultation with  
17 stakeholders, shall define the supervised independent living setting  
18 which shall include, but not be limited to, apartment living, room  
19 and board arrangements, college or university dormitories, and  
20 shared roommate settings, and define how those settings meet  
21 health and safety standards suitable for nonminors. The department,  
22 in its consultation with stakeholders, shall define the six-month  
23 certification of the conditions of eligibility pursuant to subdivision  
24 (b) to be consistent with the flexibility provided by federal policy  
25 guidance, to ensure that there are ample supports for a nonminor  
26 to achieve the goals of his or her transition independent living case  
27 plan. The department, in its consultation with stakeholders, shall  
28 ensure that notices of action and other forms created to inform the  
29 nonminor of due process rights and how to access them shall be  
30 developed, using language consistent with the special needs of the  
31 nonminor dependent population.

32 (j) Notwithstanding the Administrative Procedure Act, Chapter  
33 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
34 Title 2 of the Government Code, the department shall prepare for  
35 implementation of the applicable provisions of this section by  
36 publishing, after consultation with the stakeholders listed in  
37 subdivision (i), all-county letters or similar instructions from the  
38 director by October 1, 2011, to be effective January 1, 2012.  
39 Emergency regulations to implement the applicable provisions of  
40 this act may be adopted by the director in accordance with the

1 Administrative Procedure Act. The initial adoption of the  
2 emergency regulations and one readoption of the emergency  
3 regulations shall be deemed to be an emergency and necessary for  
4 the immediate preservation of the public peace, health, safety, or  
5 general welfare. Initial emergency regulations and the first  
6 readoption of those emergency regulations shall be exempt from  
7 review by the Office of Administrative Law. The emergency  
8 regulations authorized by this section shall be submitted to the  
9 Office of Administrative Law for filing with the Secretary of State  
10 and shall remain in effect for no more than 180 days.

11 ~~(k) This section shall become operative on January 1, 2012.~~

12 *SEC. 2. No appropriation pursuant to Section 15200 of the*  
13 *Welfare and Institutions Code shall be made for purposes of*  
14 *implementing this act.*

15 *SEC. 3. If the Commission on State Mandates determines that*  
16 *this act contains costs mandated by the state, reimbursement to*  
17 *local agencies and school districts for those costs shall be made*  
18 *pursuant to Part 7 (commencing with Section 17500) of Division*  
19 *4 of Title 2 of the Government Code.*

20 ~~SECTION 1. Section 11404.1 of the Welfare and Institutions~~  
21 ~~Code is amended to read:~~

22 ~~11404.1. In order to be eligible for AFDC-FC, a child shall~~  
23 ~~receive a periodic review no less frequently than once every six~~  
24 ~~months and a permanency hearing within 12 months after the date~~  
25 ~~the child entered foster care, pursuant to Section 361.49. The child~~  
26 ~~shall also receive permanency planning hearings periodically, but~~  
27 ~~no less frequently than once each 12 months thereafter, as required~~  
28 ~~by subdivision (d) of Section 366.3, throughout the period of foster~~  
29 ~~care placement. Periodic reviews and permanency planning~~  
30 ~~hearings shall not be required for a child who is residing with a~~  
31 ~~nonrelated legal guardian.~~