

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2236

**Introduced by Assembly Member Members Maienschein and Stone
(Coauthor: Assembly Member Chávez)**

February 21, 2014

~~An act to amend Section 11403 of the Welfare and Institutions Code, relating to foster care. An act to amend Sections 1569.48 and 1569.49 of the Health and Safety Code, relating to residential care facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2236, as amended, ~~Stone Maienschein. Aid to Families with Dependent Children-Foster Care: nonminors. Residential care facilities for the elderly: civil penalties.~~

Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensing and administration of residential care facilities for the elderly.

Existing law authorizes the department to impose various civil penalties for licensing violations. Existing law sets the minimum civil penalty at \$25 and the maximum penalty at \$150 per day per violation, and permits additional civil penalties for repeat violations within a 12-month period.

This bill would increase the civil penalties, including the penalties for repeat offenses, and would vary the minimum and maximum penalties depending upon the seriousness of the harm to the resident.

This bill would, in the case of citations imposing civil penalties for violations that caused death or serious bodily injury to the resident,

require that the decision to issue the citation be reviewed by the department's legal office and be approved by the deputy director prior to the issuance of the citation.

This bill would require that the appeal procedure include notice to the complainant, affected residents, and, if possible, their legal representatives, and the opportunity to participate in the appeal, and an option for review by an administrative law judge.

This bill would, in cases involving death or serious bodily injury of a resident, require the department to prove that the violation was a direct proximate cause of the death or serious bodily injury, and that it resulted from an occurrence of a nature that the statute or regulation was designed to prevent. The bill would require dismissal of the citation if the licensee proves that the licensee did what might reasonably be expected of a residential care facility for the elderly licensee, acting under similar circumstances, to comply with the statute or regulation.

The bill would specify that, in an enforcement action pursuant to these provisions, a licensee is liable for the acts and omissions of its officers and employees.

Existing law authorizes the establishment of a fund and authorizes deposit of up to 50% of the revenue from these civil penalties into this fund, to be utilized, upon appropriation by the Legislature, for the purposes of relocation and care of residents when a facility's license is revoked or temporarily suspended.

This bill would, instead, establish the Emergency Resident Relocation Fund and would require deposit of 50% of the revenue from these civil penalties into the fund to be used for these purposes, upon appropriation by the Legislature.

This bill would require the department, by January 1, 2016, to amend its regulations to accommodate changes in these provisions made by this bill.

~~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.~~

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

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

- 1 SECTION 1. Section 1569.48 of the Health and Safety Code
- 2 is amended to read:
- 3 1569.48. ~~A fund may be~~ *The Emergency Resident Relocation*
- 4 *Fund is hereby established to which not more than within the State*
- 5 *Treasury. The department shall deposit into the fund 50 percent*
- 6 *of each penalty assessed pursuant to Section 1569.49 is transmitted*
- 7 *to 1569.49. Upon appropriation by the department for use*
- 8 *Legislature, moneys in the fund shall be used by the Community*
- 9 *Care Licensing Division of the department to establish an fund*
- 10 *emergency resident relocation fund to be utilized for the relocation*
- 11 *and care of residents when a facility’s license is revoked or*
- 12 *temporarily suspended, when appropriated by the Legislature.*
- 13 *suspended. The money in the fund shall cover costs, including,*

1 but not limited to, transportation expenses, expenses incurred in
 2 notifying family members, and any other costs directly associated
 3 with providing continuous care to the residents. The department
 4 shall seek the advice of providers in developing a state plan for
 5 emergency resident relocation.

6 *SEC. 2. Section 1569.49 of the Health and Safety Code is*
 7 *amended to read:*

8 1569.49. (a) In addition to the suspension, temporary
 9 suspension, or revocation of a license issued under this chapter,
 10 the department may levy a civil penalty. The department shall
 11 adopt regulations setting forth the appeal procedures for
 12 deficiencies. *The appeal procedure shall include notice to the*
 13 *complainant, affected residents, and, if possible, their legal*
 14 *representatives, and the opportunity to participate in the appeal.*
 15 *The appeal procedure shall include an option for review by an*
 16 *administrative law judge.*

17 (b) The amount of the civil penalty shall not be less than
 18 ~~twenty-five one hundred~~ dollars ~~(\$25)~~ (\$100) or more than *two*
 19 *hundred fifty* dollars ~~(\$50)~~ (\$250) per day for each violation of
 20 ~~this chapter except where the nature~~ *chapter*, or ~~seriousness of any~~
 21 ~~regulations adopted by the violation or the frequency of the~~
 22 ~~violation warrants a higher penalty or an immediate department~~
 23 ~~pursuant to this chapter. When assessed, the per-day civil penalty~~
 24 ~~assessment, or both, as determined by the department. In no event,~~
 25 ~~shall a civil penalty assessment exceed one hundred fifty dollars~~
 26 ~~(\$150) per day per violation. shall end once the licensee submits~~
 27 ~~documentation of correction, if the correction is verified by the~~
 28 ~~department.~~

29 (c) Notwithstanding Section 1569.33, the department shall assess
 30 an immediate civil penalty of one ~~hundred fifty thousand~~ dollars
 31 ~~(\$150)~~ (\$1,000) per day per violation for any of the following
 32 serious violations:

33 (1) (A) Fire clearance violations, including, but not limited to,
 34 overcapacity, ambulatory status, inoperable smoke alarms, and
 35 inoperable fire alarm systems. The civil penalty shall not be
 36 assessed if the licensee has done either of the following:

37 (i) Requested the appropriate fire clearance based on ambulatory,
 38 nonambulatory, or bedridden status, and the decision is pending.

39 (ii) Initiated eviction proceedings.

1 (B) A licensee denied a clearance for bedridden residents may
2 appeal to the fire authority, and, if that appeal is denied, may
3 subsequently appeal to the Office of the State Fire Marshal, and
4 shall not be assessed an immediate civil penalty until the final
5 appeal is decided, or after 60 days has passed from the date of the
6 citation, whichever is earlier.

7 (2) Absence of supervision as required by statute or regulation.

8 (3) Accessible bodies of water, when prohibited in this chapter
9 or regulations adopted pursuant to this chapter.

10 (4) Accessible firearms, ammunition, or both.

11 (5) Refused entry to a facility or any part of a facility in violation
12 of Section 1569.32, 1569.33, or 1569.35.

13 (6) The presence of an excluded person on the premises.

14 (d) *For a violation that the department determines was the direct*
15 *proximate cause of death to a resident, the minimum civil penalty*
16 *shall be five thousand dollars (\$5,000) and the maximum civil*
17 *penalty shall be fifteen thousand dollars (\$15,000).*

18 (e) *For a violation that the department determines was the direct*
19 *proximate cause of “serious bodily injury” as defined in Section*
20 *15610.67 of the Welfare and Institutions Code, the minimum civil*
21 *penalty shall be one thousand dollars (\$1,000) and the maximum*
22 *civil penalty shall be ten thousand dollars (\$10,000).*

23 (f) *For a violation that the department determines constitutes*
24 *“physical abuse” as defined in Section 15610.63 of the Welfare*
25 *and Institutions Code, but does not result in “serious bodily injury”*
26 *as defined in Section 15610.67 of the Welfare and Institutions*
27 *Code, and it is determined by the department that the abuse was*
28 *committed by the licensee or an employee of the licensee, the*
29 *minimum civil penalty shall be five hundred dollars (\$500) and*
30 *the maximum civil penalty shall be two thousand five hundred*
31 *dollars (\$2,500).*

32 (g) (1) *In any action to enforce a citation issued under*
33 *subdivision (d) or (e), the department shall have the burden of*
34 *proving both of the following:*

35 (A) *The violation was a direct proximate cause of the death or*
36 *serious bodily injury of a resident.*

37 (B) *The death or serious bodily injury resulted from an*
38 *occurrence of a nature that the statute or regulation was designed*
39 *to prevent.*

1 (2) If the department meets its burden of proof, the licensee
 2 shall have the burden of proving that the licensee did what might
 3 reasonably be expected of a residential care facility for the elderly
 4 licensee, acting under similar circumstances, to comply with the
 5 statute or regulation. If the licensee sustains this burden, then the
 6 citation shall be dismissed.

7 (h) Prior to the issuance of a citation imposing a civil penalty
 8 under subdivision (d) or (e), the decision shall be reviewed by the
 9 department’s legal division and approved by the deputy director.

10 ~~(d)~~

11 (i) Notwithstanding Section 1569.33, any residential care facility
 12 for the elderly that is cited for repeating the same violation of this
 13 chapter within 12 months of the first violation is subject to an
 14 immediate civil penalty of one ~~hundred fifty~~ thousand dollars
 15 ~~(\$150) and fifty~~ (\$1,000) and, thereafter, an ongoing civil penalty
 16 of two hundred dollars ~~(\$50)~~ (\$200) for each day the violation
 17 continues until the licensee submits documentation demonstrating
 18 that the deficiency is ~~corrected~~. corrected, if the correction is
 19 verified by the department.

20 ~~(e)~~

21 (j) Any residential care facility for the elderly that is assessed
 22 a civil penalty pursuant to subdivision ~~(d)~~ which (i) that repeats
 23 the same violation of this chapter within 12 months of the violation
 24 subject to subdivision ~~(d)~~ (i) shall be assessed an immediate civil
 25 penalty of ~~one two thousand~~ dollars ~~(\$1,000)~~ and ~~one~~ dollars
 26 ~~(\$2,000)~~ and, thereafter, an ongoing civil penalty of two hundred
 27 dollars ~~(\$100)~~ (\$200) for each day the violation continues until
 28 the licensee submits documentation demonstrating that the
 29 deficiency is ~~corrected~~. corrected, if the correction is verified by
 30 the department.

31 (k) In assessing a civil penalty for a violation under this section,
 32 the department shall consider all relevant information, including,
 33 but not limited to, both of the following:

34 (1) The probability and severity of the risk of harm that the
 35 violation presents to the residents’ mental and physical condition.

36 (2) The good faith efforts of the facility to prevent the violation
 37 from occurring.

38 (l) In any enforcement action taken by the department, the
 39 licensee shall be liable for the acts and omissions of its officers
 40 and employees.

1 (f)
2 (m) The department shall adopt regulations implementing this
3 section.

4 (n) *The department shall, by January 1, 2016, adopt amendments*
5 *to its regulations adopted pursuant to this section in order to*
6 *incorporate changes necessary to accommodate amendments to*
7 *this section made by the act that added this subdivision. The*
8 *regulations adopted or amended by the department pursuant to*
9 *subdivision (m) shall remain in effect until amended by the*
10 *department pursuant to this subdivision.*

11 SECTION 1. ~~Section 11403 of the Welfare and Institutions~~
12 ~~Code is amended to read:~~

13 11403. ~~(a) It is the intent of the Legislature to exercise the~~
14 ~~option afforded states under Section 475(8) (42 U.S.C. Sec.~~
15 ~~675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the~~
16 ~~federal Social Security Act, as contained in the federal Fostering~~
17 ~~Connections to Success and Increasing Adoptions Act of 2008~~
18 ~~(Public Law 110-351), to receive federal financial participation~~
19 ~~for nonminor dependents of the juvenile court who satisfy the~~
20 ~~conditions of subdivision (b), consistent with their transitional~~
21 ~~independent living case plan. Effective January 1, 2012, these~~
22 ~~nonminor dependents shall be eligible to receive support up to 19~~
23 ~~years of age, effective January 1, 2013, up to 20 years of age, and~~
24 ~~effective January 1, 2014, up to 21 years of age, consistent with~~
25 ~~their transitional independent living case plan and as described in~~
26 ~~Section 10103.5. It is the intent of the Legislature both at the time~~
27 ~~of initial determination of the nonminor dependent's eligibility~~
28 ~~and throughout the time the nonminor dependent is eligible for aid~~
29 ~~pursuant to this section, that the social worker or probation officer~~
30 ~~or Indian tribal placing entity and the nonminor dependent shall~~
31 ~~work together to ensure the nonminor dependent's ongoing~~
32 ~~eligibility. All case planning shall be a collaborative effort between~~
33 ~~the nonminor dependent and the social worker, probation officer,~~
34 ~~or Indian tribe, with the nonminor dependent assuming increasing~~
35 ~~levels of responsibility and independence.~~

36 (b) ~~A nonminor dependent receiving aid pursuant to this chapter,~~
37 ~~who satisfies the age criteria set forth in subdivision (a), shall meet~~
38 ~~the legal authority for placement and care by being under a foster~~
39 ~~care placement order by the juvenile court, or the voluntary reentry~~
40 ~~agreement as set forth in subdivision (z) of Section 11400, and is~~

1 otherwise eligible for AFDC-FC payments pursuant to Section
2 11401. A nonminor who satisfies the age criteria set forth in
3 subdivision (a), and who is otherwise eligible, shall continue to
4 receive CalWORKs payments pursuant to Section 11253 or, as a
5 nonminor former dependent or ward, aid pursuant to Kin-GAP
6 under Article 4.5 (commencing with Section 11360) or Article 4.7
7 (commencing with Section 11385) or adoption assistance payments
8 as specified in Chapter 2.1 (commencing with Section 16115) of
9 Part 4. A nonminor former dependent child or ward of the juvenile
10 court who is eligible to receive AFDC-FC benefits pursuant to
11 Section 11405 shall continue to be eligible for as long as he or she
12 satisfies the age criteria set forth in subdivision (a) and any other
13 program requirements. This subdivision shall apply when one or
14 more of the following conditions exist:

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

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

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

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

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

29 (e) The county child welfare or probation department, Indian
30 tribe, consortium of tribes, or tribal organization that has entered
31 into an agreement pursuant to Section 10553.1, shall work together
32 with a nonminor dependent who is in foster care on his or her 18th
33 birthday and thereafter or a nonminor former dependent receiving
34 aid pursuant to Section 11405, to satisfy one or more of the
35 conditions described in paragraphs (1) to (5), inclusive, of
36 subdivision (b) and shall certify the nonminor's applicable
37 condition or conditions in the nonminor's six-month transitional
38 independent living case plan update, and provide the certification
39 to the eligibility worker and to the court at each six-month case
40 plan review hearing for the nonminor dependent. Relative

1 guardians who receive Kin-GAP payments and adoptive parents
2 who receive adoption assistance payments shall be responsible for
3 reporting to the county welfare agency that the nonminor does not
4 satisfy at least one of the conditions described in subdivision (b).
5 The social worker, probation officer, or tribal entity shall verify
6 and obtain assurances that the nonminor dependent continues to
7 satisfy at least one of the conditions in paragraphs (1) to (5),
8 inclusive, of subdivision (b) at each six-month transitional
9 independent living case plan update. The six-month case plan
10 update shall certify the nonminor's eligibility pursuant to
11 subdivision (b) for the next six-month period. During the six-month
12 certification period, the payee and nonminor shall report any
13 change in placement or other relevant changes in circumstances
14 that may affect payment. The nonminor dependent, or nonminor
15 former dependent receiving aid pursuant to subdivision (c) of
16 Section 11405, shall be informed of all due process requirements,
17 in accordance with state and federal law, prior to an involuntary
18 termination of aid, and shall simultaneously be provided with a
19 written explanation of how to exercise his or her due process rights
20 and obtain referrals to legal assistance. Any notices of action
21 regarding eligibility shall be sent to the nonminor dependent or
22 former dependent, his or her counsel, as applicable, and the placing
23 worker, in addition to any other payee. Payments of aid pursuant
24 to Kin-GAP under Article 4.5 (commencing with Section 11360)
25 or Article 4.7 (commencing with Section 11385), adoption
26 assistance payments as specified in Chapter 2.1 (commencing with
27 Section 16115) of Part 4, or aid pursuant to subdivision (c) of
28 Section 11405 that are made on behalf of a nonminor former
29 dependent shall terminate subject to the terms of the agreements.
30 Subject to federal approval of amendments to the state plan, aid
31 payments may be suspended and resumed based on changes of
32 circumstances that affect eligibility. Nonminor former dependents,
33 as identified in paragraph (2) of subdivision (aa) of Section 11400,
34 are not eligible for reentry under subdivision (e) of Section 388 as
35 nonminor dependents under the jurisdiction of the juvenile court,
36 unless (1) the nonminor former dependent was receiving aid
37 pursuant to Kin-GAP under Article 4.5 (commencing with Section
38 11360) or Article 4.7 (commencing with Section 11385), or the
39 nonminor former dependent was receiving aid pursuant to
40 subdivision (e) of Section 11405, or the nonminor was receiving

1 adoption assistance payments as specified in Chapter 2.1
2 (commencing with Section 16115) of Part 3 and (2) the nonminor's
3 former guardian or adoptive parent dies after the nonminor turns
4 18 years of age but before the nonminor turns 21 years of age.
5 Nonminor former dependents requesting the resumption of
6 AFDC-FC payments pursuant to subdivision (c) of Section 11405
7 shall complete the applicable portions of the voluntary reentry
8 agreement, as described in subdivision (z) of Section 11400.

9 (d) A nonminor dependent may receive all of the payment
10 directly provided that the nonminor is living independently in a
11 supervised placement, as described in subdivision (w) of Section
12 11400, and that both the youth and the agency responsible for the
13 foster care placement have signed a mutual agreement, as defined
14 in subdivision (u) of Section 11400, if the youth is capable of
15 making an informed agreement, that documents the continued need
16 for supervised out-of-home placement, and the nonminor's and
17 social worker's or probation officer's agreement to work together
18 to facilitate implementation of the mutually developed supervised
19 placement agreement and transitional independent living case plan.

20 (e) Eligibility for aid under this section shall not terminate until
21 the nonminor dependent attains the age criteria, as set forth in
22 subdivision (a), but aid may be suspended when the nonminor
23 dependent no longer resides in an eligible facility, as described in
24 Section 11402, or is otherwise not eligible for AFDC-FC benefits
25 under Section 11401, or terminated at the request of the nonminor,
26 or after a court terminates dependency jurisdiction pursuant to
27 Section 391, delinquency jurisdiction pursuant to Section 607.2,
28 or transition jurisdiction pursuant to Section 452. AFDC-FC
29 benefits to nonminor dependents, may be resumed at the request
30 of the nonminor by completing a voluntary reentry agreement
31 pursuant to subdivision (z) of Section 11400, before or after the
32 filing of a petition filed pursuant to subdivision (e) of Section 388
33 after a court terminates dependency or transitional jurisdiction
34 pursuant to Section 391, or delinquency jurisdiction pursuant to
35 Section 607.2. The county welfare or probation department or
36 Indian tribal entity that has entered into an agreement pursuant to
37 Section 10553.1 shall complete the voluntary reentry agreement
38 with the nonminor who agrees to satisfy the criteria of the
39 agreement, as described in subdivision (z) of Section 11400. The
40 county welfare department or tribal entity shall establish a new

1 child-only Title IV-E eligibility determination based on the
2 nonminor's completion of the voluntary reentry agreement pursuant
3 to Section 11401. The beginning date of aid for either federal or
4 state AFDC-FC for a reentering nonminor who is placed in foster
5 care is the date the voluntary reentry agreement is signed or the
6 nonminor is placed, whichever is later. The county welfare
7 department, county probation department, or tribal entity shall
8 provide a nonminor dependent who wishes to continue receiving
9 aid with the assistance necessary to meet and maintain eligibility.

10 (f) (1) The county having jurisdiction of the nonminor
11 dependent shall remain the county of payment under this section
12 regardless of the youth's physical residence. Nonminor former
13 dependents receiving aid pursuant to subdivision (e) of Section
14 11405 shall be paid by their county of residence. Counties may
15 develop courtesy supervision agreements to provide case
16 management and independent living services by the county of
17 residence pursuant to the nonminor dependent's transitional
18 independent living case plan. Placements made out of state are
19 subject to the applicable requirements of the Interstate Compact
20 on Placement of Children, pursuant to Part 5 (commencing with
21 Section 7900) of Division 12 of the Family Code.

22 (2) The county welfare department, county probation
23 department, or tribal entity shall notify all foster youth who attain
24 16 years of age and are under the jurisdiction of that county or
25 tribe, including those receiving Kin-GAP, and AAP, of the
26 existence of the aid prescribed by this section.

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

30 (g) (1) Subject to paragraph (3), a county shall pay the
31 nonfederal share of the cost of extending aid pursuant to this
32 section to eligible nonminor dependents who have reached 18
33 years of age and who are under the jurisdiction of the county,
34 including AFDC-FC payments pursuant to Section 11401, aid
35 pursuant to Kin-GAP under Article 4.7 (commencing with Section
36 11385), adoption assistance payments as specified in Chapter 2.1
37 (commencing with Section 16115) of Part 4, and aid pursuant to
38 Section 11405 for nonminor dependents who are residing in the
39 county as provided in paragraph (1) of subdivision (f). A county
40 shall contribute to the CalWORKs payments pursuant to Section

1 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
2 with Section 11360) at the statutory sharing ratios in effect on
3 January 1, 2012.

4 (2) Subject to paragraph (3), a county shall pay the nonfederal
5 share of the cost of providing permanent placement services
6 pursuant to subdivision (c) of Section 16508 and administering
7 the Aid to Families with Dependent Children Foster Care program
8 pursuant to Section 15204.9. For purposes of budgeting, the
9 department shall use a standard for the permanent placement
10 services that is equal to the midpoint between the budgeting
11 standards for family maintenance services and family reunification
12 services.

13 (3) (A) (i) Notwithstanding any other law, a county's required
14 total contribution pursuant to paragraphs (1) and (2), excluding
15 costs incurred pursuant to Section 10103.5, shall not exceed the
16 amount of savings in Kin-GAP assistance grant expenditures
17 realized by the county from the receipt of federal funds due to the
18 implementation of Article 4.7 (commencing with Section 11385),
19 and the amount of funding specifically included in the Protective
20 Services Subaccount within the Support Services Account within
21 the Local Revenue Fund 2011, plus any associated growth funding
22 from the Support Services Growth Subaccount within the Sales
23 and Use Tax Growth Account to pay the costs of extending aid
24 pursuant to this section.

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

29 (B) Beginning in the 2011-12 fiscal year, and for each fiscal
30 year thereafter, funding and expenditures for programs and
31 activities under this section shall be in accordance with the
32 requirements provided in Sections 30025 and 30026.5 of the
33 Government Code. In addition, the following are available to the
34 counties for the purpose of funding costs pursuant to this section:

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

38 (ii) The savings realized from the change in federal funding for
39 adoption assistance resulting from the enactment of Public Law
40 110-351 and consistent with subdivision (d) of Section 16118.

1 ~~(4) (A) The limit on the county's total contribution pursuant to~~
2 ~~paragraph (3) shall be assessed by the State Department of Social~~
3 ~~Services, in conjunction with the California State Association of~~
4 ~~Counties, in 2015–16, to determine if it shall be removed. The~~
5 ~~assessment of the need for the limit shall be based on a~~
6 ~~determination on a statewide basis of whether the actual county~~
7 ~~costs of providing extended care pursuant to this section, excluding~~
8 ~~costs incurred pursuant to Section 10103.5, are fully funded by~~
9 ~~the amount of savings in Kin-GAP assistance grant expenditures~~
10 ~~realized by the counties from the receipt of federal funds due to~~
11 ~~the implementation of Article 4.7 (commencing with Section~~
12 ~~11385) and the amount of funding specifically included in the~~
13 ~~Protective Services Subaccount within the Support Services~~
14 ~~Account within the Local Revenue Fund 2011 plus any associated~~
15 ~~growth funding from the Support Services Growth Subaccount~~
16 ~~within the Sales and Use Tax Growth Account to pay the costs of~~
17 ~~extending aid pursuant to this section.~~

18 ~~(B) If the assessment pursuant to subparagraph (A) shows that~~
19 ~~the statewide total costs of extending aid pursuant to this section,~~
20 ~~excluding costs incurred pursuant to Section 10103.5, are fully~~
21 ~~funded by the amount of savings in Kin-GAP assistance grant~~
22 ~~expenditures realized by the counties from the receipt of federal~~
23 ~~funds due to the implementation of Article 4.7 (commencing with~~
24 ~~Section 11385) and the amount of funding specifically included~~
25 ~~in the Protective Services Subaccount within the Support Services~~
26 ~~Account within the Local Revenue Fund 2011 plus any associated~~
27 ~~growth funding from the Support Services Growth Subaccount~~
28 ~~within the Sales and Use Tax Growth Account to pay the costs of~~
29 ~~extending aid pursuant to this section, the Department of Finance~~
30 ~~shall certify that fact, in writing, and shall post the certification on~~
31 ~~its Internet Web site, at which time subparagraph (A) of paragraph~~
32 ~~(3) shall no longer be implemented.~~

33 ~~(h) It is the intent of the Legislature that no county currently~~
34 ~~participating in the Child Welfare Demonstration Capped~~
35 ~~Allocation Project be adversely impacted by the department's~~
36 ~~exercise of its option to extend foster care benefits pursuant to~~
37 ~~Section 673(a)(4) and Section 675(8) of Title 42 of the United~~
38 ~~States Code in the federal Social Security Act, as contained in the~~
39 ~~federal Fostering Connections to Success and Increasing Adoptions~~
40 ~~Act of 2008 (Public Law 110-351). Therefore, the department shall~~

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

8 (i) ~~The department, on or before July 1, 2013, shall develop~~
9 ~~regulations to implement this section in consultation with~~
10 ~~concerned stakeholders, including, but not limited to,~~
11 ~~representatives of the Legislature, the County Welfare Directors~~
12 ~~Association, the Chief Probation Officers of California, the Judicial~~
13 ~~Council, representatives of Indian tribes, the California Youth~~
14 ~~Connection, former foster youth, child advocacy organizations,~~
15 ~~labor organizations, juvenile justice advocacy organizations, foster~~
16 ~~caregiver organizations, and researchers. In the development of~~
17 ~~these regulations, the department shall consider its Manual of~~
18 ~~Policy and Procedures, Division 30, Chapter 30-912, 913, 916,~~
19 ~~and 917, as guidelines for developing regulations that are~~
20 ~~appropriate for young adults who can exercise incremental~~
21 ~~responsibility concurrently with their growth and development.~~
22 ~~The department, in its consultation with stakeholders, shall take~~
23 ~~into consideration the impact to the Automated Child Welfare~~
24 ~~Services Case Management Services (CWS-CMS) and required~~
25 ~~modifications needed to accommodate eligibility determination~~
26 ~~under this section, benefit issuance, case management across~~
27 ~~counties, and recognition of the legal status of nonminor~~
28 ~~dependents as adults, as well as changes to data tracking and~~
29 ~~reporting requirements as required by the Child Welfare System~~
30 ~~Improvement and Accountability Act as specified in Section~~
31 ~~10601.2, and federal outcome measures as required by the federal~~
32 ~~John H. Chafee Foster Care Independence Program (42 U.S.C.~~
33 ~~Sec. 677(f)). In addition, the department, in its consultation with~~
34 ~~stakeholders, shall define the supervised independent living setting~~
35 ~~which shall include, but not be limited to, apartment living, room~~
36 ~~and board arrangements, college or university dormitories, and~~
37 ~~shared roommate settings, and define how those settings meet~~
38 ~~health and safety standards suitable for nonminors. The department,~~
39 ~~in its consultation with stakeholders, shall define the six-month~~
40 ~~certification of the conditions of eligibility pursuant to subdivision~~

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

9 (j) Notwithstanding the Administrative Procedure Act, Chapter
10 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
11 Title 2 of the Government Code, the department shall prepare for
12 implementation of the applicable provisions of this section by
13 publishing, after consultation with the stakeholders listed in
14 subdivision (i), all-county letters or similar instructions from the
15 director by October 1, 2011, to be effective January 1, 2012.
16 Emergency regulations to implement the applicable provisions of
17 this act may be adopted by the director in accordance with the
18 Administrative Procedure Act. The initial adoption of the
19 emergency regulations and one readoption of the emergency
20 regulations shall be deemed to be an emergency and necessary for
21 the immediate preservation of the public peace, health, safety, or
22 general welfare. Initial emergency regulations and the first
23 readoption of those emergency regulations shall be exempt from
24 review by the Office of Administrative Law. The emergency
25 regulations authorized by this section shall be submitted to the
26 Office of Administrative Law for filing with the Secretary of State
27 and shall remain in effect for no more than 180 days.

28 SEC. 2. No appropriation pursuant to Section 15200 of the
29 Welfare and Institutions Code shall be made for purposes of
30 implementing this act.

31 SEC. 3. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

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