

Introduced by Senator TorresFebruary 20, 2014

An act to amend Section 11403 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1252, as introduced, Torres. Public social services: nonminor dependents.

Existing law provides aid and services to children placed in out-of-home care through various social service programs, including California Work Opportunity and Responsibility to Kids (CalWORKs), Aid to Families with Dependent Children-Foster Care (AFDC-FC), Kinship Guardianship Assistance Payment Program (Kin-Gap), and the Adoption Assistance 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, including, that the nonminor is employed for at least 80 hours per month or enrolled in an institution that provides postsecondary or vocational education.

This bill would extend these foster care benefits to youth up to 25 years of age if they meet the above requirements. By requiring the extension of these services provided by the counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

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

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

1 SECTION 1. Section 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
13 years of age, effective January 1, 2013, up to 20 years of age, ~~and~~
14 effective January 1, 2014, up to 21 years of age, *and effective*
15 *January 1, 2015, up to 25 years of age*, consistent with their
16 transitional independent living case plan and as described in
17 Section 10103.5. It is the intent of the Legislature both at the time
18 of initial determination of the nonminor dependent's eligibility
19 and throughout the time the nonminor dependent is eligible for aid
20 pursuant to this section, that the social worker or probation officer
21 or Indian tribal placing entity and the nonminor dependent shall
22 work together to ensure the nonminor dependent's ongoing
23 eligibility. All case planning shall be a collaborative effort between
24 the nonminor dependent and the social worker, probation officer,
25 or Indian tribe, with the nonminor dependent assuming increasing
26 levels of responsibility and independence.
27 (b) A nonminor dependent receiving aid pursuant to this chapter,
28 who satisfies the age criteria set forth in subdivision (a), shall meet
29 the legal authority for placement and care by being under a foster
30 care placement order by the juvenile court, or the voluntary reentry
31 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. Effective January 1, 2012, a nonminor former dependent
10 child or ward of the juvenile court who is receiving AFDC-FC
11 benefits pursuant to Section 11405 and who satisfies the criteria
12 set forth in subdivision (a) shall be eligible to continue to receive
13 aid as long as the nonminor is otherwise eligible for AFDC-FC
14 benefits under this subdivision. This subdivision shall apply when
15 one or more of the following conditions exist:

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

18 (2) The nonminor is enrolled in an institution—~~which~~ *that*
19 provides postsecondary or vocational education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (ii) The savings realized from the change in federal funding for
2 adoption assistance resulting from the enactment of Public Law
3 110-351 and consistent with subdivision (d) of Section 16118.

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

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

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

1 States Code in the federal Social Security Act, as contained in the
2 federal Fostering Connections to Success and Increasing Adoptions
3 Act of 2008 (Public Law 110-351). Therefore, the department shall
4 negotiate with the United States Department of Health and Human
5 Services on behalf of those counties that are currently participating
6 in the demonstration project to ensure that those counties receive
7 reimbursement for these new programs outside of the provisions
8 of those counties' waiver under Subtitle IV-E (commencing with
9 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
10 670 et seq.).

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

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

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

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

32 SEC. 2. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

O