

ASSEMBLY BILL

No. 371

Introduced by Assembly Member Mullin

February 17, 2015

An act to amend Sections 11401 and 11450.16 of, and to repeal and add Sections 11201 and 11250 of, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 371, as introduced, Mullin. CalWORKs Family Unity Act of 2016.

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 aid to be granted to a family with a related child under 18 years of age who has 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 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, if the family does not exceed the applicable gross or net income limits and is otherwise eligible for assistance. Existing law requires families to be grouped into assistance units for purposes of determining eligibility and computing the amount of CalWORKs aid to be paid.

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 absence or employment status of the parent. The bill would prohibit, however, an absent parent from being included in the family’s assistance unit for purposes of determining eligibility or computing the amount of aid to be paid, as specified. To the extent that the bill would expand eligibility for the CalWORKs program, which is administered by counties, the bill would impose a state-mandated local program.

This bill would require the department to issue an all-county letter or similar instructions by March 1, 2016 and to adopt regulations to implement the provisions of the bill by July 1, 2018.

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

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.

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 ~~11201. For the purposes of this chapter, the following shall~~
- 6 ~~apply:~~
- 7 ~~(a) “Unemployed parent” means a natural or adoptive parent~~
- 8 ~~with whom the child is living.~~
- 9 ~~(b) A child for whom a parent is applying for assistance under~~
- 10 ~~this chapter shall be considered to be deprived of parental support~~
- 11 ~~or care due to the unemployment of his or her parent or parents~~
- 12 ~~when the parent has worked less than 100 hours in the preceding~~
- 13 ~~four weeks and meets the requirements concerning an unemployed~~
- 14 ~~parent in effect on August 21, 1996, as set forth in Section 233.100~~

1 of Title 45 of the Code of Federal Regulations except for the
2 provisions of subparagraph (i) to (v), inclusive, of paragraph (3)
3 of subsection (a) of that section.

4 (e) A family receiving aid under this chapter with a child who
5 is considered to be deprived of parental support or care due to
6 unemployment may continue to receive assistance regardless of
7 the number of hours his or her parent works provided the family
8 does not exceed the applicable gross or net income limits and is
9 otherwise eligible for assistance.

10 SEC. 3. Section 11201 is added to the Welfare and Institutions
11 Code, to read:

12 11201. For purposes of this chapter, “parent” means a natural
13 or adoptive parent with whom an eligible child is living.

14 SEC. 4. Section 11250 of the Welfare and Institutions Code is
15 repealed.

16 11250. Aid, services, or both shall be granted under the
17 provisions of this chapter, and subject to the regulations of the
18 department, to families with related children under the age of 18
19 years, except as provided in Section 11253, in need thereof because
20 they have been deprived of parental support or care due to:

21 (a) The death, physical or mental incapacity, or incarceration
22 of a parent.

23 (b) The unemployment of a parent or parents.

24 (c) Continued absence of a parent from the home due to divorce,
25 separation, desertion, or any other reason, except absence
26 occasioned solely by reason of the performance of active duty in
27 the uniformed services of the United States. “Continued absence”
28 exists when the nature of the absence is such as either to interrupt
29 or to terminate the parent’s functioning as a provider of
30 maintenance, physical care, or guidance for the child, and the
31 known or indefinite duration of the absence precludes counting
32 on the parent’s performance of the function of planning for the
33 present support or care of the child. If these conditions exist, the
34 parent may be absent for any reason, and may have left only
35 recently or some time previously.

36 SEC. 5. Section 11250 is added to the Welfare and Institutions
37 Code, to read:

38 11250. Aid, services, or both shall be granted under this
39 chapter, and subject to the regulations of the department, to families
40 with related children under 18 years of age, except as provided in

1 Section 11253, in need thereof, if the family meets the eligibility
2 requirements specified in this chapter.

3 SEC. 6. Section 11401 of the Welfare and Institutions Code is
4 amended to read:

5 11401. Aid in the form of AFDC-FC shall be provided under
6 this chapter on behalf of any child under 18 years of age, and, on
7 and after January 1, 2012, to any nonminor dependent who meets
8 the conditions of any of the following subdivisions:

9 (a) The child has been relinquished, for purposes of adoption,
10 to a licensed adoption agency, or the department, or the parental
11 rights of either or both of his or her parents have been terminated
12 after an action under the Family Code has been brought by a
13 licensed adoption agency or the department, provided that the
14 licensed adoption agency or the department, if responsible for
15 placement and care, provides to those children all services as
16 required by the department to children in foster care.

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

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

28 (2) The child has been adjudged a ward of the court on the
29 grounds that he or she is a person described by Sections 601 and
30 602, or, on or after January 1, 2012, the nonminor is under the
31 transition jurisdiction of the juvenile court pursuant to Section
32 450.

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

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

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

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

1 (e) On and after January 1, 2012, the child is a nonminor
2 dependent who is placed pursuant to a mutual agreement as set
3 forth in subdivision (u) of Section 11400, under the placement and
4 care responsibility of the county child welfare services department,
5 an Indian tribe that entered into an agreement pursuant to Section
6 10553.1, or the county probation department, or the child is a
7 nonminor dependent reentering foster care placement pursuant to
8 a voluntary agreement, as set forth in subdivision (z) of Section
9 11400.

10 (f) The child has been placed in foster care under the federal
11 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
12 not be construed as limiting payments to Indian children, as defined
13 in the federal Indian Child Welfare Act, placed in accordance with
14 that act.

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

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

19 (B) The child has been deprived of parental support or ~~care for~~
20 ~~any of the reasons set forth in Section 11250.~~ *care for any of the*
21 *reasons set forth in Section 233.90 (c)(1) of title 42 of the code of*
22 *Federal Regulations..*

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

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

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

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

31 (C) This paragraph shall be implemented only if federal financial
32 participation is available for the children described in this
33 paragraph.

34 (3) (A) The child has been removed from the custody of his or
35 her parent, relative, or guardian as a result of a voluntary placement
36 agreement or a judicial determination that continuance in the home
37 would be contrary to the child's welfare and that, if the child was
38 placed in foster care, reasonable efforts were made, consistent with
39 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
40 or eliminate the need for removal of the child from his or her home

1 and to make it possible for the child to return to his or her home,
 2 or the child is a nonminor dependent who satisfies the removal
 3 criteria in Section ~~472(a)(2)(A)(i)~~ 472(a)(2)(A)(i) of the federal
 4 Social Security Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and agrees
 5 to the placement and care responsibility of the placing agency by
 6 signing the voluntary reentry agreement, as set forth in subdivision
 7 (z) of Section 11400, and any of the following applies:
 8 (i) The child has been adjudged a dependent child of the court
 9 on the grounds that he or she is a person described by Section 300.
 10 (ii) The child has been adjudged a ward of the court on the
 11 grounds that he or she is a person described by Sections 601 and
 12 602 or, on or after January 1, 2012, the nonminor is under the
 13 transition jurisdiction of the juvenile court, pursuant to Section
 14 450.
 15 (iii) The child has been detained under a court order, pursuant
 16 to Section 319 or 636, that remains in effect.
 17 (iv) The child's or nonminor's dependency jurisdiction, or
 18 transition jurisdiction pursuant to Section 450, has resumed
 19 pursuant to Section 387, or subdivision (a) or (e) of Section 388.
 20 (B) The child has been placed in an eligible foster care
 21 placement, as set forth in Section 11402.
 22 (C) The requirements of Sections 671 and 672 of Title 42 of
 23 the United States Code have been satisfied.
 24 (D) This paragraph shall be implemented only if federal financial
 25 participation is available for the children described in this
 26 paragraph.
 27 (4) With respect to a nonminor dependent, in addition to meeting
 28 the conditions specified in paragraph (1), the requirements of
 29 Section 675(8)(B) of Title 42 of the United States Code have been
 30 satisfied. With respect to a former nonminor dependent who
 31 reenters foster care placement by signing the voluntary reentry
 32 agreement, as set forth in subdivision (z) of Section 11400, the
 33 requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of
 34 Title 42 of the United States Code are satisfied based on the
 35 nonminor's status as a child-only case, without regard to the
 36 parents, legal guardians, or others in the assistance unit in the home
 37 from which the nonminor was originally removed.
 38 (h) The child meets all of the following conditions:

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

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

8 (3) The child is placed in the same licensed or approved foster
9 care facility in which his or her parent is placed and the child's
10 parent is receiving reunification services with respect to that child.

11 SEC. 7. Section 11450.16 of the Welfare and Institutions Code
12 is amended to read:

13 11450.16. (a) For purposes of determining eligibility under
14 this chapter, and for computing the amount of aid payment under
15 Section 11450, families shall be grouped into assistance units.

16 (b) Every assistance unit shall include at least one of the
17 following persons:

18 (1) One of each of the following:

19 (A) An eligible child.

20 (B) The caretaker relative of an otherwise eligible child who is
21 not receiving aid under Section 11250 because that child is
22 receiving benefits under Title XVI of the Social Security Act
23 (Subchapter 16 (commencing with Section 1381) of Chapter 7 of
24 Title 42 of the United States Code), or Kin-GAP payments under
25 Section 11364 or 11387, or foster care payments under Section
26 11461.

27 (2) A pregnant woman who is eligible for payments under
28 subdivision (c) of Section 11450.

29 (c) Every assistance unit shall, in addition to the requirements
30 of subdivision (b), include the eligible parents of the eligible child
31 and the eligible siblings, including half-siblings, of the eligible
32 child when those persons reside in the same home as the eligible
33 child. This subdivision shall not apply to any convicted offender
34 who is permitted to reside at the home of the eligible child as part
35 of a court-imposed sentence and who is considered an absent parent
36 under ~~Section 11250~~ subdivision (d).

37 (d) *A parent shall not be included in the assistance unit if he or*
38 *she is absent from the home due to divorce, separation, desertion,*
39 *or any other reason, if his or her absence interrupts or terminates*
40 *the parent's functioning as a provider of maintenance, physical*

1 *care, or guidance for the child, and the known or indefinite*
2 *duration of the absence precludes counting on the parent’s*
3 *performance of the function of planning for the present support*
4 *or care of the child. If these conditions exist, the parent may be*
5 *absent for any reason, and may have left only recently or some*
6 *time previously.*

7 ~~(d)~~

8 (e) An assistance unit may, at the option of the family
9 comprising the assistance unit, also include the nonparent caretaker
10 relative of the eligible child, the spouse of the parent of the eligible
11 child, otherwise eligible nonsibling children in the care of the
12 caretaker relative of the eligible child, and the alternatively
13 sentenced offender parent exempted under subdivision (c).

14 ~~(e)~~

15 (f) If two or more assistance units reside in the same home, they
16 shall be combined into one assistance unit when any of the
17 following circumstances occurs:

18 (1) There is a common caretaker relative for the eligible
19 children.

20 (2) One caretaker relative marries another caretaker relative.

21 (3) Two caretaker relatives are the parents of an eligible child.

22 ~~(f)~~

23 (g) For purposes of this section, “caretaker relative” means the
24 parent or other relative, as defined by regulations adopted by the
25 department, who exercises responsibility and control of a child.

26 SEC. 8. (a) Notwithstanding the Administrative Procedure
27 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
28 Division 3 of Title 2 of the Government Code), the State
29 Department of Social Services shall implement this act through
30 an all-county letter or similar instructions from the director no later
31 than March 1, 2016.

32 (b) The department shall adopt regulations as necessary to
33 implement this act no later than July 1, 2018.

34 SEC. 9. No appropriation pursuant to Section 15200 of the
35 Welfare and Institutions Code shall be made for purposes of
36 implementing this act.

37 SEC. 10. If the Commission on State Mandates determines
38 that this act contains costs mandated by the state, reimbursement
39 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O