

ASSEMBLY BILL

No. 885

Introduced by Assembly Member Lopez

February 26, 2015

An act to amend Sections 388.1, 11403, and 11405 of the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 885, as introduced, Lopez. Foster Youth.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to cash assistance and other services to and for the benefit of certain foster and adopted children, and other children who have been placed in out-of-home care, including children who receive Aid to Families with Dependent Children-Foster Care (AFDC-FC), the Adoption Assistance Program, California Work Opportunity and Responsibility to Kids (CalWORKs), and Kinship Guardianship Assistance Payment (Kin-GAP) benefits. Among other provisions, the act extends specified foster care benefits to youth up to 21 years of age, if specified conditions are met.

Existing law defines a nonminor dependent for these purposes as a foster child who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court pursuant to a voluntary reentry agreement, and in accordance with a transitional independent living case plan who has attained 18 years of age while under an order of foster care placement by the juvenile court and is not older than 21 years of age. Existing law defines a nonminor former dependent or ward as a person who meets these criteria who reached 18 years of age while subject to an order for

foster care placement, for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court.

Existing law allows a juvenile court to assume dependency jurisdiction over a nonminor former dependent for purposes of participation in the above specified programs who has not attained 21 years of age under specified circumstances, including, among others, the nonminor’s former guardian or adoptive parent no longer provides ongoing support to, and no longer receives benefits on behalf of, the nonminor after the nonminor turns 18 years of age.

This bill would delete the requirement that the parent or guardian no longer receive aid on behalf of the nonminor before a juvenile court may resume dependency jurisdiction. Because the bill would expand the application of the above county administered programs, the bill would impose a state-mandated local program. The bill would make other technical, nonsubstantive changes.

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 388.1 of the Welfare and Institutions
 2 Code is amended to read:
 3 388.1. (a) On and after January 1, 2014, a nonminor who has
 4 not attained 21 years of age may petition the court in which he or
 5 she was previously found to be a dependent or delinquent child of
 6 the juvenile court for a hearing to determine whether to assume
 7 dependency jurisdiction over the nonminor, if he or she meets any
 8 of the following descriptions:
 9 (1) He or she is a nonminor former dependent, as defined in
 10 subdivision (aa) of Section 11400, who received aid after attaining
 11 18 years of age under Kin-GAP pursuant to Article 4.5
 12 (commencing with Section 11360) or Article 4.7 (commencing

1 with Section 11385) of Chapter 2 of Part 3 of Division 9, or
2 pursuant to subdivision (e) of Section 11405, and whose former
3 guardian or guardians died after the nonminor attained 18 years
4 of age, but before he or she attains 21 years of age.

5 (2) He or she is a nonminor former dependent, as defined in
6 subdivision (aa) of Section 11400, who received aid after attaining
7 18 years of age under Kin-GAP pursuant to Article 4.5
8 (commencing with Section 11360) or Article 4.7 (commencing
9 with Section 11385) of Chapter 2 of Part 3 of Division 9, or
10 pursuant to subdivision (e) of Section 11405, and whose former
11 guardian or guardians no longer provide ongoing support to, and
12 ~~no longer receive aid on behalf of,~~ to the nonminor after the
13 nonminor attained 18 years of age, but before he or she attains 21
14 years of age.

15 (3) He or she is a nonminor who received adoption assistance
16 payments after attaining 18 years of age pursuant to Chapter 2.1
17 (commencing with Section 16115) of Part 4 of Division 9 and his
18 or her adoptive parent or parents died after the nonminor attained
19 18 years of age, but before he or she attains 21 years of age.

20 (4) He or she is a nonminor who received adoption assistance
21 payments after attaining 18 years of age pursuant to Chapter 2.1
22 (commencing with Section 16115) of Part 4 of Division 9 and his
23 or her adoptive parent or parents no longer provide ongoing support
24 ~~to, and no longer receive benefits on behalf of,~~ to the nonminor
25 after the nonminor attained 18 years of age, but before he or she
26 attains 21 years of age.

27 (b) (1) The petition to assume jurisdiction may be filed in either
28 of the following:

29 (A) The juvenile court that established the guardianship pursuant
30 to Section 360, Section 366.26, or subdivision (d) of Section 728.

31 (B) The juvenile court that had jurisdiction over the minor or
32 nonminor dependent when his or her adoption was finalized.

33 (2) A nonminor described in subdivision (a) may submit a
34 petition to assume dependency jurisdiction to the juvenile court
35 in the county where he or she resides. A petition submitted pursuant
36 to this paragraph shall, within five days of submission, be
37 forwarded to the court that had jurisdiction over the child at the
38 time of the guardianship or adoption. The clerk of the court that
39 had jurisdiction over the child at the time of the guardianship or
40 adoption shall file the petition within one judicial day of receipt.

1 (c) (1) The juvenile court in which the petition was filed shall
2 order a hearing to be held within 15 judicial days of the date the
3 petition was filed if there is a prima facie showing that the
4 nonminor satisfies all of the following criteria:

5 (A) He or she was a minor under juvenile court jurisdiction at
6 the time of the establishment of a guardianship pursuant to Section
7 360, Section 366.26, or subdivision (d) of Section 728, or he or
8 she was a minor or nonminor dependent when his or her adoption
9 was finalized.

10 (B) (i) His or her guardian or guardians, or adoptive parent or
11 parents, as applicable, died after the nonminor attained 18 years
12 of age, but before he or she attained 21 years of age.

13 (ii) His or her guardian or guardians, or adoptive parent or
14 parents, as applicable, no longer provide ongoing support to, and
15 no longer receive payment on behalf of, to the nonminor after the
16 nonminor attained 18 years of age, but before he or she attained
17 21 years of age, and it may be in the nonminor's best interest for
18 the court to assume dependency jurisdiction.

19 (C) He or she intends to satisfy at least one of the conditions
20 set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
21 Section 11403.

22 (D) He or she is requesting assistance in maintaining or securing
23 appropriate supervised placement, or needs immediate placement
24 and agrees to supervised placement pursuant to the voluntary
25 reentry agreement described in subdivision (z) of Section 11400.

26 (2) Upon ordering a hearing, the court shall give prior notice,
27 or cause prior notice to be given, to the nonminor, the appropriate
28 child welfare agency or probation department, and any other person
29 requested by the nonminor in the petition.

30 (3) Pursuant to applicable rules of court, the juvenile court shall
31 allow for telephonic appearances by the nonminor in these
32 proceedings and in any proceeding in which the nonminor
33 dependent is a party.

34 (4) Prior to the hearing, the court shall order the county child
35 welfare or probation department to prepare a report for the court
36 that addresses both of the following:

37 (A) The nonminor's plans to satisfy at least one of the criteria
38 set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
39 Section 11403.

1 (B) The appropriate placement setting for the nonminor. When
2 the recommendation is for the nonminor to be placed in a setting
3 where minor dependents also reside, the results of a background
4 check of the petitioning nonminor conducted pursuant to Section
5 16504.5 may be used by the placing agency to determine
6 appropriate placement options for him or her.

7 (5) The court shall assume dependency jurisdiction over a former
8 dependent or ward, and order his or her placement and care be
9 under the responsibility of the county child welfare services
10 department, the probation department, tribe, consortium of tribes,
11 or tribal organization, if the court finds all of the following:

12 (A) The nonminor was a minor under juvenile court jurisdiction
13 at the time of the establishment of a guardianship pursuant to
14 Section 360, Section 366.26, or subdivision (d) of Section 728, or
15 he or she was a dependent at the time his or her adoption was
16 finalized.

17 (B) The nonminor's guardian or guardians, or adoptive parent
18 or parents, as applicable, have died, or no longer provide ongoing
19 support to, and no longer receive payment on behalf of, to the
20 nonminor, and it is in the nonminor's best interests for the court
21 to assume dependency jurisdiction.

22 (C) The nonminor has not attained 21 years of age.

23 (D) Reentry and remaining in foster care are in the nonminor's
24 best interests.

25 (E) The nonminor intends to satisfy, and agrees to satisfy, at
26 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
27 of subdivision (b) of Section 11403, and demonstrates his or her
28 agreement to placement in a supervised setting under the placement
29 and care responsibility of the placing agency by signing the
30 voluntary reentry agreement described in subdivision (z) of Section
31 11400.

32 (6) The existence of a criminal conviction is not a bar to
33 eligibility for reentry to foster care or assumption of dependency
34 jurisdiction over a nonminor.

35 (7) The court shall not grant a continuance that would cause the
36 hearing to be completed more than 120 days after the date the
37 petition is filed.

38 (d) The agency made responsible for the nonminor's placement
39 and care pursuant to paragraph (5) of subdivision (c) shall prepare
40 a new transitional independent living case plan within 60 calendar

1 days of the date the nonminor signs the voluntary reentry agreement
 2 and shall submit the plan to the court for the review hearing
 3 specified in Section 366.31, to be held within 70 days of the
 4 assumption of dependency jurisdiction. The review hearing under
 5 Section 366.31 shall not be held more than 170 calendar days from
 6 the date the nonminor signs the voluntary reentry agreement.

7 (e) (1) A nonminor described in subdivision (a) may enter into
 8 a voluntary reentry agreement as defined in subdivision (z) of
 9 Section 11400 in order to establish eligibility for foster care
 10 benefits under subdivision (e) of Section 11401 before or after
 11 filing a petition to assume dependency jurisdiction. If the nonminor
 12 enters into a voluntary reentry agreement prior to filing the petition,
 13 the nonminor is entitled to placement and supervision pending the
 14 court’s assumption of jurisdiction.

15 (2) If the nonminor completes a voluntary reentry agreement
 16 with a placing agency, the placing agency shall file the petition to
 17 assume dependency jurisdiction on behalf of the nonminor within
 18 15 judicial days of the date the agreement is signed, unless the
 19 nonminor elects to file the petition at an earlier date.

20 SEC. 2. Section 11403 of the Welfare and Institutions Code is
 21 amended to read:

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

1 ongoing eligibility. All case planning shall be a collaborative effort
2 between the nonminor dependent and the social worker, probation
3 officer, or Indian tribe, with the nonminor dependent assuming
4 increasing levels of responsibility and independence.

5 (b) A nonminor dependent receiving aid pursuant to this chapter,
6 who satisfies the age criteria set forth in subdivision (a), shall meet
7 the legal authority for placement and care by being under a foster
8 care placement order by the juvenile court, or the voluntary reentry
9 agreement as set forth in subdivision (z) of Section 11400, and is
10 otherwise eligible for AFDC-FC payments pursuant to Section
11 11401. A nonminor who satisfies the age criteria set forth in
12 subdivision (a), and who is otherwise eligible, shall continue to
13 receive CalWORKs payments pursuant to Section 11253 or, as a
14 nonminor former dependent or ward, aid pursuant to Kin-GAP
15 under Article 4.5 (commencing with Section 11360) or Article 4.7
16 (commencing with Section 11385) or adoption assistance payments
17 as specified in Chapter 2.1 (commencing with Section 16115) of
18 Part 4. ~~Effective January 1, 2012, a~~ A nonminor former dependent
19 child or ward of the juvenile court who is ~~receiving~~ *otherwise*
20 *eligible to receive* AFDC-FC benefits pursuant to Section 11405
21 and who satisfies the criteria set forth in subdivision (a) shall
22 *continue to* be eligible ~~to continue~~ to receive aid as long as the
23 nonminor is otherwise eligible for AFDC-FC benefits under this
24 subdivision. This subdivision shall apply when one or more of the
25 following conditions exist:

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

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

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

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

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

1 (c) The county child welfare or probation department, Indian
2 tribe, consortium of tribes, or tribal organization that has entered
3 into an agreement pursuant to Section 10553.1, shall work together
4 with a nonminor dependent who is in foster care on his or her 18th
5 birthday and thereafter or a nonminor former dependent receiving
6 aid pursuant to Section 11405, to satisfy one or more of the
7 conditions described in paragraphs (1) to (5), inclusive, of
8 subdivision (b) and shall certify the nonminor's applicable
9 condition or conditions in the nonminor's six-month transitional
10 independent living case plan update, and provide the certification
11 to the eligibility worker and to the court at each six-month case
12 plan review hearing for the nonminor dependent. Relative
13 guardians who receive Kin-GAP payments and adoptive parents
14 who receive adoption assistance payments shall be responsible for
15 reporting to the county welfare agency that the nonminor does not
16 satisfy at least one of the conditions described in subdivision (b).
17 The social worker, probation officer, or tribal entity shall verify
18 and obtain assurances that the nonminor dependent continues to
19 satisfy at least one of the conditions in paragraphs (1) to (5),
20 inclusive, of subdivision (b) at each six-month transitional
21 independent living case plan update. The six-month case plan
22 update shall certify the nonminor's eligibility pursuant to
23 subdivision (b) for the next six-month period. During the six-month
24 certification period, the payee and nonminor shall report any
25 change in placement or other relevant changes in circumstances
26 that may affect payment. The nonminor dependent, or nonminor
27 former dependent receiving aid pursuant to subdivision (e) of
28 Section 11405, shall be informed of all due process requirements,
29 in accordance with state and federal law, prior to an involuntary
30 termination of aid, and shall simultaneously be provided with a
31 written explanation of how to exercise his or her due process rights
32 and obtain referrals to legal assistance. Any notices of action
33 regarding eligibility shall be sent to the nonminor dependent or
34 former dependent, his or her counsel, as applicable, and the placing
35 worker, in addition to any other payee. Payments of aid pursuant
36 to Kin-GAP under Article 4.5 (commencing with Section 11360)
37 or Article 4.7 (commencing with Section 11385), adoption
38 assistance payments as specified in Chapter 2.1 (commencing with
39 Section 16115) of Part 4, or aid pursuant to subdivision (e) of
40 Section 11405 that are made on behalf of a nonminor former

1 dependent shall terminate subject to the terms of the agreements.
2 Subject to federal approval of amendments to the state plan, aid
3 payments may be suspended and resumed based on changes of
4 circumstances that affect eligibility. Nonminor former dependents,
5 as identified in paragraph (2) of subdivision (aa) of Section 11400,
6 are not eligible for reentry under subdivision (e) of Section 388 as
7 nonminor dependents under the jurisdiction of the juvenile court,
8 unless (1) the nonminor former dependent was receiving aid
9 pursuant to Kin-GAP under Article 4.5 (commencing with Section
10 11360) or Article 4.7 (commencing with Section 11385), or the
11 nonminor former dependent was receiving aid pursuant to
12 subdivision (e) of Section 11405, or the nonminor was receiving
13 adoption assistance payments as specified in Chapter 2.1
14 (commencing with Section 16115) of Part 3 and (2) the nonminor's
15 former guardian or adoptive parent dies, or no longer provides
16 ongoing support to, and no longer receives benefits on behalf of,
17 to the nonminor after the nonminor turns 18 years of age but before
18 the nonminor turns 21 years of age. Nonminor former dependents
19 requesting the resumption of AFDC-FC payments pursuant to
20 subdivision (e) of Section 11405 shall complete the applicable
21 portions of the voluntary reentry agreement, as described in
22 subdivision (z) of Section 11400.

23 (d) A nonminor dependent may receive all of the payment
24 directly provided that the nonminor is living independently in a
25 supervised placement, as described in subdivision (w) of Section
26 11400, and that both the youth and the agency responsible for the
27 foster care placement have signed a mutual agreement, as defined
28 in subdivision (u) of Section 11400, if the youth is capable of
29 making an informed agreement, that documents the continued need
30 for supervised out-of-home placement, and the nonminor's and
31 social worker's or probation officer's agreement to work together
32 to facilitate implementation of the mutually developed supervised
33 placement agreement and transitional independent living case plan.

34 (e) Eligibility for aid under this section shall not terminate until
35 the nonminor dependent attains the age criteria, as set forth in
36 subdivision (a), but aid may be suspended when the nonminor
37 dependent no longer resides in an eligible facility, as described in
38 Section 11402, or is otherwise not eligible for AFDC-FC benefits
39 under Section 11401, or terminated at the request of the nonminor,
40 or after a court terminates dependency jurisdiction pursuant to

1 Section 391, delinquency jurisdiction pursuant to Section 607.2,
2 or transition jurisdiction pursuant to Section 452. AFDC-FC
3 benefits to nonminor dependents, may be resumed at the request
4 of the nonminor by completing a voluntary reentry agreement
5 pursuant to subdivision (z) of Section 11400, before or after the
6 filing of a petition filed pursuant to subdivision (e) of Section 388
7 after a court terminates dependency or transitional jurisdiction
8 pursuant to Section 391, or delinquency jurisdiction pursuant to
9 Section 607.2. The county welfare or probation department or
10 Indian tribal entity that has entered into an agreement pursuant to
11 Section 10553.1 shall complete the voluntary reentry agreement
12 with the nonminor who agrees to satisfy the criteria of the
13 agreement, as described in subdivision (z) of Section 11400. The
14 county welfare department or tribal entity shall establish a new
15 child-only Title IV-E eligibility determination based on the
16 nonminor's completion of the voluntary reentry agreement pursuant
17 to Section 11401. The beginning date of aid for either federal or
18 state AFDC-FC for a reentering nonminor who is placed in foster
19 care is the date the voluntary reentry agreement is signed or the
20 nonminor is placed, whichever is later. The county welfare
21 department, county probation department, or tribal entity shall
22 provide a nonminor dependent who wishes to continue receiving
23 aid with the assistance necessary to meet and maintain eligibility.

24 (f) (1) The county having jurisdiction of the nonminor
25 dependent shall remain the county of payment under this section
26 regardless of the youth's physical residence. Nonminor former
27 dependents receiving aid pursuant to subdivision (e) of Section
28 11405 shall be paid by their county of residence. Counties may
29 develop courtesy supervision agreements to provide case
30 management and independent living services by the county of
31 residence pursuant to the nonminor dependent's transitional
32 independent living case plan. Placements made out of state are
33 subject to the applicable requirements of the Interstate Compact
34 on Placement of Children, pursuant to Part 5 (commencing with
35 Section 7900) of Division 12 of the Family Code.

36 (2) The county welfare department, county probation
37 department, or tribal entity shall notify all foster youth who attain
38 16 years of age and are under the jurisdiction of that county or
39 tribe, including those receiving Kin-GAP, and AAP, of the
40 existence of the aid prescribed by this section.

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

4 (g) (1) Subject to paragraph (3), a county shall pay the
5 nonfederal share of the cost of extending aid pursuant to this
6 section to eligible nonminor dependents who have reached 18
7 years of age and who are under the jurisdiction of the county,
8 including AFDC-FC payments pursuant to Section 11401, aid
9 pursuant to Kin-GAP under Article 4.7 (commencing with Section
10 11385), adoption assistance payments as specified in Chapter 2.1
11 (commencing with Section 16115) of Part 4, and aid pursuant to
12 Section 11405 for nonminor dependents who are residing in the
13 county as provided in paragraph (1) of subdivision (f). A county
14 shall contribute to the CalWORKs payments pursuant to Section
15 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
16 with Section 11360) at the statutory sharing ratios in effect on
17 January 1, 2012.

18 (2) Subject to paragraph (3), a county shall pay the nonfederal
19 share of the cost of providing permanent placement services
20 pursuant to subdivision (c) of Section 16508 and administering
21 the Aid to Families with Dependent Children Foster Care program
22 pursuant to Section 15204.9. For purposes of budgeting, the
23 department shall use a standard for the permanent placement
24 services that is equal to the midpoint between the budgeting
25 standards for family maintenance services and family reunification
26 services.

27 (3) (A) (i) Notwithstanding any other law, a county's required
28 total contribution pursuant to paragraphs (1) and ~~(2), excluding~~
29 ~~costs incurred pursuant to Section 10103.5;~~ (2) shall not exceed
30 the amount of savings in Kin-GAP assistance grant expenditures
31 realized by the county from the receipt of federal funds due to the
32 implementation of Article 4.7 (commencing with Section 11385),
33 and the amount of funding specifically included in the Protective
34 Services Subaccount within the Support Services Account within
35 the Local Revenue Fund 2011, plus any associated growth funding
36 from the Support Services Growth Subaccount within the Sales
37 and Use Tax Growth Account to pay the costs of extending aid
38 pursuant to this section.

39 (ii) A county, at its own discretion, may expend additional funds
40 beyond the amounts identified in clause (i). These additional

1 amounts shall not be included in any cost and savings calculations
2 or comparisons performed pursuant to this section.

3 ~~(B) Beginning in the 2011–12 fiscal year, and for each fiscal~~
4 ~~year thereafter, funding~~ *Funding* and expenditures for programs
5 and activities under this section shall be in accordance with the
6 requirements provided in Sections 30025 and 30026.5 of the
7 Government Code. In addition, the following are available to the
8 counties for the purpose of funding costs pursuant to this section:

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

12 (ii) The savings realized from the change in federal funding for
13 adoption assistance resulting from the enactment of Public Law
14 110-351 and consistent with subdivision (d) of Section 16118.

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

32 (B) If the assessment pursuant to subparagraph (A) shows that
33 the statewide total costs of extending aid pursuant to this section,
34 ~~excluding costs incurred pursuant to Section 10103.5, section~~ are
35 fully funded by the amount of savings in Kin-GAP assistance grant
36 expenditures realized by the counties from the receipt of federal
37 funds due to the implementation of Article 4.7 (commencing with
38 Section 11385) and the amount of funding specifically included
39 in the Protective Services Subaccount within the Support Services
40 Account within the Local Revenue Fund 2011 plus any associated

1 growth funding from the Support Services Growth Subaccount
2 within the Sales and Use Tax Growth Account to pay the costs of
3 extending aid pursuant to this section, the Department of Finance
4 shall certify that fact, in writing, and shall post the certification on
5 its Internet Web site, at which time subparagraph (A) of paragraph
6 (3) shall no longer be implemented.

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

22 (i) The department, on or before July 1, 2013, shall develop
23 regulations to implement this section in consultation with
24 concerned stakeholders, including, but not limited to,
25 representatives of the Legislature, the County Welfare Directors
26 Association, the Chief Probation Officers of California, the Judicial
27 Council, representatives of Indian tribes, the California Youth
28 Connection, former foster youth, child advocacy organizations,
29 labor organizations, juvenile justice advocacy organizations, foster
30 caregiver organizations, and researchers. In the development of
31 these regulations, the department shall consider its Manual of
32 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
33 and 917, as guidelines for developing regulations that are
34 appropriate for young adults who can exercise incremental
35 responsibility concurrently with their growth and development.
36 The department, in its consultation with stakeholders, shall take
37 into consideration the impact to the Automated Child Welfare
38 Services Case Management Services (CWS-CMS) and required
39 modifications needed to accommodate eligibility determination
40 under this section, benefit issuance, case management across

1 counties, and recognition of the legal status of nonminor
2 dependents as adults, as well as changes to data tracking and
3 reporting requirements as required by the Child Welfare System
4 Improvement and Accountability Act as specified in Section
5 10601.2, and federal outcome measures as required by the federal
6 John H. Chafee Foster Care Independence Program (42 U.S.C.
7 Sec. 677(f)). In addition, the department, in its consultation with
8 stakeholders, shall define the supervised independent living setting
9 which shall include, but not be limited to, apartment living, room
10 and board arrangements, college or university dormitories, and
11 shared roommate settings, and define how those settings meet
12 health and safety standards suitable for nonminors. The department,
13 in its consultation with stakeholders, shall define the six-month
14 certification of the conditions of eligibility pursuant to subdivision
15 (b) to be consistent with the flexibility provided by federal policy
16 guidance, to ensure that there are ample supports for a nonminor
17 to achieve the goals of his or her transition independent living case
18 plan. The department, in its consultation with stakeholders, shall
19 ensure that notices of action and other forms created to inform the
20 nonminor of due process rights and how to access them shall be
21 developed, using language consistent with the special needs of the
22 nonminor dependent population.

23 (j) Notwithstanding the Administrative Procedure Act, Chapter
24 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
25 Title 2 of the Government Code, the department shall prepare for
26 implementation of the applicable provisions of this section by
27 publishing, after consultation with the stakeholders listed in
28 subdivision (i), all-county letters or similar instructions from the
29 director by October 1, 2011, to be effective January 1, 2012.
30 Emergency regulations to implement the applicable provisions of
31 this act may be adopted by the director in accordance with the
32 Administrative Procedure Act. The initial adoption of the
33 emergency regulations and one readoption of the emergency
34 regulations shall be deemed to be an emergency and necessary for
35 the immediate preservation of the public peace, health, safety, or
36 general welfare. Initial emergency regulations and the first
37 readoption of those emergency regulations shall be exempt from
38 review by the Office of Administrative Law. The emergency
39 regulations authorized by this section shall be submitted to the

1 Office of Administrative Law for filing with the Secretary of State
2 and shall remain in effect for no more than 180 days.

3 SEC. 3. Section 11405 of the Welfare and Institutions Code is
4 amended to read:

5 11405. (a) Except for nonminors described in paragraph (2)
6 of subdivision (e), AFDC-FC benefits shall be paid to an otherwise
7 eligible child living with a nonrelated legal guardian, provided
8 that the legal guardian cooperates with the county welfare
9 department in all of the following:

- 10 (1) Developing a written assessment of the child's needs.
11 (2) Updating the assessment no less frequently than once every
12 six months.

13 (3) Carrying out the case plan developed by the county.

14 (b) Except for nonminors described in paragraph (2) of
15 subdivision (e), when AFDC-FC is applied for on behalf of a child
16 living with a nonrelated legal guardian the county welfare
17 department shall do all of the following:

- 18 (1) Develop a written assessment of the child's needs.
19 (2) Update those assessments no less frequently than once every
20 six months.
21 (3) Develop a case plan that specifies how the problems
22 identified in the assessment are to be addressed.
23 (4) Make visits to the child as often as appropriate, but in no
24 event less often than once every six months.

25 (c) Where the child is a parent and has a child living with him
26 or her in the same eligible facility, the assessment required by
27 paragraph (1) of subdivision (a) shall include the needs of his or
28 her child.

29 (d) Nonrelated legal guardians of eligible children who are in
30 receipt of AFDC-FC payments described in this section shall be
31 exempt from the requirement to register with the Statewide
32 Registry of Private Professional Guardians pursuant to Sections
33 2850 and 2851 of the Probate Code.

34 (e) (1) ~~On and after January 1, 2012, a~~ A nonminor youth whose
35 nonrelated guardianship was ordered in juvenile court pursuant to
36 Section 360 or 366.26, and whose dependency was dismissed,
37 shall remain eligible for AFDC-FC benefits until the youth ~~attains~~
38 ~~19 years of age, effective January 1, 2013, until the youth attains~~
39 ~~20 years of age, and effective January 1, 2014, until the youth~~
40 attains 21 years of age, provided that the youth enters into a mutual

1 agreement with the agency responsible for his or her guardianship,
2 and the youth is meeting the conditions of eligibility, as described
3 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
4 11403.

5 (2) A nonminor former dependent or ward as defined in
6 paragraph (2) of subdivision (aa) of Section 11400 shall be eligible
7 for benefits under this section until the youth attains 21 years of
8 age if all of the following conditions are met:

9 (A) The nonminor former dependent or ward attained 18 years
10 of age while in receipt of Kin-GAP benefits pursuant to Article
11 4.7 (commencing with Section 11385).

12 (B) The nonminor's relationship to the kinship guardian is
13 defined in paragraph (2), (3), or (4) of subdivision (c) of Section
14 11391.

15 (C) The nonminor who was under 16 years of age at the time
16 the Kin-GAP negotiated agreement payments commenced.

17 (D) The guardian continues to be responsible for the support of
18 the nonminor.

19 (E) The nonminor otherwise is meeting the conditions of
20 eligibility, as described in paragraphs (1) to (5), inclusive, of
21 subdivision (b) of Section 11403.

22 (f) ~~On or after January 1, 2012, a~~ A child whose nonrelated
23 guardianship was ordered in probate court pursuant Article 2
24 (commencing with Section 1510) of Chapter 1 of Part 2 of Division
25 4 of the Probate Code, who is attending high school or the
26 equivalent level of vocational or technical training on a full-time
27 basis, or who is in the process of pursuing a high school
28 equivalency certificate prior to his or her 18th birthday may
29 continue to receive aid following his or her 18th birthday as long
30 as the child continues to reside in the guardian's home, remains
31 otherwise eligible for AFDC-FC benefits and continues to attend
32 high school or the equivalent level of vocational or technical
33 training on a full-time basis, or continues to pursue a high school
34 equivalency certificate, and the child may reasonably be expected
35 to complete the educational or training program or to receive a
36 high school equivalency certificate, before his or her 19th birthday.
37 Aid shall be provided to an individual pursuant to this section
38 provided that both the individual and the agency responsible for
39 the foster care placement have signed a mutual agreement, if the

1 individual is capable of making an informed agreement,
2 documenting the continued need for out-of-home placement.

3 (g) (1) For cases in which a guardianship was established on
4 or before June 30, 2011, or the date specified in a final order, for
5 which the time for appeal has passed, issued by a court of
6 competent jurisdiction in California State Foster Parent
7 Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct.
8 No. C 07-05086 WHA), whichever is earlier, the AFDC-FC
9 payment described in this section shall be the foster family home
10 rate structure in effect prior to the effective date specified in the
11 order described in this paragraph.

12 (2) For cases in which guardianship has been established on or
13 after July 1, 2011, or the date specified in the order described in
14 paragraph (1), whichever is earlier, the AFDC-FC payments
15 described in this section shall be the basic foster family home rate
16 set forth in paragraph (1) of subdivision (g) of Section 11461.

17 ~~Beginning with the 2011–12 fiscal year, the~~ *The* AFDC-FC
18 payments identified in this subdivision shall be adjusted annually
19 by the percentage change in the California Necessities Index rate
20 as set forth in paragraph (2) of subdivision (g) of Section 11461.

21 (h) In addition to the AFDC-FC rate paid, all of the following
22 also shall be paid:

23 (1) A specialized care increment, if applicable, as set forth in
24 subdivision (e) of Section 11461.

25 (2) A clothing allowance, as set forth in subdivision (f) of
26 Section 11461.

27 (3) For a child eligible for an AFDC-FC payment who is a teen
28 parent, the rate shall include the two hundred dollar (\$200) monthly
29 payment made to the relative caregiver in a whole family foster
30 home pursuant to paragraph (3) of subdivision (d) of Section
31 11465.

32 SEC. 4. 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.

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