AMENDED IN SENATE MAY 12, 2016

AMENDED IN ASSEMBLY JANUARY 21, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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.

For purposes of participation in the above-specified programs, existing law allows a juvenile court to assume dependency jurisdiction over a nonminor former dependent 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 former guardian or adoptive parent no longer receive aid on behalf of the nonminor before a juvenile court may resume dependency jurisdiction for purposes of extending foster care benefits. *The bill would require the State Department of Social Services to define the term "ongoing support" for the purposes of the provisions described above.* The bill would also make changes to the requirement that a nonminor former dependent child or ward be receiving AFDC-FC as one criterion for continued eligibility to receive aid, and would instead only require that he or she be eligible for AFDC-FC. Because the bill would expand the application of the above ~~county-administered~~ *county-administered* programs, the bill would impose a state-mandated local program. The bill would make other technical, nonsubstantive and conforming changes to related provisions.

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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 388.1 of the Welfare and Institutions Code is amended to read:

388.1. (a) On and after January 1, 2014, a nonminor who has not attained 21 years of age may petition the court in which he or she was previously found to be a dependent or delinquent child of the juvenile court for a hearing to determine whether to assume dependency jurisdiction over the nonminor, if he or she meets any of the following descriptions:

(1) He or she is a nonminor former dependent, as defined in subdivision (aa) of Section 11400, who received aid after attaining 18 years of age under Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, or pursuant to subdivision (e) of Section 11405, and whose former guardian or guardians died after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the nonminor, the appropriate child welfare agency or probation department, the nonminor's adoptive parent or parents, the nonminor's guardian or guardians, and any other person requested by the nonminor in the petition.

(3) Pursuant to applicable rules of court, the juvenile court shall allow for telephonic appearances by the nonminor in these

proceedings and in any proceeding in which the nonminor dependent is a party.

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

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

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

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

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

(B) The nonminor's guardian or guardians, or adoptive parent or parents, as applicable, have died, or no longer provide ongoing support to the nonminor, and it is in the nonminor's best interests for the court to assume dependency jurisdiction.

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

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

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

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

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

(d) The agency made responsible for the nonminor's placement and care pursuant to paragraph (5) of subdivision (c) shall prepare a new transitional independent living case plan within 60 calendar days of the date the nonminor signs the voluntary reentry agreement and shall submit the plan to the court for the review hearing specified in Section 366.31, to be held within 70 days of the assumption of dependency jurisdiction. The review hearing under Section 366.31 shall not be held more than 170 calendar days from the date the nonminor signs the voluntary reentry agreement.

(e) (1) A nonminor described in subdivision (a) may enter into a voluntary reentry agreement as defined in subdivision (z) of Section 11400 in order to establish eligibility for foster care benefits under subdivision (e) of Section 11401 before or after filing a petition to assume dependency jurisdiction, provided the nonminor's guardian or guardians, or adoptive parent or parents, as applicable, have died or are no longer receiving payment on behalf of the nonminor. If the nonminor enters into a voluntary reentry agreement prior to filing the petition, the nonminor is entitled to placement and supervision pending the court's assumption of jurisdiction.

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

(f) No later than July 1, 2017, the State Department of Social Services shall promulgate a regulation defining "ongoing support" for the purposes of this section and Section 11403.

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

11403. (a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering

Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. These nonminor dependents are eligible to receive support until they are 21 years of age, consistent with their transitional independent living case plan and as described in Section 10103.5. It is the intent of the Legislature both at the time of initial determination of the nonminor dependent's eligibility and throughout the time the nonminor dependent is eligible for aid pursuant to this section, that the social worker or probation officer or Indian tribal placing entity and the nonminor dependent shall work together to ensure the nonminor dependent's ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker, probation officer, or Indian tribe, with the nonminor dependent assuming increasing levels of responsibility and independence.

(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant to Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253 or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4. A nonminor former dependent child or ward of the juvenile court who is otherwise eligible to receive AFDC-FC benefits pursuant to Section 11405 and who satisfies the criteria set forth in subdivision (a) shall continue to be eligible to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision applies when one or more of the following conditions exist:

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

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

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

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

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

(c) *(1)* The county child welfare or probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1, shall work together with a nonminor dependent who is in foster care on his or her 18th birthday and thereafter or a nonminor former dependent receiving aid pursuant to Section 11405, to satisfy one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) and shall certify the nonminor's applicable condition or conditions in the nonminor's six-month transitional independent living case plan update, and provide the certification to the eligibility worker and to the court at each six-month case plan review hearing for the nonminor dependent. Relative guardians who receive Kin-GAP payments and adoptive parents who receive adoption assistance payments shall be responsible for reporting to the county welfare agency that the nonminor does not satisfy at least one of the conditions described in subdivision (b). The social worker, probation officer, or tribal entity shall verify and obtain assurances that the nonminor dependent continues to satisfy at least one of the conditions in paragraphs (1) to (5), inclusive, of subdivision (b) at each six-month transitional independent living case plan update. The six-month case plan update shall certify the nonminor's eligibility pursuant to subdivision (b) for the next six-month period. During the six-month certification period, the payee and nonminor shall report any change in placement or other relevant changes in circumstances that may affect payment. The nonminor dependent, or nonminor former dependent receiving aid pursuant to subdivision (e) of Section 11405, shall be informed of all due process requirements,

in accordance with state and federal law, prior to an involuntary termination of aid, and shall simultaneously be provided with a written explanation of how to exercise his or her due process rights and obtain referrals to legal assistance. Any notices of action regarding eligibility shall be sent to the nonminor dependent or former dependent, his or her counsel, as applicable, and the placing worker, in addition to any other payee. Payments of aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, or aid pursuant to subdivision (e) of Section 11405 that are made on behalf of a nonminor former dependent shall terminate subject to the terms of the agreements. Subject to federal approval of amendments to the state plan, aid payments may be suspended and resumed based on changes of circumstances that affect eligibility. Nonminor former dependents, as identified in paragraph (2) of subdivision (aa) of Section 11400, are not eligible for reentry under subdivision (e) of Section 388 as nonminor dependents under the jurisdiction of the juvenile court, but may be eligible for reentry pursuant to Section 388.1 if (1) the nonminor former dependent was receiving aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), the nonminor former dependent was receiving aid pursuant to subdivision (e) of Section 11405, or the nonminor was receiving adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 3, and (2) the nonminor's former guardian or adoptive parent dies, or no longer provides ongoing support to the nonminor after the nonminor turns 18 years of age but before the nonminor turns 21 years of age. Nonminor former dependents requesting the resumption of AFDC-FC payments pursuant to subdivision (e) of Section 11405 shall complete the applicable portions of the voluntary reentry agreement, as described in subdivision (z) of Section 11400.

(2) For purposes of this subdivision, the definition of "ongoing support" is governed by the regulation promulgated pursuant to subdivision (f) of Section 388.1.

(d) A nonminor dependent may receive all of the payment directly provided that the nonminor is living independently in a supervised placement, as described in subdivision (w) of Section

11400, and that both the youth and the agency responsible for the foster care placement have signed a mutual agreement, as defined in subdivision (u) of Section 11400, if the youth is capable of making an informed agreement, that documents the continued need for supervised out-of-home placement, and the nonminor's and social worker's or probation officer's agreement to work together to facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(e) Eligibility for aid under this section shall not terminate until the nonminor dependent attains the age criteria, as set forth in subdivision (a), but aid may be suspended when the nonminor dependent no longer resides in an eligible facility, as described in Section 11402, or is otherwise not eligible for AFDC-FC benefits under Section 11401, or terminated at the request of the nonminor, or after a court terminates dependency jurisdiction pursuant to Section 391, delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452. AFDC-FC benefits to nonminor dependents, may be resumed at the request of the nonminor by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, before or after the filing of a petition filed pursuant to subdivision (e) of Section 388 after a court terminates dependency or transitional jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2. The county welfare or probation department or Indian tribal entity that has entered into an agreement pursuant to Section 10553.1 shall complete the voluntary reentry agreement with the nonminor who agrees to satisfy the criteria of the agreement, as described in subdivision (z) of Section 11400. The county welfare department or tribal entity shall establish a new child-only Title IV-E eligibility determination based on the nonminor's completion of the voluntary reentry agreement pursuant to Section 11401. The beginning date of aid for either federal or state AFDC-FC for a reentering nonminor who is placed in foster care is the date the voluntary reentry agreement is signed or the nonminor is placed, whichever is later. The county welfare department, county probation department, or tribal entity shall provide a nonminor dependent who wishes to continue receiving aid with the assistance necessary to meet and maintain eligibility.

(f) (1) The county having jurisdiction of the nonminor dependent shall remain the county of payment under this section

regardless of the youth's physical residence. Nonminor former dependents receiving aid pursuant to subdivision (e) of Section 11405 shall be paid by their county of residence. Counties may develop courtesy supervision agreements to provide case management and independent living services by the county of residence pursuant to the nonminor dependent's transitional independent living case plan. Placements made out of state are subject to the applicable requirements of the Interstate Compact on Placement of Children, pursuant to Part 5 (commencing with Section 7900) of Division 12 of the Family Code.

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

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

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

(2) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of providing permanent placement services pursuant to subdivision (c) of Section 16508 and administering the Aid to Families with Dependent Children Foster Care program pursuant to Section 15204.9. For purposes of budgeting, the department shall use a standard for the permanent placement services that is equal to the midpoint between the budgeting

standards for family maintenance services and family reunification services.

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

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

(B) Funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code. In addition, the following are available to the counties for the purpose of funding costs pursuant to this section:

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

(ii) The savings realized from the change in federal funding for adoption assistance resulting from the enactment of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) and consistent with subdivision (d) of Section 16118.

(4) (A) The limit on the county's total contribution pursuant to paragraph (3) shall be assessed by the State Department of Social Services, in conjunction with the California State Association of Counties, in 2015–16, to determine if it shall be removed. The assessment of the need for the limit shall be based on a determination on a statewide basis of whether the actual county costs of providing extended care pursuant to this section, excluding costs incurred pursuant to Section 10103.5, are fully funded by the amount of savings in Kin-GAP assistance grant expenditures

realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

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

(h) It is the intent of the Legislature that a county currently participating in the Child Welfare Demonstration Capped Allocation Project not be adversely impacted by the department's exercise of its option to extend foster care benefits pursuant to Section 673(a)(4) and Section 675(8) of Title 42 of the United States Code in the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). Therefore, the department shall negotiate with the United States Department of Health and Human Services on behalf of those counties that are currently participating in the demonstration project to ensure that those counties receive reimbursement for these new programs outside of the provisions of those counties' waiver under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(i) The department, on or before July 1, 2013, shall develop regulations to implement this section in consultation with

concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, and researchers. In the development of these regulations, the department shall consider its Manual of Policy and Procedures, Division 30, Chapters 30-912, 913, 916, and 917, as guidelines for developing regulations that are appropriate for young adults who can exercise incremental responsibility concurrently with their growth and development. The department, in its consultation with stakeholders, shall take into consideration the impact to the automated Child Welfare Services Case Management System (CWS/CMS) and required modifications needed to accommodate eligibility determination under this section, benefit issuance, case management across counties, and recognition of the legal status of nonminor dependents as adults, as well as changes to data tracking and reporting requirements as required by the Child Welfare System Improvement and Accountability Act as specified in Section 10601.2, and federal outcome measures as required by the federal John H. Chafee Foster Care Independence Program (42 U.S.C. Sec. 677(f)). In addition, the department, in its consultation with stakeholders, shall define the supervised independent living setting which shall include, but not be limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings, and define how those settings meet health and safety standards suitable for nonminors. The department, in its consultation with stakeholders, shall define the six-month certification of the conditions of eligibility pursuant to subdivision (b) to be consistent with the flexibility provided by federal policy guidance, to ensure that there are ample supports for a nonminor to achieve the goals of his or her transition independent living case plan. The department, in its consultation with stakeholders, shall ensure that notices of action and other forms created to inform the nonminor of due process rights and how to access them shall be developed, using language consistent with the special needs of the nonminor dependent population.

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

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

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

(1) Developing a written assessment of the child's needs.

(2) Updating the assessment no less frequently than once every six months.

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

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

(1) Develop a written assessment of the child's needs.

(2) Update those assessments no less frequently than once every six months.

(3) Develop a case plan that specifies how the problems identified in the assessment are to be addressed.

(4) Make visits to the child as often as appropriate, but in no event less often than once every six months.

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

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

(e) (1) A nonminor youth whose nonrelated guardianship was ordered in juvenile court pursuant to Section 360 or 366.26, and whose dependency was dismissed, shall remain eligible for AFDC-FC benefits until the youth attains 21 years of age, provided that the youth enters into a mutual agreement with the agency responsible for his or her guardianship, and the youth is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

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

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

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

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

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

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

(f) A child whose nonrelated guardianship was ordered in probate court pursuant to Article 2 (commencing with Section

1510) of Chapter 1 of Part 2 of Division 4 of the Probate Code, who is attending high school or the equivalent level of vocational or technical training on a full-time basis, or who is in the process of pursuing a high school equivalency certificate prior to his or her 18th birthday may continue to receive aid following his or her 18th birthday as long as the child continues to reside in the guardian's home, remains otherwise eligible for AFDC-FC benefits and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis, or continues to pursue a high school equivalency certificate, and the child may reasonably be expected to complete the educational or training program or to receive a high school equivalency certificate, before his or her 19th birthday. Aid shall be provided to an individual pursuant to this section provided that both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, documenting the continued need for out-of-home placement.

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

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

(3) The AFDC-FC payments identified in this subdivision shall be adjusted annually by the percentage change in the California Necessities Index rate as set forth in paragraph (2) of subdivision (g) of Section 11461.

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

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

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

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

SEC. 4. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

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