

ASSEMBLY BILL

No. 212

Introduced by Assembly Member Beall

January 31, 2011

An act to amend Sections 366.31, 366.4, 388, 391, 727.3, 727.31, 785, 11363, 11386, 11400, and 11403 of, and to add Section 11403.01 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 212, as introduced, Beall. California Fostering Connections to Success Act.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to the provision of 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), 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 19, 20, and 21 years of age, if specified conditions are met, commencing January 1, 2012.

Existing law, through the Kin-GAP program, which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker. Existing law provides state-funded Kin-GAP assistance for youth not eligible under the federally funded program and requires the state to exercise its option under specified federal law to establish a kinship guardianship assistance

payment program, as specified, for youth eligible for federal financial participation for Kin-GAP.

Under existing law, CalWORKs benefits may not be granted to or on behalf of any child who has attained 18 years of age, unless the child is attending high school or the equivalent level of vocational or technical training on a full-time basis, and is expected to complete the educational or training program before his or her 19th birthday.

This bill would establish similar provisions authorizing certain Kin-GAP recipients to continue to receive Kin-GAP aid after 18 years of age, if they are attending high school or vocational or technical training, as specified. By increasing county responsibilities in administering the Kin-GAP program, this bill would impose a state-mandated local program. The bill would make related conforming changes.

Under existing law, when a minor who is a ward of the juvenile court is placed in out-of-home care and the court orders a hearing to consider permanently terminating parental rights to free the minor for adoption, the court is required to direct the agency supervising the minor and the licensed county adoption agency or the State Department of Social Services, as specified, to prepare an assessment that includes specified information.

This bill would revise the contents of the required assessment including requiring consideration of the effect of a relative caregiver's preference for legal guardianship over adoption, as specified. To the extent that this requirement would increase the duties of county adoption agencies, the bill would impose a state-mandated local program.

This bill also would make various technical and nonsubstantive changes to provisions of the California Fostering Connections to Success Act.

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 366.31 of the Welfare and Institutions
2 Code is amended to read:

3 366.31. (a) On and after January 1, 2012, with respect to a
4 nonminor dependent, as defined in subdivision (v) of Section
5 11400, who has a permanent plan of long-term foster care that was
6 ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26 the
7 court may continue jurisdiction of the nonminor as a dependent
8 of the juvenile court or may dismiss dependency jurisdiction
9 pursuant to Section 391.

10 (b) If the court continues dependency jurisdiction of the
11 nonminor as a dependent of the juvenile court, the court shall order
12 the development of a planned permanent living arrangement *of a*
13 *placement under a mutual agreement, pursuant to Section 11403,*
14 *which may include continued placement with the current caregiver*
15 *or another licensed or approved caregiver* ~~or placement under a~~
16 ~~mutual agreement pursuant to Section 11403,~~ or in a supervised
17 independent living *setting, as defined in subdivision (w) of Section*
18 *11400,* consistent with the youth's transitional independent living
19 case plan.

20 (c) If the court terminates its dependency jurisdiction over a
21 nonminor dependent pursuant to subdivision (a), it shall retain
22 jurisdiction over the youth pursuant to Section 303. Consistent
23 with paragraph (e) of Section 1356.21 of Title 45 of the Code of
24 Federal Regulations, the court shall authorize a ~~trial period of~~
25 ~~independence away from foster care~~ *period of trial independence*
26 as defined in subdivision (y) of Section 11400. The court shall set
27 the end date of the ~~trial period of Independence away from foster~~
28 ~~care~~ *trial independence* to be the day prior to the day the nonminor
29 attains 21 years of age, unless to do so is not in the nonminor's
30 best interests. If the court has dismissed dependency jurisdiction
31 pursuant to subdivision (d) of Section 391, the nonminor, who has
32 not attained 21 years of age, may subsequently file a petition
33 pursuant to subdivision (e) of Section 388 to have dependency
34 jurisdiction resumed and the court may vacate its previous order
35 dismissing dependency jurisdiction over the nonminor dependent.

36 SEC. 2. Section 366.4 of the Welfare and Institutions Code is
37 amended to read:

1 366.4. (a) Any minor for whom a guardianship has been
2 established resulting from the selection or implementation of a
3 permanency plan pursuant to Section 366.26, or for whom a related
4 guardianship has been established pursuant to Section 360, or, on
5 and after the date that the director executes a declaration pursuant
6 to Section 11217, a nonminor who is receiving Kin-GAP payments
7 pursuant to Section 11363 *or* 11386, or, on or after January 1,
8 2012, a nonminor former dependent child of the juvenile court
9 who is receiving AFDC-FC benefits pursuant to Section 11405,
10 is within the jurisdiction of the juvenile court. For those minors,
11 Part 2 (commencing with Section 1500) of Division 4 of the
12 Probate Code, relating to guardianship, shall not apply. If no
13 specific provision of this code or the California Rules of Court is
14 applicable, the provisions applicable to the administration of estates
15 under Part 4 (commencing with Section 2100) of Division 4 of the
16 Probate Code govern so far as they are applicable to like situations.

17 (b) Nonrelated legal guardians of the person of a guardianship
18 pursuant to Section 360 or 366.26 shall be exempt from the
19 provisions of Sections 2850 and 2851 of the Probate Code.

20 SEC. 3. Section 388 of the Welfare and Institutions Code is
21 amended to read:

22 388. (a) Any parent or other person having an interest in a
23 child who is a dependent child of the juvenile court or the child
24 himself or herself through a properly appointed guardian may,
25 upon grounds of change of circumstance or new evidence, petition
26 the court in the same action in which the child was found to be a
27 dependent child of the juvenile court or in which a guardianship
28 was ordered pursuant to Section 360 for a hearing to change,
29 modify, or set aside any order of court previously made or to
30 terminate the jurisdiction of the court. The petition shall be verified
31 and, if made by a person other than the child, shall state the
32 petitioner's relationship to or interest in the child and shall set forth
33 in concise language any change of circumstance or new evidence
34 that are alleged to require the change of order or termination of
35 jurisdiction.

36 (b) Any person, including a child who is a dependent of the
37 juvenile court, may petition the court to assert a relationship as a
38 sibling related by blood, adoption, or affinity through a common
39 legal or biological parent to a child who is, or is the subject of a
40 petition for adjudication as, a dependent of the juvenile court, and

1 may request visitation with the dependent child, placement with
2 or near the dependent child, or consideration when determining
3 or implementing a case plan or permanent plan for the dependent
4 child or make any other request for an order which may be shown
5 to be in the best interest of the dependent child. The court may
6 appoint a guardian ad litem to file the petition for the dependent
7 child asserting the sibling relationship if the court determines that
8 the appointment is necessary for the best interests of the dependent
9 child. The petition shall be verified and shall set forth the
10 following:

11 (1) Through which parent he or she is related to the dependent
12 child.

13 (2) Whether he or she is related to the dependent child by blood,
14 adoption, or affinity.

15 (3) The request or order that the petitioner is seeking.

16 (4) Why that request or order is in the best interest of the
17 dependent child.

18 (c) (1) Any party, including a child who is a dependent of the
19 juvenile court, may petition the court, prior to the hearing set
20 pursuant to subdivision (f) of Section 366.21 for a child described
21 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
22 361.5, or prior to the hearing set pursuant to subdivision (e) of
23 Section 366.21 for a child described by subparagraph (B) or (C)
24 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
25 court-ordered reunification services provided under subdivision
26 (a) of Section 361.5 only if one of the following conditions exists:

27 (A) It appears that a change of circumstance or new evidence
28 exists that satisfies a condition set forth in subdivision (b) or (e)
29 of Section 361.5 justifying termination of court-ordered
30 reunification services.

31 (B) The action or inaction of the parent or guardian creates a
32 substantial likelihood that reunification will not occur, including,
33 but not limited to, the parent or guardian's failure to visit the child,
34 or the failure of the parent or guardian to participate regularly and
35 make substantive progress in a court-ordered treatment plan.

36 (2) In determining whether the parent or guardian has failed to
37 visit the child or participate regularly or make progress in the
38 treatment plan, the court shall consider factors including, but not
39 limited to, the parent or guardian's incarceration,

1 institutionalization, or participation in a court-ordered residential
2 substance abuse treatment program.

3 (3) The court shall terminate reunification services during the
4 above-described time periods only upon a finding by a
5 preponderance of evidence that reasonable services have been
6 offered or provided, and upon a finding of clear and convincing
7 evidence that one of the conditions in subparagraph (A) or (B) of
8 paragraph (1) exists.

9 (4) If the court terminates reunification services, it shall order
10 that a hearing pursuant to Section 366.26 be held within 120 days.

11 (d) If it appears that the best interests of the child may be
12 promoted by the proposed change of order, recognition of a sibling
13 relationship, termination of jurisdiction, or clear and convincing
14 evidence supports revocation or termination of court-ordered
15 reunification services, the court shall order that a hearing be held
16 and shall give prior notice, or cause prior notice to be given, to the
17 persons and by the means prescribed by Section 386, and, in those
18 instances in which the means of giving notice is not prescribed by
19 those sections, then by means the court prescribes.

20 (e) (1) On and after January 1, 2012, a nonminor who has not
21 attained 19 years of age, or, commencing January 1, 2013, 20 years
22 of age, or, commencing January 1, 2014, 21 years of age, for whom
23 the court has dismissed dependency jurisdiction pursuant to Section
24 391, or delinquency jurisdiction pursuant to subdivision (e) of
25 Section 785, but has retained general jurisdiction under Section
26 303, and has ordered a period of trial independence *pursuant to*
27 *Section 366.31*, may petition the court in the same action in which
28 the child was found to be a dependent or delinquent child of the
29 juvenile court for a hearing to resume the dependency or
30 delinquency jurisdiction of the court. The petition shall be filed
31 within the ~~trial period of~~ *period of trial* independence.

32 (2) The petition to resume dependency or delinquency
33 jurisdiction may be filed in the juvenile court that retains
34 jurisdiction under subdivision (b) of Section 303 or the juvenile
35 court in the county where the youth resides. The juvenile court
36 having jurisdiction under Section 303 shall receive the petition
37 from the court in which the petition is filed within five court days
38 of the filing if the petition is filed in the county of residence. Upon
39 filing of the petition, the court shall order that a hearing be held,
40 if there is a prima facie showing that the nonminor ~~satisfies~~ *is able*

1 *to satisfy* at least one of the conditions in subdivision (b) of Section
2 11403, *and agrees to supervised placement pursuant to the mutual*
3 *agreement*. Upon ordering a hearing, the court shall give prior
4 notice, or cause prior notice to be given, to the persons and by the
5 means prescribed by Section 386, except that notice to parents or
6 former guardians shall not be provided if the nonminor objects, in
7 writing, on the face of the petition.

8 (3) The Judicial Council, by January 1, 2012, shall adopt rules
9 of court to allow for telephonic appearances by nonminor former
10 dependents or delinquents in these proceedings.

11 (4) Prior to the hearing on a petition to resume dependency *or*
12 *delinquency* jurisdiction, the court shall order the county child
13 welfare or probation department or Indian tribe that has entered
14 into an agreement pursuant to Section 10553.1 to prepare a report
15 for the court addressing whether the nonminor is able to ~~meet~~
16 *satisfy* at least one of the criteria set forth in subdivision (b) of
17 Section 11403. When the recommendation is for the nonminor
18 dependent to be placed in a setting where minor dependents also
19 reside, the results of a background check of the petitioning
20 nonminor conducted pursuant to Section 16504.5, used by the
21 placing agency to determine appropriate placement options for the
22 nonminor. The existence of a criminal conviction is not a bar to
23 eligibility for reentry or resumption of dependency jurisdiction of
24 a nonminor.

25 (5) The court, if it finds that the nonminor is able to ~~meet~~ *satisfy*,
26 *and agrees to satisfy*, at least one of the criteria set forth in
27 subdivision (b) of Section 11403, shall resume dependency or
28 delinquency jurisdiction and order the county child welfare or
29 probation department or tribe to develop a new transitional
30 independent living case plan with the youth, which shall be
31 presented to the court within 60 days of the resumption of the
32 dependency or delinquency jurisdiction.

33 (f) A parent or other person having an interest in a child ~~who~~
34 *was, or the child himself or herself when the child was* removed
35 from his or her parents or guardian and placed in foster care under
36 jurisdiction established pursuant to Section 601 or 602, ~~which~~ *and*
37 *that jurisdiction* is to be terminated, may file a supplemental
38 petition with the court, consistent with subdivision (d) of Section
39 241.1, to modify the court's jurisdiction in order to establish
40 jurisdiction pursuant to Section 300, if the child appears to come

1 within the description of Section 300 and cannot be returned home
2 safely.

3 SEC. 4. Section 391 of the Welfare and Institutions Code, as
4 added by Section 28 of Chapter 559 of the Statutes of 2010, is
5 amended to read:

6 391. (a) The court shall not terminate jurisdiction over a
7 dependent youth who has reached 18 years of age unless a hearing
8 is conducted pursuant to this section.

9 (b) At any hearing for a dependent youth who has attained 18
10 years of age at which the court is considering termination of the
11 jurisdiction of the juvenile court and the accompanying foster care
12 services as described in Section 11403, the county welfare
13 department shall do all of the following:

14 (1) Ensure that the dependent is present in court, unless the
15 dependent does not wish to appear in court, or document efforts
16 by the county welfare department to locate the child when the child
17 is not available.

18 (2) Submit a report describing whether it is in the youth's best
19 interests to remain under the court's dependency jurisdiction, which
20 includes a recommended transitional independent living case plan
21 for any youth who is continuing dependency as a nonminor.

22 (3) If the dependent has indicated that he or she does not want
23 dependency jurisdiction to continue, the report shall address the
24 advisability of a court-ordered ~~trial discharge from foster care~~
25 *period of trial independence*.

26 (c) The court shall continue dependency jurisdiction for a
27 nonminor dependent, as defined in subdivision (v) of Section
28 11400, who is eligible pursuant to Section 11403 unless the court
29 finds that after reasonable and documented efforts the nonminor
30 cannot be located or does not wish to remain subject to dependency
31 jurisdiction. In making this finding, the court shall ensure that the
32 nonminor has been informed of his or her options including the
33 right to file a petition pursuant to Section 388 to resume
34 dependency jurisdiction, and had an opportunity to confer with
35 his or her counsel if counsel has been appointed pursuant to Section
36 317. The court shall terminate dependency jurisdiction for a
37 nonminor dependent if it finds that the nonminor dependent is not
38 eligible pursuant to subdivision (b) of Section 11403.

39 (d) If the court terminates dependency jurisdiction, the nonminor
40 shall remain within the jurisdiction of the court until the nonminor

1 attains 21 years of age, although no review proceedings shall be
2 required. As authorized in paragraph (e) of Section 1356.21 of
3 Title 45 of the Code of Federal Regulations, the court shall
4 authorize a ~~trial period of departure from foster care~~ *period of trial*
5 *independence*, as defined in subdivision (y) of Section 11400. In
6 order to ensure eligibility for federal financial participation, the
7 court shall set the end date of the ~~trial period of departure from~~
8 ~~foster care~~ *period of trial independence* to be the day prior to the
9 day the nonminor attains 21 years of age, unless to do so is not in
10 the nonminor's best interests. A nonminor may petition the court
11 pursuant to subdivision (e) of Section 388 to resume dependency
12 jurisdiction at any time before attaining 21 years of age.

13 (e) Unless the nonminor does not wish to remain under the
14 dependency or delinquency jurisdiction of the court, or, after
15 reasonable efforts by the county welfare department the nonminor
16 cannot be located, the court shall not terminate dependency or
17 delinquency jurisdiction over a nonminor dependent who has
18 reached 18 years of age until a hearing is conducted pursuant to
19 this section and the department has submitted a report verifying
20 that the following information, documents, and services have been
21 provided to the child:

22 (1) Written information concerning the child's dependency case,
23 including any known information regarding the child's Indian
24 heritage or tribal connections, if applicable, his or her family
25 history and placement history, any photographs of the child or his
26 or her family in the possession of the county welfare department,
27 other than forensic photographs, the whereabouts of any siblings
28 under the jurisdiction of the juvenile court, unless the court
29 determines that sibling contact would jeopardize the safety or
30 welfare of the sibling, directions on how to access the documents
31 the child is entitled to inspect under Section 827, and the date on
32 which the jurisdiction of the juvenile court would be terminated.

33 (2) The following documents:

34 (A) Social security card.

35 (B) Certified copy of his or her birth certificate.

36 (C) Health and education summary, as described in subdivision
37 (a) of Section 16010.

38 (D) Driver's license, as described in Section 12500 of the
39 Vehicle Code, or identification card, as described in Section 13000
40 of the Vehicle Code.

- 1 (E) A letter prepared by the county welfare department that
 2 includes the following information:
 3 (i) The child’s name and date of birth.
 4 (ii) The dates during which the child was within the jurisdiction
 5 of the juvenile court.
 6 (iii) A statement that the child was a foster youth in compliance
 7 with state and federal financial aid documentation requirements.
 8 (F) If applicable, the death certificate of the parent or parents.
 9 (G) If applicable, proof of the child’s citizenship or legal
 10 residence.
 11 (3) Assistance in completing an application for Medi-Cal or
 12 assistance in obtaining other health insurance.
 13 (4) Referrals to transitional housing, if available, or assistance
 14 in securing other housing.
 15 (5) Assistance in obtaining employment or other financial
 16 support.
 17 (6) Assistance in applying for admission to college or to a
 18 vocational training program or other educational institution and
 19 in obtaining financial aid, where appropriate.
 20 (7) Assistance in maintaining relationships with individuals
 21 who are important to a child who has been in out-of-home
 22 placement for six months or longer from the date the child entered
 23 foster care, based on the child’s best interests.
 24 (8) For nonminors between 18 and 21 years of age, assistance
 25 in accessing the Independent Living Aftercare Program in the
 26 nonminor’s county of residence, *and, upon the nonminor’s request,*
 27 *assistance in filing a petition pursuant to subdivision (e) of Section*
 28 *388 to resume dependency jurisdiction.*
 29 (f) At the hearing closest to and before a dependent child’s 18th
 30 birthday and every review hearing thereafter, the department shall
 31 submit a report describing efforts toward completing the items
 32 described in paragraph (2) of subdivision (e).
 33 (g) The Judicial Council shall develop and implement standards,
 34 and develop and adopt appropriate forms necessary to implement
 35 this provision.
 36 (h) This section shall become operative on January 1, 2012.
 37 SEC. 5. Section 727.3 of the Welfare and Institutions Code is
 38 amended to read:
 39 727.3. The purpose of this section is to provide a means to
 40 monitor the safety and well-being of every minor in foster care

1 who has been declared a ward of the juvenile court pursuant to
2 Section 601 or 602 and to ensure that everything reasonably
3 possible is done to facilitate the safe and early return of the minor
4 to his or her own home or to establish an alternative permanent
5 plan for the minor.

6 (a) (1) For every minor declared a ward and ordered to be
7 placed in foster care, a permanency planning hearing shall be
8 conducted within 12 months of the date the minor entered foster
9 care, as defined in paragraph (4) of subdivision (d) of Section
10 727.4. Subsequent permanency planning hearings shall be
11 conducted periodically, but no less frequently than once every 12
12 months thereafter during the period of placement. It shall be the
13 duty of the probation officer to prepare a written social study report
14 including an updated case plan and a recommendation for a
15 permanent plan, pursuant to subdivision (c) of Section 706.5, and
16 submit the report to the court prior to each permanency planning
17 hearing, pursuant to subdivision (b) of Section 727.4.

18 (2) Prior to any permanency planning hearing involving a minor
19 in the physical custody of a community care facility or foster family
20 agency, the facility or agency may file with the court a report
21 containing its recommendations, in addition to the probation
22 officer's social study. Prior to any permanency planning hearing
23 involving the physical custody of a foster parent, relative caregiver,
24 preadoptive parent, or legal guardian, that person may present to
25 the court a report containing his or her recommendations. The
26 court shall consider all reports and recommendations filed pursuant
27 to this subdivision.

28 (3) If the minor has a continuing involvement with his or her
29 parents or legal guardians, the parents or legal guardians shall be
30 involved in the planning for a permanent placement. The court
31 order placing the minor in a permanent placement shall include a
32 specification of the nature and frequency of visiting arrangements
33 with the parents or legal guardians.

34 (4) At each permanency planning hearing, the court shall order
35 a permanent plan for the minor, as described in subdivision (b).
36 The court shall also make findings, as described in subdivision (e)
37 of Section 727.2. In the case of a minor who has reached 16 years
38 of age or older, the court shall, in addition, determine the services
39 needed to assist the minor to make the transition from foster care
40 to independent living. The court shall make all of these

1 determinations on a case-by-case basis and make reference to the
2 probation officer's report, the case plan, or other evidence relied
3 upon in making its decisions.

4 (b) At all permanency planning hearings, the court shall
5 determine the permanent plan for the minor. The court shall order
6 one of the following permanent plans, which are, in order of
7 priority:

8 (1) Return of the minor to physical custody of the parent or legal
9 guardian. The court shall order the return of the minor to the
10 physical custody of his or her parent or legal guardian unless:

11 (A) Reunification services were not offered, pursuant to
12 subdivision (b) of Section 727.2.

13 (B) The court finds, by a preponderance of the evidence, that
14 the return of the minor to his or her parent or legal guardian would
15 create a substantial risk of detriment to the safety, protection, or
16 physical or emotional well-being of the minor. The probation
17 department shall have the burden of establishing that detriment.
18 In making its determination, the court shall review and consider
19 the social study report and recommendations pursuant to Section
20 706.5, the report and recommendations of any child advocate
21 appointed for the minor in the case, and any other reports submitted
22 pursuant to paragraph (2) of subdivision (a), and shall consider
23 the efforts or progress, or both, demonstrated by the minor and
24 family and the extent to which the minor availed himself or herself
25 of the services provided.

26 (2) Order that the permanent plan for the minor will be to return
27 the minor to the physical custody of the parent or legal guardian,
28 order further reunification services to be provided to the minor
29 and his or her parent or legal guardian for a period not to exceed
30 six months and continue the case for up to six months for a
31 subsequent permanency planning hearing, provided that the
32 subsequent hearing shall occur within 18 months of the date the
33 minor was originally taken from physical custody of his or her
34 parent or legal guardian. The court shall continue the case only if
35 it finds that there is a substantial probability that the minor will be
36 returned to the physical custody of his or her parent or legal
37 guardian and safely maintained in the home within the extended
38 period of time or that reasonable services have not been provided
39 to the parent or guardian. For purposes of this section, in order to
40 find that there is a substantial probability that the minor will be

1 returned to the physical custody of his or her parent or legal
2 guardian, the court shall be required to find that the minor and his
3 or her parent or legal guardian have demonstrated the capacity and
4 ability to complete the objectives of the case plan.

5 The court shall inform the parent or legal guardian that if the
6 minor cannot be returned home by the next permanency planning
7 hearing, a proceeding pursuant to Section 727.31 may be initiated.

8 The court shall not continue the case for further reunification
9 services if it has been 18 months or more since the date the minor
10 was originally taken from the physical custody of his or her parent
11 or legal guardian.

12 (3) Identify adoption as the permanent plan and order that a
13 hearing be held within 120 days, pursuant to the procedures
14 described in Section 727.31. The court shall only set a hearing
15 pursuant to Section 727.31 if there is clear and convincing evidence
16 that reasonable services have been provided or offered to the
17 parents. When the court sets a hearing pursuant to Section 727.31,
18 it shall order that an adoption assessment report be prepared,
19 pursuant to subdivision (b) of Section 727.31.

20 (4) Order a legal guardianship, pursuant to procedures described
21 in subdivisions (c) to (f), inclusive, of Section 728.

22 (5) Place the minor with a fit and willing relative. “Placement
23 with a fit and willing relative” means placing the minor with an
24 appropriate relative on a permanent basis. When a minor is placed
25 with a fit and willing relative, the court may authorize the relative
26 to provide the same legal consent for the minor’s medical, surgical,
27 and dental care, and education as the custodial parent of the minor.

28 (6) Place the minor in a planned permanent living arrangement.
29 A “planned permanent living arrangement” means any permanent
30 living arrangement described in Section 11402 and not listed in
31 paragraphs (1) to (5), inclusive, such as placement in a specific,
32 identified foster family home, program, or facility on a permanent
33 basis, or placement in a transitional housing placement facility.
34 When the court places a minor in a planned permanent living
35 arrangement, the court shall specify the goal of the placement,
36 which may include, but shall not be limited to, return home,
37 emancipation, guardianship, or permanent placement with a
38 relative.

39 The court shall only order that the minor remain in a planned
40 permanent living arrangement if the court finds by clear and

1 convincing evidence, based upon the evidence already presented
2 to it that there is a compelling reason, as defined in subdivision
3 (c), for determining that a plan of termination of parental rights
4 and adoption is not in the best interest of the minor.

5 (c) A compelling reason for determining that a plan of
6 termination of parental rights and adoption is not in the best interest
7 of the minor is any of the following:

8 (1) Documentation by the probation department that adoption
9 is not in the best interest of the minor and is not an appropriate
10 permanency goal. That documentation may include, but is not
11 limited to, documentation that:

12 (A) The minor is 12 years of age or older and objects to
13 termination of parental rights.

14 (B) The minor is an older teen who specifically requests that
15 emancipation be established as his or her permanent plan. *On and*
16 *after January 1, 2012, this includes a minor who requests that his*
17 *or her transitional independent living case plan include*
18 *modification of his or her jurisdiction to that of dependent pursuant*
19 *to subdivision (d) of Section 241.1, in order to be eligible as a*
20 *nonminor dependent for the extended benefits pursuant to Section*
21 *11403.*

22 (C) The parent or guardian and the minor have a significant
23 bond, but the parent or guardian is unable to care for the minor
24 because of an emotional or physical disability, and the minor's
25 caregiver has committed to raising the minor to the age of majority
26 and facilitating visitation with the disabled parent or guardian.

27 (D) The minor agrees to continued placement in a residential
28 treatment facility that provides services specifically designed to
29 address the minor's treatment needs, and the minor's needs could
30 not be served by a less restrictive placement.

31 The probation department's recommendation that adoption is
32 not in the best interest of the minor shall be based on the present
33 family circumstances of the minor and shall not preclude a different
34 recommendation at a later date if the minor's family circumstances
35 change.

36 (2) Documentation by the probation department that no grounds
37 exist to file for termination of parental rights.

38 (3) Documentation by the probation department that the minor
39 is an unaccompanied refugee minor, or there are international legal

1 obligations or foreign policy reasons that would preclude
2 terminating parental rights.

3 (4) A finding by the court that the probation department was
4 required to make reasonable efforts to reunify the minor with the
5 family pursuant to subdivision (a) of Section 727.2, and did not
6 make those efforts.

7 (5) Documentation by the probation department that the minor
8 is living with a relative who is unable or unwilling to adopt the
9 minor because of exceptional circumstances that do not include
10 an unwillingness to accept legal or financial responsibility for the
11 minor, but who is willing and capable of providing the minor with
12 a stable and permanent home environment, and the removal of the
13 minor from the physical custody of his or her relative would be
14 detrimental to the minor's emotional well-being.

15 (d) Nothing in this section shall be construed to limit the ability
16 of a parent to voluntarily relinquish his or her child to the State
17 Department of Social Services when it is acting as an adoption
18 agency in counties that are not served by a county adoption agency
19 or to a licensed county adoption agency at any time while the minor
20 is a ward of the juvenile court if the department or agency is willing
21 to accept the relinquishment.

22 (e) Any change in the permanent plan of a minor placed with a
23 fit and willing relative or in a planned permanent living
24 arrangement shall be made only by order of the court pursuant to
25 a Section 778 petition or at a regularly scheduled and noticed status
26 review hearing or permanency planning hearing. Any change in
27 the permanent plan of a minor placed in a guardianship shall be
28 made only by order of the court pursuant to a motion filed in
29 accordance with Section 728.

30 SEC. 6. Section 727.31 of the Welfare and Institutions Code
31 is amended to read:

32 727.31. (a) This section applies to all minors placed in
33 out-of-home care pursuant to Section 727.2 or 727.3 and for whom
34 the juvenile court orders a hearing to consider permanently
35 terminating parental rights to free the minor for adoption.

36 Except for subdivision (j) of Section 366.26, the procedures for
37 permanently terminating parental rights for minors described by
38 this section shall proceed exclusively pursuant to Section 366.26.

39 At the beginning of any proceeding pursuant to this section, if
40 the minor is not being represented by previously retained or

1 appointed counsel, the court shall appoint counsel to represent the
2 minor, and the minor shall be present in court unless the minor or
3 the minor's counsel so requests and the court so orders. If a parent
4 appears without counsel and is unable to afford counsel, the court
5 shall appoint counsel for the parent, unless this representation is
6 knowingly and intelligently waived. The same counsel shall not
7 be appointed to represent both the minor and the parent. Private
8 counsel appointed under this section shall receive a reasonable
9 sum for compensation and expenses as specified in subdivision
10 (f) of paragraph (3) of Section 366.26.

11 (b) Whenever the court orders that a hearing pursuant to this
12 section shall be held, it shall direct the agency supervising the
13 minor and the licensed county adoption agency, or the State
14 Department of Social Services when it is acting as an adoption
15 agency in counties that are not served by a county adoption agency,
16 to prepare an assessment that shall include all of the following:

17 (1) Current search efforts for an absent parent or parents.

18 (2) A review of the amount and nature of any contact between
19 the minor and his or her parents and other members of his or her
20 extended family since the time of placement. Although the
21 extended family of each minor shall be reviewed on a case-by-case
22 basis, "extended family" for the purpose of the paragraph shall
23 include, but not be limited to, the minor's siblings, grandparents,
24 aunts, and uncles.

25 (3) An evaluation of the minor's medical, developmental,
26 scholastic, mental, and emotional status.

27 (4) A preliminary assessment of the eligibility and commitment
28 of any identified prospective adoptive parent or guardian,
29 particularly the caretaker, to include a social history, including
30 screening for criminal records and prior referrals for child abuse
31 or neglect, the capability to meet the minor's needs, and the
32 understanding of the legal and financial rights and responsibilities
33 of adoption and guardianship. If a proposed guardian is a relative
34 of the minor, and the relative was assessed for foster care placement
35 of the minor prior to January 1, 1998, the assessment shall also
36 consider, but need not be limited to, all of the factors specified in
37 subdivision (a) of Section 361.3 and Section 361.4.

38 (5) The relationship of the minor to any identified prospective
39 adoptive parent or guardian, the duration and character of the
40 relationship, *the degree of attachment of the child to the prospective*

1 *relative guardian or adoptive parent, the relative's or adoptive*
2 *parent's strong commitment to caring permanently for the child,*
3 *the motivation for seeking adoption or guardianship,—and a*
4 *statement from the minor concerning placement and the adoption*
5 *or guardianship, and whether the minor, if over 12 years of age,*
6 *has been consulted about the proposed relative guardianship*
7 *arrangements, unless the minor's age or physical, emotional, or*
8 *other condition precludes his or her meaningful response, and if*
9 *so, a description of the condition.*

10 (6) An analysis of the likelihood that the minor will be adopted
11 if parental rights are terminated.

12 (c) *A relative caregiver's preference for legal guardianship*
13 *over adoption, if it is due to circumstances that do not include an*
14 *unwillingness to accept legal or financial responsibility for the*
15 *child, shall not constitute the sole basis for recommending removal*
16 *of the child from the relative caregiver for purposes of adoptive*
17 *placement. A relative caregiver shall be given information*
18 *regarding the permanency options of guardianship and adoption,*
19 *including the long-term benefits and consequences of each option,*
20 *prior to establishing legal guardianship or pursuing adoption.*

21 (d) *If at any hearing held pursuant to Section 366.26, a legal*
22 *guardianship is established for the minor with an approved relative*
23 *caregiver and juvenile court dependency is subsequently dismissed,*
24 *the minor shall be eligible for aid under the Kin-GAP Program,*
25 *as provided for in Article 4.5 (commencing with Section 11360)*
26 *or Article 4.7 (commencing with Section 11385), as applicable, of*
27 *Chapter 2 of Part 3 of Division 9.*

28 (e) *For purposes of this section, "relative" means an adult who*
29 *is related to the child by blood, adoption, or affinity within the*
30 *fifth degree of kinship, including stepparents, stepsiblings, and all*
31 *relatives whose status is preceded by the words "great,"*
32 *"great-great," or "grand," or the spouse of any of those persons,*
33 *even if the marriage was terminated by death or dissolution.*

34 (e)

35 (f) Whenever the court orders that a hearing pursuant to
36 procedures described in this section be held, it shall order that the
37 licensed county adoption agency, or the State Department of Social
38 Services when it is acting as an adoption agency in counties that
39 are not served by a county adoption agency, has exclusive

1 responsibility for determining the adoptive placement and making
 2 all adoption-related decisions.

3 ~~(d)~~

4 (g) If the court, by order of judgment declares the minor free
 5 from the custody and control of both parents, or one parent if the
 6 other does not have custody and control, the court shall at the same
 7 time order the minor referred to the State Department of Social
 8 Services when it is acting as an adoption agency in counties that
 9 are not served by a county adoption agency or a licensed county
 10 adoption agency for adoptive placement by the agency. The order
 11 shall state that responsibility for custody of the minor shall be held
 12 jointly by the probation department and the State Department of
 13 Social Services when it is acting as an adoption agency in counties
 14 that are not served by a county adoption agency or the licensed
 15 county adoption agency. The order shall also state that the State
 16 Department of Social Services when it is acting as an adoption
 17 agency in counties that are not served by a county adoption agency
 18 or the licensed county adoption agency has exclusive responsibility
 19 for determining the adoptive placement and for making all
 20 adoption-related decisions. However, no petition for adoption may
 21 be granted until the appellate rights of the natural parents have
 22 been exhausted.

23 ~~(e)~~

24 (h) The notice procedures for terminating parental rights for
 25 minors described by this section shall proceed exclusively pursuant
 26 to Section 366.23.

27 SEC. 7. Section 785 of the Welfare and Institutions Code is
 28 amended to read:

29 785. (a) Where a minor is a ward of the juvenile court, the
 30 wardship did not result in the minor's commitment to the Youth
 31 Authority, and the minor is found not to be a fit and proper subject
 32 to be dealt with under the juvenile court law with respect to a
 33 subsequent allegation of criminal conduct, any parent or other
 34 person having an interest in the minor, or the minor, through a
 35 properly appointed guardian, the prosecuting attorney, or probation
 36 officer, may petition the court in the same action in which the
 37 minor was found to be a ward of the juvenile court for a hearing
 38 for an order to terminate or modify the jurisdiction of the juvenile
 39 court. The court shall order that a hearing be held and shall give
 40 prior notice, or cause prior notice to be given, to those persons and

1 by the means prescribed by Sections 776 and 779, or where the
2 means of giving notice is not prescribed by those sections, then
3 by such means as the court prescribes.

4 (b) The petition shall be verified and shall state why jurisdiction
5 should be terminated or modified in concise language.

6 (c) In determining whether or not the wardship shall terminate
7 or be modified, the court shall be guided by the policies set forth
8 in Section 202.

9 (d) On and after January 1, 2012, at any hearing pursuant to this
10 section involving a minor who was removed from the physical
11 custody of his or her parent or guardian and placed in foster care
12 at the time the court adjudged the child a delinquent ward, or who
13 was removed from his or her parents or guardian and placed in
14 foster care as a dependent child immediately prior to the court
15 adjudging the child a delinquent ward, the court shall consider, as
16 an alternative to terminating jurisdiction, whether to modify its
17 jurisdiction and declare the minor to be a dependent child, pursuant
18 to Section 300. If the court finds that the ward no longer requires
19 delinquency supervision, but is at risk of abuse or neglect and
20 cannot be returned home safely, the court shall set a hearing
21 pursuant to Section 241.1 to determine whether a modification of
22 its jurisdiction as described in subdivision (d) of Section 241.1 is
23 appropriate.

24 (e) On and after January 1, 2012, the court shall continue
25 delinquency jurisdiction for a nonminor dependent, as defined in
26 subdivision (v) of Section 11400, who is eligible to remain in foster
27 care pursuant to Section 11403, unless the court finds that after
28 reasonable and documented efforts, the nonminor cannot be located
29 or does not wish to remain a nonminor dependent. In making this
30 finding, the court shall ensure that the nonminor has been informed
31 of his or her options, including the right to file a petition pursuant
32 to Section 388 to resume delinquency jurisdiction, and has had an
33 opportunity to confer with his or her counsel. As authorized in
34 paragraph (e) of Section 1356.21 of Title 45 of the Code of Federal
35 Regulations, the court shall authorize a ~~trial period of departure~~
36 ~~from foster care~~ *period of trial independence*, as defined in
37 subdivision (y) of Section 11400. In order to ensure eligibility for
38 federal financial participation, the court shall set the end date of
39 the trial period of departure from foster care to be the day before

1 the nonminor attains 21 years of age unless it is not in the
2 nonminor's best interests.

3 (f) In addition to its authority under this chapter, the Judicial
4 Council shall adopt rules providing criteria for the consideration
5 of the juvenile court in determining whether or not to terminate or
6 modify jurisdiction pursuant to this section.

7 SEC. 8. Section 11363 of the Welfare and Institutions Code,
8 as added by Section 34 of Chapter 559 of the Statutes of 2010, is
9 amended to read:

10 11363. (a) Aid in the form of state-funded Kin-GAP shall be
11 provided under this article on behalf of any child under 18 years
12 of age and to any eligible youth under 19 years of age as provided
13 in Section 11403, who ~~meets~~ *satisfies* all of the following
14 conditions:

15 (1) Has been adjudged a dependent child of the juvenile court
16 pursuant to Section 300, or, effective October 1, 2006, a ward of
17 the juvenile court pursuant to Section 601 or 602.

18 (2) Has been residing for at least six consecutive months in the
19 approved home of the prospective relative guardian while under
20 the jurisdiction of the juvenile court or a voluntary placement
21 agreement.

22 (3) Has had a kinship guardianship established pursuant to
23 Section 360 or 366.26.

24 (4) Has had his or her dependency jurisdiction terminated after
25 January 1, 2000, pursuant to Section 366.3, or his or her wardship
26 terminated pursuant to subdivision (e) of Section 728, concurrently
27 or subsequently to the establishment of the kinship guardianship.

28 (b) If the conditions specified in subdivision (a) are met and,
29 subsequent to the termination of dependency jurisdiction, any
30 parent or person having an interest files with the juvenile court a
31 petition pursuant to Section 388 to change, modify, or set aside an
32 order of the court, Kin-GAP payments shall continue unless and
33 until the juvenile court, after holding a hearing, orders the child
34 removed from the home of the guardian, terminates the
35 guardianship, or maintains dependency jurisdiction after the court
36 concludes the hearing on the petition filed under Section 388.

37 (c) A child or nonminor shall be eligible for Kin-GAP payments
38 if he or she meets one of the following age criteria:

39 (1) He or she is under 18 years of age.

1 (2) He or she is under 21 years of age and has a physical or
2 mental disability that warrants the continuation of assistance.

3 (3) Through December 31, 2011, he or she ~~meets~~ *satisfies* the
4 conditions of Section 11403, *and on and after January 1, 2012,*
5 *he or she satisfies the conditions of Section 11403.01.*

6 (4) He or she ~~meets~~ *satisfies* the conditions as described in
7 subdivision (d).

8 (d) Commencing January 1, 2012, state-funded Kin-GAP
9 payments shall continue for youths who have attained 18 years of
10 age and are under 19 years of age if they attained 16 years of age
11 before the Kin-GAP aid payments commenced. Effective January
12 1, 2013, Kin-GAP payments shall continue for youths who have
13 attained 18 years of age and who are under 20 years of age, if they
14 reached 16 years of age before the Kin-GAP negotiated payments
15 commenced. Effective January 1, 2014, Kin-GAP payments shall
16 continue for youths who have attained 18 years of age and are
17 under 21 years of age, if they reached 16 years of age before the
18 Kin-GAP negotiated payments commenced. To be eligible for
19 continued payments, the youth shall ~~meet~~ *satisfy* one or more of
20 the conditions specified in subdivision (b) of Section 11403.
21 Payments made to a nonminor pursuant to the conditions specified
22 in subdivision (b) of Section 11403 may be paid in whole or part
23 to the eligible youth directly, as specified in subdivision (d) of
24 Section 11403.

25 (e) Termination of the guardianship with a kinship guardian
26 shall terminate eligibility for Kin-GAP unless the conditions in
27 Section 11403 apply; provided, however, that if an alternate
28 guardian or coguardian is appointed pursuant to Section 366.3 who
29 is also a kinship guardian, the alternate or coguardian shall be
30 entitled to receive Kin-GAP on behalf of the child pursuant to this
31 article. A new period of six months of placement with the alternate
32 guardian or coguardian shall not be required if that alternate
33 guardian or coguardian has been assessed pursuant to Sections
34 361.3 and 361.4 and the court terminates dependency jurisdiction.

35 SEC. 9. Section 11386 of the Welfare and Institutions Code is
36 amended to read:

37 11386. Aid shall be provided under this article on behalf of a
38 child under 18 years of age, and to any eligible youth under 19
39 years of age, as provided in Section 11403, under all of the
40 following conditions:

1 (a) The child ~~meets~~ *satisfies* both of the following requirements:

2 (1) He or she has been removed from his or her home pursuant
3 to a voluntary placement agreement, or as a result of judicial
4 determination, including being adjudged a dependent child of the
5 court, pursuant to Section 300, or a ward of the court, pursuant to
6 Section 601 or 602, to the effect that continuation in the home
7 would be contrary to the welfare of the child.

8 (2) He or she has been eligible for federal foster care
9 maintenance payments under Article 5 (commencing with Section
10 11400) while residing for at least six consecutive months in the
11 approved home of the prospective relative guardian while under
12 the jurisdiction of the juvenile court or a voluntary placement
13 agreement.

14 (b) Being returned to the parental home or adopted are not
15 appropriate permanency options for the child.

16 (c) The child demonstrates a strong attachment to the relative
17 guardian, and the relative guardian has a strong commitment to
18 caring permanently for the child and, with respect to the child who
19 has attained 12 years of age, the child has been consulted regarding
20 the kinship guardianship arrangement.

21 (d) The child has had a kinship guardianship established
22 pursuant to Section 360 or Section 366.26.

23 (e) The child has had his or her dependency jurisdiction
24 terminated pursuant to Section 366.3, or his or her wardship
25 terminated pursuant to subdivision (e) of Section 728, concurrently
26 or subsequently to the establishment of the kinship guardianship.

27 (f) If the conditions specified in subdivisions (a) through (e),
28 inclusive, are met and, subsequent to the termination of dependency
29 jurisdiction, any parent or person having an interest files with the
30 juvenile court a petition pursuant to Section 388 to change, modify,
31 or set aside an order of the court, Kin-GAP payments shall continue
32 unless and until the juvenile court orders the child removed from
33 the home of the guardian, terminates the guardianship, or maintains
34 dependency jurisdiction after the court concludes the hearing on
35 the petition filed under Section 388.

36 (g) A child or nonminor shall be eligible for Kin-GAP payments
37 if he or she meets one of the following age criteria:

38 (1) He or she is under 18 years of age.

39 (2) He or she is under 21 years of age and has a physical or
40 mental disability that warrants the continuation of assistance.

1 (3) Through December 31, 2011, he or she ~~meets~~ *satisfies* the
2 conditions of Section 11403, *and on and after January 1, 2012,*
3 *he or she satisfies the conditions of Section 11403.01.*

4 (4) He or she ~~meets~~ *satisfies* the conditions as described in
5 subdivision (h).

6 (h) Effective January 1, 2012, Kin-GAP payments shall continue
7 for youths who have attained 18 years of age and are under 19
8 years of age if they attained 16 years of age before the Kin-GAP
9 negotiated agreement payments commenced. Effective January 1,
10 2013, Kin-GAP payments shall continue for youths who have
11 attained 18 years of age and are under 20 years of age, if they
12 reached 16 years of age before the Kin-GAP negotiated payments
13 commenced. Effective January 1, 2014, Kin-GAP payments shall
14 continue for youths who have attained 18 years of age and are
15 under 21 years of age, if they reached 16 years of age before the
16 Kin-GAP negotiated payments commenced. To be eligible for
17 continued payments, the youth shall ~~meet~~ *satisfy* one or more of
18 the conditions specified in subdivision (b) of Section 11403.

19 Payments made to a nonminor pursuant to the conditions
20 specified in Section 11403 may be paid in whole or part to the
21 eligible youth directly, as specified in subdivision (d) of Section
22 11403.

23 (i) Termination of the guardianship with a kinship guardian
24 shall terminate eligibility for Kin-GAP, unless the conditions of
25 Section 11403 apply, provided, however, that if an alternate
26 guardian or coguardian is appointed pursuant to Section 366.3 who
27 is also a kinship guardian, the alternate or coguardian shall be
28 entitled to receive Kin-GAP on behalf of the child pursuant to this
29 article. A new period of six months of placement with the alternate
30 guardian or coguardian shall not be required if that alternate
31 guardian or coguardian has been assessed pursuant to Section 361.3
32 and Section 361.4 and the court terminates dependency jurisdiction,
33 subject to available federal funding.

34 SEC. 10. Section 11400 of the Welfare and Institutions Code
35 is amended to read:

36 11400. For the purposes of this article, the following definitions
37 shall apply:

38 (a) "Aid to Families with Dependent Children-Foster Care
39 (AFDC-FC)" means the aid provided on behalf of needy children
40 in foster care under the terms of this division.

1 (b) “Case plan” means a written document that, at a minimum,
2 specifies the type of home in which the child shall be placed, the
3 safety of that home, and the appropriateness of that home to meet
4 the child’s needs. It shall also include the agency’s plan for
5 ensuring that the child receive proper care and protection in a safe
6 environment, and shall set forth the appropriate services to be
7 provided to the child, the child’s family, and the foster parents, in
8 order to meet the child’s needs while in foster care, and to reunify
9 the child with the child’s family. In addition, the plan shall specify
10 the services that will be provided or steps that will be taken to
11 facilitate an alternate permanent plan if reunification is not possible.

12 (c) “Certified family home” means a family residence certified
13 by a licensed foster family agency and issued a certificate of
14 approval by that agency as meeting licensing standards, and used
15 only by that foster family agency for placements.

16 (d) “Family home” means the family residency of a licensee in
17 which 24-hour care and supervision are provided for children.

18 (e) “Small family home” means any residential facility, in the
19 licensee’s family residence, which provides 24-hour care for six
20 or fewer foster children who have mental disorders or
21 developmental or physical disabilities and who require special care
22 and supervision as a result of their disabilities.

23 (f) “Foster care” means the 24-hour out-of-home care provided
24 to children whose own families are unable or unwilling to care for
25 them, and who are in need of temporary or long-term substitute
26 parenting.

27 (g) “Foster family agency” means any individual or organization
28 engaged in the recruiting, certifying, and training of, and providing
29 professional support to, foster parents, or in finding homes or other
30 places for placement of children for temporary or permanent care
31 who require that level of care as an alternative to a group home.
32 Private foster family agencies shall be organized and operated on
33 a nonprofit basis.

34 (h) “Group home” means a nondetention privately operated
35 residential home, organized and operated on a nonprofit basis only,
36 of any capacity, or a nondetention licensed residential care home
37 operated by the County of San Mateo with a capacity of up to 25
38 beds, that provides services in a group setting to children in need
39 of care and supervision, as required by paragraph (1) of subdivision
40 (a) of Section 1502 of the Health and Safety Code.

1 (i) “Periodic review” means review of a child’s status by the
2 juvenile court or by an administrative review panel, that shall
3 include a consideration of the safety of the child, a determination
4 of the continuing need for placement in foster care, evaluation of
5 the goals for the placement and the progress toward meeting these
6 goals, and development of a target date for the child’s return home
7 or establishment of alternative permanent placement.

8 (j) “Permanency planning hearing” means a hearing conducted
9 by the juvenile court in which the child’s future status, including
10 whether the child shall be returned home or another permanent
11 plan shall be developed, is determined.

12 (k) “Placement and care” refers to the responsibility for the
13 welfare of a child vested in an agency or organization by virtue of
14 the agency or organization having (1) been delegated care, custody,
15 and control of a child by the juvenile court, (2) taken responsibility,
16 pursuant to a relinquishment or termination of parental rights on
17 a child, (3) taken the responsibility of supervising a child detained
18 by the juvenile court pursuant to Section 319 or 636, or (4) signed
19 a voluntary placement agreement for the child’s placement; or to
20 the responsibility designated to an individual by virtue of his or
21 her being appointed the child’s legal guardian.

22 (l) “Preplacement preventive services” means services that are
23 designed to help children remain with their families by preventing
24 or eliminating the need for removal.

25 (m) “Relative” means an adult who is related to the child by
26 blood, adoption, or affinity within the fifth degree of kinship,
27 including stepparents, stepsiblings, and all relatives whose status
28 is preceded by the words “great,” “great-great,” or “grand” or the
29 spouse of any of these persons even if the marriage was terminated
30 by death or dissolution.

31 (n) “Nonrelative extended family member” means an adult
32 caregiver who has an established familial or mentoring relationship
33 with the child, as described in Section 362.7.

34 (o) “Voluntary placement” means an out-of-home placement
35 of a child by (1) the county welfare department, probation
36 department, or Indian tribe that has entered into an agreement
37 pursuant to Section 10553.1, after the parents or guardians have
38 requested the assistance of the county welfare department and have
39 signed a voluntary placement agreement; or (2) the county welfare
40 department licensed public or private adoption agency, or the

1 department acting as an adoption agency, after the parents have
2 requested the assistance of either the county welfare department,
3 the licensed public or private adoption agency, or the department
4 acting as an adoption agency for the purpose of adoption planning,
5 and have signed a voluntary placement agreement.

6 (p) “Voluntary placement agreement” means a written agreement
7 between either the county welfare department, probation
8 department, or Indian tribe that has entered into an agreement
9 pursuant to Section 10553.1, licensed public or private adoption
10 agency, or the department acting as an adoption agency, and the
11 parents or guardians of a child that specifies, at a minimum, the
12 following:

13 (1) The legal status of the child.

14 (2) The rights and obligations of the parents or guardians, the
15 child, and the agency in which the child is placed.

16 (q) “Original placement date” means the most recent date on
17 which the court detained a child and ordered an agency to be
18 responsible for supervising the child or the date on which an agency
19 assumed responsibility for a child due to termination of parental
20 rights, relinquishment, or voluntary placement.

21 (r) “Transitional housing placement facility” means either of
22 the following:

23 (1) A community care facility licensed by the State Department
24 of Social Services pursuant to Section 1559.110 of the Health and
25 Safety Code to provide transitional housing opportunities to persons
26 at least 16 years of age, and not more than 18 years of age unless
27 they satisfy the requirements of Section 11403, who are in
28 out-of-home placement under the supervision of the county
29 department of social services or the county probation department,
30 and who are participating in an independent living program.

31 (2) A facility certified to provide transitional housing services
32 pursuant to subdivision (e) of Section 1559.110 of the Health and
33 Safety Code.

34 (s) “Transitional housing placement program” means a program
35 that provides supervised housing opportunities to eligible youth
36 and nonminor dependents pursuant to Article 4 (commencing with
37 Section 16522) of Chapter 5 of Part 4.

38 (t) “Whole family foster home” means a new or existing family
39 home, approved relative caregiver or nonrelative extended family
40 member’s home, the home of a nonrelated legal guardian whose

1 guardianship was established pursuant to Section 366.26 or 360,
2 certified family home that provides foster care for a minor or
3 nonminor dependent parent and his or her child, and is specifically
4 recruited and trained to assist the minor or nonminor dependent
5 parent in developing the skills necessary to provide a safe, stable,
6 and permanent home for his or her child. The child of the minor
7 or nonminor dependent parent need not be the subject of a petition
8 filed pursuant to Section 300 to qualify for placement in a whole
9 family foster home.

10 (u) “Mutual agreement” means *either of the following*:~~an~~

11 (1) *An agreement of consent for placement in a supervised*
12 *setting between a minor or, on and after January 1, 2012, a*
13 *nonminor dependent, and the agency responsible for the foster*
14 *care placement, that documents the nonminor’s continued need*
15 *for supervised out-of-home placement and the nonminor’s and*
16 *social worker’s or probation officer’s agreement to work together*
17 *to facilitate implementation of the mutually developed supervised*
18 *placement agreement and transitional living plan.*

19 (2) *On and after January 1, 2012, an agreement between a*
20 *nonminor in receipt of Kin-GAP aid under Article 4.5 (commencing*
21 *with Section 11360) or Article 4.7 (commencing with Section*
22 *11385), and the agency responsible for the Kin-GAP benefits,*
23 *provided that the nonminor satisfies the conditions described in*
24 *Section 11403.01 or subdivision (d) of Section 11403.*

25 (v) “Nonminor dependent” means, on and after January 1, 2012,
26 a foster child, as described in Section 675(8)(B) of Title 42 of the
27 United States Code under the federal Social Security Act who is
28 a current or former dependent child or ward of the juvenile court
29 who satisfies all of the following criteria:

30 (1) He or she has attained 18 years of age but is less than 21
31 years of age.

32 (2) He or she is in foster care under the responsibility of the
33 county welfare department, county probation department, or Indian
34 tribe that entered into an agreement pursuant to Section 10553.1.

35 (3) He or she is participating in a transitional independent living
36 case plan pursuant to Section 475(8) of the federal Social Security
37 Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering
38 Connections to Success and Increasing Adoptions Act of 2008
39 (Public Law 110-351).

1 (w) “Supervised independent living setting” means, on and after
2 January 1, 2012, a supervised setting, as specified in a nonminor
3 dependent’s transitional independent living case plan, in which
4 the youth is living independently, pursuant to Section 472(c)(2)
5 of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

6 (x) “THP-Plus Foster Care” means, on and after January 1,
7 2012, a placement that offers supervised housing opportunities
8 and supportive services to eligible nonminor dependents at least
9 18 years of age, on and after January 1, 2013, 19 years of age, and
10 on and after January 1, 2014, 20 years of age, and not more than
11 21 years of age, who are in out-of-home placement under the
12 supervision of the county department of social services or the
13 county probation department or Indian tribe that entered into an
14 agreement pursuant to Section 10553.1, and who are described in
15 paragraph (3) of subdivision (a) of Section 11403.2.

16 (y) “Trial independence” means, on or after January 1, 2012,
17 consistent with paragraph (e) of Section 1356.21 of Title 45 of the
18 Code of Federal Regulations, a period not to exceed six months,
19 unless the juvenile court authorizes a longer period, during which
20 the court may terminate and subsequently resume the nonminor’s
21 dependency jurisdiction, and the nonminor’s Title IV-E foster care
22 benefits may be resumed if the nonminor otherwise is eligible
23 pursuant to Section 11403. Operation of this subdivision shall be
24 contingent upon receipt of all necessary federal approvals.

25 SEC. 11. Section 11403 of the Welfare and Institutions Code,
26 as added by Section 47 of Chapter 559 of the Statutes of 2010, is
27 amended to read:

28 11403. (a) It is the intent of the Legislature to exercise the
29 option afforded states under Section 475(8) (42 U.S.C. Sec.
30 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
31 federal Social Security Act, as contained in the Fostering
32 Connections to Success and Increasing Adoptions Act of 2008
33 (Public Law 110-351), to receive federal financial participation
34 for current or former dependent children or wards of the juvenile
35 court who ~~meet~~ *satisfy* the conditions of subdivision (b), consistent
36 with their transitional living case plan. Effective January 1, 2012,
37 these nonminor dependents shall be eligible to receive support up
38 to 19 years of age, effective January 1, 2013, up to 20 years of
39 age, and effective January 1, 2014, up to 21 years of age, consistent
40 with their transitional independent living case plan. It is the intent

1 of the Legislature both at the time of initial determination of the
2 nonminor dependent’s eligibility and throughout the time the
3 nonminor dependent is eligible for aid pursuant to this section,
4 that the social worker or probation officer or Indian tribe and the
5 nonminor dependent shall work together to ensure the nonminor
6 dependent’s ongoing eligibility. All case planning shall be a
7 collaborative effort between the nonminor dependent and the social
8 worker, probation officer, or Indian tribe, with the nonminor
9 dependent assuming increasing levels of responsibility and
10 independence.

11 (b) A nonminor dependent receiving aid pursuant to this chapter,
12 who satisfies the age criteria set forth in subdivision (a), shall
13 continue to receive aid so long as the nonminor has signed a mutual
14 agreement as set forth in subdivision (d), and is otherwise eligible
15 for AFDC-FC payments pursuant to Section 11401 or CalWORKs
16 payments pursuant to Section 11253 or, *as a nonminor former*
17 *dependent or ward*, aid pursuant to Kin-GAP under Article 4.5
18 (commencing with Section 11360) or Article 4.7 (commencing
19 with Section 11385) or adoption assistance payments as specified
20 in Chapter 2.1 (commencing with Section 16115) of Part 4.
21 Effective January 1, 2012, a nonminor former dependent child *or*
22 *ward* of the juvenile court who is receiving AFDC-FC benefits
23 pursuant to Section 11405 shall be eligible to continue to receive
24 aid up to 19 years of age, effective January 1, 2013, up to 20 years
25 of age, and effective January 1, 2014, up to 21 years of age, as
26 long as the nonminor is otherwise eligible for AFDC-FC benefits
27 under this subdivision. This subdivision shall apply when one or
28 more of the following conditions exist:

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

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

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

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

36 (5) The nonminor is incapable of doing any of the activities
37 described in subparagraphs (1) to (4), inclusive, due to a medical
38 condition, and that incapability is supported by regularly updated
39 information in the case plan of the nonminor.

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

38 (d) A nonminor dependent may receive all or a portion of the
39 payment directly provided that the nonminor is living
40 independently in a supervised setting, and that both the youth and

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

9 (e) Eligibility for aid under this section shall not terminate until
10 the nonminor attains 21 years of age but aid may be suspended
11 and resumed at request of the nonminor pursuant to subdivision
12 (e) of Section 388 or after a court terminates dependency
13 jurisdiction pursuant to Section 391, or delinquency jurisdiction
14 pursuant to Section 785. Consistent with paragraph (e) of Section
15 1356.21 of Title 45 of the Code of Federal Regulations, for the
16 nonminor who returns to supervised placement within the
17 six-month trial period, or if the court authorized a ~~trial period of~~
18 ~~departure from foster care~~ *period of trial independence* that
19 exceeded six months in duration and ends prior to the day before
20 the nonminor attains 21 years of age, *as described in subdivision*
21 *(y) of Section 11400*, the county welfare department is not required
22 to establish a new Title IV-E eligibility determination for the
23 nonminor for whom dependency jurisdiction is resumed by the
24 court. The county welfare department, tribe, or county probation
25 department shall provide a nonminor dependent who wishes to
26 continue receiving aid with the assistance necessary to meet and
27 maintain eligibility.

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

39 (2) The county welfare department, tribe, or county probation
40 department shall notify all foster youth who attain 16 years of age

1 and are under the jurisdiction of that county or tribe, including
2 those receiving Kin-GAP, and AAP, of the existence of the aid
3 prescribed by this section.

4 (3) Aid under this section shall be paid on the first of the month
5 for that month. Notwithstanding any other provision of law, when
6 a child attains 18 years of age those payments shall continue to
7 the end of that calendar month and the AFDC-FC, Kin-GAP, or
8 AAP payments under this section shall begin the first day of the
9 following month.

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

13 (g) (1) Subject to paragraph (3), a county shall contribute to
14 the cost of extending aid pursuant to this section to eligible
15 nonminor dependents who have reached 18 years of age and who
16 are under the jurisdiction of the county, including AFDC-FC
17 payments pursuant to Section 11401, CalWORKs payments
18 pursuant to Section 11253, aid pursuant to Kin-GAP under Article
19 4.5 (commencing with Section 11360) or Article 4.7 (commencing
20 with Section 11385), adoption assistance payments as specified
21 in Chapter 2.1 (commencing with Section 16115) of Part 4, and
22 aid pursuant to Section 11405 for nonminor dependents who are
23 residing in the county as provided in paragraph (1) of subdivision
24 (f), at the statutory sharing ratios for each of these programs in
25 effect on January 1, 2012.

26 (2) Subject to paragraph (3), a county shall contribute to the
27 cost of providing permanent placement services pursuant to
28 subdivision (c) of Section 16508 and administering the Aid to
29 Families with Dependent Children Foster Care program pursuant
30 to Section 15204.9 at the statutory sharing ratio for these services
31 in effect on January 1, 2012. For purposes of budgeting, the
32 department shall use a standard for the permanent placement
33 services that is equal to the midpoint between the budgeting
34 standards for family maintenance services and family reunification
35 services.

36 (3) Notwithstanding any other provision of law, a county's total
37 contribution pursuant to paragraphs (1) and (2) shall not exceed
38 the savings in Kin-GAP assistance grant expenditures realized by
39 the county from the receipt of federal funds due to the
40 implementation of Article 4.7 (commencing with Section 11385).

1 The department shall work with the County Welfare Directors
2 Association to determine a methodology for calculating each
3 county's costs and savings pursuant to this section.

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

19 (i) The department, on or before July 1, 2012, shall develop
20 regulations to implement this section in consultation with
21 concerned stakeholders, including, but not limited to,
22 representatives of the Legislature, the County Welfare Directors
23 Association, the Chief Probation Officers of California, the Judicial
24 Council, representatives of Indian tribes, the California Youth
25 Connection, former foster youth, child advocacy organizations,
26 labor organizations, juvenile justice advocacy organizations, foster
27 caregiver organizations, and researchers. In the development of
28 these regulations, the department shall consider its Manual of
29 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
30 and 917, as guidelines for developing regulations that are
31 appropriate for young adults who can exercise incremental
32 responsibility concurrently with their growth and development.
33 The department, in its consultation with stakeholders, shall take
34 into consideration the impact to the Automated Child Welfare
35 Services Case Management Services (CWS-CMS) and required
36 modifications needed to accommodate eligibility determination
37 under this section, benefit issuance, case management across
38 counties, and recognition of the legal status of nonminor
39 dependents as adults, as well as changes to data tracking and
40 reporting requirements as required by the Child Welfare System

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

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

39 (k) Notwithstanding any other provision of law, the extension
40 of benefits to nonminor dependents between 20 and 21 years of

1 age, as provided for in this section, shall be contingent upon an
2 appropriation by the Legislature.

3 (l) This section shall become operative on January 1, 2012.

4 SEC. 12. Section 11403.01 is added to the Welfare and
5 Institutions Code, to read:

6 11403.01. On and after January 1, 2012, a nonminor who is
7 receiving Kin-GAP benefits under Article 4.5 (commencing with
8 Section 11360) or Article 4.7 (commencing with Section 11385)
9 and whose Kin-GAP payments began prior to the child's 16th
10 birthday and who is receiving aid pursuant to this chapter, and
11 who is attending high school or the equivalent level of vocational
12 or technical training on a full-time basis, or is in the process of
13 pursuing a high school equivalency certificate, prior to his or her
14 18th birthday, may continue to receive aid under those articles
15 following his or her 18th birthday so long as the child continues
16 to reside in foster care placement, remains otherwise eligible for
17 Kin-GAP payments, and continues to attend high school or the
18 equivalent level of vocational or technical training on a full-time
19 basis, or continues to pursue a high school equivalency certificate,
20 and the child may reasonably be expected to complete the
21 educational or training program or to receive a high school
22 equivalency certificate, before his or her 19th birthday. Aid shall
23 be provided to an individual pursuant to this section provided that
24 both the individual and the agency responsible for the foster care
25 placement have signed a mutual agreement, if the individual is
26 capable of making an informed agreement, documenting the
27 continued need for out-of-home placement.

28 SEC. 13. If the Commission on State Mandates determines
29 that this act contains costs mandated by the state, reimbursement
30 to local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.

O