

**Assembly Bill No. 212**

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Passed the Assembly September 6, 2011

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*Chief Clerk of the Assembly*

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Passed the Senate August 31, 2011

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

CHAPTER \_\_\_\_\_

An act to amend Section 17552 of the Family Code, to amend Sections 1502, 1536.1, and 1559.110 of the Health and Safety Code, to amend Section 11170 of the Penal Code, and to amend Sections 241.1, 300.3, 303, 366.31, 366.4, 388, 391, 727.2, 727.3, 727.31, 728, 781, 785, 826, 11363, 11364, 11386, 11387, 11400, 11401, 11401.1, 11402, 11403, 11403.2, 11405, 11466.21, 16120, 16501.1, 16504, 16504.5, 16522, 16600, 16602, and 16604.5 of, to add Sections 450, 451, 452, 607.2, 607.3, 11403.01, and 11403.25 to, to repeal Section 11365 of, and to repeal and add Sections 16601 and 16604 of, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 212, 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. Existing

law authorizes, under specified conditions, the Kin-GAP payment to be made directly to an eligible nonminor.

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. The bill would require county child welfare services agencies to submit to the Department of Justice fingerprint images and related information of all THP-Plus Foster Care providers before issuing a certificate of approval to a THP-Plus Foster Care provider applicant. By increasing county responsibilities in administering the Kin-GAP program, this bill would impose a state-mandated local program. The bill would also remove the authority for payment directly to a nonminor. The bill would make related conforming changes.

This bill would, for guardianships established after January 1, 2012, require payment for certain reasonable and verified nonrecurring expenses associated with obtaining legal guardianship, not to exceed the amount specified in federal law.

This bill would recast and revise definitions applicable to the extension of AFDC-FC payments to nonminor dependents who are under the jurisdiction of the juvenile court, pursuant to a voluntary reentry agreement, and in accordance with a transitional independent living case plan.

Under existing law, AFDC-FC payments for children placed voluntarily on and after January 1, 1981, are limited to 180 days, and may be extended an additional 6 months, as specified.

This bill, on and after January 1, 2012, would limit AFDC-FC payments to 180 days to nonminor dependents who reentered foster care placement. The bill would impose a state-mandated local program by requiring county child welfare services departments to file a specified petition relating to the interests of the nonminor in reentry and remaining in foster care.

This bill also would impose a state-mandated local program by requiring county child welfare services departments to complete

the voluntary reentry agreement with a nonminor, and to establish a new child-only foster care eligibility determination, in accordance with a specified provision of federal law, based on the nonminor's completion of that agreement.

Existing law imposes specified duties on the State Department of Social Services and local child support agencies regarding the collection and enforcement of child support in cases where a child has been removed from the parental home.

This bill would modify these provisions to incorporate nonminor dependents within the existing authority, including specifying that a nonminor dependent over 19 years of age is not a child for purposes of referral to the local child support agency.

Existing law requires a county welfare department to provide certain information, documents, and services to a court prior to a hearing to terminate dependency jurisdiction, as specified.

This bill would expand the documents required to be provided under the above circumstances, to include, among other things, an advance health care directive form. By increasing the duties of county welfare departments, the bill would impose a state-mandated local program.

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.

Existing law, on and after January 1, 2012, authorizes the juvenile court to assert dependency jurisdiction over a delinquent ward who had been previously removed from the custody of his or her parents and placed in foster care, as specified, and requires the county probation department and child welfare services department to develop a protocol for coordination of the assessment of these wards.

This bill would delete the provisions authorizing the juvenile court to assert dependency jurisdiction over these wards and would require the county probation and child welfare services departments to include additional processes in the assessment protocols. The bill would require the juvenile court to include specified terms in its order modifying jurisdiction over a dependent or ward who was removed from his or her parents or guardian and placed in foster care.

Existing law, on and after, January 1, 2012, allows a nonminor who left foster care at or after the age of majority to petition the court to have dependency or delinquency jurisdiction resumed, as provided.

This bill would establish transition jurisdiction for the juvenile court and would specify the criteria required to come within this jurisdiction. The bill would authorize a nonminor to petition the juvenile court to resume dependency jurisdiction or to assume or resume transition jurisdiction. The bill would require the court to hold a hearing before terminating transition jurisdiction over a nonminor dependent, as defined, and would require the agency responsible for supervising the nonminor dependent to complete certain duties in connection with this hearing. Because the bill would increase the duties of a county department, it would impose a state-mandated local program.

Existing law specifies the grounds for finding a person under 18 years of age to be a ward of the juvenile court.

This bill would, on and after January 1, 2012, require the court to hold a hearing before terminating its jurisdiction over a ward who meets specified criteria and would require the probation department to complete certain duties, including submitting a report to the court and other documents, when the transition hearing is for a nonminor ward and subject to a foster care placement order. Because the bill would thereby increase the duties of a county department, it would impose a state-mandated local program.

Existing law requires the juvenile court to review the status at least once every 6 months of every minor declared to be a ward and placed in foster care. Under existing law, on and after January 1, 2012, the juvenile court at the status review hearing held closest to the ward's 18th birthday, but no fewer than 60 days before that date, is required to consider modifying its jurisdiction to assume dependency jurisdiction over the ward.

This bill would change the required date for this status review hearing to no fewer than 90 days before the ward's 18th birthday and would require the court to consider modifying its jurisdiction to transition rather than dependency jurisdiction or, if the ward does not meet the criteria for transition jurisdiction, to order that a petition be filed to declare the ward a dependent.

Existing law authorizes the sealing of juvenile court records under specified procedures.

This bill would authorize the juvenile court to access sealed records to determine whether a nonminor petitioning to resume dependency or delinquency jurisdiction meets the required criteria for that petition.

Existing law requires the juvenile court to authorize a trial period of independence away from foster care when terminating its dependency jurisdiction over a nonminor dependent who has a permanent plan of long-term foster care and, on and after January 1, 2012, authorizes a nonminor in a period of trial independence to petition the court to resume dependency or delinquency jurisdiction.

This bill would delete the provisions requiring the court to authorize this trial period and would instead allow the nonminor or other designated entities to petition the court to resume the dependency jurisdiction or to assume or resume transition jurisdiction over a former delinquent ward.

Existing law, the California Community Care Facilities Act, generally regulates the licensure and operation of various community care facilities. The act requires a placement agency to notify the appropriate licensing agency of certain activities that would jeopardize the health or safety of a community care resident. Violation of the act is a misdemeanor.

This bill would include incidents of abuse, neglect, or exploitation of a nonminor dependent, as defined, by a licensed caregiver while the nonminor is in a foster care placement to the list of incidents that are reportable by a placement agency. By changing the definition of an existing crime, the bill would impose a state-mandated local program.

Existing law requires a child reported to the county child welfare services department to be eligible for initial intake and evaluation of risk services, and sets forth the duties of the county in this regard.

This bill would extend the above-described evaluation of risk services to nonminor dependents in foster care placement, and would require the county to cross-report the abuse, neglect, or exploitation of the nonminor dependent by his or her caregiver, thus imposing a state-mandated local program.

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

Existing law requires the department to administer the Family Preservation and Support Program, as specified in federal law.

This bill would, instead, require the department to administer the federal Promoting Safe and Stable Families funds, as specified.

This bill would incorporate additional changes in Section 11170 of the Penal Code made by AB 717, to become operative if AB 717 and this bill become effective on or before January 1, 2012, and this bill is enacted last.

This bill would incorporate additional changes in Section 391 of the Welfare and Institutions Code made by AB 735, to become operative if AB 735 and this bill become effective on or before January 1, 2012, and this bill is enacted last.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 17552 of the Family Code is amended to read:

17552. (a) The State Department of Social Services, in consultation with the Department of Child Support Services, shall

promulgate regulations by which the county child welfare department, in any case of separation or desertion of a parent or parents from a child that results in foster care assistance payments under Section 11400 of, or CalWORKs payments to a caretaker relative of a child who comes within the jurisdiction of the juvenile court under Section 300, 601, or 602 of the Welfare and Institutions Code, who has been removed from the parental home and placed with the caretaker relative by court order, and who is under the supervision of the county child welfare agency or probation department under Section 11250 of, or Kin-GAP payments under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of, or aid under subdivision (c) of Section 10101 of, the Welfare and Institutions Code, shall determine whether it is in the best interests of the child or nonminor to have the case referred to the local child support agency for child support services. If reunification services are not offered or are terminated, the case may be referred to the local child support agency, unless the child's permanent plan is legal guardianship with a relative who is receiving Kin-GAP and the payment of support by the parent may compromise the stability of the current placement with the related guardian, or the permanent plan is transitional foster care for the nonminor under Section 11403 of the Welfare and Institutions Code. In making the determination, the department regulations shall provide the factors the county child welfare department shall consider, including:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification, in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

(b) The department regulations shall provide that, where the county child welfare department determines that it is not in the best interests of the child to seek a support order against the parent, the county child welfare department shall refrain from referring the case to the local child support agency. The regulations shall define those circumstances in which it is not in the best interest of the child to refer the case to the local child support agency.

(c) The department regulations shall provide, where the county child welfare department determines that it is not in the child's best interest to have his or her case referred to the local child support agency, the county child welfare department shall review that determination periodically to coincide with the redetermination of AFDC-FC eligibility under Section 11401.5 of, or the CalWORKs eligibility under Section 11265 of, or Kin-GAP eligibility under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, and shall refer the child's case to the local child support agency upon a determination that, due to a change in the child's circumstances, it is no longer contrary to the child's best interests to have his or her case referred to the local child support agency.

(d) The State Department of Social Services shall promulgate all necessary regulations pursuant to this section on or before October 1, 2002.

(e) Notwithstanding any other provision of law, a nonminor dependent, as described in subdivision (v) of Section 11400 of the Welfare and Institutions Code, who is over 19 years of age, is not a child for purposes of referral to the local child support agency for collection or enforcement of child support.

SEC. 2. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential

for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

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

(5) “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) “Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) “Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to

Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) “Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) “Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a full-service adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(10) “Noncustodial adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a noncustodial adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(11) “Transitional shelter care facility” means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) “Transitional housing placement facility” means a community care facility licensed by the department pursuant to Section 1559.110 to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age unless the requirements of Section 11403 and paragraph (1) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code are met, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(b) “Department” or “state department” means the State Department of Social Services.

(c) “Director” means the Director of Social Services.

SEC. 3. Section 1536.1 of the Health and Safety Code is amended to read:

1536.1. (a) “Placement agency” means a county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1

of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, that is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed community care facilities, facilities that are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code, or with a foster family agency.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility that is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility that is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of known or suspected incidents that would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:

- (1) Incidents of physical or sexual abuse.
- (2) A violation of personal rights.
- (3) A situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.
- (4) A situation in which a facility has insufficient personnel or incompetent personnel on duty.
- (5) A situation in which residents experience mental or verbal abuse.
- (6) A situation in which residents are inadequately supervised.

(7) Incidents of abuse, neglect, or exploitation of a nonminor dependent, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, by a licensed caregiver while the nonminor is in a foster care placement.

SEC. 4. Section 1559.110 of the Health and Safety Code is amended to read:

1559.110. (a) Except as specified in subdivision (e), the State Department of Social Services shall license community care facilities participating in transitional housing placement programs, as designated in Sections 11400 and 16522 of the Welfare and Institutions Code.

(b) Transitional housing placement programs shall provide supervised housing services to persons who are at least 16 years of age and not more than 18 years of age, except as provided in Section 11403 and paragraph (1) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code, and who meet all of the following conditions:

(1) Meet the requirements of Section 11401 of the Welfare and Institutions Code.

(2) Are in out-of-home placement under the supervision of the county department of social services or the county probation department.

(3) Are participating in, or have successfully completed, an independent living program.

(c) A transitional housing placement program may also serve any person less than 21 years of age pursuant to paragraph (2) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code.

(d) Transitional housing placement program services shall include any of the following:

(1) Programs in which one or more participants in the program live in an apartment, single-family dwelling, or condominium with an adult employee of the provider.

(2) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by the provider located in a building in which one or more adult employees of the provider reside and provide supervision.

(3) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or

leased by a provider under the supervision of the provider if the State Department of Social Services provides approval.

(e) A transitional housing placement facility that serves only eligible youth over 18 years of age who have emancipated from the foster care system shall not be subject to subdivision (a), provided the facility has been certified to provide transitional housing services by the appropriate county social services or probation department, and has obtained a local fire clearance. No later than June 30, 2002, the department shall establish certification standards and procedures in consultation with the County Welfare Directors Association, the California Youth Connection, the county probation departments, and provider representatives. The certification standards shall include, but not be limited to, a criminal background check of transitional housing providers and staff.

(f) (1) The department shall adopt regulations to govern transitional housing placement facilities licensed pursuant to this section.

(2) The regulations shall be age-appropriate and recognize that youth who are about to emancipate from the foster care system should be subject to fewer restrictions than those who are younger. At a minimum, the regulations shall provide for both of the following:

(A) Require programs that serve youth who are both in and out of the foster care system to have separate rules and program design, as appropriate, for these two groups of youth.

(B) Allow youth who have emancipated from the foster care system to have the greatest amount of freedom possible in order to prepare them for self-sufficiency.

SEC. 4.3. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness,

and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a prosecutor who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting health care practitioner who is treating a person reported as a possible victim of known or suspected child abuse. The agency shall make that information available to the reporting child custodian, Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem appointed under Rule 5.662 of the California Rules of Court, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she or the licensing agency is handling or investigating a case of known or suspected child abuse or severe neglect.

(2) When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The Department of Justice shall make available to a law enforcement agency, county welfare department, or county probation department that is conducting a child abuse investigation relevant information contained in the index.

(4) The department shall make available to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties, or to a tribal court or tribal child welfare agency of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, or to any county child welfare services agency for the performance of its duties in approving THP-Plus Foster Care providers pursuant to Section 11403.25 of the Welfare and Institutions Code, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or approval, or any adult who resides or is employed in the home of an applicant for licensure or approval, or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code, or Section 11403.2 of the Welfare and Institutions Code.

(5) The Department of Justice shall make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program or a volunteer position as a Court Appointed Special Advocate, as defined in Section 101 of the Welfare and Institutions Code, information contained in the index regarding known or suspected child abuse by the applicant.

(6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for

placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(8) The Department of Justice shall make available to a government agency conducting a background investigation pursuant to Section 1031 of the Government Code of an applicant seeking employment as a peace officer, as defined in Section 830, information regarding a known or suspected child abuser maintained pursuant to this section concerning the applicant.

(9) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

(10) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special

Advocate program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (8), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

(B) If Child Abuse Central Index information is requested by an agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

(11) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing or volunteer status pursuant to paragraph (4), (5), (8), or (9), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter

3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse or neglect system checks pursuant to this section.

(C) All moneys, other than those described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

(c) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time

that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the

information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (11) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (1) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

(2) No person or agency shall require or request another person to furnish a copy of a record concerning himself or herself, or notification that a record concerning himself or herself exists or does not exist, pursuant to paragraph (1).

(g) If a person is listed in the Child Abuse Central Index only as a victim of child abuse or neglect, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 4.5. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be not substantiated. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index (CACI) pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency.

(3) Only information from reports that are reported as substantiated shall be filed pursuant to paragraph (1), and all other determinations shall be removed from the central list.

(b) The provisions of subdivision (c) of Section 11169 apply to any information provided pursuant to this subdivision.

(1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a prosecutor who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting health care practitioner who is treating a person reported as a possible victim of known or suspected child abuse. The agency shall make that information available to the reporting child custodian, Child Abuse Prevention and Treatment Act guardian ad litem appointed under Rule 5.662 of the California Rules of Court, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she or the licensing agency is handling or investigating a case of known or suspected child abuse or severe neglect.

(2) When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The Department of Justice shall make relevant information from the CACI available to a law enforcement agency, county welfare department, or county probation department that is conducting a child abuse investigation.

(4) The department shall make available to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties, or to a tribal court or tribal child welfare agency of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, or to any county child welfare services agency for the performance of its duties in approving THP-Plus Foster Care providers pursuant to Section 11403.25 of the Welfare and Institutions Code, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or approval, or any adult who resides or is employed in the home of an applicant for licensure or approval, or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code, or Section 11403.2 of the Welfare and Institutions Code.

(5) The Department of Justice shall make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program or a volunteer position as a Court Appointed Special Advocate, as defined in Section 101 of the Welfare and Institutions Code, information contained in the index regarding known or suspected child abuse by the applicant.

(6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State

Child Death Review Council, information for investigative purposes only that is maintained in the CACI pursuant to subdivision (a) relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the CACI from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the CACI that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(8) The Department of Justice shall make available to a government agency conducting a background investigation pursuant to Section 1031 of the Government Code of an applicant seeking employment as a peace officer, as defined in Section 830, information regarding a known or suspected child abuser maintained pursuant to this section concerning the applicant.

(9) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser

maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

(10) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate (CASA) program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (8), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

(B) If CACI information is requested by an agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

(11) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing or volunteer status pursuant to paragraph (4), (5), (8), or (9), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse or neglect system checks pursuant to this section.

(C) All moneys, other than those described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

(c) (1) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant

information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the CACI that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

(2) If information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to

subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (11) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (1) Any person may determine if he or she is listed in the CACI by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report

and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

(2) No person or agency shall require or request another person to furnish a copy of a record concerning himself or herself, or notification that a record concerning himself or herself exists or does not exist, pursuant to paragraph (1).

(g) If a person is listed in the CACI only as a victim of child abuse or neglect, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 5. Section 241.1 of the Welfare and Institutions Code is amended to read:

241.1. (a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b) (1) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court.

(2) These protocols shall require, but not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's

functioning at school, the nature of the minor's home environment, and the records of other agencies that have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which filing a new petition is required to change the minor's status.

(3) The protocols shall contain the following processes:

(A) A process for determining which agency and court shall supervise a child whose jurisdiction is modified from delinquency jurisdiction to dependency jurisdiction pursuant to paragraph (2) of subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2.

(B) A process for determining which agency and court shall supervise a nonminor dependent under the transition jurisdiction of the juvenile court.

(C) A process that specifically addresses the manner in which supervision responsibility is determined when a nonminor dependent becomes subject to adult probation supervision.

(c) Whenever a minor who is under the jurisdiction of the juvenile court of a county pursuant to Section 300, 601, or 602 is alleged to come within the description of Section 300, 601, or 602 by another county, the county probation department or child welfare services department in the county that has jurisdiction under Section 300, 601, or 602 and the county probation department or child welfare services department of the county alleging the minor to be within one of those sections shall initially determine which status will best serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court in which the petition is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. In making their recommendation to the juvenile court, the departments shall conduct an assessment consistent with the requirements of subdivision (b). Any other juvenile court having jurisdiction over the minor shall receive notice from the court in which the petition is filed within five calendar days of the presentation of the recommendations of the departments. The notice shall include the

name of the judge to whom, or the courtroom to which, the recommendations were presented.

(d) Except as provided in subdivision (e), nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

(e) Notwithstanding subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. No juvenile court may order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into. This protocol shall include all of the following:

(1) A description of the process to be used to determine whether the child is eligible to be designated as a dual status child.

(2) A description of the procedure by which the probation department and the child welfare services department will assess the necessity for dual status for specified children and the process to make joint recommendations for the court's consideration prior to making a determination under this section. These recommendations shall ensure a seamless transition from wardship to dependency jurisdiction, as appropriate, so that services to the child are not disrupted upon termination of the wardship.

(3) A provision for ensuring communication between the judges who hear petitions concerning children for whom dependency jurisdiction has been suspended while they are within the jurisdiction of the juvenile court pursuant to Section 601 or 602. A judge may communicate by providing a copy of any reports filed pursuant to Section 727.2 concerning a ward to a court that has jurisdiction over dependency proceedings concerning the child.

(4) A plan to collect data in order to evaluate the protocol pursuant to Section 241.2.

(5) Counties that exercise the option provided for in this subdivision shall adopt either an “on-hold” system as described in subparagraph (A) or a “lead court/lead agency” system as described in subparagraph (B). In no case shall there be any simultaneous or duplicative case management or services provided by both the county probation department and the child welfare services department. It is the intent of the Legislature that judges, in cases in which more than one judge is involved, shall not issue conflicting orders.

(A) In counties in which an on-hold system is adopted, the dependency jurisdiction shall be suspended or put on hold while the child is subject to jurisdiction as a ward of the court. When it appears that termination of the court’s jurisdiction, as established pursuant to Section 601 or 602, is likely and that reunification of the child with his or her parent or guardian would be detrimental to the child, the county probation department and the child welfare services department shall jointly assess and produce a recommendation for the court regarding whether the court’s dependency jurisdiction shall be resumed.

(B) In counties in which a lead court/lead agency system is adopted, the protocol shall include a method for identifying which court or agency will be the lead court/lead agency. That court or agency shall be responsible for case management, conducting statutorily mandated court hearings, and submitting court reports.

(f) Whenever the court determines pursuant to this section or Section 607.2 or 727.2 that it is necessary to modify the court’s jurisdiction over a dependent or ward who was removed from his or her parent or guardian and placed in foster care, the court shall ensure that all of the following conditions are met:

(1) The petition under which jurisdiction was taken at the time the dependent or ward was originally removed is not dismissed until the new petition has been sustained.

(2) The order modifying the court’s jurisdiction contains all of the following provisions:

(A) Reference to the original removal findings and a statement that findings that continuation in the home is contrary to the child’s welfare, and that reasonable efforts were made to prevent removal, remain in effect.

(B) A statement that the child continues to be removed from the parent or guardian from whom the child was removed under the original petition.

(C) Identification of the agency that is responsible for placement and care of the child based upon the modification of jurisdiction.

SEC. 6. Section 300.3 of the Welfare and Institutions Code is amended to read:

300.3. (a) Notwithstanding Section 215 or 272, or any other provision of law, a child or nonminor whose jurisdiction is modified pursuant to subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2 and who is placed in foster care may be supervised by the probation department of the county in which the court with jurisdiction over the dependent is located, if the county protocol in that county requires it. In those counties, all case management, case plan review, and reporting functions as described in Sections 671 and 675 of Title 42 of the United States Code and contained in this article shall be performed by the probation officer for these dependents.

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

SEC. 7. Section 303 of the Welfare and Institutions Code is amended to read:

303. (a) The court may retain jurisdiction over any person who is found to be a ward or a dependent child of the juvenile court until the ward or dependent child attains the age of 21 years.

(b) On and after January 1, 2012, the court shall have within its jurisdiction any nonminor dependent, as defined in subdivision (v) of Section 11400. The court may terminate its dependency, delinquency, or transition jurisdiction over the nonminor dependent between the time the nonminor reaches the age of majority and 21 years of age. If the court terminates dependency, delinquency, or transition jurisdiction, the nonminor dependent shall remain under the general jurisdiction of the court in order to allow for a petition under subdivision (e) of Section 388.

(c) On and after January 1, 2012, a nonminor who has not yet attained 21 years of age and who exited foster care at or after the age of majority, may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction over himself or herself or to assume transition jurisdiction over himself or herself pursuant to Section 450.

(d) Nothing in this code, including, but not limited to, Sections 340, 366.27, and 369.5, shall be construed to provide legal custody of a person who has attained 18 years of age to the county welfare or probation department or to otherwise abrogate any other rights that a person who has attained 18 years of age may have as an adult under California law. A nonminor dependent shall retain all of his or her legal decisionmaking authority as an adult. The nonminor shall enter into a mutual agreement for placement, as described in subdivision (u) of Section 11400, or a voluntary reentry agreement, as described in subdivision (z) of Section 11400, for placement and care in which the nonminor consents to placement and care in a setting supervised by, and under the responsibility of, the county child welfare services department, the county probation department, or Indian tribe that entered into an agreement pursuant to Section 10553.1.

(e) Unless otherwise specified, the rights of a dependent child and the responsibilities of the county welfare or probation department, or tribe, and other entities, toward the child and family, shall also apply to nonminor dependents.

SEC. 8. Section 366.31 of the Welfare and Institutions Code is amended to read:

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

(b) If the court continues dependency jurisdiction of the nonminor as a dependent of the juvenile court, the court shall order the development of a planned permanent living arrangement of a placement under a mutual agreement, as described in subdivision (u) of Section 11400, which may include continued placement with the current caregiver or another licensed or approved caregiver or in a supervised independent living setting, as defined in subdivision (w) of Section 11400, consistent with the youth's transitional independent living case plan.

(c) If the court terminates its dependency jurisdiction over a nonminor dependent pursuant to subdivision (a), it shall retain general jurisdiction over the youth pursuant to Section 303. If the

court has dismissed dependency jurisdiction pursuant to subdivision (d) of Section 391, the nonminor, who has not attained 21 years of age, may subsequently file a petition pursuant to subdivision (e) of Section 388 to have dependency jurisdiction resumed and the court may vacate its previous order dismissing dependency jurisdiction over the nonminor dependent.

SEC. 9. Section 366.4 of the Welfare and Institutions Code is amended to read:

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

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

SEC. 10. Section 388 of the Welfare and Institutions Code is amended to read:

388. (a) Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself or herself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth

in concise language any change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.

(b) Any person, including a child who is a dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent plan for the dependent child or make any other request for an order which may be shown to be in the best interest of the dependent child. The court may appoint a guardian ad litem to file the petition for the dependent child asserting the sibling relationship if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:

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

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

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

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

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

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

(B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including,

but not limited to, the parent or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

(2) In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors including, but not limited to, the parent or guardian's incarceration, institutionalization, or participation in a court-ordered residential substance abuse treatment program.

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

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

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

(e) (1) On and after January 1, 2012, a nonminor who attained 18 years of age while subject to an order for foster care placement and, commencing January 1, 2012, who has not attained 19 years of age, or, commencing January 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years of age, for whom the court has dismissed dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2 or transition jurisdiction pursuant to Section 452, but has retained general jurisdiction under subdivision (b) of Section 303, or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or

resume transition jurisdiction over a former delinquent ward pursuant to Section 450. The petition shall be filed within the period that the nonminor is of the age described in this paragraph. If the nonminor has completed the voluntary reentry agreement, as described in subdivision (z) of Section 11400, with the placing agency, the agency shall file the petition on behalf of the nonminor within 15 judicial days of the date the agreement was signed unless the nonminor elects to file the petition at an earlier date.

(2) (A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) He or she was previously under juvenile court jurisdiction, subject to an order for foster care placement when he or she attained 18 years of age, and has not attained the age limits described in paragraph (1).

(ii) 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.

(iii) He or she wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

(3) The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and he or she declines to appear and elects a telephonic appearance.

(4) Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department or Indian tribe that has entered into an agreement pursuant to Section 10553.1 to prepare a report for the court addressing whether the nonminor intends to satisfy at least one of the criteria set forth in subdivision (b) of Section 11403. When the recommendation is for the nonminor dependent 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, used by the placing agency to determine appropriate placement options for the nonminor. The existence of a criminal conviction is not a bar to eligibility for reentry or resumption of dependency jurisdiction or the assumption or resumption of transition jurisdiction over a nonminor.

(5) (A) The court shall resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450, and order that the nonminor's placement and care be under the responsibility of the county child welfare services department, the probation department, or tribe, if the court finds all of the following:

(i) The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age.

(ii) The nonminor has not attained the age limits described in paragraph (1).

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

(iv) 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, or demonstrates his or her agreement to satisfy the criteria by signing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan and submit it to the court within 60 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction.

(C) In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was submitted.

SEC. 11. Section 391 of the Welfare and Institutions Code, as added by Section 28 of Chapter 559 of the Statutes of 2010, is amended to read:

391. (a) The dependency court shall not terminate jurisdiction over a nonminor unless a hearing is conducted pursuant to this section.

(b) At any hearing for a nonminor at which the court is considering termination of the jurisdiction of the juvenile court, the county welfare department shall do all of the following:

(1) Ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court, and elects a telephonic appearance, or document reasonable efforts made by the county welfare department to locate the nonminor when the nonminor is not available.

(2) Submit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living case plan for the nonminor when the report describes continuing dependency jurisdiction as being in the nonminor's best interest.

(3) If the county welfare department recommends termination of the court's dependency jurisdiction, submit documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent, as defined in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(4) If the nonminor has indicated that he or she does not want dependency jurisdiction to continue, the report shall address the manner in which the nonminor was advised of his or her options, including the benefits of remaining in foster care, and of his or her right to reenter foster care and to file a petition pursuant to

subdivision (e) of Section 388 to resume dependency jurisdiction prior to attaining 21 years of age.

(c) (1) The court shall continue dependency jurisdiction over a nonminor who meets the definition of a nonminor dependent as described in subdivision (v) of Section 11400 unless the court finds either of the following:

(A) That the nonminor does not wish to remain subject to dependency jurisdiction.

(B) That the nonminor is not participating in a reasonable and appropriate transitional independent living case plan.

(2) In making the findings pursuant to paragraph (1), the court must also find that the nonminor has been informed of his or her options including the benefits of remaining in foster care and the right to reenter foster care by filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction and by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, and has had an opportunity to confer with his or her counsel if counsel has been appointed pursuant to Section 317.

(d) (1) The court may terminate its jurisdiction over a nonminor if the court finds after reasonable and documented efforts the nonminor cannot be located.

(2) When terminating dependency jurisdiction the court shall maintain general jurisdiction over the nonminor to allow for the filing of a petition to resume dependency jurisdiction under subdivision (e) of Section 388 until the nonminor attains 21 years of age, although no review proceedings shall be required. A nonminor may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction at any time before attaining 21 years of age.

(e) The court shall not terminate dependency jurisdiction over a nonminor dependent who has attained 18 years of age until a hearing is conducted pursuant to this section and the department has submitted a report verifying that the following information, documents, and services have been provided to the nonminor, or in the case of a nonminor who, after reasonable efforts by the county welfare department, cannot be located, verifying the efforts made to make the following available to the nonminor:

(1) Written information concerning the nonminor's dependency case, including any known information regarding the nonminor's

Indian heritage or tribal connections, if applicable, his or her family history and placement history, any photographs of the nonminor or his or her family in the possession of the county welfare department, other than forensic photographs, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the nonminor is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(2) The following documents:

(A) Social security card.

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

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

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

(E) A letter prepared by the county welfare department that includes the following information:

(i) The nonminor's name and date of birth.

(ii) The dates during which the nonminor was within the jurisdiction of the juvenile court.

(iii) A statement that the nonminor was a foster youth in compliance with state and federal financial aid documentation requirements.

(F) If applicable, the death certificate of the parent or parents.

(G) If applicable, proof of the nonminor's citizenship or legal residence.

(H) An advance health care directive form.

(I) The Judicial Council form that the nonminor would use to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(J) The written 90-day transition plan prepared pursuant to Section 16501.1.

(3) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance.

(4) Referrals to transitional housing, if available, or assistance in securing other housing.

(5) Assistance in obtaining employment or other financial support.

(6) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(7) Assistance in maintaining relationships with individuals who are important to a nonminor who has been in out-of-home placement for six months or longer from the date the nonminor entered foster care, based on the nonminor's best interests.

(8) For nonminors between 18 and 21 years of age, assistance in accessing the Independent Living Aftercare Program in the nonminor's county of residence, and, upon the nonminor's request, assistance in completing a voluntary reentry agreement for care and placement pursuant to subdivision (z) of Section 11400 and in filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(f) At the hearing closest to and before a dependent minor's 18th birthday and every review hearing thereafter for nonminors, the department shall submit a report describing efforts toward completing the items described in paragraph (2) of subdivision (e).

(g) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms necessary to implement this provision.

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

SEC. 11.5. Section 391 of the Welfare and Institutions Code, as added by Section 28 of Chapter 559 of the Statutes of 2010, is amended to read:

391. (a) The dependency court shall not terminate jurisdiction over a nonminor unless a hearing is conducted pursuant to this section.

(b) At any hearing for a nonminor at which the court is considering termination of the jurisdiction of the juvenile court, the county welfare department shall do all of the following:

(1) Ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court, and elects a telephonic appearance, or document reasonable efforts made by the county welfare department to locate the nonminor when the nonminor is not available.

(2) Submit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living

case plan for the nonminor when the report describes continuing dependency jurisdiction as being in the minor's best interest.

(3) If the county welfare department recommends termination of the court's dependency jurisdiction, submit documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent, as defined in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(4) If the nonminor has indicated that he or she does not want dependency jurisdiction to continue, the report shall address the manner in which the nonminor was advised of his or her options, including the benefits of remaining in foster care, and of his or her right to reenter foster care and to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction prior to attaining 21 years of age.

(c) (1) The court shall continue dependency jurisdiction over a nonminor who meets the definition of a nonminor dependent as described in subdivision (v) of Section 11400 unless the court finds either of the following:

(A) That the nonminor does not wish to remain subject to dependency jurisdiction.

(B) That the nonminor is not participating in a reasonable and appropriate transitional independent living case plan.

(2) In making the findings pursuant to paragraph (1), the court must also find that the nonminor has been informed of his or her options including the benefits of remaining in foster care and the right to reenter foster care by filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction and by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, and has had an opportunity to confer with his or her counsel if counsel has been appointed pursuant to Section 317.

(d) (1) The court may terminate its jurisdiction over a nonminor if the court finds after reasonable and documented efforts the nonminor cannot be located.

(2) When terminating dependency jurisdiction the court shall maintain general jurisdiction over the nonminor to allow for the filing of a petition to resume dependency jurisdiction under subdivision (e) of Section 388 until the nonminor attains 21 years of age, although no review proceedings shall be required. A

nonminor may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction at any time before attaining 21 years of age.

(e) The court shall not terminate dependency jurisdiction over a nonminor dependent who has attained 18 years of age until a hearing is conducted pursuant to this section and the department has submitted a report verifying that the following information, documents, and services have been provided to the nonminor, or in the case of a nonminor who, after reasonable efforts by the county welfare department, cannot be located, verifying the efforts made to make the following available to the nonminor:

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

(2) The following documents:

(A) Social security card.

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

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

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

(E) A letter prepared by the county welfare department that includes the following information:

(i) The nonminor's name and date of birth.

(ii) The dates during which the nonminor was within the jurisdiction of the juvenile court.

(iii) A statement that the nonminor was a foster youth in compliance with state and federal financial aid documentation requirements.

(F) If applicable, the death certificate of the parent or parents.

(G) If applicable, proof of the nonminor’s citizenship or legal residence.

(H) An advanced health care directive form.

(I) The Judicial Council form that the nonminor would use to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(J) The written 90-day transition plan prepared pursuant to Section 16501.1.

(3) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance.

(4) Referrals to transitional housing, if available, or assistance in securing other housing.

(5) Assistance in obtaining employment or other financial support.

(6) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(7) Assistance in maintaining relationships with individuals who are important to a nonminor who has been in out-of-home placement for six months or longer from the date the nonminor entered foster care, based on the nonminor’s best interests.

(8) For nonminors between 18 and 21 years of age, assistance in accessing the Independent Living Aftercare Program in the nonminor’s county of residence, and, upon the nonminor’s request, assistance in completing a voluntary reentry agreement for care and placement pursuant to subdivision (z) of Section 11400 and in filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(9) Written information notifying the child that current or former dependent children who are or have been in foster care are granted a preference for student assistant or internship positions with state agencies pursuant to Section 18220 of the Government Code. The preference shall be granted to applicants up to 26 years of age.

(f) At the hearing closest to and before a dependent minor’s 18th birthday and every review hearing thereafter for nonminors, the department shall submit a report describing efforts toward completing the items described in paragraph (2) of subdivision (e).

(g) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms necessary to implement this provision.

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

SEC. 12. Section 450 is added to the Welfare and Institutions Code, to read:

450. (a) A minor or nonminor who satisfies all of the following criteria is within the transition jurisdiction of the juvenile court:

(1) The minor is a ward who is older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement, or the nonminor is a ward in foster care placement who was a ward subject to an order for foster care placement on the day he or she attained 18 years of age and on and after January 1, 2012, has not attained 19 years of age, or, commencing January 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years of age.

(2) The ward meets either of the following conditions:

(A) The ward was removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Section 725, and ordered into foster care placement as a ward.

(B) The ward was removed from the custody of his or her parents or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged him or her to be a ward of the juvenile court under Section 725.

(3) The rehabilitative goals of the minor or nonminor, as set forth in the case plan, have been met, and juvenile court jurisdiction over the minor or nonminor as a ward is no longer required.

(4) (A) If the ward is a minor, reunification services have been terminated; the matter has not been set for a hearing for termination of parental rights pursuant to Section 727.3 or for the establishment of guardianship pursuant to Section 728; the return of the child to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being; and the minor has indicated an intent to sign a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent.

(B) If the ward is a nonminor, he or she has signed a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent or has signed a voluntary reentry agreement, as described in subdivision (z) of Section 11400 for placement in a supervised setting as a nonminor dependent.

(b) A minor who is subject to the court's transition jurisdiction shall be referred to as a transition dependent.

(c) A youth subject to the court's transition jurisdiction who is 18 years of age or older shall be referred to as a nonminor dependent.

SEC. 13. Section 451 is added to the Welfare and Institutions Code, to read:

451. (a) At a hearing during which termination of jurisdiction over a ward is considered, the court may, as an alternative to termination of jurisdiction, modify its order of jurisdiction and assume transition jurisdiction over the ward pursuant to Section 450.

(b) A minor or a nonminor who is subject to the court's transition jurisdiction shall not be subject to any terms or conditions of probation, and his or her case shall be managed as a dependent child of the court or as a nonminor dependent of the court.

(c) Each county shall modify its protocol for Section 241.1 to include a provision to determine whether the child welfare services department or the probation department shall supervise persons subject to the court's transition jurisdiction. For a minor, this supervision shall comply with the requirements and procedures set forth in this code for dependent children. For a nonminor, this supervision shall comply with the provisions set forth in this code that specifically apply to nonminor dependents.

(d) The court shall appoint counsel, pursuant to Section 317, for minors and nonminors subject to the court's transition jurisdiction. The court shall, to the extent feasible given local court circumstances, provide for continuity of representation for the minor or nonminor from delinquency jurisdiction to transition jurisdiction pursuant to Section 450 by the attorney appointed to represent the minor or nonminor pursuant to Section 634.

SEC. 14. Section 452 is added to the Welfare and Institutions Code, to read:

452. (a) The court shall hold a hearing prior to terminating transition jurisdiction over a nonminor dependent.

(b) At a hearing during which termination of transition jurisdiction over a nonminor dependent is being considered, the court shall continue its jurisdiction to allow a nonminor dependent who is eligible for foster care placement pursuant to Section 11403 to remain in foster care, unless the court finds that after reasonable and documented efforts, the nonminor dependent cannot be located or does not wish to remain a nonminor dependent. In making this finding, the court shall ensure that the nonminor dependent has had an opportunity to confer with his or her counsel and has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement, as described in subdivision (z) of Section 11400, and the right to file a petition pursuant to subdivision (e) of Section 388 to resume transition jurisdiction pursuant to Section 450.

(c) The agency responsible under the county protocol for supervising a nonminor dependent subject to the court's transition jurisdiction shall complete all of the following actions for a hearing during which termination of transition jurisdiction over a nonminor dependent is being considered:

(1) Ensure that the nonminor dependent is present in court for the hearing, unless the nonminor dependent has waived his or her right to appear in court and elects to appear by telephone instead or document the reasonable efforts it made to locate the nonminor dependent when the nonminor dependent is not available to appear at the hearing.

(2) Submit a report describing whether it is in the nonminor dependent's best interests to remain under the court's jurisdiction.

(3) Submit the completed 90-day transition plan.

(4) The placing agency's report shall address the manner in which the nonminor was informed of his or her right to reenter foster care prior to attaining 21 years of age, if the nonminor dependent has indicated that he or she does not want juvenile court transition jurisdiction to continue.

(5) Submit written verification that the information, documents, and services set forth in paragraphs 1 to 8, inclusive, of subdivision (e) of Section 391 have been provided to the nonminor dependent.

(6) Certify that the requirements set forth in Section 607.5 have been completed.

(d) If the court terminates transition jurisdiction, the nonminor shall remain within the general jurisdiction of the court until the nonminor attains 21 years of age to allow for the filing of a petition to resume juvenile court transition jurisdiction under subdivision (e) of Section 388, although no review proceedings shall be required.

SEC. 15. Section 607.2 is added to the Welfare and Institutions Code, to read:

607.2. (a) On and after January 1, 2012, the court shall hold a hearing prior to terminating jurisdiction over a ward who satisfies any of the following criteria:

(1) Is a minor subject to an order for foster care placement described in Section 11402 as a ward who has not previously been subject to the jurisdiction of the court as a result of a petition filed pursuant to Section 325.

(2) Is a nonminor who was subject to an order for foster care placement described in Section 11402 as a ward on the day he or she attained 18 years of age.

(3) Is a ward who was subject to an order for foster care placement described in Section 11402 as a dependent of the court at the time the court adjudged the child to be a ward of the court under Section 725.

(b) At a hearing during which termination of jurisdiction over a ward described in subdivision (a) is being considered, the court shall take one of the following actions:

(1) Modify its jurisdiction from delinquency jurisdiction to transition jurisdiction, if the court finds the ward is a person described in Section 450.

(2) (A) For a ward who was not previously subject to the jurisdiction of the court as a result of a petition filed pursuant to Section 325, order the probation department or the ward's attorney to submit an application to the child welfare services department pursuant to Section 329 to declare the minor a dependent of the court and modify the court's jurisdiction from delinquency jurisdiction to dependency jurisdiction, if the court finds all of the following:

(i) The ward is a minor.

(ii) The ward does not come within the description in Section 450, but jurisdiction as a ward may no longer be required.

(iii) The ward appears to come within the description of Section 300 and cannot be returned home safely.

(B) The court shall set a hearing within 20 judicial days of the date of the order described in subparagraph (A) to review the child welfare services department's decision and may either affirm its decision not to file a petition pursuant to Section 300 or order the child welfare services department to file a petition pursuant to Section 300.

(3) Vacate the order terminating jurisdiction over the minor as a dependent of the court, resume jurisdiction pursuant to Section 300 based on the prior petition filed pursuant to Section 325, and terminate the court's jurisdiction over the minor as a ward, if the minor was subject to an order for foster care placement described in Section 11402 as a dependent of the court at the time the court adjudged the minor to be a ward and assumed jurisdiction over the minor under Section 725.

(4) Continue its delinquency jurisdiction over a ward pursuant to Section 303 as a nonminor dependent, as defined in subdivision (v) of Section 11400, who is eligible to remain in foster care pursuant to Section 11403, if the ward is a nonminor and the court did not modify its jurisdiction as described in Section 450, unless the court finds that after reasonable and documented efforts, the ward cannot be located or does not wish to become a nonminor dependent. In making this finding and prior to entering an order terminating its delinquency jurisdiction, the court shall ensure that the ward has had an opportunity to confer with his or her counsel and has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement as described in subdivision (z) of Section 11400 and to file a petition pursuant to subdivision (e) of Section 388 for the court to assume or resume transition jurisdiction over him or her pursuant to Section 450. The fact that a ward declines to be a nonminor dependent does not restrict the authority of the court to maintain delinquency jurisdiction pursuant to Section 607.

(5) Continue its delinquency jurisdiction.

(6) Terminate its delinquency jurisdiction if the ward does not come within the provisions of paragraphs (1) to (4), inclusive.

(c) If the court modifies jurisdiction, its order shall comply with the requirements of subdivision (f) of Section 241.1.

(d) This section shall not be construed as changing the requirements of Section 727.2 or 727.3 with respect to reunification of minors with their families or the establishment of an alternative permanent plan for minors for whom reunification is not pursued.

SEC. 16. Section 607.3 is added to the Welfare and Institutions Code, to read:

607.3. On and after January 1, 2012, at the hearing required under Section 607.2 for a ward who is 18 years of age or older and subject to an order for foster care placement as described in Section 11402, the probation department shall complete all of the following actions:

(a) Ensure that the nonminor has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement as described in subdivision (z) of Section 11400 and the right to file a petition pursuant to subdivision (e) of Section 388 for the court to resume transition jurisdiction pursuant to Section 450.

(b) Ensure that the ward has had an opportunity to confer with his or her counsel.

(c) Ensure that the ward is present in court for the hearing, unless the ward has waived his or her right to appear in court and elects to appear by a telephone instead, or document the efforts it made to locate the ward when the ward is not available to appear at the hearing.

(d) Submit a report to the court describing all of the following:

(1) Whether it is in the ward's best interest for a court to assume or continue transition jurisdiction over the ward as a nonminor dependent pursuant to Section 450.

(2) Whether the ward has indicated that he or she does not want juvenile court jurisdiction to continue.

(3) Whether the ward has been informed of his or her right to reenter foster care by completing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(e) Submit to the court the completed 90-day transition plan.

(f) Submit to the court written verification that the information, documents, and services set forth in paragraphs (1) to (8), inclusive, of subdivision (e) of Section 391 have been provided to the ward.

(g) Submit to the court written verification that the requirements set forth in Section 607.5 have been completed.

SEC. 17. Section 727.2 of the Welfare and Institutions Code is amended to read:

727.2. The purpose of this section is to provide a means to monitor the safety and well-being of every minor in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 and to ensure that everything reasonably possible is done to facilitate the safe and early return of the minor to his or her home or to establish an alternative permanent plan for the minor.

(a) If the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the juvenile court shall order the probation department to ensure the provision of reunification services to facilitate the safe return of the minor to his or her home or the permanent placement of the minor, and to address the needs of the minor while in foster care, except as provided in subdivision (b).

(b) Reunification services need not be provided to a parent or legal guardian if the court finds by clear and convincing evidence that one or more of the following is true:

(1) Reunification services were previously terminated for that parent or guardian, pursuant to Section 366.21, 366.22, or 366.25, or not offered, pursuant to subdivision (b) of Section 361.5, in reference to the same minor.

(2) The parent has been convicted of any of the following:

(A) Murder of another child of the parent.

(B) Voluntary manslaughter of another child of the parent.

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit that murder or manslaughter described in subparagraph (A) or (B).

(D) A felony assault that results in serious bodily injury to the minor or another child of the parent.

(3) The parental rights of the parent with respect to a sibling have been terminated involuntarily, and it is not in the best interest of the minor to reunify with his or her parent or legal guardian.

If no reunification services are offered to the parent or guardian, the permanency planning hearing, as described in Section 727.3, shall occur within 30 days of the date of the hearing at which the decision is made not to offer services.

(c) The status of every minor declared a ward and ordered to be placed in foster care shall be reviewed by the court no less frequently than once every six months. The six-month time periods shall be calculated from the date the minor entered foster care, as defined in paragraph (4) of subdivision (d) of Section 727.4. If the court so elects, the court may declare the hearing at which the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727 at the first status review hearing. It shall be the duty of the probation officer to prepare a written social study report including an updated case plan, pursuant to subdivision (b) of Section 706.5, and submit the report to the court prior to each status review hearing, pursuant to subdivision (b) of Section 727.4. The social study report shall include all reports the probation officer relied upon in making his or her recommendations.

(d) Prior to any status review hearing involving a minor in the physical custody of a community care facility or foster family agency, the facility or agency may provide the probation officer with a report containing its recommendations. Prior to any status review hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations filed pursuant to subdivision (c) and pursuant to this subdivision.

(e) At any status review hearing prior to the first permanency planning hearing, the court shall consider the safety of the minor and make findings and orders which determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.

(3) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the minor. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the minor. If the court specifically limits the right of the parent or guardian to make

educational decisions for the minor, the court shall at the same time appoint a responsible adult to make educational decisions for the minor pursuant to Section 726.

(4) The extent of progress that has been made by the minor and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care.

(5) The likely date by which the minor may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, permanently placed with a fit and willing relative or referred to another planned permanent living arrangement.

(6) In the case of a minor who has reached 16 years of age, the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to independent living.

The court shall make these determinations on a case-by-case basis and reference in its written findings the probation officer's report and any other evidence relied upon in reaching its decision.

(f) At any status review hearing prior to the first permanency hearing, the court shall order return of the minor to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of evidence, that the return of the minor to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. In making its determination, the court shall review and consider the social study report, recommendations, and the case plan pursuant to subdivision (b) of Section 706.5, the report and recommendations of any child advocate appointed for the minor in the case, and any other reports submitted to the court pursuant to subdivision (d), and shall consider the efforts or progress, or both, demonstrated by the minor and family and the extent to which the minor availed himself or herself of the services provided.

(g) At all status review hearings subsequent to the first permanency planning hearing, the court shall consider the safety of the minor and make the findings and orders as described in paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The court shall either make a finding that the previously ordered permanent plan continues to be appropriate or shall order that a new permanent plan be adopted pursuant to subdivision (b) of Section 727.3. However, the court shall not order a permanent plan

of “return to the physical custody of the parent or legal guardian after further reunification services are offered,” as described in paragraph (2) of subdivision (b) of Section 727.3.

(h) The status review hearings required by subdivision (c) may be heard by an administrative review panel, provided that the administrative panel meets all of the requirements listed in subparagraph (B) of paragraph (7) of subdivision (d) of Section 727.4.

(i) (1) On and after January 1, 2012, at any status review hearing at which a recommendation to terminate delinquency jurisdiction is being considered, or at the status review hearing held closest to the ward attaining 18 years of age, but no fewer than 90 days before the ward’s 18th birthday, the court shall consider whether to modify its jurisdiction pursuant to Section 601 or 602 and assume transition jurisdiction over the minor pursuant to Section 450. The probation department shall address this issue in its report to the court and make a recommendation as to whether transition jurisdiction is appropriate for the minor.

(2) The court shall order the probation department or the minor’s attorney to submit an application to the child welfare services department pursuant to Section 329 to declare the minor a dependent of the court and modify its jurisdiction from delinquency to dependency jurisdiction if it finds both of the following:

(A) The ward does not come within the description set forth in Section 450, but jurisdiction as a ward may no longer be required.

(B) The ward appears to come within the description of Section 300 and cannot be returned home safely.

(3) The court shall set a hearing within 20 judicial days of the date of its order issued pursuant to paragraph (2) to review the decision of the child welfare services department and may either affirm the decision not to file a petition pursuant to Section 300 or order the child welfare services department to file a petition pursuant to Section 300.

(j) On and after January 1, 2012, if a review hearing pursuant to this section is the last review hearing to be held before the minor attains 18 years of age, the court shall ensure that the minor’s transitional independent living case plan includes a plan for the minor to meet one or more of the criteria in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, so that the minor can become a nonminor dependent, and that the minor has been

informed of his or her right to decline to become a nonminor dependent and to seek termination of the court's jurisdiction pursuant to Section 607.2.

SEC. 18. Section 727.3 of the Welfare and Institutions Code is amended to read:

727.3. The purpose of this section is to provide a means to monitor the safety and well-being of every minor in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 and to ensure that everything reasonably possible is done to facilitate the safe and early return of the minor to his or her own home or to establish an alternative permanent plan for the minor.

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

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

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

(4) At each permanency planning hearing, the court shall order a permanent plan for the minor, as described in subdivision (b). The court shall also make findings, as described in subdivision (e) of Section 727.2. In the case of a minor who has reached 16 years of age or older, the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to independent living. The court shall make all of these determinations on a case-by-case basis and make reference to the probation officer's report, the case plan, or other evidence relied upon in making its decisions.

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

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

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

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

(2) Order that the permanent plan for the minor will be to return the minor to the physical custody of the parent or legal guardian, order further reunification services to be provided to the minor and his or her parent or legal guardian for a period not to exceed six months and continue the case for up to six months for a subsequent permanency planning hearing, provided that the subsequent hearing shall occur within 18 months of the date the minor was originally taken from physical custody of his or her

parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or guardian. For purposes of this section, in order to find that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal guardian, the court shall be required to find that the minor and his or her parent or legal guardian have demonstrated the capacity and ability to complete the objectives of the case plan.

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

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

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

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

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

(6) Place the minor in a planned permanent living arrangement. A “planned permanent living arrangement” means any permanent living arrangement described in Section 11402 and not listed in paragraphs (1) to (5), inclusive, such as placement in a specific, identified foster family home, program, or facility on a permanent basis, or placement in a transitional housing placement facility.

When the court places a minor in a planned permanent living arrangement, the court shall specify the goal of the placement, which may include, but shall not be limited to, return home, emancipation, guardianship, or permanent placement with a relative.

The court shall only order that the minor remain in a planned permanent living arrangement if the court finds by clear and convincing evidence, based upon the evidence already presented to it that there is a compelling reason, as defined in subdivision (c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor.

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

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

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

(B) The minor is 17 years of age or older and specifically requests that transition to independent living with the identification of a caring adult to serve as a lifelong connection be established as his or her permanent plan. On and after January 1, 2012, this includes a minor who requests that his or her transitional independent living case plan include modification of his or her jurisdiction to that of dependency jurisdiction pursuant to subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2, or to that of transition jurisdiction pursuant to Section 450, in order to be eligible as a nonminor dependent for the extended benefits pursuant to Section 11403.

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

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

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

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

(3) Documentation by the probation department that the minor is an unaccompanied refugee minor, or there are international legal obligations or foreign policy reasons that would preclude terminating parental rights.

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

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

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

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

SEC. 19. Section 727.31 of the Welfare and Institutions Code is amended to read:

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

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

At the beginning of any proceeding pursuant to this section, if the minor is not being represented by previously retained or appointed counsel, the court shall appoint counsel to represent the minor, and the minor shall be present in court unless the minor or the minor's counsel so requests and the court so orders. If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and the parent. Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses as specified in subdivision (f) of paragraph (3) of Section 366.26.

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

- (1) Current search efforts for an absent parent or parents.
- (2) A review of the amount and nature of any contact between the minor and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on a case-by-case basis, "extended family" for the purpose of the paragraph shall include, but not be limited to, the minor's siblings, grandparents, aunts, and uncles.
- (3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.
- (4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the

understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and Section 361.4.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the minor concerning placement and the adoption or guardianship, and whether the minor, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

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

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

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

(e) For purposes of this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great,"

“great-great,” or “grand,” or the spouse of any of those persons, even if the marriage was terminated by death or dissolution.

(f) Whenever the court orders that a hearing pursuant to procedures described in this section be held, it shall order that the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, has exclusive responsibility for determining the adoptive placement and making all adoption-related decisions.

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

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

SEC. 20. Section 728 of the Welfare and Institutions Code is amended to read:

728. (a) The juvenile court may terminate or modify a guardianship of the person of a minor previously established under the Probate Code, or appoint a coguardian or successor guardian of the person of the minor, if the minor is the subject of a petition filed under Section 300, 601, or 602. If the probation officer supervising the minor provides information to the court regarding the minor’s present circumstances and makes a recommendation

to the court regarding a motion to terminate or modify a guardianship established in any county under the Probate Code, or to appoint a coguardian or successor guardian, of the person of a minor who is before the juvenile court under a petition filed under Section 300, 601, or 602, the court shall order the appropriate county department, or the district attorney or county counsel, to file the recommended motion. The motion may also be made by the guardian or the minor's attorney. The hearing on the motion may be held simultaneously with any regularly scheduled hearing held in proceedings to declare the minor a dependent child or ward of the court, or at any subsequent hearing concerning the dependent child or ward. Notice requirements of Section 294 shall apply to the proceedings in juvenile court under this subdivision.

(b) If the juvenile court decides to terminate or modify a guardianship previously established under the Probate Code pursuant to subdivision (a), the juvenile court shall provide notice of that decision to the court in which the guardianship was originally established. The clerk of the superior court, upon receipt of the notice, shall file the notice with other documents and records of the pending proceeding and send by first-class mail a copy of the notice to all parties of record in the superior court.

(c) If, at any time during the period a minor under the age of 18 years is a ward of the juvenile court, the probation officer supervising the minor recommends to the court that the court establish a guardianship of the person of the minor and appoint a specific adult to act as guardian, or on the motion of the minor's attorney, or on the order of the court that a guardianship shall be established as the minor's permanent plan pursuant to paragraph (4) of subdivision (b) of Section 727.3, the court shall set a hearing to consider the recommendation or motion and shall order the clerk to notice the minor's parents and relatives as required in Section 294. If the motion is not made by the minor's attorney, the court may appoint the district attorney or county counsel to prosecute the action.

(d) The procedures for appointment of a guardian shall be conducted exclusively pursuant to Section 366.26, except that subdivision (j) of Section 366.26 shall not apply.

(e) Upon the appointment of a guardian pursuant to subdivision (d), the court may continue wardship and conditions of probation, or may terminate the wardship of the minor.

(f) Notwithstanding Section 1601 of the Probate Code, the proceedings to modify or terminate a guardianship granted under this section shall be held in the juvenile court unless the termination is due to the emancipation or adoption of the minor.

(g) The Judicial Council shall develop rules of court and adopt appropriate forms for the findings and orders under this section.

SEC. 21. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and any other records relating to the case in the custody of the other agencies and officials as are named in the order. In any case in which a ward of the

juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 when he or she had attained 14 years of age or older. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivisions (b) and (e), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing

any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requestor code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602, except that if the subject of the record was found to be a person described in Section 602 because of the commission of an offense listed in subdivision (b), of Section 707, when he or she was 14 years of age or older, the record shall not be destroyed. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(e) The court may access a file that has been sealed pursuant to this section for the limited purpose of verifying the prior

jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388. This access shall not be deemed an unsealing of the record and shall not require notice to any other entity.

(f) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

SEC. 22. Section 785 of the Welfare and Institutions Code is amended to read:

785. (a) Where a minor is a ward of the juvenile court, the wardship did not result in the minor's commitment to the Youth Authority, and the minor is found not to be a fit and proper subject to be dealt with under the juvenile court law with respect to a subsequent allegation of criminal conduct, any parent or other person having an interest in the minor, or the minor, through a properly appointed guardian, the prosecuting attorney, or probation officer, may petition the court in the same action in which the minor was found to be a ward of the juvenile court for a hearing for an order to terminate or modify the jurisdiction of the juvenile court. The court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to those persons and by the means prescribed by Sections 776 and 779, or where the means of giving notice is not prescribed by those sections, then by such means as the court prescribes.

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

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

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

SEC. 23. Section 826 of the Welfare and Institutions Code is amended to read:

826. (a) After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor.

The juvenile court record, which includes all records and papers, any minute book entries, dockets and judgment dockets, shall be destroyed by order of the court as follows: when the person who is the subject of the record reaches the age of 28 years, if the person was alleged or adjudged to be a person described by Section 300, when the person who is the subject of the record reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, or when the person reaches the age of 38 years if the person was alleged or adjudged to be a person described by Section 602, unless for good cause the court determines that the juvenile record shall be retained, or unless the juvenile court record is released to the person who is the subject of the record pursuant to this section. However, a juvenile court record which is not permitted to be sealed pursuant to subdivision (f) of Section 781 shall not be destroyed pursuant to this section.

Any person who is the subject of a juvenile court record may by written notice request the juvenile court to release the court record to his or her custody. Wherever possible, the written notice shall include the person's full name, the person's date of birth, and the juvenile court case number. Any juvenile court receiving the written notice shall release the court record to the person who is the subject of the record five years after the jurisdiction of the juvenile court over the person has terminated, if the person was alleged or adjudged to be a person described by Section 300, or when the person reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under Section 1417 of the Penal Code. For the purpose of this section "destroy" means destroy or dispose of for the purpose of destruction. The proceedings in any case in which the juvenile court record is destroyed or released to the person who is the subject of the record pursuant to this section shall be deemed never to have occurred, and the person may reply accordingly to any inquiry about the events in the case.

(b) If an individual whose juvenile court record has been destroyed or released under subdivision (a) discovers that any other agency still retains a record, the individual may file a petition with the court requesting that the records be destroyed. The petition will include the name of the agency and the type of record to be

destroyed. The court shall order that such records also be destroyed unless for good cause the court determines to the contrary. The court shall send a copy of the order to each agency and each agency shall destroy records in its custody as directed by the order, and shall advise the court of its compliance. The court shall then destroy the copy of the petition, the order, and the notice of compliance from each agency. Thereafter, the proceedings in such case shall be deemed never to have occurred.

(c) Juvenile court records in juvenile traffic matters, which include all records and papers, any minute book entries, dockets and judgment dockets, may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, or when the minor reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601. Prior to such destruction the original record may be microfilmed or photocopied. Every such reproduction shall be deemed and considered an original; and a transcript, exemplification or certified copy of any such reproduction shall be deemed and considered a transcript, exemplification or certified copy, as the case may be, of the original.

SEC. 24. Section 11363 of the Welfare and Institutions Code, as added by Section 34 of Chapter 559 of the Statutes of 2010, is amended to read:

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

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

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

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

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

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

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

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

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

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

(4) He or she satisfies the conditions as described in subdivision (d).

(d) Commencing January 1, 2012, state-funded Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 19 years of age if they attained 16 years of age before the Kin-GAP aid payments commenced. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and who are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(e) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP unless the conditions in Section 11403 apply; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this

article. A new period of six months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Sections 361.3 and 361.4 and the court terminates dependency jurisdiction.

SEC. 25. Section 11364 of the Welfare and Institutions Code, as amended by Section 47 of Chapter 32 of the Statutes of 2011, is amended to read:

11364. (a) In order to receive payments under this article, the county child welfare agency, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement.

(b) The agreement shall specify, at a minimum, all of the following:

(1) The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, and that the amount is subject to any applicable increases pursuant to cost-of-living adjustments established by statute, and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

(2) Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

(3) A procedure by which the relative guardian may apply for additional services, as needed, including the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

(4) That the agreement shall remain in effect regardless of the state of residency of the relative guardian.

(5) The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

(6) For guardianships established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including

the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process for obtaining reimbursement of the nonrecurring expenses to be paid.

(c) In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related state-approved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable rate adjustments. For a child eligible for a Kin-GAP 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.

(d) Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

(1) For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to 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 rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to

establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate as set forth in paragraph (1) of subdivision (g) of Section 11461.

(3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit payments rate structure shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461, without requiring a new agreement.

(4) In addition to the rate paid for a child eligible for a Kin-GAP payment, a specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461, also shall be paid.

(5) In addition to the rate paid for a child eligible for a Kin-GAP payment, a clothing allowance, as set forth in subdivision (f) of Section 11461, also shall be paid.

(6) For a child eligible for a Kin-GAP 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.

(e) The county child welfare agency, probation department, or Indian tribe that entered into an agreement pursuant to Section 10553.1 shall provide the relative guardian with information, in writing, on the availability of the Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also provide the relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

(f) The county child welfare agency, probation department, or Indian tribe, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

(g) Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

SEC. 26. Section 11365 of the Welfare and Institutions Code, as added by Section 34 of Chapter 559 of the Statutes of 2010, is repealed.

SEC. 27. Section 11386 of the Welfare and Institutions Code is amended to read:

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

(a) The child satisfies both of the following requirements:

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

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

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

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

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

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

(f) If the conditions specified in subdivisions (a) through (e), inclusive, are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue

unless and until the juvenile court orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

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

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

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

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

(4) He or she satisfies the conditions as described in subdivision (h).

(h) Effective January 1, 2012, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 19 years of age if they attained 16 years of age before the Kin-GAP negotiated agreement payments commenced. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. To be eligible for continued payments, the youth shall satisfy one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

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

SEC. 28. Section 11387 of the Welfare and Institutions Code is amended to read:

11387. (a) In order to receive federal financial participation for payments under this article, the county child welfare agency or probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1 shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement.

(b) The agreement shall specify, at a minimum, all of the following:

(1) The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, that the amount is subject to any applicable increases pursuant to cost-of-living adjustments established by statute and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

(2) Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

(3) A procedure by which the relative guardian may apply for additional services, as needed, including, but not limited to, the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

(4) The agreement shall provide that it shall remain in effect regardless of the state of residency of the relative guardian.

(5) The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

(6) For a guardianship established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process for obtaining reimbursement of the nonrecurring expenses to be paid.

(c) In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related state-approved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable rate adjustments. For a child eligible for a Kin-GAP 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.

(d) Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

(1) For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to 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 rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the rate paid shall not exceed the basic foster care

maintenance payment rate as set forth in paragraph (1) of subdivision (g) of Section 11461.

(3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit payment rate structure shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461, without requiring a new agreement.

(4) In addition to the rate paid for a child eligible for a Kin-GAP payment, a specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461, shall be paid.

(5) In addition to the rate paid for a child eligible for a Kin-GAP payment, a clothing allowance, as set forth in subdivision (f) of Section 11461, shall be paid.

(6) For a child eligible for a Kin-GAP 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.

(e) The county child welfare agency or probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1 shall provide the relative guardian with information, in writing, on the availability of the federal Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also provide the relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

(f) The county child welfare agency, probation department, or Indian tribe, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

(g) Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

SEC. 29. Section 11400 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

(h) “Group home” means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, or a nondetention licensed residential care home operated by the County of San Mateo with a capacity of up to 25

beds, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

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

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

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

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

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

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

(o) “Voluntary placement” means an out-of-home placement of a child by (1) the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, after the parents or guardians have

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

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

(1) The legal status of the child.

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

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

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

(1) A community care facility licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age and, on or after January 1, 2012, any nonminor dependent who has not attained 19 years of age, as described in paragraph (1) of subdivision (a) of Section 11403.2, may remain in the facility if it is in their best interests in order to complete high school or its equivalent, or to finish the high school year prior to their 19th birthday. These provisions shall apply to those who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

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

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

(t) “Whole family foster home” means a new or existing family home, approved relative caregiver or nonrelative extended family member’s home, the home of a nonrelated legal guardian whose guardianship was established pursuant to Section 366.26 or 360, certified family home that provides foster care for a minor or nonminor dependent parent and his or her child, and is specifically recruited and trained to assist the minor or nonminor dependent parent in developing the skills necessary to provide a safe, stable, and permanent home for his or her child. The child of the minor or nonminor dependent parent need not be the subject of a petition filed pursuant to Section 300 to qualify for placement in a whole family foster home.

(u) “Mutual agreement” means a written voluntary agreement of consent for continued placement and care in a supervised setting between a minor or, on and after January 1, 2012, a nonminor dependent, and the county welfare services or probation department or tribal agency responsible for the foster care placement, that documents the nonminor’s continued willingness to remain in supervised out-of-home placement under the placement and care of the responsible county or tribal agency, remain under the jurisdiction of the juvenile court as a nonminor dependent, and report any change of circumstances relevant to continued eligibility for foster care payments, and that documents 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.

(v) “Nonminor dependent” means, on and after January 1, 2012, a foster child, as described in Section 675(8)(B) of Title 42 of the United States Code under the federal Social Security Act who is a current dependent child or ward of the juvenile court, or a nonminor under the transition jurisdiction of the juvenile court, as described in Section 450, who satisfies all of the following criteria:

(1) He or she has attained 18 years of age while under an order of foster care placement by the juvenile court, and is younger than 19 years of age as of January 1, 2012, younger than 20 years of age as of January 1, 2013, or younger than 21 years of age as of January 1, 2014.

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

(3) He or she is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403.

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

(x) “THP-Plus Foster Care” means, on and after January 1, 2012, a placement that offers supervised housing opportunities and supportive services to eligible nonminor dependents at least 18 years of age, on and after January 1, 2013, 19 years of age, and on and after January 1, 2014, 20 years of age, and not more than 21 years of age, who are in out-of-home placement under the placement and care responsibility of the county welfare department or the county probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1, and who are described in paragraphs (3) and (4) of subdivision (a) of Section 11403.2.

(y) “Transitional independent living case plan” means, on or after January 1, 2012, the nonminor dependent’s case plan, updated every six months, that describes the goals and objectives of how the nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decisionmaking, the collaborative efforts between the nonminor and the social worker, probation officer, or Indian tribe and the supportive services as described in the transitional independent living plan (TILP) to ensure active and meaningful participation in one or more of the eligibility criteria described in subdivision

(b) of Section 11403, the nonminor's appropriate supervised placement setting, and the nonminor's permanent plan for transition to living independently, which includes maintaining or obtaining permanent connections to caring and committed adults, as set forth in paragraph (16) of subdivision (f) of Section 16501.1.

(z) "Voluntary reentry agreement" means a written voluntary agreement between a former dependent child or ward or a former nonminor dependent, who has had juvenile court jurisdiction terminated pursuant to Section 391, 452 or 607.2, and the county welfare or probation department or tribal placing agency that documents the nonminor's desire and willingness to reenter foster care, to be placed in a supervised setting under the placement and care responsibility of the placing agency, the nonminor's desire, willingness, and ability to immediately participate in one or more of the conditions of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor's agreement to work collaboratively with the placing agency to develop his or her transitional independent living case plan within 60 days of reentry, the nonminor's agreement to report any changes of circumstances relevant to continued eligibility for foster care payments, and the nonminor's agreement to participate in the filing of a petition for juvenile court jurisdiction as a nonminor dependent pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement and the placing agency's efforts and supportive services to assist the nonminor in the reentry process.

SEC. 30. Section 11401 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The child has been deprived of parental support or care for any of the reasons set forth in Section 11250.

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

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

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

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

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

(3) (A) The child has been removed from the custody of his or her parent, relative, or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, or the child is a nonminor dependent who satisfies the removal criteria in Section 472(a)(2)(A)(i) of the federal Social Security Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and agrees to the placement and care responsibility of the placing agency by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, and any of the following applies:

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

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

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

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

(B) The child has been placed in an eligible foster care placement, as set forth in Section 11402.

(C) The requirements of Sections 671 and 672 of Title 42 of the United States Code have been satisfied.

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

(4) With respect to a nonminor dependent, in addition to meeting the conditions specified in paragraph (1), the requirements of Section 675(8)(B) of Title 42 of the United States Code have been satisfied. With respect to a former nonminor dependent who reenters foster care placement by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, the requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of Title 42 of the United States Code are satisfied based on the nonminor's status as a child-only case, without regard to the parents, legal guardians, or others in the assistance unit in the home from which the nonminor was originally removed.

(h) The child meets all of the following conditions:

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

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

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

SEC. 31. Section 11401.1 of the Welfare and Institutions Code is amended to read:

11401.1. (a) Otherwise eligible children placed voluntarily prior to January 1, 1981, may remain eligible for AFDC-FC payments.

(b) Beginning on January 1, 1982, AFDC-FC payments for children placed voluntarily on or after January 1, 1981, shall be limited to a period of up to 180 days under conditions specified

by departmental regulations, and may be extended an additional six months pursuant to Section 16507.3 and departmental regulations.

(c) On and after January 1, 2012, AFDC-FC payments for nonminor dependents, who reentered foster care placement by signing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, shall be limited to a period not to exceed 180 days. The county child welfare services department or probation department shall file a petition pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement to have the nonminor declared a nonminor dependent of the juvenile court in that reentry and remaining in foster care is in the best interests of the nonminor.

SEC. 32. Section 11402 of the Welfare and Institutions Code, as amended by Section 44.1 of Chapter 559 of the Statutes of 2010, is amended to read:

11402. In order to be eligible for AFDC-FC, a child or nonminor dependent shall be placed in one of the following:

(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The approved home of a nonrelative extended family member as described in Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) An exclusive-use home.

(f) A licensed transitional housing placement facility, as described in Section 1559.110 of the Health and Safety Code, and as defined in subdivision (r) of Section 11400, or a transitional housing placement program, as defined in subdivision (s) of Section 11400.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory

requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) A licensed crisis nursery, as described in Section 1516 of the Health and Safety Code, and as defined in subdivision (a) of Section 11400.1.

(i) A supervised independent living setting for nonminor dependents, as defined in Section 11400.

(j) An approved THP-Plus Foster Care placement for nonminor dependents, as defined in subdivision (x) of Section 11400.

(k) This section shall remain in effect only until July 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2012, deletes or extends that date.

SEC. 33. Section 11402 of the Welfare and Institutions Code, as amended by Section 45.1 of Chapter 559 of the Statutes of 2010, is amended to read:

11402. In order to be eligible for AFDC-FC, a child or nonminor dependent shall be placed in one of the following:

(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The approved home of a nonrelative extended family member as described in Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) An exclusive-use home.

(f) A licensed transitional housing placement facility as described in Section 1559.110 of the Health and Safety Code and as defined in subdivision (r) of Section 11400, or a transitional housing placement program, as defined in subdivision (s) of Section 11400.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory

requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) A supervised independent living setting for nonminor dependents, as defined in Section 11400.

(i) An approved THP-Plus Foster Care placement for nonminor dependents, as defined in subdivision (x) of Section 11400.

(j) This section shall become operative on July 1, 2012.

SEC. 34. Section 11403 of the Welfare and Institutions Code, as added by Section 47 of Chapter 559 of the Statutes of 2010, 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. Effective January 1, 2012, these nonminor dependents shall be eligible to receive support up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, consistent with their transitional independent living case plan. 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 tribe 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. Effective January 1, 2012, a nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 shall be eligible to continue to receive aid up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision shall apply 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 subparagraphs (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 paragraph shall not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments.

(c) The county child welfare or probation department or Indian tribe 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 tribe 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 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, and the placing worker, in addition to any other payee.

(d) A nonminor dependent may receive all of the payment directly provided that the nonminor is living independently in a supervised setting, 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 attains the age criteria, as set forth in subdivision (a), but aid may be suspended when the nonminor no longer resides in an eligible facility, as described in Section 11402, 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. Aid may be resumed at the request of the nonminor by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, followed by, or concurrently with, a petition filed pursuant to subdivision (e) of Section 388 or after a court terminates dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2. The county welfare or probation department or Indian tribe 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 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. The county welfare department, tribe, or county probation department 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 dependents receiving aid pursuant to 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 youth's transitional independent living case plan. Placements made out of state are subject to the 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, tribe, or county probation department 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 contribute to 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, CalWORKs payments pursuant to Section 11253, 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, and aid pursuant to Section 11405 for nonminor dependents who are residing in the county as provided in paragraph (1) of subdivision (f), at the statutory sharing ratios for each of these programs in effect on January 1, 2012.

(2) Subject to paragraph (3), a county shall contribute to 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 at the statutory sharing ratio for these services in effect on January 1, 2012. 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) Notwithstanding any other provision of law, a county's total contribution pursuant to paragraphs (1) and (2) shall not exceed the 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). The department shall work with the County Welfare Directors Association to determine a methodology for calculating each county's costs and savings pursuant to this section.

(h) It is the intent of the Legislature that no county currently participating in the Child Welfare Demonstration Capped Allocation Project 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 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, 2012, 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, Chapter 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 Services (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 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. 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.

(k) Notwithstanding any other provision of law, the extension of benefits to nonminor dependents between 20 and 21 years of age, as provided for in this section, shall be contingent upon an appropriation by the Legislature.

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

SEC. 35. Section 11403.01 is added to the Welfare and Institutions Code, to read:

11403.01. On and after January 1, 2012, a nonminor who is receiving Kin-GAP benefits under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) and whose Kin-GAP payments began prior to the child's 16th birthday and who is receiving aid pursuant to those articles, and who is attending high school or the equivalent level of vocational or technical training on a full-time basis, or is in the process of

pursuing a high school equivalency certificate, prior to his or her 18th birthday, may continue to receive aid under those articles following his or her 18th birthday so long as the child continues to reside in the relative's home, remains otherwise eligible for Kin-GAP payments, 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 related guardianship 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.

SEC. 36. Section 11403.2 of the Welfare and Institutions Code is amended to read:

11403.2. (a) The following persons shall be eligible for transitional housing placement program services provided pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4:

(1) Any minor at least 16 years of age and not more than 18 years of age, and, on or after January 1, 2012, any nonminor dependent who is less than 19 years of age, who is eligible for AFDC-FC benefits and whose best interests are met by remaining in the program as a nonminor dependent, in order to complete high school or its equivalent, or to finish the high school year prior to his or her 19th birthday, and who also meets the requirements in Section 16522.2.

(2) Any person less than 24 years of age who has emancipated from a county that has elected to participate in a transitional housing placement program for youths who are at least 18 years of age and under 24 years of age, as described in subdivision (r) of Section 11400, provided he or she has not received services under this paragraph for more than a total of 24 months, whether or not consecutive. If the person participating in a transitional housing placement program is not receiving aid under Section 11403.1, he or she, as a condition of participation, shall enter into, and execute the provisions of, a transitional independent living plan that shall be mutually agreed upon, and annually reviewed,

by the emancipated foster youth and the county welfare or probation department or independent living program coordinator. The youth participating under this paragraph shall inform the county of any changes to conditions specified in the agreed-upon plan that affect eligibility, including changes in address, living circumstances, and the educational or training program.

(3) It is the intent of the Legislature to create a new placement option, known as THP-Plus-Foster Care. On and after January 1, 2012, THP-Plus-Foster Care, as described in subdivision (x) of Section 11400, is an eligible facility for purposes of AFDC-FC payments for placement of nonminor dependents, and shall offer the same housing models and supportive services as are available through the standard THP-Plus program available to emancipated foster youths pursuant to paragraph (2). In creating the new THP-Plus-Foster Care placement option, it is the intent of the Legislature to preserve the THP-Plus program, as it is described in subdivision (e) of Section 1559.110 of the Health and Safety Code, for former emancipated foster youth who have attained 21 years of age, but are under 24 years of age, and for former emancipated foster youth who have attained 18 years of age but are under 21 years of age, whose dependency or delinquency jurisdiction has been terminated by the court, and for whom reentry into foster care under subdivision (e) of Section 388 is not an appropriate or viable option.

(4) On and after January 1, 2012, any nonminor dependent at least 18 years of age, and on January 1, 2013, 19 years of age, and on January 1, 2014, 20 years of age, and not more than 21 years of age, as described in subdivision (v) of Section 11400, pursuant to subdivision (x) of Section 11400, and who is eligible pursuant to subdivision (b) of Section 11403.

(b) Payment on behalf of an eligible person receiving transitional housing services pursuant to paragraph (1) of subdivision (a) shall be made to the transitional housing placement program pursuant to the conditions and limitations set forth in Section 11403.3. Notwithstanding Section 11403.3, the department, 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, researchers, and transitional housing program providers, shall convene a workgroup to establish a new rate structure for the Title IV-E funded THP-Plus-Foster Care placement option for nonminor dependents. The workgroup shall also consider application of this new rate structure to the transitional housing placement program, as described in paragraph (2) of subdivision (a) of Section 11403.3. In developing the new rate structure pursuant to this subdivision, the department shall consider the average rates in effect and being paid by counties to current transitional housing placement programs.

(c) On and after January 1, 2012, with respect to nonminor dependents under 21 years of age, the approval standards for these legal adults placed in the THP-Plus-Foster Care shall be developed in accordance with Section 1502.7 of the Health and Safety Code. When developing regulations for the THP-Plus programs, the department shall consider the development of an application fee process for the programs, similar to the fee schedule as described in Section 1523.1 of the Health and Safety Code. An approved THP-Plus program shall certify facilities or sites to provide transitional housing services to nonminor dependents pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.

(d) (1) For budgeting purposes, and to achieve the intent of the Legislature as described in paragraph (3) of subdivision (a), the department, in consultation with stakeholders and pursuant to subdivision (c) of Section 11403.3, shall direct counties that opt to participate in the THP-Plus in addition to the THP-Plus Foster Care to establish a goal of allocating 70 percent of the amount payable to placements of nonminor dependents under the THP-Plus-Foster Care program. The remaining 30 percent of the amount payable shall be available for THP-Plus placement for both those former emancipated foster youth who have attained 21 years of age, but are under 24 years of age, and for former emancipated foster youth who have attained 18 years of age but who are under 21 years of age, whose dependency or delinquency jurisdiction has been terminated by the court, and for whom reentry into foster care under subdivision (e) of Section 388 is not an appropriate or viable option. If a county can demonstrate that there is insufficient demand in either the THP-Plus or THP-Plus Foster Care program for the county to achieve the goal of allocating 70

percent of the combined allocation to THP-Plus Foster Care participants and 30 percent to THP-Plus participants for those counties who opt to participate in THP-Plus, the county may reallocate funds between THP-Plus and THP-Plus Foster Care in order to meet the existing demand within the county.

(2) Each county shall submit to the department a plan that sets forth how the county will provide for the THP-Plus-Foster Care population, and, if opting for the THP-Plus, assurances that 30 percent of the placements will be set aside for the THP-Plus population. The county plan for each county that opts to participate in both THP-Plus and THP-Plus Foster Care shall also include a contingency for how both THP-Plus and THP-Plus Foster Care placements will be reallocated in the event that there is not sufficient demand in either the THP-Plus-Foster Care Program or the THP-Plus programs to fill the beds allocated for these populations.

(3) It is the intent of the Legislature that counties opting out of the THP-Plus program are to receive funding based on their operation of THP-Plus Foster Care only. The department shall develop a mechanism to implement this provision.

(4) Counties shall be allowed a reasonable period of time to achieve the goal described in paragraph (1). Counties shall not be required to suspend new admissions of eligible participants into the THP-Plus program for any period of time in order to reach the goal described in paragraph (1).

SEC. 36.4. Section 11403.25 is added to the Welfare and Institutions Code, immediately following Section 11403.2, to read:

11403.25. (a) Before issuing a certificate of approval to a THP-Plus Foster Care provider applicant pursuant to subdivision (c) of Section 11403.2, county child welfare services agencies shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all THP-Plus Foster Care providers, as described in Section 11403.2 for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to a county child welfare services agency.

(c) The Department of Justice shall provide a state and federal level response to a county child welfare services agency pursuant to paragraph (1) of subdivision (m) of Section 11105 of the Penal Code.

(d) A county child welfare services agency shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a).

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

(f) The county shall not issue an approval to a THP-Plus Foster Care provider applicant unless the applicant and any other persons as described in subdivision (b) of Section 1522 of the Health and Safety Code have obtained both California and Federal Bureau of Investigation criminal record clearances or exemptions from disqualification pursuant to Section 1522 of the Health and Safety Code and child abuse and neglect registry clearances as specified in Section 1522.1 of the Health and Safety Code as those provisions relate to foster care. Processing of the clearances and exemptions by the county shall be in accordance with Section 1522 of the Health and Safety Code as that section relates to foster care.

(g) The State Department of Social Services shall include the costs of these fees when determining the application and renewal fees described in Section 11403.2 that the county child welfare services agency may charge the THP-Plus Foster Care providers for the approval process.

(h) The county shall cause a check of all persons as described in subdivision (f) of the Child Abuse Central Index pursuant to paragraph (4) of subdivision (b) of Section 11170 of the Penal Code to be requested from the Department of Justice. The county shall check other states' child abuse and neglect registries to the extent required by federal law pursuant to Section 1522.1 of the Health and Safety Code.

(i) The county child welfare services agency may issue a criminal records exemption only if that county has been granted permission by the Director of Social Services to issue criminal records exemptions. The county may file a request with the Director of Social Services seeking an amendment to its exemption authority granted by the department pursuant to Section 361.4 to include the evaluation and granting of appropriate individual criminal records exemptions for persons described in subdivision (a). The director shall grant or deny the county's request within 14 days of receipt.

SEC. 37. Section 11405 of the Welfare and Institutions Code, as amended by Chapter 32 of the Statutes of 2011, is amended to read:

11405. (a) 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) 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) On and after January 1, 2012, 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 19 years of age, effective January 1, 2013, until the youth attains 20 years of age, and effective January 1, 2014, 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.

(f) On or after January 1, 2012, a child whose nonrelated guardianship was ordered in probate court pursuant 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) Beginning with the 2011–12 fiscal year, 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. 38. Section 11466.21 of the Welfare and Institutions Code is amended to read:

11466.21. (a) In accordance with subdivision (b), as a condition to receive an AFDC-FC rate for a group home program or a foster family agency program that provides treatment services, the following shall apply:

(1) Any provider who expends in combined federal funds an amount at or above the federal funding threshold in accordance with the federal Single Audit Act, as amended, and Office of Management and Budget (OMB) Circular A-133, shall arrange to have a financial audit conducted on an annual basis, and shall submit the annual financial audit to the department in accordance with regulations adopted by the department.

(2) Any provider who expends in combined federal funds an amount below the federal funding threshold in accordance with the federal Single Audit Act, as amended, and Office of Management and Budget (OMB) Circular A-133, shall submit to the department a financial audit on its most recent fiscal period at least once every three years. The department shall provide timely notice to the providers of the date that submission of the financial

audit is required. That date of submission of the financial audit shall be established in accordance with regulations adopted by the department.

(3) The scope of the financial audit shall include all of the programs and activities operated by the provider and shall not be limited to those funded in whole or in part by the AFDC-FC program. The financial audits shall include, but not be limited to, an evaluation of the accounting and control systems of the provider.

(4) The provider shall have its financial audit conducted by certified public accountants or by state-licensed public accountants who have no direct or indirect relationship with the functions or activities being audited, or with the provider, its board of directors, officers, or staff.

(5) The provider shall have its financial audits conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States and in compliance with generally accepted accounting principles applicable to private entities organized and operated on a nonprofit basis.

(6) (A) Each provider shall have the flexibility to define the calendar months included in its fiscal year.

(B) A provider may change the definition of its fiscal year. However, the financial audit conducted following the change shall cover all of the months since the last audit, even though this may cover a period that exceeds 12 months.

(b) (1) In accordance with subdivision (a), as a condition to receive an AFDC-FC rate that becomes effective on or after July 1, 2000, a provider shall submit a copy of its most recent financial audit report, except as provided in paragraph (3).

(2) The department shall terminate the rate of a provider who fails to submit a copy of its most recent financial audit pursuant to subdivision (a). A terminated rate shall only be reinstated upon the provider's submission of an acceptable financial audit.

(3) Effective July 1, 2000, a new provider that has been incorporated for fewer than 12 calendar months shall not be required to submit a copy of a financial audit to receive an AFDC-FC rate for a new program. The financial audit shall be conducted on the provider's next full fiscal year of operation. The provider shall submit the financial audit to the department in accordance with subdivision (a).

(c) The department shall implement this section through the adoption of emergency regulations.

SEC. 39. Section 16120 of the Welfare and Institutions Code, as amended by Section 58 of Chapter 559 of the Statutes of 2010, is amended to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a tribal customary adoption, if the court has given full faith and credit to a tribal customary adoption order as provided for pursuant to paragraph (2) of subdivision (e) of Section 366.26.

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, three years of age or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care, as described in Section 11464.

(c) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

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

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

(3) Effective January 1, 2012, he or she is under 19 years of age, effective January 1, 2013, he or she is under 20 years of age, and effective January 1, 2014, he or she is under 21 years of age and attained 16 years of age before the adoption assistance agreement became effective, and one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) The prospective adoptive parent or any adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to Section 671(a)(20)(A) and (C) of Title 42 of the United States Code.

(i) To be eligible for state funding, the child is the subject of an agency adoption, as defined in Section 8506 of the Family Code and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department pursuant to Section 8805 or 8918 of the Family Code.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24. Notwithstanding Section 8600.5 of the Family Code, for purposes of this subdivision a tribal customary adoption shall be considered an agency adoption.

(j) To be eligible for federal funding, in the case of a child who is not an applicable child for the federal fiscal year as defined in subdivision (n), the child satisfies any of the following criteria:

(1) Prior to the finalization of an agency adoption, as defined in Section 8506 of the Family Code, or an independent adoption, as defined in Section 8524 of the Family Code, is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, as determined and documented by the federal Social Security Administration.

(2) The child was removed from the home of a specified relative and the child would have been AFDC-eligible in the home of removal according to Section 606(a) or 607 of Title 42 of the United States Code, as those sections were in effect on July 16, 1996, in the month of the voluntary placement agreement or in the month court proceedings are initiated to remove the child, resulting in a judicial determination that continuation in the home would be contrary to the child's welfare. The child must have been living with the specified relative from whom he or she was removed within six months of the month the voluntary placement agreement was signed or the petition to remove was filed.

(3) The child was voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative and a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(4) Title IV-E foster care maintenance was paid on behalf of the child's minor parent and covered the cost of the minor parent's child while the child was in the foster family home or child care institution with the minor parent.

(5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(k) To be eligible for federal funding, in the case of a child who is an applicable child for the federal fiscal year, as defined in subdivision (n), the child meets any of the following criteria:

(1) At the time of initiation of adoptive proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or a voluntary relinquishment.

(2) He or she meets all medical or disability requirements of Title XVI with respect to eligibility for supplemental security income benefits.

(3) He or she was residing in a foster family home or a child care institution with the child's minor parent, and the child's minor parent was in the foster family home or child care institution pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or voluntary relinquishment.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(l) The child is a citizen of the United States or a qualified alien as defined in Section 1641 of Title 8 of the United States Code. If the child is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the child must meet the five-year residency requirement pursuant to Section 673(a)(2)(B) of Title 42 of the United States Code, unless the child is a member of one of the excepted groups pursuant to Section 1612(b) of Title 8 of the United States Code.

(m) A child shall be eligible for Adoption Assistance Program benefits if the following conditions are met:

(1) The child received Adoption Assistance Program benefits with respect to a prior adoption and the child is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's adoptive parents died and the child meets the special needs criteria described in subdivisions (a) to (c), inclusive.

(2) To receive federal funding, the citizenship requirements in subdivision (l).

(n) (1) Except as provided in this subdivision, "applicable child" means a child for whom an adoption assistance agreement is entered into under this section during any federal fiscal year described in this subdivision if the child attained the applicable age for that federal fiscal year before the end of that federal fiscal year.

(A) For federal fiscal year 2010, the applicable age is 16 years.

(B) For federal fiscal year 2011, the applicable age is 14 years.

(C) For federal fiscal year 2012, the applicable age is 12 years.

(D) For federal fiscal year 2013, the applicable age is 10 years.

(E) For federal fiscal year 2014, the applicable age is eight years.

(F) For federal fiscal year 2015, the applicable age is six years.

(G) For federal fiscal year 2016, the applicable age is four years.

(H) For federal fiscal year 2017, the applicable age is two years.

(I) For federal fiscal year 2018 and thereafter, any age.

(2) Beginning with the 2010 federal fiscal year, the term "applicable child" shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:

(A) He or she has been in foster care under the responsibility of the state for at least 60 consecutive months.

(B) He or she meets the requirements of subdivision (k).

(3) Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:

(A) He or she is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).

(B) He or she is to be placed in the same adoption placement as an “applicable child” for the federal fiscal year who is their sibling.

(C) He or she meets the requirements of subdivision (k).

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 40. Section 16120 of the Welfare and Institutions Code, as amended by Section 59 of Chapter 559 of the Statutes of 2010, is amended to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment.

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, three years of age or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care, as described in Section 11464.

(c) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with

prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

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

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

(3) Effective January 1, 2012, he or she is under 19 years of age, effective January 1, 2013, he or she is under 20 years of age, and effective January 1, 2014, he or she is under 21 years of age and attained 16 years of age before the adoption assistance agreement became effective, and one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) The prospective adoptive parent or any adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to Section 671(a)(20)(A) and (C) of Title 42 of the United States Code.

(i) To be eligible for state funding, the child is the subject of an agency adoption, as defined in Section 8506 of the Family Code and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department pursuant to Section 8805 or 8918 of the Family Code.

(j) To be eligible for federal funding, in the case of a child who is not an applicable child for the federal fiscal year as defined in subdivision (n), the child satisfies any of the following criteria:

(1) Prior to the finalization of an agency adoption, as defined in Section 8506 of the Family Code, or an independent adoption, as defined in Section 8524 of the Family Code, is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, as determined and documented by the federal Social Security Administration.

(2) The child was removed from the home of a specified relative and the child would have been AFDC-eligible in the home of removal according to Section 606(a) or 607 of Title 42 of the United States Code, as those sections were in effect on July 16, 1996, in the month of the voluntary placement agreement or in the month court proceedings are initiated to remove the child, resulting in a judicial determination that continuation in the home would be contrary to the child's welfare. The child must have been living with the specified relative from whom he or she was removed within six months of the month the voluntary placement agreement was signed or the petition to remove was filed.

(3) The child was voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative and a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(4) Title IV-E foster care maintenance was paid on behalf of the child's minor parent and covered the cost of the minor parent's child while the child was in the foster family home or child care institution with the minor parent.

(k) To be eligible for federal funding, in the case of a child who is an applicable child for the federal fiscal year, as defined in subdivision (n), the child meets any of the following criteria:

(1) At the time of initiation of adoptive proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or a voluntary relinquishment.

(2) He or she meets all medical or disability requirements of Title XVI with respect to eligibility for supplemental security income benefits.

(3) He or she was residing in a foster family home or a child care institution with the child's minor parent, and the child's minor parent was in the foster family home or child care institution pursuant to either of the following:

(A) An involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(B) A voluntary placement agreement or voluntary relinquishment.

(l) The child is a citizen of the United States or a qualified alien as defined in Section 1641 of Title 8 of the United States Code. If the child is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the child must meet the five-year residency requirement pursuant to Section 673(a)(2)(B) of Title 42 of the United States Code, unless the child is a member of one of the excepted groups pursuant to Section 1612(b) of Title 8 of the United States Code.

(m) A child shall be eligible for Adoption Assistance Program benefits if the following conditions are met:

(1) The child received Adoption Assistance Program benefits with respect to a prior adoption and the child is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's adoptive parents died and the child meets the special needs criteria described in subdivisions (a) to (c), inclusive.

(2) To receive federal funding, the citizenship requirements in subdivision (l).

(n) (1) Except as provided in this subdivision, “applicable child” means a child for whom an adoption assistance agreement is entered into under this section during any federal fiscal year described in this subdivision if the child attained the applicable age for that federal fiscal year before the end of that federal fiscal year.

- (A) For federal fiscal year 2010, the applicable age is 16 years.
- (B) For federal fiscal year 2011, the applicable age is 14 years.
- (C) For federal fiscal year 2012, the applicable age is 12 years.
- (D) For federal fiscal year 2013, the applicable age is 10 years.
- (E) For federal fiscal year 2014, the applicable age is eight years.
- (F) For federal fiscal year 2015, the applicable age is six years.
- (G) For federal fiscal year 2016, the applicable age is four years.
- (H) For federal fiscal year 2017, the applicable age is two years.
- (I) For federal fiscal year 2018 and thereafter, any age.

(2) Beginning with the 2010 federal fiscal year, the term “applicable child” shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:

(A) He or she has been in foster care under the responsibility of the state for at least 60 consecutive months.

(B) He or she meets the requirements of subdivision (k).

(3) Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:

(A) He or she is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).

(B) He or she is to be placed in the same adoption placement as an applicable child for the federal fiscal year who is his or her sibling.

(C) He or she meets the requirements of subdivision (k).

(o) This section shall become operative on January 1, 2014.

SEC. 41. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, the case plan shall include information, to the extent possible, about a parent's incarceration in a county jail or the state prison during the time that a minor child of that parent is involved in dependency care.

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most family like and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living setting, as described in Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. If admission to, or continuation in, a group home placement is being considered for a nonminor dependent, the group home placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the full range of placement options, and shall specify why admission to, or continuation in, a group home placement is the best alternative available at the time to meet the special needs or well-being of the nonminor dependent, and how the placement will contribute to the nonminor dependent's transition to independent living. The case plan shall specify the treatment strategies that will be used to prepare the nonminor dependent for discharge to a less restrictive and more family-like setting, including a target date for discharge from the group home placement. The placement shall be reviewed and updated on a regular, periodic basis to ensure that continuation in the group home remains in the best interests of the nonminor dependent and that progress is being made in achieving case plan goals leading to independent living. The group home placement planning process shall begin as soon as it becomes clear to the county welfare department or probation office that a foster child in group home placement is likely to remain in group home placement on his or her 18th birthday, in order to expedite the transition to a less restrictive and more family-like setting if he or she becomes a nonminor dependent. The case planning process shall include informing the youth of all of his or her options, including, but not limited to, admission to or continuation in a group home placement. Consideration for continuation of existing group home placement for a nonminor dependent under 19 years of age may include the need to stay in the same placement in order to complete high school. After a nonminor dependent either completes high school or attains his or her 19th birthday, whichever is earlier, continuation

in or admission to a group home is prohibited unless the nonminor dependent satisfies the conditions of paragraph (5) of subdivision (b) of Section 11403, and group home placement functions as a short-term transition to the appropriate system of care. Treatment services provided by the group home placement to the nonminor dependent to alleviate or ameliorate the medical condition, as described in paragraph (5) of subdivision (b) of Section 11403, shall not constitute the sole basis to disqualify a nonminor dependent from the group home placement.

(2) In addition to the requirements of paragraph (1), and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school of origin, and school attendance area, the number of school transfers the child has previously experienced, and the child's school matriculation schedule, in addition to other indicators of educational stability that the Legislature hereby encourages the State Department of Social Services and the State Department of Education to develop.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker

shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in

addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the

caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(12) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In a voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan. Commencing January 1, 2012, for nonminor dependents, as defined in subdivision (v) of Section 11400, who are receiving AFDC-FC up to 21 years of age pursuant to Section 11403, the transitional independent living case plan, as set forth in subdivision (y) of Section 11400, shall be developed with, and signed by, the nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(16) (A) When appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan shall include a written description of the programs and services that will help the child, consistent with the child's best interests, prepare for the transition from foster care to independent living, and whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Juvenile Immigration Status or other applicable application for legal residency and an active dependency case is required for that application. When appropriate, for a nonminor dependent, the case plan shall include a written description of the program and services that will help the nonminor dependent, consistent with his or her best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility criteria set forth in Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the

supervised independent living setting as defined, in subdivision (w) of Section 11400. The case plan shall be developed with the child or nonminor dependent and individuals identified as important to the child or nonminor dependent, and shall include steps the agency is taking to ensure that the child or nonminor dependent achieves permanence, including maintaining or obtaining permanent connections to caring and committed adults.

(B) During the 90-day period prior to the participant attaining 18 years of age or older as the state may elect under Section 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social Security Act, whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under Section 477 (42 U.S.C. Sec. 677) of the federal Social Security Act, a caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, a power of attorney for health care and information regarding the advance health care directive form.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions

necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services.

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(l) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 42. Section 16504 of the Welfare and Institutions Code is amended to read:

16504. (a) Any child reported to the county child welfare services department to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and evaluation of risk services. Each county child welfare services department shall maintain and operate a 24-hour response system. An immediate in-person response shall be made by a county child welfare services department social worker in emergency situations in accordance with regulations of the department. The person making any initial response to a request for child welfare services shall consider providing appropriate social services to maintain the child safely in his or her own home. However, an in-person response is not required when the county child welfare services department, based upon an evaluation of risk, determines that an in-person response is not appropriate. An evaluation of risk includes collateral

contacts, a review of previous referrals, and other relevant information.

(b) A county child welfare services department social worker shall make an in-person response whenever a referral is received pursuant to Section 11254. Whenever a referral is received pursuant to Section 11254, the county child welfare services department social worker, within 20 calendar days from the receipt of the referral, shall determine whether the physical or emotional health or safety of the individual or child would be jeopardized if the individual and child lived in the same residence with the individual's own parent or legal guardian, or other adult relative.

(c) Notwithstanding Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, any nonminor dependent, as described in subdivision (v) of Section 11403, reported to the county welfare services department to be endangered by abuse, neglect, or exploitation by a licensed or approved caregiver while in a foster care placement shall be eligible for evaluation of risk services, to determine if the placement is safe and appropriate. The county child welfare services department shall cross-report the suspected abuse, neglect, or exploitation by the licensed or approved caregiver to the appropriate licensing or approval agency and, as appropriate, to law enforcement.

SEC. 43. Section 16504.5 of the Welfare and Institutions Code is amended to read:

16504.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (b) of Section 11105 of the Penal Code, a child welfare agency may secure from an appropriate governmental criminal justice agency the state summary criminal history information, as defined in subdivision (a) of Section 11105 of the Penal Code, through the California Law Enforcement Telecommunications System pursuant to subdivision (d) of Section 309, and subdivision (a) of Section 1522 of the Health and Safety Code for the following purposes:

(A) To conduct an investigation pursuant to Section 11166.3 of the Penal Code or an investigation involving a child in which the child is alleged to come within the jurisdiction of the juvenile court under Section 300.

(B) (i) To assess the appropriateness and safety of placing a child who has been detained or is a dependent of the court, in the home of a relative assessed pursuant to Section 309 or 361.4, or

in the home of a nonrelative extended family member assessed as described in Section 362.7 during an emergency situation.

(ii) When a relative or nonrelative family member who has been assessed pursuant to clause (i) and approved as a caregiver moves to a different county and continued placement of the child with that person is intended, the move shall be considered an emergency situation for purposes of this subparagraph.

(C) To attempt to locate a parent or guardian pursuant to Section 311 of a child who is the subject of dependency court proceedings.

(D) To obtain information about the background of a nonminor who has petitioned to reenter foster care under subdivision (e) of Section 388, in order to assess the appropriateness and safety of placing the nonminor in a foster care or other placement setting with minor dependent children.

(2) Any time that a child welfare agency initiates a criminal background check through the California Law Enforcement Telecommunications System for the purpose described in subparagraph (B) of paragraph (1), the agency shall ensure that a state-level fingerprint check is initiated within 10 calendar days of the check, unless the whereabouts of the subject of the check are unknown or the subject of the check refuses to submit to the fingerprint check. The Department of Justice shall provide the requesting agency a copy of all criminal history information regarding an individual that it maintains pursuant to subdivision (b) of Section 11105 of the Penal Code.

(b) Criminal justice personnel shall cooperate with requests for criminal history information authorized pursuant to this section and shall provide the information to the requesting entity in a timely manner.

(c) Any law enforcement officer or person authorized by this section to receive the information who obtains the information in the record and knowingly provides the information to a person not authorized by law to receive the information is guilty of a misdemeanor as specified in Section 11142 of the Penal Code.

(d) Information obtained pursuant to this section shall not be used for any purposes other than those described in subdivision (a).

(e) Nothing in this section shall preclude a nonminor petitioning to reenter foster care or a relative or other person living in a relative's home from refuting any of the information obtained by

law enforcement if the individual believes the state- or federal-level criminal records check revealed erroneous information.

(f) (1) A state or county welfare agency may submit to the Department of Justice fingerprint images and related information required by the Department of Justice of parents or legal guardians when determining their suitability for reunification with a dependent child subject to the jurisdiction of the juvenile court, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests, as well as information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal. Of the information received by the Department of Justice pursuant to this subdivision, only the parent's or legal guardian's criminal history for the time period following the removal of the child from the parent or legal guardian shall be considered.

(2) A county welfare agency or county probation office may submit to the Department of Justice fingerprint images and related information required by the Department of Justice of nonminors petitioning to reenter foster care under Section 388, in order to assess the appropriateness and safety of placing the nonminor in a foster care or other placement setting with minor dependent children.

(3) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and respond to the state or county welfare agency.

(4) The Department of Justice shall provide a response to the state or county welfare agency pursuant to subdivision (p) of Section 11105 of the Penal Code.

(5) The state or county welfare agency shall not request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for individuals described in this subdivision.

(6) The Department of Justice shall charge a fee sufficient to cover the costs of processing the request described in this subdivision.

(7) This subdivision shall become operative on July 1, 2007.

(g) A fee, determined by the Federal Bureau of Investigation and collected by the Department of Justice, shall be charged for each federal-level criminal offender record information request submitted pursuant to this section and Section 361.4.

SEC. 44. Section 16522 of the Welfare and Institutions Code is amended to read:

16522. (a) The State Department of Social Services shall adopt regulations to govern county transitional housing placement programs that provide supervised housing services to persons at least 16 years of age and not more than 18 years of age, except nonminor dependents, as described in subdivision (v) of Section 11400, when it is in their best interest to remain in the facility in order to complete high school or its equivalent, or to finish the high school year prior to their 19th birthday, as provided for in paragraph (1) of subdivision (a) of Section 11403.2, and who meet all of the following conditions:

(1) Meet the requirements of Section 11401.

(2) Are in out-of-home placement under the supervision of the county child welfare services department or the county probation department.

(3) Are participating in, or have successfully completed an independent living program.

(b) A transitional housing program may also serve any person under 21 years of age who is receiving aid under Section 11403.1.

(c) The department may structure statewide implementation of transitional housing placement programs on a phased-in basis.

(d) Transitional housing placement program services shall include any of the following:

(1) Programs in which one or more participants in the program live in an apartment, single-family dwelling, or condominium with an adult employee of the provider.

(2) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by the provider located in a building in which one or more adult employees of the provider reside and provide supervision.

(3) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by a provider under the supervision of the provider if the State Department of Social Services provides approval.

(e) The regulations shall be age-appropriate and recognize that youth who are about to emancipate from the foster care system should be subject to fewer restrictions than those who are younger. At a minimum, the regulations shall provide for both of the following:

(1) Require programs that serve youth who are both in and out of the foster care system to have separate rules and program design, as appropriate, for these two groups of youth.

(2) Allow youth who have emancipated from the foster care system to have the greatest amount of freedom possible in order to prepare them for self-sufficiency.

SEC. 45. Section 16600 of the Welfare and Institutions Code is amended to read:

16600. (a) The department shall administer the federal Promoting Safe and Stable Families funds.

(b) Notwithstanding Section 10103, the department may retain and not pass on to the counties up to 10 percent of federal Promoting Safe and Stable Families funds for the purposes of state administrative costs incurred on or after October 1, 2007, including planning, monitoring, evaluation, training and technical assistance, or related projects of statewide significance.

SEC. 46. Section 16601 of the Welfare and Institutions Code is repealed.

SEC. 47. Section 16601 is added to the Welfare and Institutions Code, to read:

16601. For purposes of this part, the following terms shall have the following meaning:

(a) "Adoption promotion and support services," as defined by Section 431 of the federal Social Security Act (42 U.S.C. Sec. 629a), means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including activities such as preadoptive and postadoptive services and activities designed to expedite the adoption process and support adoptive families.

(b) "Family preservative services," as defined by Section 431 of the federal Social Security Act (42 U.S.C. Sec. 629a), means services for children and families designed to help families, including adoptive and extended families, at risk or in crisis, including all of the following:

(1) Services programs designed to help children return to families from which they have been removed, where safe and appropriate, or be placed for adoption or with a legal guardian, or, if adoption or legal guardianship is determined not to be safe and appropriate for the child, in some other planned, permanent living arrangement.

(2) Preplacement preventive services programs, including, but not limited to, intensive family preservation programs designed to help children at risk of foster care placement remain safely with their families.

(3) Service programs designed to provide followup care to families to whom a child has been returned after a foster care placement.

(4) Respite care of children to provide temporary relief for parents and other caregivers, including, but not limited to, foster parents.

(5) Services designed to improve parenting skills by reinforcing parents' confidence in their strengths and helping them to identify where improvement is needed and to obtain assistance in improving those skills with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

(6) Infant safe haven programs that provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to state law.

(c) "Family support services," as defined by Section 431 of the federal Social Security Act (42 U.S.C. Sec. 629a), means community-based services to promote the safety and well-being of children and families. This includes services designed to increase the strength and stability of families, including adoptive, foster, and extended families, to increase parents' confidence and competence in their parenting abilities, to afford children a safe, stable, and supportive family environment, to strengthen parental relationships and promote healthy marriages, and otherwise to enhance child development.

(d) "Time-limited family reunification services," as defined by Section 431 of the federal Social Security Act (42 U.S.C. Sec. 629a), means the services and activities described in Section 629(a)(7) (B) of Title 42 of the United States Code that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution and to

the parents or primary caregiver of the child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 15-month period that begins on the date that the child is considered to have entered foster care, pursuant to Section 675(5)(F) of Title 42 of the United States Code.

SEC. 48. Section 16602 of the Welfare and Institutions Code is amended to read:

16602. (a) Notwithstanding Section 16500, each county that chooses to utilize federal Promoting Safe and Stable Families funds shall establish a local planning body and develop county plans as required by the department. The board of supervisors shall oversee the local planning process and approve each county plan before it is transmitted to the department for approval.

(b) Notwithstanding Section 16500, the county welfare department shall act as the county lead administrative agency to carry out the day-to-day planning activities. The county welfare department shall distribute and account for the program funds allocated to the county.

SEC. 49. Section 16604 of the Welfare and Institutions Code is repealed.

SEC. 50. Section 16604 is added to the Welfare and Institutions Code, to read:

16604. (a) Except as provided in subdivision (b), counties shall spend a minimum of 20 percent of its allocated funds in each of the following categories, for a total of 80 percent:

- (1) Family support services.
- (2) Family preservation services.
- (3) Time-limited reunification services.
- (4) Adoption promotion and support services.

(b) A county may be authorized to spend less than 20 percent of funds in one or more of the categories identified in subdivision (a) for a limited time period, provided that the department determines in writing that good cause exists for the county's expenditures and determines the date by which the county shall fully comply with subdivision (a). The department may disallow a county's claims for costs under this section if the county's expenditure of funds, as specified in subdivision (a), does not conform to its approved county plan.

(c) Counties may expend the remaining 20 percent of funds not expended pursuant to subdivision (a) and any funds identified in

subdivision (b), for any of the categories identified in subdivision (a).

SEC. 51. Section 16604.5 of the Welfare and Institutions Code is amended to read:

16604.5. When preparing their needs assessments and plans to implement the federal Family Preservation and Support Act (Sections 430 to 435, inclusive, of the Social Security Act (Subpart 2 (commencing with Section 629) of Part B of Subchapter 4 of Chapter 7 of Title 42 of the United States Code), as contained in the Omnibus Reconciliation Act of 1993 (Public Law 103-66)), counties shall consider providing an in-home assessment of substance-exposed infants after release from a hospital, as part of the protocols of Section 123605 of the Health and Safety Code. These assessments may be funded using federal Promoting Safe and Stable Families funding, to the extent they are identified in a county's needs assessment and are part of a county's program plan, and federal Promoting Safe and Stable Families funds are available for this purpose.

SEC. 51.4. Section 4.5 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and Assembly Bill 717. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, but this bill becomes operative first, (2) each bill amends Section 11170 of the Penal Code, and (3) this bill is enacted after Assembly Bill 717, in which case Section 11170 of the Penal Code, as amended by Section 4.3 of this bill, shall remain operative only until the operative date of Assembly Bill 717, at which time Section 4.5 of this bill shall become operative.

SEC. 51.6. Section 11.5 of this bill incorporates amendments to Section 391 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 735. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, but this bill becomes operative first, (2) each bill amends Section 391 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 735, in which case Section 391 of the Welfare and Institutions Code, as amended by Section 11 of this bill, shall remain operative only until the operative date of Assembly Bill 735, at which time Section 11.5 of this bill shall become operative.

SEC. 52. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 53. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure accurate and timely instructions, guidance, rules, and regulations for child welfare agencies, probation departments, and tribal governments, needed for the implementation of provisions of Assembly Bill 12 (Chapter 559 of the Statutes of 2010) that become operative on or before January 1, 2012, it is necessary for this act to take effect immediately.













Approved \_\_\_\_\_, 2011

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*Governor*