

Senate Bill No. 876

CHAPTER 454

An act to amend Sections 10553.1, 11330.7, 11364, 11387, 11405, 11461.36, 11462.04, and 16121 of the Welfare and Institutions Code, and to amend Section 43 of Chapter 35 of the Statutes of 2018, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 17, 2018. Filed with
Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 876, Committee on Budget and Fiscal Review. Human services.

(1) Existing law establishes the State Department of Social Services to administer public social services. Existing law provides for various child welfare services, such as the placement of children and nonminor dependents in certain placements, including, but not limited to, resource families, approved homes of a relative or a nonrelative extended family member, group home, and supervised independent living placements, and different assistance payments thereto.

This bill would make various technical and related nonsubstantive changes to these provisions.

(2) The bill would appropriate \$10,000 from the Federal Trust Fund to the department to fund specified administrative activities.

(3) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 10553.1 of the Welfare and Institutions Code is amended to read:

10553.1. (a) Notwithstanding any other law, the department may enter into an agreement, in accordance with Section 1919 of Title 25 of the United States Code, and consistent with Section 16000.6, with any California Indian tribe or any out-of-state Indian tribe that has reservation lands that extend into this state, consortium of tribes, or tribal organization regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, including, but not limited to, agreements that provide for orderly transfer of jurisdiction on a case-by-case basis, for exclusive tribal or state jurisdiction, or for concurrent jurisdiction between the state and tribes.

(b) (1) An agreement under subdivision (a) regarding the care and custody of Indian children shall provide for the delegation to the tribe, consortium of tribes, or tribal organization of the responsibility that would otherwise be the responsibility of the county for the provision of child welfare services or assistance payments under the AFDC-FC program, or both.

(2) An agreement under subdivision (a) concerning the provision of child welfare services shall ensure that a tribe, consortium of tribes, or tribal organization meets current service delivery standards provided for under Chapter 5 (commencing with Section 16500) of Part 4, and provides the tribal matching share of costs required by Section 10553.11.

(3) An agreement under subdivision (a) concerning assistance payments under the AFDC-FC program shall ensure that a tribe, consortium of tribes, or tribal organization meets current foster care standards provided for under Article 5 (commencing with Section 11400) of Chapter 2 of Part 3, and provides the tribal matching share of costs required by Section 10553.11.

(4) An agreement under subdivision (a) concerning adoption assistance shall ensure that a tribe, consortium of tribes, or tribal organization meets the current service delivery standards provided for under Chapter 2.1 (commencing with Section 16115) of Part 4, and provides the tribal matching share of costs required by Section 10553.11.

(c) Upon the implementation date of an agreement authorized by subdivision (b), the county that would otherwise be responsible for providing the child welfare services or AFDC-FC payments specified in the agreement as being provided by the tribe, consortium of tribes, or tribal organization shall no longer be subject to that responsibility to children served under the agreement.

(d) Upon the effective date of an agreement authorized by subdivision (b), the tribe, consortium of tribes, or tribal organization shall comply with fiscal reporting requirements specified by the department for federal and state reimbursement child welfare or AFDC-FC services for programs operated under the agreement.

(e) An Indian tribe, consortium of tribes, or tribal organization, that is a party to an agreement under subdivision (a), shall, in accordance with the agreement, be eligible to receive allocations of child welfare services funds.

(f) An Indian tribe, consortium of tribes, or tribal organization, that is a party to an agreement under subdivision (a), may, in accordance with the agreement, be eligible to receive an allocation of child welfare services funds to assist in funding the startup costs associated with establishing a comprehensive child welfare services program. The allocation shall be available for expenditure by the Indian tribe, consortium of tribes, or tribal organization for three years of the agreement under subdivision (a). The department may extend the time for expenditure of the allocation upon a showing of good cause by the party seeking an extension. This subdivision shall be implemented only to the extent that funding is expressly provided in the annual Budget Act for these purposes.

(g) Implementation of an agreement under subdivision (a) does not impose liability upon, or to require indemnification by, the participating county or the State of California for any act or omission performed by an officer, agent, or employee of the participating tribe, consortium of tribes, or tribal organization, pursuant to this section.

SEC. 2. Section 11330.7 of the Welfare and Institutions Code is amended to read:

11330.7. (a) A primary component of the program described in this article shall be case management and evidence-based home visiting for the purpose of family support, which shall commence upon the determination that an individual is eligible in accordance with paragraph (2) of subdivision (c) of Section 11330.6 and shall continue until the eligible individual completes the evidence-based home visiting program or terminates his or her own participation.

(b) Home visiting shall include, but not be limited to, resources and referrals to all of the following:

- (1) Prenatal, infant, and toddler care.
- (2) Infant and child nutrition.
- (3) Developmental screening and assessments.
- (4) Parent education, parent and child interaction, child development, and child care.
- (5) Job readiness and barrier removal.
- (6) Domestic violence and sexual assault, mental health, and substance abuse treatment, as applicable.

(c) Home visitors shall encourage participants to enroll their child in a high-quality, early learning setting, or participate in playgroups, or other child enrichment activities, as appropriate, and parent participation in this early learning setting shall count towards allowable activities under a welfare-to-work plan developed by the parent or caretaker relative under Section 11325.21.

(d) Home visiting services shall only be those intended to achieve the goals established in subdivision (a) of Section 11330.6 and that are provided in the home of an assistance unit or at a location agreed upon by the parent or caretaker relative and the home visitor. Home visiting services shall only be provided by a registered nurse, nurse practitioner, social worker, or other person able to provide culturally appropriate services who is trained and certified according to the requirements of this article, has completed a background check, and has completed training as specified in subdivision (g) for the purposes of implementing this article.

(e) Home visiting services and visits shall not be mandatory, random, or unannounced.

(f) Counties may give preferential treatment to contractors of home visiting programs that are able to collocate home visitors and CalWORKs caseworkers in order to facilitate communication and coordination.

(g) (1) All home visiting providers shall complete training in the following areas before providing services to a CalWORKs recipient:

(A) (i) CalWORKs, Medi-Cal, CalFresh, California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and other programs, with county-specific information about how the home visiting professionals can help a parent access additional services for which he or she may be eligible and troubleshoot problems with benefits or eligibility that would impact his or her access to services.

(ii) This training shall be administered by the county and shall include, but not be limited to, the demographics of the population served and the supports and services available for CalWORKs recipients.

(iii) Any costs incurred shall be funded as part of the allocation from the department to that county.

(B) (i) Cultural competency and implicit bias.

(ii) It is the responsibility of the contractor to ensure that all home visitors have received implicit bias and cultural competency trainings. The department shall establish the minimum training standards as required in this section.

(iii) Contractors are encouraged to partner with local organizations to develop a curriculum that best suits the needs of the home visiting program participants.

(C) (i) Strengths-based practices for working with families with unmet needs.

(ii) Either the contracted provider or the county shall administer this training.

(2) A county that staffs its home visiting program solely with county staff is exempt from the requirements of paragraph (1) to the extent the training would duplicate training already received.

(h) Counties, in coordination with home visitors and CalWORKs staff, may establish processes to provide one-time, as-needed funding for the purchase of material goods for a program participant's household related to care, health, and safety of the child and family, which shall not exceed five hundred dollars (\$500).

SEC. 3. Section 11364 of the Welfare and Institutions Code is amended to read:

11364. (a) In order to receive payments under this article, the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization 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 (d) 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 (d) 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, and through December 31, 2016, the rate paid shall not exceed the basic foster care maintenance payment rate structure effective and available as of December 31, 2016.

(3) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to Section 728, concurrently or subsequently to establishment of the guardianship, on or after January 1, 2017, the rate paid shall not exceed the home-based family care rate structure developed pursuant to subdivision (g) of Section 11461 and Section 11463.

(4) 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.

(5) 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.

(6) 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.

(7) 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, Indian tribe, consortium of tribes, or tribal organization 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, Indian tribe, consortium of tribes, or tribal organization, 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. 4. 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, Indian tribe, consortium of tribes, or tribal organization 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. The negotiated agreement shall be executed prior to establishment of the guardianship.

(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 (d) 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, and through December 31, 2016, the rate paid shall not exceed the basic foster care maintenance payment rate structure effective and available as of December 31, 2016.

(3) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to Section 728, concurrently or subsequently to establishment of the guardianship, on or after January 1, 2017, the rate paid shall not exceed the home-based family care rate structure developed pursuant to subdivision (g) of Section 11461 and Section 11463.

(4) 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.

(5) 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.

(6) 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.

(7) 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, Indian tribe, consortium of tribes, or tribal organization 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. 5. Section 11405 of the Welfare and Institutions Code is amended to read:

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

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

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

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

- (1) Develop a written assessment of the child's needs.
- (2) Update those assessments no less frequently than once every six months.

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

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

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

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

(e) (1) 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.

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

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

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

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

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

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

(f) 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 before 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 before 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, and through December 31, 2016, the AFDC-FC

payments described in this section shall be the basic foster family home rate structure effective and available as of December 31, 2016.

(3) For cases in which guardianship has been established by the juvenile court on or after January 1, 2017, the AFDC-FC payments described in this section shall not exceed the home-based family care rate structure developed pursuant to subdivision (g) of Section 11461 and Section 11463.

(4) For cases in which guardianship has been established in the probate court on or after January 1, 2017, the AFDC-FC payments described in this section shall not exceed the basic foster care maintenance payment rate structure effective and available as of December 31, 2016.

(5) 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. 6. Section 11461.36 of the Welfare and Institutions Code is amended to read:

11461.36. (a) It is the intent of the Legislature to provide support to emergency caregivers, as defined in subdivision (c), who care for children and nonminor dependents before approval of an application under the Resource Family Approval Program.

(b) For placements made on and after July 1, 2018, each county shall provide a payment equivalent to the resource family basic level rate of the home-based family care rate structure, pursuant to Section 11463, to an emergency caregiver on behalf of a child or nonminor dependent placed in the home of the caregiver pursuant to subdivision (d) of Section 309 or Section 361.45, or based on a compelling reason pursuant to subdivision (e) of Section 16519.5, subject to the availability of state and federal funds pursuant to subdivision (e), if all of the following criteria are met:

(1) The child or nonminor dependent is not otherwise eligible for AFDC-FC or the Approved Relative Caregiver Funding Program, pursuant to Section 11461.3, while placed in the home of the emergency caregiver.

(2) The child or nonminor dependent resides in California.

(3) The emergency caregiver has signed and submitted to the county an application for resource family approval.

(4) An application for the Emergency Assistance Program has been completed.

(c) For purposes of this section, an “emergency caregiver” means an individual who has a pending resource family application filed with an

appropriate agency on or after July 1, 2018, and who meets one of the following requirements:

(1) The individual has been assessed pursuant to Section 361.4.

(2) The individual has successfully completed the home environment assessment portion of the resource family approval pursuant to paragraph (2) of subdivision (d) of Section 16519.5.

(d) The beginning date of aid for payments made pursuant to subdivision (b) shall be the date of placement.

(e) Funding for payments made pursuant to subdivision (b) shall be as follows:

(1) For emergency or compelling reason placements made during the 2018–19 fiscal year:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state’s Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state’s Temporary Assistance for Needy Families block grant, 70 percent of the cost of emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), beyond 180 days, or, if the conditions of subparagraph (E) are met, beyond 365 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 180 days of payments, and up to 365 days of payments, if all of the following conditions are met:

(i) On a monthly basis, the county has documented good cause for the delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or his or her designee, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 90 days and the reason for the delays.

(2) For emergency or compelling reason placements made during the 2019–20 fiscal year, and each fiscal year thereafter:

(A) Payments shall be made to an emergency caregiver through the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant.

(B) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), if the child or nonminor dependent is determined to be ineligible for the Emergency Assistance Program included in the state's Temporary Assistance for Needy Families block grant, 70 percent of the cost of emergency payments made to the emergency caregiver shall be funded by the department and 30 percent shall be funded by the county.

(D) Notwithstanding subparagraphs (A), (B), and (C), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), or beyond 90 days, whichever occurs first.

(E) The department shall consider extending the payments required pursuant to subdivision (b) beyond the 90-day limit identified in subparagraph (D) if it makes a determination that the resource family approval process cannot be completed within 90 days due to circumstances outside of a county's control.

(f) (1) An emergency caregiver eligible for payments pursuant to subdivision (b) of Section 11461.35, as that section read on June 30, 2018, shall continue to be eligible for those payments on and after July 1, 2018, until the emergency caregiver's resource family application is approved or denied.

(2) Funding for a payment described in paragraph (1) shall be as follows:

(A) If the emergency caregiver was eligible to receive payments funded through the Approved Relative Caregiver Funding Program, payments shall be made through that program until the application for resource family approval is approved or denied.

(B) If the emergency caregiver was eligible to receive payments funded through the Emergency Assistance Program, payments shall be made through that program, subject to the following conditions:

(i) Up to 180 total days or, if the conditions of subparagraph (D) are met, up to 365 total days of payments shall be made to the emergency caregiver through the Emergency Assistance Program. For the purpose of this subdivision, "total days of payments" includes all payments made to the emergency caregiver through the Emergency Assistance Program pursuant to this section and Section 11461.35, as that section read on June 30, 2018.

(ii) The county shall be solely responsible for the nonfederal share of cost.

(C) Notwithstanding subparagraphs (A) and (B), payments required to be provided pursuant to subdivision (b) shall not be eligible for the federal or state share of cost upon approval or denial of the resource family application, consistent with subdivision (g), beyond 180 days, or, if the

conditions of subparagraph (D) are met, beyond 365 days, whichever occurs first.

(D) The federal and state share of payment made pursuant to this subdivision shall be available beyond 180 total days of payments, and up to 365 total days of payments, when the following conditions are met:

(i) On a monthly basis, the county has documented good cause for the delay in approving the resource family application that is outside the direct control of the county, which may include delays in processing background check clearances or exemptions, medical examinations, or delays that are based on the needs of the family.

(ii) On a monthly basis, the deputy director or director of the county child welfare department, or his or her designee, has been notified of the delay in approving the resource family application and that notification is documented in the resource family approval file.

(iii) On a monthly basis, the county provides to the department a list of the resource family applications that have been pending for more than 90 days, the number of cases that have received more than 90 total days of payments pursuant to this section and Section 11461.35, and the reason for the delays in approval or denial of the resource family applications.

(g) (1) If the application for resource family approval is approved, the funding source for the placement shall be changed to AFDC-FC or the Approved Relative Caregiver Funding Program, as appropriate and consistent with existing eligibility requirements.

(2) If the application for resource family approval is denied, eligibility for funding pursuant to this section shall be terminated.

(h) A county shall not be liable for any federal disallowance or penalty imposed on the state as a result of a county's action in reliance on the state's instruction related to implementation of this section.

(i) (1) For the 2018–19 and 2019–20 fiscal years, the department shall determine, on a county-by-county basis, whether the timeframe for the resource family approval process resulted in net assistance costs or net assistance savings for assistance payments, pursuant to this section.

(2) For the 2018–19 and 2019–20 fiscal years, the department shall also consider, on a county-by-county basis, the impact to the receipt of federal Title IV-E funding that may result from implementation of this section.

(3) The department shall work with the California State Association of Counties to jointly determine the timeframe for subsequent reviews of county costs and savings beyond the 2019–20 fiscal year.

(j) (1) The department shall monitor the implementation of this section, including, but not limited to, tracking the usage and duration of Emergency Assistance Program payments made pursuant to this section and evaluating the duration of time a child or nonminor dependent is in a home pending resource family approval. The department may conduct county reviews or case reviews, or both, to monitor the implementation of this section and to ensure successful implementation of the county plan, submitted pursuant to subparagraph (B) of paragraph (2) of subdivision (e) of Section 11461.35, to eliminate any resource family approval backlog by September 1, 2018.

(2) The department may request information or data necessary to oversee the implementation of this section until data collection is available through automation. Pending the completion of automation, information or data collected manually shall be determined in consultation with the County Welfare Directors Association of California.

(k) An appropriation shall not be made pursuant to Section 15200 for purposes of implementing this section.

(l) Notwithstanding the rulemaking provisions of 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 may implement and administer this section through an all-county letter or similar instructions, which shall include instructions regarding the eligibility standards for emergency assistance until regulations are adopted.

SEC. 7. Section 11462.04 of the Welfare and Institutions Code is amended to read:

11462.04. (a) Notwithstanding any other law, commencing January 1, 2017, no new group home rate or change to an existing rate shall be established pursuant to the Rate Classification Level (RCL) system.

(b) Notwithstanding subdivision (a), the department may grant an exception as appropriate, on a case-by-case basis, when a written request and supporting documentation are provided by a county placing agency, including a county welfare or probation director, that absent the granting of that exception, there is a material risk to the welfare of children due to an inadequate supply of appropriate alternative placement options to meet the needs of children.

(c) For group homes being paid under the RCL system, and those granted an exception pursuant to paragraph (b), group home rates shall terminate on December 31, 2016, unless granted an extension under the exception process in subdivision (d).

(d) A group home may request an exception to extend its rate as follows:

(1) The department may grant an extension for up to two years, through December 31, 2018, except as provided in paragraph (2), on a case-by-case basis, when a written request and supporting documentation are provided by a county placing agency, including a county welfare or probation director, that absent the granting of that exception, there is a material risk to the welfare of children due to an inadequate supply of appropriate alternative placement options to meet the needs of children. The exception may include time to meet the program accreditation requirement or the mental health certification requirement.

(A) The department may grant an additional extension to a group home beyond December 31, 2018, upon a county child welfare department submitting a written request on behalf of a provider and providing documentation in a format to be determined by the department pursuant to subparagraph (B). If granted, the extension requests shall be provided in increments up to six months and may be renewed by the department if the documentation is provided. Extensions granted pursuant to this subparagraph shall not exceed a total of 12 months.

(B) In order to be eligible to maintain placement of placed foster youth in a group home receiving an extension pursuant to subparagraph (A), the county child welfare agency, in partnership with the county mental health plan, shall submit a plan to the department by August 15, 2018. This plan shall do all of the following:

(i) Describe the agency's plan to transition all foster youth under the jurisdiction of the county residing in group homes into a home-based placement, or, if determined by the interagency placement committee, to a licensed short-term residential therapeutic program (STRTP) within the extension period.

(ii) Address the need, availability, and capacity of STRTPs and other therapeutic placement options for the youth under the jurisdiction of the county and document prior and ongoing efforts taken to solicit or develop needed STRTP capacity.

(iii) Develop and document child specific transition plans that include a description of all of the following:

(I) Intensive family finding and engagement for every child lacking an identified home-based caregiver, including those youth identified for STRTP transition.

(II) Child and family team-driven case plans that identify and respond to barriers to home-based placement.

(III) Documentation of the trauma-informed and permanency-competent specialty mental health services to be provided, including wraparound, collateral, intensive care coordination and intensive home-based services, and therapeutic behavioral services.

(iv) Document efforts to expand or establish intensive services foster care, therapeutic foster care programs, and other home-based services that provide timely access to trauma-informed care, in conjunction with the county behavioral health department.

(v) Detail any barriers to achieving the goals in clauses (i) to (iv), inclusive, that have led the county to support the extension.

(vi) Identify any additional solutions to the barriers that are not addressed in the efforts identified in clauses (i) to (iv), inclusive, which may include needed action from partner agencies such as county boards of supervisors, county behavioral health directors, the department, the State Department of Health Care Services, STRTPs, foster family agencies, or other local agencies, including, but not limited to, regional centers and special education agencies, that would aid the county child welfare agency in delivering appropriate services to foster youth.

(C) The department shall require a provider on whose behalf an extension is being sought pursuant to subparagraph (A) to document the provider's efforts to convert to a STRTP, foster family agency, or other service provider.

(2) Pursuant to Section 11462.041, after the expiration of the extension afforded in paragraph (1), the department may grant an additional extension to a group home beyond December 31, 2018, upon a provider submitting a written request and the county probation department providing documentation stating that absent the granting of that extension, there is a

significant risk to the safety of the youth or the public, due to an inadequate supply of short-term residential therapeutic programs or resource families necessary to meet the needs of probation youth. The extension granted to any provider through this section may be reviewed annually by the department if concerns arise regarding that provider's facility. Pursuant to subdivision (e) of Section 11462.041, the final report submitted to the Legislature shall address whether or not the extensions are still necessary.

(3) The exception shall allow the provider to continue to receive the rate under the prior ratesetting system.

(4) A provider granted an extension pursuant to this section shall continue to operate and be governed by the applicable laws and regulations that were operative on December 31, 2016.

(5) If the exception request granted pursuant to this subdivision is not made by the host county, the placing county shall notify and provide a copy to the host county.

(e) (1) The extended rate granted pursuant to either paragraph (1) or (2) of subdivision (d) shall be provisional and subject to terms and conditions set by the department during the provisional period.

(2) Consistent with Section 11466.01, for provisional rates, the following shall be established:

(A) Terms and conditions, including the duration of the provisional rate.

(B) An administrative review process for provisional rate determinations, including denials, reductions, and terminations.

(C) An administrative review process that includes a departmental review, corrective action, and a protest with the department. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), this process shall be disseminated by written directive pending the promulgation of regulations.

(f) Upon termination of an existing group home rate under the RCL system, a new rate shall not be paid until an application is approved and a rate is granted by the department pursuant to Section 11462 as a short-term residential therapeutic program or, effective January 1, 2017, the rate set pursuant to Section 11463 as a foster family agency.

(g) The department shall, in the development of the new rate structures, consider and provide for placement of all children who are displaced as a result of reclassification of treatment facilities.

(h) Notwithstanding the provisions of 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 may implement this section through all-county letters.

SEC. 8. Section 16121 of the Welfare and Institutions Code is amended to read:

16121. (a) (1) For initial adoption assistance agreements executed on October 1, 1992, to December 31, 2007, inclusive, the adoptive family shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the adopting parents, but that

shall not exceed the basic foster care maintenance payment rate structure in effect on December 31, 2007, that would have been paid based on the age-related state-approved foster family home rate, and any applicable specialized care increment, for a child placed in a licensed or approved family home.

(2) For initial adoption assistance agreements executed from January 1, 2008, to December 31, 2009, inclusive, the adoptive family shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the adopting parents, but that shall not exceed the basic foster care maintenance payment rate structure in effect on December 31, 2009, that would have been paid based on the age-related state-approved foster family home rate, and any applicable specialized care increment, for a child placed in a licensed or approved family home.

(3) Notwithstanding any other provision of this section, for initial adoption assistance agreements executed on January 1, 2010, to June 30, 2011, inclusive, or the effective 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 07-08056 WHA), whichever is earlier, where the adoption is finalized on or before June 30, 2011, or the date specified in that order, whichever is earlier, the adoptive family shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstance of the adopting parents, but that amount shall not exceed the basic foster care maintenance payment rate structure in effect on June 30, 2011, or the date immediately prior to the date specified in the order described in this paragraph, whichever is earlier, and any applicable specialized care increment, that the child would have received while placed in a licensed or approved family home. Adoption assistance benefit payments shall not be increased based solely on age. This paragraph shall not preclude any reassessments of the child's needs, consistent with other provisions of this chapter.

(4) Notwithstanding any other provision of this section, for initial adoption assistance agreements executed on or after July 1, 2011, or the effective 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, where the adoption is finalized on or after July 1, 2011, or the effective date of that order, whichever is earlier, and before December 31, 2016, and for initial adoption assistance agreements executed before July 1, 2011, or the date specified in that order, whichever is earlier, where the adoption is finalized on or after the earlier of July 1, 2011, or that specified date, and before December 31, 2016, the adoptive family shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the adopting parents, but that amount shall not exceed the basic foster family home rate structure effective and available as of December 31, 2016, plus any applicable specialized care increment. These adoption assistance benefit

payments shall not be increased based solely on age. This paragraph shall not preclude any reassessments of the child's needs, consistent with other provisions of this chapter.

(5) Notwithstanding any other provision of this section, for initial adoption assistance agreements executed on or after January 1, 2017, the adoptive family shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the adopting parents, but that amount shall not exceed the home-based family care rate structure developed pursuant to subdivision (g) of Section 11461 and Section 11463, inclusive of any level of care determination, plus any applicable specialized care increment. This paragraph shall not preclude any reassessments of the child's needs consistent with other provisions of this chapter.

(b) Payment may be made on behalf of an otherwise eligible child in a state-approved group home, short-term residential therapeutic program, or residential care treatment facility if the department or county responsible for determining payment has confirmed that the placement is necessary for the temporary resolution of mental or emotional problems related to a condition that existed prior to the adoptive placement. Out-of-home placements shall be in accordance with the applicable provisions of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code and other applicable statutes and regulations governing eligibility for AFDC-FC payments for placements in in-state and out-of-state facilities. The designation of the placement facility shall be made after consultation with the family by the department or county welfare agency responsible for determining the Adoption Assistance Program (AAP) eligibility and authorizing financial aid. Group home, short-term residential therapeutic program, or residential placement shall only be made as part of a plan for return of the child to the adoptive family, that shall actively participate in the plan. Adoption Assistance Program benefits may be authorized for payment for an eligible child's group home, short-term residential therapeutic program, or residential treatment facility placement if the placement is justified by a specific episode or condition and does not exceed an 18-month cumulative period of time. After an initial authorized group home, short-term residential therapeutic program, or residential treatment facility placement, subsequent authorizations for payment for a group home, short-term residential therapeutic program, or residential treatment facility placement may be based on an eligible child's subsequent specific episodes or conditions.

(c) (1) Payments on behalf of a child who is a recipient of AAP benefits 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 and subject to the process described in paragraph (1) of subdivision (d) of Section 16119.

(2) (A) Except as provided for in subparagraph (B), this subdivision shall apply to adoption assistance agreements signed on or after July 1, 2007.

(B) Rates paid on behalf of regional center consumers who are recipients of AAP benefits and for whom an adoption assistance agreement was executed before July 1, 2007, shall remain in effect, and may only be changed in accordance with Section 16119.

(i) If the rates paid pursuant to adoption assistance agreements executed before July 1, 2007, are lower than the rates specified in paragraph (1) of subdivision (c) or paragraph (1) of subdivision (d) of Section 11464, respectively, those rates shall be increased, as appropriate and in accordance with Section 16119, to the amount set forth in paragraph (1) of subdivision (c) or paragraph (1) of subdivision (d) of Section 11464, effective July 1, 2007. Once set, the rates shall remain in effect and may only be changed in accordance with Section 16119.

(ii) For purposes of this clause, for a child who is a recipient of AAP benefits or for whom the execution of an AAP agreement is pending, and who has been deemed eligible for or has sought an eligibility determination for regional center services pursuant to subdivision (a) of Section 4512, and for whom a determination of eligibility for those regional center services has been made, and for whom, prior to July 1, 2007, a maximum rate determination has been requested and is pending, the rate shall be determined through an individualized assessment and pursuant to subparagraph (C) of paragraph (1) of subdivision (c) of Section 35333 of Title 22 of the California Code of Regulations as in effect on January 1, 2007, or the rate established in subdivision (b) of Section 11464, whichever is greater. Once the rate has been set, it shall remain in effect and may only be changed in accordance with Section 16119. Other than the circumstances described in this clause, regional centers shall not make maximum rate benefit determinations for the AAP.

(3) Regional centers shall separately purchase or secure the services contained in the child's IFSP or IPP, pursuant to Section 4684.

(4) Regulations adopted by the department pursuant to this subdivision shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. The regulations authorized by this paragraph shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

(d) (1) In the event that a family signs an adoption assistance agreement where a cash benefit is not awarded, the adopting family shall be otherwise eligible to receive Medi-Cal benefits for the child if it is determined that the benefits are needed pursuant to this chapter.

(2) Regional centers shall separately purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP) pursuant to Section 4684.

(e) Subdivisions (a), (b), and (d) shall apply only to adoption assistance agreements signed on or after October 1, 1992. An adoption assistance agreement executed prior to October 1, 1992, shall continue to be paid in accordance with the terms of that agreement, and shall not be eligible for any increase in the basic foster care maintenance rate structure that occurred after December 31, 2007.

(f) This section shall supersede the requirements of subparagraph (C) of paragraph (1) of Section 35333 of Title 22 of the California Code of Regulations.

(g) The adoption assistance payment rate structure identified in subdivisions (a) and (e) shall be adjusted by the percentage changes in the California Necessities Index, beginning with the 2011–12 fiscal year, and shall not require a reassessment.

SEC. 9. Section 43 of Chapter 35 of the Statutes of 2018 is amended to read:

Sec. 43. The Legislature finds and declares that Section 6253.2 of the Government Code, as amended by Section 4 of this act, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy and well-being of persons paid by the state to provide in-home supportive services under the IHSS Plus option, home- and community-based attendant services and supports, and waiver personal care services, it is necessary to limit general access to information regarding those persons.

SEC. 10. The sum of ten thousand dollars (\$10,000) is hereby appropriated from the Federal Trust Fund to the State Department of Social Services in the 2018–19 fiscal year for administrative activities specified in subdivision (a) of Section 10553.1 of the Welfare and Institutions Code.

SEC. 11. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.