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AB-1283 Foster care. (2021-2022)

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Assembly Bill No. 1283

CHAPTER 288

An act to amend Section 11105.08 of the Penal Code, and to amend Sections 10553.12, 11461, 11461.36, 11462, 16519.6, and 18358.30 of the Welfare and Institutions Code, relating to foster care.

[Approved by Governor September 24, 2021. Filed with Secretary of State September 24, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1283, Stone. Foster care.

(1) Existing law provides for the implementation of the resource family approval process, which replaces the multiple processes for licensing foster family homes, certifying foster homes by foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families. Existing law requires the State Department of Social Services to provide a statewide fair hearing process for application denials, rescissions of approval, exclusion actions, or criminal record exemption denials or rescissions by a county or the department. Under existing law, a county's action on an approval is final, or for matters set before the State Hearings Division, an action is subject to dismissal, if the resource family, applicant, excluded individual, or individual who is the subject of a criminal record exemption denial or rescission does not file a timely appeal.

This bill would remove the reference to the action before the State Hearings Division being dismissed, and instead, provide that in a matter before the State Hearings Division, an appeal shall be subject to dismissal if an appeal to the notice of action or exclusion order is not filed within the prescribed time. The bill would also make the county's action final, and the appeal before the State Hearings Division subject to dismissal, if the resource family, applicant, excluded individual, or individual who is the subject of a criminal record exemption denial or rescission withdraws the appeal or fails to appear at the hearing without good cause. Under the bill, good cause for failure to appear at the hearing would be as defined by the department in specified written directives or regulation

Existing law authorizes the department to permanently exclude a resource family parent, applicant, or other individual from presence in any resource family home, from employment in, presence in, and contact with clients of, any facility licensed by the department or certified or approved by a licensed foster family agency, and from holding certain positions with a licensee of any licensed facility, for specified reasons.

This bill would require a temporary exclusion of an individual following a county's denial of an application for resource family approval, rescission of approval, or denial or rescission of a criminal record exemption to only be imposed as set forth in certain written directives or regulations adopted by the department. To the extent the bill would impose new duties on counties, the bill would impose a state-mandated local program.

Existing law authorizes the department, upon a finding of noncompliance with the law governing resource families, to require a foster family agency to deny a resource family application, rescind the approval of a resource family, or take other action deemed

necessary for the protection of a child who is or who may be placed with the resource family.

This bill would repeal those provisions.

This bill would authorize a county and the department to coordinate the filing of actions related to resource families, file consolidated pleadings, or file a motion to consolidate multiple actions if a matter involves both a county and department action.

(2) Existing federal law, the Indian Child Welfare Act (ICWA), governs the proceedings for determining the placement of an Indian child when that child is removed from the custody of the child's parent or guardian. Existing law requires counties to implement the resource family approval process and authorizes a federally recognized tribe to approve a home for the purpose of foster or adoptive placement of an Indian child pursuant to the ICWA. Existing law authorizes a tribal agency to request from the Department of Justice criminal history information when evaluating a tribal home for the placement of an Indian child into foster or adoptive care. Existing law requires that a tribal agency submit fingerprint images and related information for specified individuals for the purpose of obtaining information regarding the existence and contents of an individual's state and federal criminal record, including arrests, convictions, and matters pending trial or appeal.

The bill would instead require a tribe or tribal organization, when licensing or approving a home for the purpose of foster or adoptive placement of an Indian child, to submit fingerprint images and related information to the department for the type and level of background check required for an adoption and would require the department to provide a state and federal level response to the tribe or tribal organization that includes background check information that is required for an adoption.

(3) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Existing law requires the State Department of Social Services to administer a state system for establishing rates in the AFDC-FC program. Existing law requires the department to implement a rate structure that is effective through December 31, 2021, for specified rates paid to certified family homes of a foster family agency and short-term residential therapeutic programs.

This bill would provide a one-year extension for the payments of those rates.

Existing law requires the State Department of Social Services to implement intensive treatment foster care programs for eligible children and exempts the rates for these programs from the current AFDC-FC foster family agency ratesetting system. Existing law requires the department from January 1, 2017, to December 31, 2021, inclusive, to implement an interim rate structure to reflect the appropriate level of placement and address the need for specialized health care, support services, and mental health treatment services for foster children served in these programs. Existing law provides the method to calculate current rates for these programs.

This bill would extend the operation of this interim rate structure through December 31, 2022.

(4) Existing law subjects a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance, who persistently or habitually refuses to obey the reasonable and proper orders or directions of the minor's parents, guardian, or custodian, or who is beyond the control of that person, who violates an ordinance establishing a curfew or is truant, and a minor under 12 years of age who is alleged to have committed specified serious offenses to, the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. Existing law authorizes a probation agency to make an emergency placement of a minor ordered into its care, custody, and control with a relative or nonrelative extended family member after specified requirements are completed, including an in-home inspection and a criminal records check of any person over 18 years of age living in the emergency home.

Existing law provides for the temporary or emergency placement of children and nonminor dependents with relative caregivers or nonrelative extended family members under specified circumstances. Existing law requires counties to provide a payment to an emergency caregiver that is equivalent to the resource family basic level rate if, among other things, the child or nonminor dependent is not otherwise eligible for AFDC-FC or the Approved Relative Caregiver Funding Program while placed in the home of the emergency caregiver and the emergency caregiver has completed an application for resource family approval or the tribe or tribal agency has initiated the process for the home to become tribally approved.

This bill would additionally require counties to provide this payment to an emergency caregiver on behalf of a ward placed in the home of the emergency caregiver, subject to the same requirements. By expanding the duties of counties under these provisions, this bill would impose a state-mandated local program.

(5) This bill would incorporate additional changes to Section 11461.36 of the Welfare and Institutions Code proposed by SB 354 to be operative only if this bill and SB 354 are enacted and this bill is enacted last.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11105.08 of the Penal Code is amended to read:

11105.08. (a) Notwithstanding any other law, a tribe or tribal organization may request from the Department of Justice state and federal summary criminal history information for the purpose of licensing or approving a tribally approved home, as defined in subdivision (r) of Section 224.1 of the Welfare and Institutions Code, for the placement of an Indian child into foster or adoptive care.

(b) A tribe or tribal organization shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of an individual applying with the tribe or tribal organization as a prospective foster parent or adoptive parent, any adult who resides or is employed in the home of an applicant, any person who has a familial or intimate relationship with any person living in the home of an applicant, or employee of the child welfare agency who may have contact with a child, for the purposes of obtaining the individual's full criminal record pursuant to Section 8712 of the Family Code.

(c) Upon receipt of a tribe's or tribal organization's request for federal summary criminal history information received pursuant to this section, the Department of Justice shall transmit the request to the Federal Bureau of Investigation. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the requesting tribe or tribal organization.

(d) The Department of Justice shall provide a state and federal level response to a tribe or tribal organization pursuant to Section 8712 of the Family Code.

(e) A tribe or tribal organization shall request from the Department of Justice subsequent notification service pursuant to Section 11105.2 for persons described in subdivision (b) of this section.

(f) The Department of Justice may charge a fee sufficient to cover the reasonable and appropriate costs of processing the request pursuant to this section.

(g) As used in this section a "tribal organization" means an entity designated by a federally recognized tribe as authorized to approve a home consistent with Section 1915 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1915) for the purpose of placing an Indian child into foster or adoptive care. This includes the authority to conduct a criminal or child abuse background check of, and grant exemptions to, an individual who is a prospective foster or adoptive parent, an adult who resides or is employed in the home of an applicant for approval, any person who has a familial or intimate relationship with any person living in the home of an applicant, or an employee of a tribal child welfare agency who may have contact with a child.

SEC. 2. Section 10553.12 of the Welfare and Institutions Code is amended to read:

10553.12. (a) Notwithstanding any other law, a federally recognized tribe is authorized, but not required, to license or approve a home for the purpose of foster or adoptive placement of an Indian child pursuant to the federal Indian Child Welfare Act (25 U.S.C. Sec. 1915).

(b) An Indian child, as defined by subdivisions (a) and (b) of Section 224, who has been removed pursuant to Section 361, from the custody of their parents or Indian custodian may be placed in a tribally approved home, as defined in subdivision (r) of Section 224.1, pursuant to Section 1915 of the federal Indian Child Welfare Act.

(c) To facilitate the availability of tribally approved homes that have been fully approved in accord with federal law, including completion of required background checks pursuant to Section 8712 of the Family Code, a tribe or tribal organization may request from the Department of Justice federal and state summary criminal history information and Child Abuse Central Index Information pursuant to paragraph (8) of subdivision (b) of Section 11170 of the Penal Code regarding a prospective foster parent or adoptive parent, an adult who resides or is employed in the home of an applicant, a person who has a familial or intimate relationship with a person living in the home of an applicant, or an employee of the child welfare agency who may have contact with children.

(d) As used in this section, a "tribal organization" means an entity designated by a federally recognized tribe as authorized to approve homes consistent with the federal Indian Child Welfare Act for the purpose of placing an Indian child into foster or adoptive care, including the authority to conduct criminal record and child abuse background checks of, and grant exemptions to, individuals who are prospective foster parents or adoptive parents, an adult who resides or is employed in the home of an applicant for approval, a person who has a familial or intimate relationship with a person living in the home of an applicant, or an employee of the tribal organization who may have contact with children.

(e) A county social worker may place an Indian child in a tribally approved home without having to conduct a separate background check, upon certification by the tribe or tribal organization of the following:

(1) The tribe or tribal organization has completed a criminal record background check in accord with the standards set forth in Section 1522 of the Health and Safety Code, and a Child Abuse Central Index Check pursuant to Section 1522.1 of the Health and Safety Code, with respect to each of the individuals described in subdivision (c).

(2) The tribe or tribal organization has agreed to report to a county child welfare agency responsible for a child placed in the tribally approved home, within 24 hours of notification to the tribe or tribal organization by the Department of Justice, of any subsequent state or federal arrest or disposition notification provided pursuant to Section 11105.2 of the Penal Code involving an individual associated with the tribally approved home where an Indian child is placed.

(3) If the tribe or tribal organization in its certification states that the individual was granted a criminal record exemption, the certification shall specify that the exemption was evaluated in accord with the standards and limitations set forth in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code and was not granted to an individual ineligible for an exemption under that provision.

(f) Tribal home approvals conducted in compliance with this section are not subject to resource family approval requirements.

SEC. 3. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children or, on and after January 1, 2012, nonminor dependents placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, or the approved home of a nonrelative extended family member, as described in Section 362.7, or, on and after January 1, 2012, a supervised independent living placement, as defined in subdivision (w) of Section 11400, the per child per month basic rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0–4	\$ 294
5–8	\$ 319
9–11	\$ 340
12–14	\$ 378
15–20	\$ 412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county that did not increase the basic rate by 12 percent on January 1, 1990, shall do both of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A), by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(4) Effective July 1, 1998, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 6 percent. Notwithstanding any other law, the 6-percent increase provided for in this paragraph shall, retroactive to July 1, 1998, apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(5) Notwithstanding any other law, any increase that takes effect after July 1, 1998, shall apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(6) The increase in the basic foster family home rate shall apply only to children placed in a licensed foster family home receiving the basic rate or in an approved home of a relative or nonrelative extended family member, as described in Section 362.7, a supervised independent living placement, as defined in subdivision (w) of Section 11400, or a nonrelated legal guardian receiving the basic rate. The increased rate shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.

(d) (1) (A) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to the methodology described in Section 11453, subject to the availability of funds.

(B) In addition to the adjustment in subparagraph (A) effective January 1, 2000, the schedule of basic rates in subdivision (a) shall be increased by 2.36 percent rounded to the nearest dollar.

(C) Effective January 1, 2008, the schedule of basic rates in subdivision (a), as adjusted pursuant to subparagraph (B), shall be increased by 5 percent, rounded to the nearest dollar. The increased rate shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster family homes, and shall not be used to recompute 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 any adoption assistance agreement entered into prior to October 1, 1992, or in any subsequent reassessment for adoption assistance agreements executed before January 1, 2008.

(2) (A) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county's adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(B) Notwithstanding subparagraph (A), all counties for the 1999–2000 fiscal year and the 2007–08 fiscal year shall receive an increase in state participation for the basic rate of the entire percentage adjustment described in paragraph (1).

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, "specialized care increment" means an amount paid on behalf of a child requiring specialized care to a home listed in subdivision (g) in addition to the basic rate. Notwithstanding subdivision (g), the specialized care increment shall not be paid to a nonminor dependent placed in a supervised independent living setting as defined in subdivision (w) of Section 11403. A county may have a ratesetting system for specialized care to pay for the additional care and supervision needed to address the behavioral, emotional, and physical requirements of foster children. A county may modify its specialized care rate system as needed, to accommodate changing specialized placement needs of children.

(2) (A) The department shall have the authority to review the county's specialized care information, including the criteria and methodology used for compliance with state and federal law, and to require counties to make changes if necessary to conform to state and federal law.

(B) The department shall make available to the public each county's specialized care information, including the criteria and methodology used to determine the specialized care increments.

(3) Upon a request by a county for technical assistance, specialized care information shall be provided by the department within 90 days of the request to the department.

(4) (A) Except for subparagraph (B), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivisions (c) and (d).

(B) Notwithstanding subdivision (e) of Section 11460, for the 1993–94 fiscal year, an amount equal to 5 percent of the State Treasury appropriation for family homes shall be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(C) (i) Notwithstanding subparagraph (A), the specialized care increment shall not receive a cost-of-living adjustment in the 2011–12 or 2012–13 fiscal years.

(ii) Notwithstanding clause (i), a county may choose to apply a cost-of-living adjustment to its specialized care increment during the 2011–12 or 2012–13 fiscal years. To the extent that a county chooses to apply a cost-of-living adjustment during that time, the state shall not participate in the costs of that adjustment.

(iii) To the extent that federal financial participation is available for a cost-of-living adjustment made by a county pursuant to clause (ii), it is the intent of the Legislature that the federal funding shall be utilized.

(5) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this subdivision shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

(f) (1) As used in this section, “clothing allowance” means the amount paid by a county, at the county’s option, in addition to the basic rate for the provision of additional clothing for a child, including, but not limited to, an initial supply of clothing and school or other uniforms. The frequency and level of funding shall be based on the needs of the child, as determined by the county.

(2) The state shall no longer participate in any clothing allowance in addition to the basic rate, commencing with the 2011–12 fiscal year.

(g) (1) Notwithstanding subdivisions (a) to (d), inclusive, for a child, or on and after January 1, 2012, a nonminor dependent, placed in a licensed foster family home or with a resource family, or placed in an approved home of a relative or the approved home of a nonrelative extended family member as described in Section 362.7, or placed on and after January 1, 2012, in a supervised independent living placement, as defined in subdivision (w) of Section 11400, the per child per month basic rate in the following schedule shall be in effect for the period commencing July 1, 2011, or the date specified in the final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association v. William Lightbourne, et al. (U.S. Dist. Ct. C 07-08056 WHA), whichever is earlier, through June 30, 2012:

Age	Basic rate
0–4	\$ 609
5–8	\$ 660
9–11	\$ 695
12–14	\$ 727
15–20	\$ 761

(2) Commencing July 1, 2011, the basic rate set forth in this subdivision shall be annually adjusted on July 1 by the annual percentage change in the California Necessities Index applicable to the calendar year within which each July 1 occurs.

(3) Subdivisions (e) and (f) shall apply to payments made pursuant to this subdivision.

(4) (A) (i) For the 2016–17 fiscal year, the department shall develop a basic rate in coordination with the development of the foster family agency rate authorized in Section 11463 that ensures a child placed in a home-based setting described in paragraph (1), and a child placed in a certified family home or with a resource family approved by a foster family agency, is eligible for the same basic rate set forth in this paragraph.

(ii) The rates developed pursuant to this paragraph shall not be lower than the rates proposed as part of the Governor’s 2016 May Revision.

(iii) A certified family home of a foster family agency shall be paid the basic rate set forth in this paragraph only through December 31, 2022.

(B) The basic rate paid to either a certified family home or a resource family approved by a foster family agency shall be paid by the agency to the certified family home or resource family from the rate that is paid to the agency pursuant to Section 11463.

(C) 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 basic rates and the manner in which they are determined shall be set forth in written directives until regulations are adopted.

(D) The basic rates set forth in written directives or regulations pursuant to subparagraph (C) shall become inoperative on January 1, 2023, unless a later enacted statute, that becomes operative on or before January 1, 2023, deletes or extends the dates on which they become inoperative.

(h) Beginning in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 4. 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 Section 361.45 or 727.05, subdivision (d) of Section 309, 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 their 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:

(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 120 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 120 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 their designee, or the chief probation officer, or their designee, as applicable, 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 120 days and the reason for the delays.

(3) For emergency or compelling reason placements made during the 2020–21 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), or beyond 120 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 120 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 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 their designees, or the chief probation officer, or their designee, as applicable, 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 120 days and the reasons for the delays.

(F) The 365-day payment limitation pursuant to subparagraph (E) and accompanying rules and regulations is suspended through June 30, 2021, subject to guidance from the State Department of Social Services.

(4) For emergency or compelling reason placements made during the 2021–22 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), or beyond 120 days, whichever occurs first.

(E) Notwithstanding subparagraph (D), the federal and state share of payment made pursuant to this paragraph shall be available beyond 120 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 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 their designees, or the chief probation officer, or their designee, as applicable, 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 120 days and the reasons for the delays.

(5) For emergency or compelling reason placements made during the 2022–23 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 the 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 their 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) (1) On and after July 1, 2019, 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, on behalf of an Indian child, as defined in subdivision (a) of Section 224.1, placed in the home of the caregiver who is pending approval as a tribally approved home, as defined in subdivision (r) of Section 224.1, if all of the following criteria are met:

(A) The placement is made pursuant to Section 361.45 or 727.05 or subdivision (d) of Section 309.

(B) The caregiver has been assessed pursuant to Section 361.4.

(C) The child 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 caregiver.

(D) The child resides in California.

(E) The tribe or tribal agency has initiated the process for the home to become tribally approved.

(F) An application for the Emergency Assistance Program has been completed by the placing agency.

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

(3) 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, when the caregiver is approved as a tribally approved home. If the approval is denied, payments made pursuant to this subdivision shall cease.

(4) Subdivision (e) and subdivisions (h) to (k), inclusive, shall apply to payments made pursuant to this subdivision.

(m) 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. 4.5. 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, Section 361.45, Section 727.05, or clause (i) of subparagraph (A) of paragraph (1) of subdivision (h) of Section 319, 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 their 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:

(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 120 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 120 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 their designee, or the chief probation officer, or their designee, as applicable, 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 120 days and the reason for the delays.

(3) For emergency or compelling reason placements made during the 2020–21 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), or beyond 120 days, whichever occurs first.

(E) The federal and state share of payment made pursuant to this paragraph shall be available beyond 120 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 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 their designees, or the chief probation officer, or their designee, as applicable, 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 120 days and the reasons for the delays.

(F) The 365-day payment limitation pursuant to subparagraph (E) and accompanying rules and regulations is suspended through June 30, 2021, subject to guidance from the State Department of Social Services.

(4) For emergency or compelling reason placements made during the 2021–22 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), or beyond 120 days, whichever occurs first.

(E) Notwithstanding subparagraph (D), the federal and state share of payment made pursuant to this paragraph shall be available beyond 120 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 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 their designees, or the chief probation officer, or their designee, as applicable, 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 120 days and the reasons for the delays.

(5) For emergency or compelling reason placements made during the 2022–23 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 the 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 their 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) (1) On and after July 1, 2019, 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, on behalf of an Indian child, as defined in subdivision (a) of Section 224.1, placed in the home of the caregiver who is pending approval as a tribally approved home, as defined in subdivision (r) of Section 224.1, if all of the following criteria are met:

(A) The placement is made pursuant to subdivision (d) of Section 309, Section 361.45, Section 727.05, or clause (i) of subparagraph (A) of paragraph (1) of subdivision (h) of Section 319.

(B) The caregiver has been assessed pursuant to Section 361.4.

(C) The child 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 caregiver.

(D) The child resides in California.

(E) The tribe or tribal agency has initiated the process for the home to become tribally approved.

(F) An application for the Emergency Assistance Program has been completed by the placing agency.

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

(3) 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, when the caregiver is approved as a tribally approved home. If the approval is denied, payments made pursuant to this subdivision shall cease.

(4) Subdivision (e) and subdivisions (h) to (k), inclusive, shall apply to payments made pursuant to this subdivision.

(m) 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. 5. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) The department shall commence development of a new payment structure for short-term residential therapeutic program placements claiming Title IV-E funding, in consultation with county placing agencies and providers.

(b) The department shall develop a rate system that includes consideration of all of the following factors:

(1) Core services, made available to children and nonminor dependents either directly or secured through formal agreements with other agencies, which are trauma informed and culturally relevant and include:

(A) Specialty mental health services for children who meet medical necessity criteria for specialty mental health services under the Medi-Cal Early and Periodic Screening, Diagnostic, and Treatment program.

(B) Transition support services for children, youth, and families upon initial entry and placement changes and for families who assume permanency through reunification, adoption, or guardianship.

(C) Educational and physical, behavioral, and mental health supports, including extracurricular activities and social supports.

(D) Activities designed to support transition-age youth and nonminor dependents in achieving a successful adulthood.

(E) Services to achieve permanency, including supporting efforts to reunify or achieve adoption or guardianship and efforts to maintain or establish relationships with parents, siblings, extended family members, tribes, or others important to the child or youth, as appropriate.

(F) When serving Indian children, as defined in subdivisions (a) and (b) of Section 224.1, the core services described in subparagraphs (A) to (E), inclusive, which shall be provided to eligible children consistent with active efforts pursuant to Section 361.7.

(G) (i) Facilitating the identification and, as needed, the approval of resource families pursuant to Section 16519.5, for the purpose of transitioning children and youth to family-based care.

(ii) If a short-term residential therapeutic program elects to approve and monitor resource families directly, the program shall comply with all laws applicable to foster family agencies, including, but not limited to, those set forth in the Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code).

(iii) For short-term residential therapeutic programs that elect to approve and monitor resource families directly, the department shall have all the same duties and responsibilities as those programs have for licensed foster family agencies, as set forth in applicable law, including, but not limited to, those set forth in the Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code).

(2) The core services specified in subparagraphs (A) to (G), inclusive, of paragraph (1) are not intended to duplicate services already available to foster children in the community, but to support access to those services and supports to the extent they are already available. Those services and supports may include, but are not limited to, foster youth services available through county offices of education, Indian Health Services, or school-based extracurricular activities.

(3) Specialized and intensive treatment supports that encompass the elements of nonmedical care and supervision necessary to meet a child's or youth's safety and other needs that cannot be met in a family-based setting.

(4) Staff training.

(5) Health and Safety Code requirements.

(6) Accreditation that includes:

(A) Provision for all licensed short-term residential therapeutic programs to obtain and maintain in good standing accreditation from a nationally recognized accreditation agency, as identified by the department, with expertise in programs for children or youth group care facilities, as determined by the department.

(B) Promulgation by the department of information identifying that agency or agencies from which accreditation shall be required.

(C) Provision for timely reporting to the department of any change in accreditation status.

(7) Mental health certification, including a requirement to timely report to the department any change in mental health certificate status.

(8) Maximization of federal financial participation under Title IV-E and Title XIX of the Social Security Act.

(c) The department shall establish rates pursuant to subdivisions (a) and (b) commencing January 1, 2017. The rate structure shall include an interim rate, a provisional rate for new short-term residential therapeutic programs, and a probationary rate. The department may issue a one-time reimbursement for accreditation fees incurred after August 1, 2016, in an amount and manner determined by the department in written directives.

(1) (A) Initial interim rates developed pursuant to this section shall be effective January 1, 2017, through December 31, 2022.

(B) The initial interim rates developed pursuant to this paragraph shall not be lower than the rates proposed as part of the Governor's 2016 May Revision.

(C) The initial interim rates set forth in written directives or regulations pursuant to paragraph (3) shall become inoperative on January 1, 2023, unless a later enacted statute, that becomes operative on or before January 1, 2023, deletes or extends the dates on which they become inoperative.

(D) It is the intent of the Legislature to establish an ongoing payment structure no later than January 1, 2023.

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

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

(B) An administrative review process for 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.

(3) 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 initial interim rates, provisional rates, and probationary rates and the manner in which they are determined shall be set forth in written directives until regulations are adopted.

(d) The department shall develop a system of governmental monitoring and oversight that shall be carried out in coordination with the State Department of Health Care Services. Oversight responsibilities shall include, but not be limited to, ensuring conformity with federal and state law, including program, fiscal, and health and safety audits and reviews. The state agencies shall attempt to minimize duplicative audits and reviews to reduce the administrative burden on providers.

SEC. 6. Section 16519.6 of the Welfare and Institutions Code is amended to read:

16519.6. (a) A hearing conducted pursuant to Section 16519.5 shall be conducted in accordance with the requirements of this section and the written directives or regulations adopted pursuant to Section 16519.5.

(b) For a resource family hearing held at the department's State Hearings Division, the procedures set forth in Chapter 7 (commencing with Section 10950) of Part 2 shall apply, except as otherwise provided in this section.

(c) (1) For a resource family hearing held at the Office of Administrative Hearings, the procedures set forth in the Administrative Procedure Act (Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code) shall apply, except as otherwise provided in this article.

(2) For purposes of the administrative action procedures set forth in this article, "agency" means a county or the department according to the authority to take action provided in subdivisions (f) and (g) of Section 16519.5, except that "agency" shall mean the department for purposes of a decision or a posthearing procedure, as provided in Sections 11517 to 11522, inclusive, of the Government Code.

(d) (1) Notwithstanding the time to appeal set forth in Section 10951 of this code and Section 1558 of the Health and Safety Code, an applicant for approval or for a criminal record exemption may file a written appeal within 90 days of service of a notice of action, and a resource family, excluded individual, or individual who is the subject of a criminal record exemption rescission may file a written appeal within 25 days of service of a notice of action or exclusion order.

(2) Pursuant to Section 1013 of the Code of Civil Procedure, if the notice of action or exclusion order is served by mail, the time to respond shall be extended five days.

(3) If different appeal timelines apply to a matter as a result of multiple actions filed against a respondent, the following shall apply:

(A) A county or the department, as applicable, shall accept an appeal to one action as an appeal to all of the actions against the same respondent, if requested to do so by the respondent.

(B) If an action for rescission of approval, criminal record exemption rescission, or exclusion includes an action for application denial, the applicable appeal timeline for a rescission of approval, criminal record exemption rescission, or exclusion specified in paragraph (1) shall also apply to the action for application denial.

(4) This section does not impede or extend jurisdiction as set forth in the Administrative Procedure Act (Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) (1) Notwithstanding Section 10951, and except as provided in subdivision (m), a county's action shall be final, or for matters set before the State Hearings Division, an appeal shall be subject to dismissal, if the resource family, applicant, excluded individual, or individual who is the subject of a criminal record exemption denial or rescission does not file an appeal to the notice of action or exclusion order within the prescribed time, withdraws the appeal, or fails to appear at the hearing without good cause.

(2) Notwithstanding paragraph (1), a resource family, applicant, excluded individual, or individual who is the subject of a criminal record exemption denial or rescission shall be entitled to a hearing pursuant to Section 16519.5 if they file the appeal no more than 30 calendar days after the due date for the appeal, as specified in subdivision (d), and the person provides good cause for the late filing of the appeal. Good cause shall be determined by the department in an administrative review procedure

set forth in the written directives or regulations adopted pursuant to Section 16519.5. The department shall not grant a late appeal for good cause if the appeal is filed more than 30 calendar days after the due date for the appeal, as specified in subdivision (d).

(3) For purposes of this subdivision, the following definitions apply:

(A) "Good cause" for the late filing of an appeal means a substantial and compelling reason beyond the party's control, considering the length of the delay, the diligence of the party filing the appeal, and the potential prejudice to the other party.

(B) "Good cause" for failure to appear at the hearing shall be as defined by the department in the written directives or regulations adopted pursuant to Section 16519.5.

(C) The inability of a person to understand an adequate and language-compliant notice, in and of itself, does not constitute good cause.

(4) This section does not preclude the application of the principles of equity jurisdiction as otherwise provided by law.

(f) Except as provided in subdivisions (g) and (h), and notwithstanding Section 10952, a hearing under this section, notwithstanding any time waiver, shall be held within 90 days following the receipt of a timely appeal for matters to be set before the State Hearings Division or within 90 days following the receipt of a timely notice of defense for matters to be set before the Office of Administrative Hearings, unless a continuance or postponement of the hearing is granted for good cause.

(g) (1) The department may exclude a resource family parent, applicant, or other individual from presence in any resource family home, from employment in, presence in, and contact with clients of, any facility licensed by the department or certified or approved by a licensed foster family agency, and from holding the position of member of the board of directors, executive director, or officer of the licensee of any facility licensed by the department, for any of the reasons set forth in Section 16519.61.

(2) The department may issue an exclusion order requiring the immediate removal of an individual if, in the opinion of the department, the action is necessary to protect a child from physical or mental abuse, abandonment, or any other substantial threat to the child's health or safety. If the department has issued an immediate exclusion order, the timelines for the service of an accusation, conducting a hearing, and for a final determination set forth in Section 1558 of the Health and Safety Code shall apply, unless a continuance of the hearing is granted for good cause.

(3) A resource family's failure to comply with the department's exclusion order after being notified of the order shall be grounds for taking action against the resource family's approval pursuant to Section 16519.61.

(4) An exclusion order that was effective prior to the implementation of the resource family approval program and conversion of licensed foster family homes and certified family homes to resource families shall be deemed to exclude the individual from presence in any resource family home.

(5) (A) An exclusion shall be for the remainder of the excluded person's life, unless otherwise ordered by the department, or as prescribed in Section 1558.1 of the Health and Safety Code.

(B) Pursuant to Section 11522 of the Government Code, the excluded individual may petition for reinstatement to the department after one year has elapsed from the effective date of an exclusion order that was not appealed or the effective date of a decision and order by the department upholding an exclusion order. The department shall provide the excluded person a copy of Section 11522 of the Government Code with the exclusion order and decision and order.

(C) A temporary exclusion of an individual following a county's denial of an application for resource family approval, rescission of approval, or denial or rescission of a criminal record exemption, shall only be imposed as set forth in the written directives or regulations adopted by the department pursuant to Section 16519.5.

(6) For purposes of this subdivision, a "facility licensed by the department" means a facility licensed pursuant to Chapter 3 (commencing with Section 1500) of, Chapter 3.01 (commencing with Section 1568.01) of, Chapter 3.2 (commencing with Section 1569) of, Chapter 3.3 (commencing with Section 1570) of, Chapter 3.4 (commencing with Section 1596.70) of, Chapter 3.5 (commencing with Section 1596.90) of, or Chapter 3.6 (commencing with Section 1597.30) of, Division 2 of the Health and Safety Code.

(h) If a county or the department has issued a temporary suspension order, the hearing shall be held within 30 days following the receipt of a timely appeal for matters to be set before the State Hearings Division, or within 30 days following the receipt of a timely notice of defense for matters to be set before the Office of Administrative Hearings. The temporary suspension order shall remain in effect until the time the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension order shall be deemed vacated if the department fails to make a final determination on the merits within 30 days after receipt of the proposed decision by the county or department.

(i) A county and the department may coordinate the filing of actions, file consolidated pleadings, or file a motion to consolidate multiple actions if a matter involves both a county and department action.

(j) A resource family, applicant, excluded individual, or individual who is the subject of a criminal record exemption denial or rescission who files an appeal to a notice of action or exclusion order pursuant to this section shall, as part of the appeal, provide their current mailing address. The resource family, applicant, or individual who is the subject of a criminal record exemption denial or rescission shall subsequently notify the county, and the excluded individual shall notify the department, in writing of any change in mailing address, until the hearing process has been completed or terminated.

(k) Service by mail of a notice or other writing on a resource family, applicant, excluded individual, or individual who is the subject of a criminal record exemption denial or rescission in a procedure pursuant to this section is effective if served to the last mailing address on file with the county or department. Service of a notice of action shall be by personal service or by first-class mail, and service of an exclusion order shall be by personal service or registered mail. If the last day for performance of any required action falls on a holiday, then the period shall be extended to the next day which is not a holiday.

(l) In all proceedings conducted in accordance with this section, the burden of proof on the department or county shall be by a preponderance of the evidence.

(m) (1) A county or the department may institute or continue an administrative proceeding against a resource family, applicant, or individual who is the subject of a criminal record exemption denial or rescission upon any ground provided by this section or Section 16519.61, enter an order denying an application or rescinding the approval of a resource family, exclude an individual, issue a temporary suspension order, or otherwise take disciplinary action against a resource family, applicant, or individual who is the subject of a criminal record exemption denial or rescission notwithstanding any resignation, withdrawal, forfeiture, surrender of approval, or denial or rescission of the approval by a foster family agency.

(2) The department may institute or continue an administrative proceeding against an excluded individual upon any ground provided by this section or Section 16519.61, enter an order to exclude an individual, or otherwise take disciplinary action against an excluded individual, notwithstanding any resignation, withdrawal, forfeiture, surrender of approval, or denial or rescission of the approval by a foster family agency.

(n) (1) Notwithstanding Sections 11425.10 and 11425.20 of the Government Code, a proceeding conducted pursuant to this section shall be confidential and not open to the public in order to preserve the confidential information of a child or resource family consistent with the confidentiality requirements in Sections 827, 10850, and 16519.55 of this code, Section 1536 of the Health and Safety Code, and Section 11167.5 of the Penal Code. Notwithstanding this requirement, an administrative law judge may admit persons deemed to have a direct and legitimate interest in the particular case or the work of the court on a case-by-case basis and with any admonishments, limitations, and protective orders as may be necessary to preserve the confidential nature of the proceedings.

(2) Except as otherwise required by law, in any writ of mandate proceeding related to an issue arising out of this article, the name, identifying information, or confidential information of a child as described in Sections 827, 10850, and 16519.55, and Section 11167.5 of the Penal Code, shall not be disclosed in a public document and a protective order shall be issued by the court in order to protect the confidential information of a child.

SEC. 7. Section 18358.30 of the Welfare and Institutions Code is amended to read:

18358.30. (a) Rates for foster family agency programs participating under this chapter shall be exempt from the current AFDC-FC foster family agency ratesetting system.

(b) Rates for foster family agency programs participating under this chapter shall be set according to the appropriate service and rate level based on the level of services provided to the eligible child and the certified foster family. For an eligible child placed from a group home program, the service and rate level shall not exceed the rate paid for group home placement. For an eligible child assessed by the county interagency review team or county placing agency as at imminent risk of group home placement or psychiatric hospitalization, the appropriate service and rate level for the child shall be determined by the interagency review team or county placing agency at time of placement. In all of the service and rate levels, the foster family agency programs shall:

(1) Provide social work services with average caseloads not to exceed eight children per worker, except that social worker average caseloads for children in Service and Rate Level E shall not exceed 12 children per worker.

(2) Pay an amount not less than two thousand one hundred dollars (\$2,100) per child per month to the certified foster parent or parents.

(3) Perform activities necessary for the administration of the programs, including, but not limited to, training, recruitment, certification, and monitoring of the certified foster parents.

(4) (A) (i) Provide a minimum average range of service per month for children in each service and rate level in a participating foster family agency, represented by paid employee hours incurred by the participating foster family agency, by the in-home support counselor to the eligible child and the certified foster parents depending on the needs of the child and according to the following schedule:

Service	In-Home Support
and	Counselor Hours
Rate Level	Per Month
A	98-114 hours
B	81-97 hours
C	64-80 hours
D	47-63 hours

(ii) Children placed at Service and Rate Level E shall receive behavior deescalation and other support services on a flexible, as needed, basis from an in-home support counselor. The foster family agency shall provide one full-time in-home support counselor for every 20 children placed at this level.

(B) (i) For the interim period beginning July 1, 2012, through December 31, 2016, inclusive, only the following modified service and rate levels to support modified in-home support counselor hours per month shall apply:

Service	In-Home Support
and	Counselor Hours
Rate Level	Per Month
Level I	81-114 hours
Level II	47-80 hours
Level III	Less than 47 hours

(ii) Children placed at Service and Rate Level III shall receive behavior deescalation and other support services on a flexible, as needed, basis from an in-home support counselor. The foster family agency shall provide one full-time in-home support counselor for every 20 children placed at this level.

(C) When the interagency review team or county placing agency and the foster family agency agree that alternative services are in the best interests of the child, the foster family agency may provide or arrange for services and supports allowable under California's foster care program in lieu of in-home support services required by subparagraphs (A) and (B). These services and supports may include, but need not be limited to, activities in the Multidimensional Treatment Foster Care (MTFC) program.

(c) The department or placing county, or both, may review the level of services provided by the foster family agency program. If the level of services actually provided are less than those required by subdivision (b) for the child's service and rate level, the rate shall be adjusted to reflect the level of service actually provided, and an overpayment may be established and recovered by the department.

(d) (1) On and after July 1, 1998, the standard rate schedule of service and rate levels shall be:

Service	Fiscal Year
and	1998-99
Rate Level	Standard Rate
A	\$3,957
B	\$3,628
C	\$3,290
D	\$2,970

(2) For the interim period beginning July 1, 2012, through December 31, 2016, inclusive, only the following modified service and rate levels to support the modified standard rate schedule shall apply:

Service	
and	
Rate Level	Standard Rate
Level I	\$5,581
Level II	\$4,798
Level III	\$4,034

(3) (A) On and after July 1, 1999, the standardized schedule of rates shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized rate schedule, subject to further adjustment pursuant to subparagraph (B), for foster family agency programs participating under this chapter.

(B) In addition to the adjustment in subparagraph (A), commencing January 1, 2000, the standardized schedule of rates shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized rate schedule for foster family agency programs participating under this chapter.

(4) (A) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the California Necessities Index computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts, rounded to the nearest dollar, shall constitute the new standard rate schedule for foster family agency programs participating under this chapter.

(B) Effective October 1, 2009, the rates identified in this subdivision shall be reduced by 10 percent. The resulting amounts shall constitute the new standardized schedule of rates.

(5) Notwithstanding paragraphs (3) and (4), the rate identified in paragraph (2) of subdivision (b) shall be adjusted on July 1, 2013, and each July 1 thereafter through July 1, 2016, inclusive, by an amount equal to the California Necessities Index computed pursuant to Section 11453.

(e) (1) Rates for foster family agency programs participating under paragraph (1) of subdivision (d) shall not exceed Service and Rate Level A at any time during an eligible child's placement. An eligible child may be initially placed in a participating intensive foster care program at any one of the five Service and Rate Levels A to E, inclusive, and thereafter placed at any level, either higher or lower, not to exceed a total of six months at any level other than Service and Rate Level E, unless it is determined to be in the best interests of the child by the child's county interagency review team or county placing agency and the child's certified foster parents. The child's county interagency placement review team or county placement agency may, through a formal review of the child's placement, extend the placement of an eligible child in a service and rate level higher than Service and Rate Level E for additional periods of up to six months each.

(2) Rates for foster family agency programs participating under paragraph (2) of subdivision (d) shall not exceed Service and Rate Level I at any time during an eligible child's placement. An eligible child may be initially placed in a participating intensive foster care program at any one of the three Service and Rate Levels I to III, inclusive, and thereafter placed at any level, either higher or lower, not to exceed a total of six months at any level other than Service and Rate Level III, unless it is determined to be in the best interests of the child by the child's county interagency review team or county placing agency, foster family agency, and the child's certified foster parents. The child's county interagency placement review team or county placement agency, through a formal review of the child's placement, may extend the placement of an eligible child in a service and rate level higher than Service and Rate Level III for additional periods of up to six months each.

(f) It is the intent of the Legislature that the rate paid to participating foster family agency programs shall decrease as the child's need for services from the foster family agency decreases. The foster family agency shall notify the placing county and the department of the reduced services and the pilot classification model, and the rate shall be reduced accordingly.

(g) It is the intent of the Legislature to prohibit any duplication of public funding. Therefore, social worker services, payments to certified foster parents, administrative activities, and the services of in-home support counselors that are funded by another public source shall not be counted in determining whether the foster family agency program has met its obligations to provide the items listed in paragraphs (1), (2), (3), and (4) of subdivision (b). The department shall work with other potentially affected state departments to ensure that duplication of payment or services does not occur.

(h) It is the intent of the Legislature that the State Department of Social Services and the State Department of Health Care Services, in collaboration with county placing agencies and ITFC providers and other stakeholders, develop and implement an integrated system that provides for the appropriate level of placement and care, support services, and mental health treatment services to foster children served in these programs.

(i) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

(j) Notwithstanding subdivisions (d) and (e), the department shall implement a new interim rate structure for the period beginning January 1, 2017, to December 31, 2022, inclusive. The rate shall reflect the appropriate level of placement and address the need for specialized health care, support services, and mental health treatment services for foster children served in these programs.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 11461.36 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 354. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 11461.36 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 354, in which case Section 4 of this bill shall not become operative.

SEC. 9. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.