

AMENDED IN SENATE JUNE 21, 2021

AMENDED IN SENATE MAY 28, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 260**

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**Introduced by Assembly Member Stone**

January 15, 2021

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An act to amend Section 1513 of the Probate Code, and to amend Sections ~~328~~, 329, 331, 360, 366.4, and 11363 of the Welfare and Institutions Code, relating to guardianship.

LEGISLATIVE COUNSEL'S DIGEST

AB 260, as amended, Stone. Guardianships.

Existing law establishes the jurisdiction of the juvenile court, under which a minor may be adjudged to be a dependent of the court if the minor has been abused or neglected, as specified. Other existing law, the Guardianship-Conservatorship Law, authorizes a probate court, upon hearing of a petition by a parent, relative, or other person, to appoint a guardian of a minor in accordance with specified provisions of law governing the custody of a minor child. Existing law authorizes a court hearing a guardianship petition, if the proposed ward is or may be abused or neglected, to refer the matter to the local child welfare services agency to initiate an investigation to determine whether proceedings in juvenile court should be commenced.

This bill would revise the probate court guardianship process by requiring, among other things, the probate court to have good cause to waive the investigation and prohibiting the probate court from hearing and determining the petition to appoint a guardian until the child welfare

agency has completed its investigation and submitted its report to the probate court.

Existing law requires a proceeding in the juvenile court to declare a child to be a dependent child of the court to be commenced by a social worker's filing of a petition with the court. Under existing law, if a person applies to a social worker to commence juvenile court proceedings and the social worker fails to file a petition within 3 weeks after the application, the person may, within one month after making the application, apply to the juvenile court to review the decision of the social worker, and the court may either affirm the decision of the social worker or order the social worker to commence juvenile court proceedings.

If the probate court or a family court has referred a matter to juvenile court, this bill would require the social worker to immediately investigate and to report the findings and conclusions of the investigation to the probate court. When a probate court has referred a matter to the child welfare agency, the bill would authorize the probate court or appointed counsel, within one month after the referral, to request that the juvenile court review the decision of the social worker not to file a petition and would authorize the juvenile court to either affirm the decision of the social worker or, if the juvenile court finds that the child is, prima facie, a dependent child of the court, to order the social worker to commence juvenile court proceedings.

Existing law authorizes a juvenile court, if the court finds that the child is abused or neglected, and the parent has advised the court that the parent is not interested in family maintenance or family reunification services, in addition to or in lieu of adjudicating the child a dependent child of the court, to order a legal guardianship and appoint a legal guardian, as specified. Existing law establishes the state-funded Kinship Guardianship Assistance Payment Program (Kin-GAP), which provides aid on behalf of eligible children who are placed in the home of a relative guardian. Existing law requires aid in the form of state-funded Kin-GAP to be provided on behalf of any child under 18 years of age and to any eligible youth under 19 years of age who has had a kinship guardianship established, as described above, and who meets other requirements, including that the child or youth has been adjudicated a dependent child or ward of the juvenile court, has been residing for at least 6 consecutive months in the approved home of the prospective relative guardian, and has had the dependency jurisdiction or wardship terminated, as specified.

This bill would require the state-funded Kin-GAP aid to be provided on behalf of any child under 18 years of age and to any eligible youth under 21 years of age who is not otherwise determined to be eligible for federal Kin-GAP and who has had a kinship guardianship established as described above. The bill would, for purposes of providing this aid, eliminate the requirements that the child has also been adjudicated a dependent child or ward of the juvenile court, has been residing for at least 6 consecutive months in the approved home of the prospective relative guardian, and has had the dependency jurisdiction or wardship terminated, as specified. The bill would repeal obsolete cross-references and make other technical changes. By imposing a higher level of service on county officials, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 1513 of the Probate Code is amended to  
2 read:

3 1513. (a) Unless waived by the court for good cause, a court  
4 investigator, probation officer, or domestic relations investigator  
5 shall make an investigation and file with the court a report and  
6 recommendation concerning each proposed guardianship of the  
7 person or guardianship of the estate. Investigations where the  
8 proposed guardian is a relative shall be made by a court  
9 investigator. Investigations where the proposed guardian is a  
10 nonrelative shall be made by the county agency designated to  
11 investigate potential dependency. The report of the investigation  
12 for a guardianship of the person shall include, but need not be  
13 limited to, a discussion of all of the following:

- 14 (1) A social history of the proposed guardian.
- 15 (2) A social history of the proposed ward, including, to the  
16 extent feasible, an assessment of any identified developmental,  
17 emotional, psychological, or educational needs of the proposed

1 ward and the capability of the proposed guardian to meet those  
2 needs.

3 (3) The relationship of the proposed ward to the proposed  
4 guardian, including the duration and character of the relationship,  
5 the circumstances under which the proposed guardian took physical  
6 custody of the proposed ward, and a statement of the proposed  
7 ward’s wishes concerning the proposed guardianship, unless the  
8 proposed ward’s developmental, physical, or emotional condition  
9 prevents the proposed ward from forming or stating their wishes  
10 concerning the proposed guardianship.

11 (4) The duration of the guardianship anticipated by the parents  
12 and the proposed guardian and the plans of each parent and the  
13 proposed guardian to provide a stable and permanent home for the  
14 child. The court may waive this requirement when no parent is  
15 available.

16 (b) If the proposed ward is or may be described by Section 300  
17 of the Welfare and Institutions Code, the court may refer the matter,  
18 in writing, to the local child welfare agency to initiate an  
19 investigation pursuant to ~~Sections 328 and 329~~ *Section 329* of the  
20 Welfare and Institutions Code. The referral shall include a summary  
21 of the reasons for the referral and may include a copy of the petition  
22 under Section 1510, the investigator’s report filed pursuant to  
23 subdivision (a), and any other material information.

24 (1) ~~The child welfare agency shall, within three weeks of the~~  
25 ~~referral,~~ *Pursuant to the timeline in Section 329 of the Welfare and*  
26 *Institutions Code, the child welfare agency shall* report the findings  
27 and conclusions of its investigation, any decision made as a result,  
28 and the reasons for the decision to the probate court.

29 (2) The probate court shall not hear and determine the petition  
30 to appoint a guardian of the minor until the child welfare agency  
31 has completed its investigation and has submitted the report to the  
32 probate court.

33 (3) Notwithstanding paragraph (2), pending completion of the  
34 child welfare investigation, the probate court may take any  
35 reasonable steps it deems appropriate to protect the child’s safety,  
36 including, but not limited to, appointing a temporary guardian or  
37 issuing a temporary restraining order.

38 (4) If the child welfare agency has not, within three weeks of  
39 the referral, notified the probate court that it has commenced  
40 juvenile dependency proceedings, the probate court or counsel

1 appointed pursuant to Section 1470 to represent the minor may  
2 apply to the juvenile court, pursuant to Section 331 of the Welfare  
3 and Institutions Code, for an order directing the agency to  
4 commence juvenile dependency proceedings.

5 (5) If the juvenile court commences dependency proceedings,  
6 the guardianship proceedings shall be stayed in accordance with  
7 Section 304 of the Welfare and Institutions Code. This section  
8 does not affect the applicability of Section 16504 or 16506 of the  
9 Welfare and Institutions Code. If the juvenile court does not  
10 commence dependency proceedings, the probate court shall retain  
11 jurisdiction to hear and determine the guardianship petition.

12 (c) Before ruling on the petition for guardianship, the court shall  
13 read and consider all reports submitted pursuant to this section and  
14 shall affirm that it has done so in the minutes or on the record. A  
15 person who reports to the court pursuant to this section may be  
16 called and examined by any party to the proceeding.

17 (d) All reports authorized by this section are confidential and  
18 shall only be made available to persons who have been served in  
19 the proceedings or their attorneys. The clerk of the court shall  
20 make provisions to limit access to the reports exclusively to persons  
21 entitled to receipt. The reports shall be made available to all parties  
22 entitled to receipt no less than three court days before the hearing  
23 on the guardianship petition.

24 (e) For the purpose of writing either report authorized by this  
25 section, the person making the investigation and report shall have  
26 access to the proposed ward's school records, probation records,  
27 and public and private social services records, and to an oral or  
28 written summary of the proposed ward's medical records and  
29 psychological records prepared by any physician, psychologist, or  
30 psychiatrist who made or who is maintaining those records. The  
31 physician, psychologist, or psychiatrist shall be available to clarify  
32 information regarding these records pursuant to the investigator's  
33 responsibility to gather and provide information for the court.

34 (f) This section does not apply to guardianships resulting from  
35 a permanency plan for a dependent child pursuant to Section 366.26  
36 of the Welfare and Institutions Code.

37 (g) For purposes of this section, a "relative" means a person  
38 who is a spouse, parent, stepparent, brother, sister, stepbrother,  
39 stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first  
40 cousin, or any person denoted by the prefix "grand" or "great," or

1 the spouse of any of these persons, even after the marriage has  
2 been terminated by death or dissolution.

3 (h) In an Indian child custody proceeding, any person making  
4 an investigation and report shall consult with the Indian child's  
5 tribe and include in the report information provided by the tribe.

6 (i) It is the intent of the Legislature that the guardianship laws  
7 in this code and the juvenile court laws in the Welfare and  
8 Institutions Code operate together as a cohesive statutory structure  
9 that ensures all cases referred by the probate court for a child  
10 welfare investigation are subject to review by the juvenile court  
11 without limiting the probate court's ability to take immediate action  
12 to protect the child while the child welfare investigation and  
13 juvenile court review are pending. The purpose of this statutory  
14 structure is to ensure the protection of every child's health, safety,  
15 and welfare and to provide due process to every child, parent, and  
16 family.

17 (j) On or before January 1, 2023, the Judicial Council shall  
18 adopt, amend, or revise any rules or forms necessary to implement  
19 this section.

20 ~~SEC. 2. Section 328 of the Welfare and Institutions Code is~~  
21 ~~amended to read:~~

22 ~~328. (a) (1) Whenever the social worker has cause to believe~~  
23 ~~that there was or is within the county, or residing therein, a person~~  
24 ~~described in Section 300, the social worker shall immediately make~~  
25 ~~any investigation deemed necessary to determine whether child~~  
26 ~~welfare services should be offered to the family and whether~~  
27 ~~proceedings in the juvenile court should be commenced. If the~~  
28 ~~social worker determines that it is appropriate to offer child welfare~~  
29 ~~services to the family, the social worker shall make a referral to~~  
30 ~~these services pursuant to Chapter 5 (commencing with Section~~  
31 ~~16500) of Part 4 of Division 9. No inference regarding the~~  
32 ~~credibility of the allegations or the need for child welfare services~~  
33 ~~shall be drawn from the mere existence of a child custody or~~  
34 ~~visitation dispute.~~

35 ~~(2) This section does not require an investigation by the social~~  
36 ~~worker with respect to a child delivered or referred to any agency~~  
37 ~~pursuant to Section 307.5.~~

38 ~~(b) The social worker shall interview any child four years of~~  
39 ~~age or older who is a subject of an investigation, and who is in~~  
40 ~~juvenile hall or other custodial facility, or has been removed to a~~

1 foster home, to ascertain the child's view of the home environment.  
2 If proceedings are commenced, the social worker shall include the  
3 substance of the interview in any written report submitted at an  
4 adjudicatory hearing, or, if a report is not then received in evidence,  
5 the social worker shall include the substance of the interview in  
6 the social study required by Section 358.

7 (e) ~~A referral based on allegations of child abuse from the family~~  
8 ~~court pursuant to Section 3027 of the Family Code or from the~~  
9 ~~probate court pursuant to subdivision (b) of Section 1513 of the~~  
10 ~~Probate Code shall be investigated to the same extent as any other~~  
11 ~~child abuse allegation.~~

12 ~~SEC. 3.~~

13 *SEC. 2.* Section 329 of the Welfare and Institutions Code is  
14 amended to read:

15 329. (a) When a person applies to the social worker to  
16 commence proceedings in the juvenile court, the application shall  
17 be in the form of an affidavit alleging that there was or is within  
18 the county, or residing therein, a child within the provisions of  
19 Section 300, and setting forth facts in support thereof. The social  
20 worker shall immediately investigate as ~~deemed~~ necessary to  
21 determine whether proceedings in the juvenile court should be  
22 commenced. If the social worker does not take action under Section  
23 301 and does not file a petition in the juvenile court within three  
24 weeks after the application, the social worker shall endorse upon  
25 the affidavit of the applicant the decision not to proceed further,  
26 including any recommendation made to the applicant, if one is  
27 made, to consider commencing a probate guardianship proceeding  
28 for the child, and the reasons therefor and shall immediately notify  
29 the applicant of the action taken or the decision rendered under  
30 this section. The social worker shall retain the affidavit and the  
31 endorsement thereon for a period of 30 days after notifying the  
32 applicant.

33 (b) (1) ~~If a social worker receives a referral from a family court~~  
34 ~~pursuant to Section 3027 of the Family Code, or from the probate~~  
35 ~~court pursuant to Section 1513 of the Probate Code, the social~~  
36 ~~worker shall immediately investigate as necessary to determine~~  
37 ~~whether proceedings in the juvenile court should be commenced.~~

38 (2) The social worker shall, within three weeks of the referral,  
39 report the findings and conclusions of the investigation, along with  
40 any decision made as a result and the reasons for the decision, to

1 the probate court as required by subdivision (b) of Section 1513  
2 of the Probate Code.

3 ~~SEC. 4.~~

4 *SEC. 3.* Section 331 of the Welfare and Institutions Code is  
5 amended to read:

6 331. (a) If a person has applied to the social worker, pursuant  
7 to Section 329, to commence juvenile court proceedings and the  
8 social worker does not file a petition within three weeks after the  
9 application, the person may, within one month after making the  
10 application, apply to the juvenile court to review the decision of  
11 the social worker, and the court may either affirm the decision of  
12 the social worker or, if it finds that the child is, prima facie,  
13 described by Section 300, order the social worker to commence  
14 juvenile court proceedings.

15 (b) If the probate court has referred a matter to the child welfare  
16 agency pursuant to Section 1513 of the Probate Code, and the  
17 agency does not file a petition to commence juvenile court  
18 proceedings within three weeks of the referral, the probate court  
19 or counsel appointed by the probate court pursuant to Section 1470  
20 of the Probate Code to represent the child may, within one month  
21 after the referral, request that the juvenile court review the decision  
22 of the social worker not to file a petition. The request shall contain  
23 the probate court referral made pursuant to subdivision (b) of  
24 Section 1513 of the Probate Code and the social worker's report,  
25 if available to the court, and need not contain any additional  
26 information. The juvenile court may either affirm the decision of  
27 the social worker or, if it finds that the child is, prima facie,  
28 described by Section 300, order the social worker to commence  
29 juvenile court proceedings.

30 (1) Either the appointment of a temporary probate guardian or  
31 any delay attributable to the child welfare investigation shall not  
32 preclude the juvenile court from ordering the social worker to  
33 commence dependency proceedings or from hearing and  
34 determining a petition alleging that the child is described by Section  
35 300.

36 (2) The juvenile court shall, within five days of completing its  
37 review, transmit its decision, in writing, to the probate court. The  
38 probate court shall file the decision in question in the guardianship  
39 proceeding and shall make it available only to persons entitled to

1 receive reports pursuant to subdivision (d) of Section 1513 of the  
2 Probate Code.

3 ~~SEC. 5.~~

4 *SEC. 4.* Section 360 of the Welfare and Institutions Code is  
5 amended to read:

6 360. (a) After receiving and considering the evidence on the  
7 proper disposition of the case, the juvenile court may enter  
8 judgment as follows:

9 (1) Notwithstanding any other law, if the court finds that the  
10 child is a person described by Section 300 and the parent has  
11 advised the court that the parent is not interested in family  
12 maintenance or family reunification services, it may, in addition  
13 to or in lieu of adjudicating the child a dependent child of the court,  
14 order a legal guardianship, appoint a legal guardian, and issue  
15 letters of guardianship, if the court determines that a guardianship  
16 is in the best interest of the child, provided the parent and the child  
17 agree to the guardianship, unless the child's age or physical,  
18 emotional, or mental condition prevents the child's meaningful  
19 response. The court shall advise the parent and the child that  
20 reunification services will not be provided as a result of the  
21 establishment of a guardianship. The proceeding for the  
22 appointment of a guardian shall be in the juvenile court.

23 (2) An application for termination of guardianship shall be filed  
24 in juvenile court in a form developed by the Judicial Council  
25 pursuant to Section 68511 of the Government Code. Sections 366.4  
26 and 388 shall apply to this order of guardianship.

27 (3) A person shall not be appointed a legal guardian under this  
28 section until an assessment as specified in subdivision (g) of  
29 Section 361.5 is read and considered by the court and reflected in  
30 the minutes of the court.

31 (4) (A) On and after the date that the director executes a  
32 declaration pursuant to Section 11217, if the court appoints an  
33 approved relative caregiver as the child's legal guardian, the child  
34 has been in the care of that approved relative for a period of six  
35 consecutive months under a voluntary placement agreement, and  
36 the child otherwise meets the conditions for federal financial  
37 participation, the child shall be eligible for aid under the Kin-GAP  
38 Program as provided in Article 4.7 (commencing with Section  
39 11385) of Chapter 2.

1 (B) A child placed with a relative caregiver who is appointed  
2 as the child's legal guardian pursuant to this section shall be  
3 eligible for aid under the state-funded Kin-GAP Program, as  
4 provided for in Article 4.5 (commencing with Section 11360) of  
5 Chapter 2.

6 (C) It is the intent of the Legislature to ensure that a child who  
7 must be separated from a parent as a result of abuse or neglect has  
8 access to funding any time the child is placed in a guardianship  
9 by the juvenile court.

10 (D) It is the further intent of the Legislature that permanent  
11 placement of a child not be delayed solely to ensure that the child  
12 will be able to receive critical funding.

13 (5) A person responsible for preparing the assessment may be  
14 called and examined by any party to the guardianship proceeding.

15 (b) If the court finds that the child is a person described by  
16 Section 300, it may, without adjudicating the child a dependent  
17 child of the court, order that services be provided to keep the family  
18 together and place the child and the child's parent or guardian  
19 under the supervision of the social worker for a time period  
20 consistent with Section 301.

21 (c) If the family subsequently is unable or unwilling to cooperate  
22 with the services being provided, the social worker may file a  
23 petition with the juvenile court pursuant to Section 332 alleging  
24 that a previous petition has been sustained and that disposition  
25 pursuant to subdivision (b) has been ineffective in ameliorating  
26 the situation requiring the child welfare services. Upon hearing  
27 the petition, the court shall order either that the petition shall be  
28 dismissed or that a new disposition hearing shall be held pursuant  
29 to subdivision (d).

30 (d) If the court finds that the child is a person described by  
31 Section 300, it may order and adjudge the child to be a dependent  
32 child of the court.

33 ~~SEC. 6.~~

34 *SEC. 5.* Section 366.4 of the Welfare and Institutions Code is  
35 amended to read:

36 366.4. A minor for whom a guardianship has been established  
37 resulting from the selection or implementation of a permanency  
38 plan pursuant to Section 366.26, or for whom a related guardianship  
39 has been established pursuant to Section 360, or, on and after the  
40 date that the director executes a declaration pursuant to Section

1 11217, a nonminor who is receiving Kin-GAP payments pursuant  
2 to Section 11363 or 11386, or, on or after January 1, 2012, a  
3 nonminor former dependent child of the juvenile court who is  
4 receiving AFDC-FC benefits pursuant to Section 11405, is within  
5 the jurisdiction of the juvenile court. For those minors, Part 2  
6 (commencing with Section 1500) of Division 4 of the Probate  
7 Code, relating to guardianship, does not apply. If no specific  
8 provision of this code or the California Rules of Court is applicable,  
9 the provisions applicable to guardianships under Part 4  
10 (commencing with Section 2100) of Division 4 of the Probate  
11 Code govern insofar as they are applicable to like situations.

12 ~~SEC. 7.~~

13 *SEC. 6.* Section 11363 of the Welfare and Institutions Code is  
14 amended to read:

15 11363. (a) Aid in the form of state-funded Kin-GAP shall be  
16 provided under this article on behalf of any child under 18 years  
17 of age and to any eligible youth under 19 years of age, as provided  
18 in Section 11403, who satisfies all of the following conditions:

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

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

26 (3) Has had a kinship guardianship established pursuant to  
27 Section 366.26.

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

32 (b) Aid in the form of state-funded Kin-GAP shall be provided  
33 under this article on behalf of any child under 18 years of age and  
34 to any eligible youth under 21 years of age who is not otherwise  
35 determined to be eligible for federal Kin-GAP, as provided in  
36 Section 11403, who has had a kinship guardianship established  
37 pursuant to Section 360.

38 (c) If the conditions specified in subdivision (a) or (b) are met  
39 and, subsequent to the termination of dependency jurisdiction, a  
40 parent or person having an interest files with the juvenile court a

1 petition pursuant to Section 388 to change, modify, or set aside an  
2 order of the court, Kin-GAP payments shall continue unless and  
3 until the juvenile court, after holding a hearing, orders the child  
4 removed from the home of the guardian, terminates the  
5 guardianship, or maintains dependency jurisdiction after the court  
6 concludes the hearing on the petition filed under Section 388.

7 (d) A child or nonminor former dependent or ward shall be  
8 eligible for Kin-GAP payments if the child or nonminor meets one  
9 of the following age criteria:

10 (1) The child is under 18 years of age.

11 (2) The nonminor is under 21 years of age and has a physical  
12 or mental disability that warrants the continuation of assistance.

13 (3) Through December 31, 2011, the child or nonminor satisfies  
14 the conditions of Section 11403, and on and after January 1, 2012,  
15 satisfies the conditions of Section 11403.01.

16 (4) The child or nonminor satisfies the conditions as described  
17 in subdivision (e).

18 (e) Commencing January 1, 2012, state-funded Kin-GAP  
19 payments shall continue for youths who have attained 18 years of  
20 age and who are under 19 years of age, if they reached 16 years  
21 of age before the Kin-GAP negotiated agreement payments  
22 commenced, and as described in Section 10103.5. Effective January  
23 1, 2013, Kin-GAP payments shall continue for youths who have  
24 attained 18 years of age and are under 20 years of age, if they  
25 reached 16 years of age before the Kin-GAP negotiated agreement  
26 payments commenced, and as described in Section 10103.5.  
27 Effective January 1, 2014, Kin-GAP payments shall continue for  
28 youths who have attained 18 years of age and are under 21 years  
29 of age, if they reached 16 years of age before the Kin-GAP  
30 negotiated agreement payments commenced. To be eligible for  
31 continued payments, the youth shall satisfy one or more of the  
32 conditions specified in paragraphs (1) to (5), inclusive, of  
33 subdivision (b) of Section 11403.

34 (f) (1) Termination of the guardianship with a kinship guardian  
35 shall terminate eligibility for Kin-GAP unless the conditions in  
36 Section 11403 apply. However, if an alternate guardian or  
37 coguardian is appointed pursuant to Section 366.3 who is also a  
38 kinship guardian, the alternate or coguardian shall be entitled to  
39 receive Kin-GAP on behalf of the child pursuant to this article. A  
40 new period of six months of placement with the alternate guardian

1 or coguardian shall not be required if that alternate guardian or  
2 coguardian has been assessed pursuant to Section 361.3,  
3 subdivision (a) of Section 361.4, and paragraph (2), and the court  
4 terminates dependency jurisdiction. If a nonminor former  
5 dependent is receiving Kin-GAP after 18 years of age and the  
6 nonminor former dependent's former guardian dies, the nonminor  
7 former dependent may petition the court for a hearing pursuant to  
8 Section 388.1.

9 (2) (A) In addition to the state-level criminal records check  
10 described in paragraph (2) of subdivision (a) of Section 361.4, the  
11 county welfare department shall require each prospective alternate  
12 guardian or coguardian, and any other person over 18 years of age  
13 living in the home, to be fingerprinted, and shall secure from an  
14 appropriate law enforcement agency any criminal record of that  
15 person to determine whether the person has ever been convicted  
16 of a crime other than a minor traffic violation.

17 (B) If the criminal records check indicates that the prospective  
18 alternate guardian or coguardian has been convicted of an offense  
19 described in subparagraph (A) of paragraph (2) of subdivision (g)  
20 of Section 1522 of the Health and Safety Code, the case shall not  
21 be eligible for Kin-GAP funding.

22 (C) If the prospective alternate guardian or coguardian has been  
23 convicted of a crime other than a minor traffic violation or arrested  
24 for an offense specified in subdivision (e) of Section 1522 of the  
25 Health and Safety Code, except for the civil penalty language, the  
26 criminal background check provisions specified in subdivisions  
27 (d) to (g), inclusive, of Section 1522 of the Health and Safety Code  
28 shall apply, and an exemption shall be issued prior to issuance of  
29 any Kin-GAP funding. Exemptions from the criminal records  
30 clearance requirements set forth in this section may be granted by  
31 the county using the exemption criteria specified in subdivision  
32 (g) of Section 1522 of the Health and Safety Code and any  
33 applicable written directives or regulations adopted by the  
34 department.

35 (3) A prospective alternate guardian or coguardian shall not be  
36 required to be approved as a resource family pursuant to Section  
37 16519.5 for the sole purpose of receiving Kin-GAP funding on  
38 behalf of an eligible child in the care of the prospective alternate  
39 guardian or coguardian.

1     ~~SEC. 8.~~  
2     *SEC. 7.* To the extent that this act has an overall effect of  
3 increasing the costs already borne by a local agency for programs  
4 or levels of service mandated by the 2011 Realignment Legislation  
5 within the meaning of Section 36 of Article XIII of the California  
6 Constitution, it shall apply to local agencies only to the extent that  
7 the state provides annual funding for the cost increase. Any new  
8 program or higher level of service provided by a local agency  
9 pursuant to this act above the level for which funding has been  
10 provided shall not require a subvention of funds by the state or  
11 otherwise be subject to Section 6 of Article XIII B of the California  
12 Constitution.

O