Congregate Care Reform Statutes

SEC. 90. Section 11461.2 is added to the Welfare and Institutions Code, to read:

11461.2. (a) It is the intent of the Legislature to ensure quality care for children who are placed in the continuum of AFDC-FC eligible placement settings.

(b) The State Department of Social Services shall establish, in consultation with county welfare departments and other stakeholders, as appropriate, a working group to develop recommended revisions to the current ratesetting system, services, and programs serving children and families in the continuum of AFDC-FC eligible placement settings including, at a minimum, all programs provided by foster family agencies and group homes including those providing residentially-based services, as defined in paragraph (1) of subdivision (a) of Section 18987.71.

(c) In developing the recommended revisions identified in subdivision (b), the working group shall consider all of the following:

(1) How ratesetting systems for foster care providers, including, at least, foster family agencies and group homes, can better support a continuum of programs and services that promote positive outcomes for children and families. This may include a process for matching the child's strengths and needs to the appropriate placement setting.

(2) How the provision of an integrated, comprehensive set of services including mental health and other critical services for children and youth support the achievement of well-being, permanency, and safety outcomes.

(3) How to ensure the provision of services in family-like settings including after care services, when appropriate.

(4) How to provide outcome-based evaluations of foster care providers or other methods of measuring quality improvement including measures of youth and families' satisfaction with services provided and program effectiveness.

(5) How changes in the licensing, ratesetting, and auditing processes can improve the quality of foster care providers, the quality of services and programs provided, and enhance the oversight of care provided to children, including, but not limited to, accreditation, administrator qualifications, and the reassignment of these responsibilities within the department.

(d) In addition to the considerations in subdivision (c), the workgroup recommendations shall be based on the review and evaluation of the current ratesetting systems, actual cost data, and information from the provider community as well as research on other applicable ratesetting methodologies, evidenced-based practices, information developed as a result of pilots approved by the director, and any other relevant information.

(e) The workgroup shall develop the content, format, and data sources for reports to be posted by the department on a public Internet Web site describing the outcomes achieved by providers with foster care rates set by the department.

(f) (1) Recommendations developed pursuant to this section shall include the plan required under subdivision (d) of Section 18987.7. Updates regarding the workgroup's establishment and its progress toward meeting the requirements of this section shall be provided to the Legislature during 2012-13 and 2013-14 budget hearings. The revisions recommended pursuant to the requirements of subdivision (b) shall be submitted in a report to the appropriate policy and fiscal committees of the Legislature by October 1, 2014.

(2) The requirement for submitting a report pursuant to this subdivision is inoperative on October 1, 2018, pursuant to Section 10231.5 of the Government Code.

(g) The department shall retain the authority to extend the workgroup after October 1, 2014, to ensure that the objectives of this section are met and to reconvene this workgroup as necessary to address any future recommended changes to the continuum of AFDC-FC eligible placement settings pursuant to this section.

SEC. 91. Section 11462.05 of the Welfare and Institutions Code is repealed.

SEC. 95. Section 11467 is added to the Welfare and Institutions Code, to read:

11467. (a) The State Department of Social Services, with the advice and assistance of the County Welfare Directors Association, the Chief Probation Officer's Association, the California Mental Health Directors Association, research entities, foster youth and advocates for foster youth, foster care provider business entities organized and operated on a nonprofit basis, tribes, and other stakeholders, shall establish a working group to develop performance standards and outcome measures for providers of out-of-home care placements made under the AFDC-FC program, including, but not limited to, foster family agency, group home, and THP-Plus providers, and for the effective and efficient administration of the AFDC-FC program.

(b) The performance standards and outcome measures shall employ the applicable performance standards and outcome measures as set forth in Sections 11469 and 11469.1, designed to identify the degree to which foster care providers, including business entities organized and operated on a nonprofit basis, are providing out-of-home placement services that meet the needs of foster children, and the degree to which these services are supporting improved outcomes, including those identified by the California Child and Family Service Review System.

(c) In addition to the process described in subdivision (a), the working group may also develop the following:

(1) A means of identifying the child's needs and determining which is the most appropriate out-of-home placement for a child.

(2) A procedure for identifying children who have been in congregate care for one year or longer, determining the reasons each child remains in congregate care, and developing a plan for each child to transition to a less restrictive, more family-like setting.

(d) The department shall provide updates regarding its progress toward meeting the requirements of this section during the 2013 and 2014 budget hearings.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 13340) of Part 1 of Division 3 of Title 2 of the Government Code), until the enactment of applicable state law, or October 1, 2015, whichever is earlier, the department may implement the changes made pursuant to this section through all-county letters, or similar instructions from the director.

SEC. 96. Section 11469 of the Welfare and Institutions Code is amended to read:

11469. (a) By July 1, 1993, the department, in consultation with group home providers, the County Welfare Directors' Association, the Chief Probation Officers' Association, the California Conference of Local Mental Health Director and the State

Department of Mental Health, shall develop performance standards and outcome measures for determining the effectiveness of the care and supervision, as defined in subdivision (b) of Section 11460, provided by group homes under the AFDC-FC program pursuant to Sections 11460 and 11462. These standards shall be designed to measure group home program performance for the client group that the group home program is designed to serve.

(1) The performance standards and outcome measures shall be designed to measure the performance of group home programs in areas over which the programs have some degree of influence, and in other areas of measurable program performance that the department can demonstrate are areas over which group home programs have meaningful managerial or administrative influence.

(2) These standards and outcome measures shall include, but are not limited to, the effectiveness of services provided by each group home program, and the extent to which the services provided by the group home assist in obtaining the child welfare case plan objectives for the child.

(3) In addition, when the group home provider has identified as part of its program for licensing, ratesetting, or county placement purposes, or has included as a part of a child's case plan by mutual agreement between the group home and the placing agency, specific mental health, education, medical, and other child-related services, the performance standards and outcome measures may also measure the effectiveness of those services.

(b) Regulations regarding the implementation of the group home performance standards system required by this section shall be adopted no later than one year prior to implementation. The regulations shall specify both the performance standards system and the manner by which the AFDC-FC rate of a group home program shall be adjusted if performance standards are not met.

(c) Except as provided in subdivision (d), effective July 1, 1995, group home performance standards shall be implemented. Any group home program not meeting the performance standards shall have its AFDC-FC rate, set pursuant to Section 11462, adjusted according to the regulations required by this section.

(d) Effective July 1, 1995, group home programs shall be classified at rate classification level 13 or 14 only if all of the following are met:

(1) The program generates the requisite number of points for rate classification level 13 or 14.

(2) The program only accepts children with special treatment needs as determined through the assessment process pursuant to paragraph (2) of subdivision (a) of Section 11462.01.

(3) The program meets the performance standards designed pursuant to this section.

(e) Notwithstanding subdivision (c), the group home program performance standards system shall not be implemented prior to the implementation of the AFDC-FC performance standards system.

SEC. 148. 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 and Rate Level	In-Home Support Counselor Hours 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 June 30, 2015, inclusive, only the following modified service and rate levels to support modified in-home support counselor hours per month shall apply:

Service and Rate Level	In-Home Support Counselor Hours 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 and Rate Level	Fiscal Year 1998-99 Standard Rate
A	$3,957
B	$3,628
C	$3,290
D	$2,970
E	$2,639

(2) For the interim period beginning July 1, 2012, through June 30, 2015, 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 again on July 1, 2014, 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.

SEC. 152. Section 18987.7 of the Welfare and Institutions Code is amended to read:

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited to, representatives of the department and of the State Department of Mental Health, the State Department of Education, the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision (c) of Section 18987.72 shall be utilized.

(d) The workgroup described in subdivision (a) shall be the workgroup described in Section 11461.2. The responsibilities described in subdivisions (b) and (c) shall be assumed by the workgroup and the recommendations shall be submitted as set forth in subdivision (f) of Section 11461.2.

SEC. 153. Section 18987.72 of the Welfare and Institutions Code is amended to read:

18987.72. (a) In order to obtain knowledge and experience with which to inform the process of developing and implementing the plan for residentially based services, required by Section 18987.7, the department shall encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models for transforming existing group home programs into residentially based services programs in order to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(b) (1) With the approval of the department, any counties participating in the federal Title IV-E waiver capped allocation demonstration project pursuant to Section 18260, at their option, and two other counties may enter into and implement voluntary agreements with private nonprofit agencies to transform all or part of an existing group home program into a residentially based services program.

(2) If one or more counties participating in the federal Title IV-E waiver capped allocation demonstration project opts not to enter into a voluntary agreement pursuant to this chapter, the department may select one or more nonwaiver counties. The department may approve up to four counties to participate in the voluntary agreements pursuant to this section.

(3) The department shall select participating counties, based on letters of interest submitted to the department from counties, in consultation with the California Alliance of Child and Family Services and the County Welfare Directors Association.

(c) Voluntary agreements by counties and nonprofit agencies shall satisfy all of the following requirements:

(1) Incorporate and address all of the components and elements for residentially based services described in the "Framework for a New System for Residentially-Based Services in California."

(2) Reflect active collaboration among the private nonprofit agency that will operate the residentially based services program and county departments of social services, mental health, or juvenile justice, alcohol and drug programs, county offices of education, or other public entities, as appropriate, to ensure that children, youth, and families receive the services and support necessary to meet their needs.

(3) Provide for an annual evaluation report, to be prepared jointly by the county and the private nonprofit agency. The evaluation report shall include analyses of the outcomes for children and youth, including achievement of permanency, average lengths of stay, and rates of entry and reentry into group care. The evaluation report shall also include analyses of the involvement of children or youth and their families, client satisfaction, the use of the program by the county, the operation of the program by the private nonprofit agency, payments made to the private nonprofit agency by the county, actual costs incurred by the nonprofit agency for the operation of the program, and the impact of the program on state and county AFDC-FC program costs. The county shall send a copy of each annual evaluation report to the director, and the director shall make these reports available to the Legislature upon request.

(4) Permit amendments, modifications, and extensions of the agreement to be made, with the mutual consent of both parties and with approval of the department, based on

the evaluations described in paragraph (3), and on the experience and information acquired from the implementation and the ongoing operation of the program.

(5) Be consistent with the county's system improvement plan developed pursuant to the California Child Welfare Outcomes and Accountability System.

(d) (1) Upon a county's request, the director may waive child welfare regulations regarding the role of counties in conjunction with private nonprofit agencies operating residentially based services programs to enhance the development and implementation of case plans and the delivery of services in order to enable a county and a private nonprofit agency to implement an agreement described in subdivision (b). Nothing in this section shall be construed to supersede the requirements set forth in subdivision (c) of Section 16501.

(2) Notwithstanding Sections 11460 and 11462, or any other law or regulation governing payments under the AFDC-FC program, upon the request of one or more counties, and in accordance with the voluntary agreements as described in subdivision (b), the director may also approve the use of up to a total of five alternative funding models for determining the method and level of payments that will be made under the AFDC-FC program to private nonprofit agencies operating residentially based services programs in lieu of using the rate classification levels and schedule of standard rates provided for in Section 11462. These alternative funding models may include, but shall not be limited to, the use of cost reimbursement, case rates, per diem or monthly rates, or a combination thereof. An alternative funding model shall do all of the following:

(A) Support the values and goals for residentially based services, including active child and family involvement, permanence, collaborative decisionmaking, and outcome measurement.

(B) Ensure that quality care and effective services are delivered to appropriate children or youth at a reasonable cost to the public.

(C) Ensure that payment levels are sufficient to permit the private nonprofit agencies operating residentially based services programs to provide care and supervision, social work activities, parallel predischarge community-based interventions for families, and followup postdischarge support and services for children and their families, including the cost of hiring and retaining qualified staff.

(D) Facilitate compliance with state requirements and the attainment of federal and state performance objectives.

(E) Control overall program costs by providing incentives for the private nonprofit agencies to use the most cost-effective approaches for achieving positive outcomes for the children or youth and their families.

(F) Facilitate the ability of the private nonprofit agencies to access other available public sources of funding and services to meet the needs of the children or youth placed in their residentially based services programs, and the needs of their families.

(G) Enable the combination of various funding streams necessary to meet the full range of services needed by foster children or youth in residentially based services programs, with particular reference to funding for mental health treatment services through the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment program.

(H) Maximize federal financial participation, and mitigate the loss of federal funds, while ensuring the effective delivery of services to children or youth and families, and the achievement of positive outcomes.

(I) Provide for effective administrative oversight and enforcement mechanisms in order to ensure programmatic and fiscal accountability.

(3) A waiver granted by the director pursuant to paragraph (1), or an approval of an alternative funding model pursuant to paragraph
(2), shall be applicable only to the development, implementation, and ongoing operation of a residentially based services program and related county activities provided under the terms of the agreement and for the duration of the agreement, and shall be granted only when all of the following apply:

(A) The agreement promises to offer a worthwhile test related to the development, implementation, and ongoing operation of a residentially based services program as described in this chapter.

(B) Existing regulatory provisions or the existing AFDC-FC payment requirements, or both, impose barriers for the effective, efficient, and timely implementation of the agreement.

(C) The requesting county proposes to monitor the agreement for compliance with the terms of the waiver or the alternative funding model, or both.

(D) Notwithstanding any change to payments made to group homes under Section 11462, the department may pay higher AFDC-FC payments for children and youth who are enrolled in a residentially based services program, to be offset by cost efficiencies achieved through shorter lengths of stay in foster care, or a reduction of reentries into foster care, as a result of providing predischarge support and postdischarge services to the children or youth and their families. Any upfront costs for this project shall be offset by other program savings identified by the department, to ensure that there are no net General Fund costs in each fiscal year.

(e) In addition to the requirements set forth in subdivision (c), the voluntary agreements shall do all of the following:

(1) Provide that, to the extent that some of the care, services, and other activities associated with a residentially based services program operated under an agreement described in subdivision (b) are not eligible for federal financial participation as foster care maintenance payments under Part E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), but may be eligible for federal financial participation as administration or training, or may be eligible for federal financial participation under other programs, including, but not limited to, Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), the appropriate state departments shall take measures to obtain that federal funding.

(2) Provide that, prior to approving any waiver or alternative funding model pursuant to subdivision (d), the director shall make a determination that the design of the residentially based services program to be operated under the agreement described in subdivision (b) would ensure the health and safety of children or youth to be served.

(f) Agreements entered into pursuant to this section shall terminate on or before July 1, 2016, unless a later enacted statute extends or removes this limitation.

(g) The department shall report during the legislative budget hearings on the status of any county agreements entered into pursuant to subdivision (b), and on the development of statewide residentially based services programs. This report shall be submitted with the recommendations made pursuant to Section 11461.2.