

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 3, 1997

ALL-COUNTY INFORMATION NOTICE NO. I-40-97

TO: ALL COUNTY WELFARE DEPARTMENTS
 ALL COUNTY PROBATION DEPARTMENTS
 ALL COUNTY COUNSELS
 ALL PUBLIC AND PRIVATE ADOPTION
 AGENCIES
 ALL CDSS ADOPTION DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation
 Change
 Court Order or Settlement
 Agreement
 Clarification Requested by One
 or More Counties
 Initiated by CDSS

SUBJECT: 1996 CHAPTERED LEGISLATION AFFECTING THE ADOPTIONS
 PROGRAM, THE OFFICE OF CHILD ABUSE PREVENTION, THE CHILD
 WELFARE SERVICES PROGRAM, AND THE AID TO FAMILIES WITH
 DEPENDENT CHILDREN-FOSTER CARE PROGRAM

This letter summarizes legislation chaptered during 1996 which affects the Adoptions Program, the Office of Child Abuse Prevention, the Child Welfare Services Program and the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program. Unless otherwise noted, the statutes listed became effective on January 1, 1997.

These summaries are for general informational purposes only. Additional All-County Letters (ACLs) or All-County Information Notices (ACINs) have been or will be issued for some of the statutes to provide more detailed descriptions of specific programmatic issues and necessary implementation activities. For ease of identification, statutes have been listed under the specific program which they impact.

ADOPTIONS PROGRAM

Assembly Bill (AB) 1524 (Granlund), Chapter 1083, Statutes of 1996

This legislation implements some of the components of the Governor's 1996 Adoption Initiative and includes the following changes:

- o Amends Welfare and Institutions Code (WIC) Section 361.5 to expedite permanency for infants and toddlers under three years old. The amendment allows the juvenile court the option of ceasing or extending reunification efforts after six months, based on its determination of the likelihood that the family can be reunified.

- o Amends WIC Section 361.5 to expedite and facilitate adoption of siblings by the same family. This amendment allows the juvenile court the option, in prescribed circumstances, to forgo efforts to reunify the family for a child who has been removed from a parent's custody and where that parent is not receiving reunification services for a sibling or half-sibling who has been severely physically or sexually abused, as defined.
- o Amends WIC Section 16100 to promote access to private adoption services for foster children. This amendment establishes explicit authority in State statute for licensed county adoption agencies to purchase adoption services from licensed private adoption agencies to facilitate adoptive placement of specific categories of children for whom the licensed county adoption agency has determined it cannot provide adequate services.
- o Amends WIC Section 16122 to streamline the private agency reimbursement for adoptive placement of foster children. This amendment authorizes fixed-rate compensation (\$3,500) to licensed private adoption agencies for each completed adoption of a foster child.
- o Makes technical changes to existing statutes to conform and reconcile them with statutes previously enacted by AB 1523 (Chapter 540, Statutes of 1995). This legislation also clarifies the application of the interracial placement provisions of AB 1743 (Chapter 884, Statutes of 1995) to the existing WIC Section 366.26(c)(3) statute requiring a 90-day search for an adoptive home if the child is difficult to place and is not freed for adoption, but has a permanent plan of adoption. Finally, this legislation clarifies the content and purpose of the adoption agency report required in Family Code (FC) Section 8715 when an adoption is granted in the juvenile court.

[AB 1523, (Chapter 540, Statutes of 1995) amended WIC Section 366.3 and WIC Section 16121; added WIC Section 366.28; and amended, repealed and added Sections 366.21, 366.22, and 366.26 of WIC. AB 1743, (Chapter 884, Statutes of 1995) amended FC Section 8704; added FC Section 8711.5; repealed and added FC Sections 8708, 8709, and 8710; and amended WIC Section 361.2.]

AB 2165 (Goldsmith), Chapter 510, Statutes of 1996

This legislation revises statutes regarding independent adoption by adding FC Section 8811.5 to allow licensed private adoption agencies to conduct preplacement evaluations of families pursuing independent adoptions. Completed preplacement evaluations are valid for no more than one year prior to the signing of the adoptive placement agreement. In addition, the legislation amends FC Section 8810 to allow families with valid evaluations at the time of filing a petition to pay a reduced public agency adoption fee of \$325 for a postplacement investigation. Furthermore, the legislation amends FC Section 8802 to add "first cousin" to the list of relatives who may file a petition to adopt a child without requiring the birth parent to first sign an

independent adoption placement agreement. The amended FC Section 8802 also reduces the time period a legal guardianship must exist before the guardian can petition to adopt from three (3) years to one (1) year, with certain exceptions. This legislation also amends FC Section 8814.5 to allow adoption service providers to assist birth parents in arranging to sign a waiver of their right to revoke consent. Finally, this legislation permits the adoption service provider to be present at interviews conducted by the investigating adoption agency or court where a waiver may be signed.

AB 3241 (Conroy), Chapter 1052, Statutes of 1996

This legislation amends FC Sections 8706, 8817, and 8909, and adds FC Section 9202.5 to permit the birth parents of an adopted child to provide a blood sample which will be stored, at an approved laboratory under contract with the California Department of Health Services, for 30 years following the adoption of their child. The blood sample will be available to be used for deoxyribonucleic acid (DNA) testing after finalization of the adoption. The blood sample shall be stored and released in a confidential manner that will assure that none of the parties to the adoption can be identified. Access to the blood samples is limited to the adopted child, the adoptive parents of an adopted child who is under 18 years of age, or the authorized representative of either of these parties. Upon request, the birth parents are entitled to access of any DNA test results related to the blood sample. A fee, not to exceed \$100, may be charged for the cost of drawing and storing the blood. Failure of the birth parents to provide a blood sample will not affect the adoption of the child.

SB 2027 (Watson), Chapter 288, Statutes of 1996

This legislation amends FC Section 7827 to add a licensed clinical social worker (LCSW) and a licensed marriage, family and child counselor (MFCC), each with at least five (5) years of post-licensure experience, to the list of experts who may provide evidence that a parent is mentally disabled to the extent that the parent is unable to care for the child, and is likely to remain so for the foreseeable future. An LCSW or MFCC providing evidence under these provisions may not be the adoption service provider of the child who is the subject of the petition to terminate parental rights. The LCSW or MFCC may be called to testify at the discretion of the court in circumstances where the court has determined that their testimony is in the best interest of the child and is warranted by the circumstances of the particular family or parenting issues involved.

SB 2035 (Killea), Chapter 1135, Statutes of 1996

This legislation appends Chapter 1.5 (commencing with Section 8623) to the Family Code to regulate activities of adoption intermediaries, also known as adoption facilitators. It defines an adoption facilitator as an entity, not licensed by the State as an adoption agency, that advertises and charges a fee or other valuable consideration for soliciting parties to an adoption, locating children for an adoption, or acting as an intermediary between the parties to an adoption. This

legislation governs the manner of advertising by an adoption facilitator; prohibits facilitators from misrepresenting the services they can provide; requires adoption facilitators to obtain a business license and be bonded in the amount of \$10,000; and provides for enforcement of its provisions through civil action with a potential penalty of \$1,000 for violation of any of its provisions.

OFFICE OF CHILD ABUSE PREVENTION

AB 3354 (Brown), Chapter 1081, Statutes of 1996

This legislation affects the Child Abuse and Neglect Reporting Act by amending Penal Code (PC) Sections 11165.8, 11166, 11166.5, 11170, and 11172, and adding PC Section 11165.17.

This legislation adds clergy members to the list of individuals who are mandated by law to report known or suspected instances of child abuse to a child protective agency. Clergy members are exempt from their mandated reporting responsibilities only if the knowledge or reasonable suspicion of child abuse was obtained during a "penitential communication" as defined in PC Section 11166.

CHILD WELFARE SERVICES PROGRAM

AB 2329 (Goldsmith), Chapter 275, Statutes of 1996

Existing statute (WIC 308) provides that the peace officer or social worker taking a minor into custody must take immediate steps to notify the minor's parent or guardian that the minor has been taken into custody. This legislation amends WIC 308 to specify that the information given on the minor's whereabouts be limited to the phrase "a facility authorized by law to care for the child."

The confidentiality of the address of any licensed foster family home must be maintained until the dispositional hearing. At the time of the dispositional hearing, the juvenile court judge may authorize, upon a finding of good cause, that the address may be disclosed. The legislation allows the court to authorize the release of the address in cases where a petition is filed that will result in a delay of the jurisdictional hearing beyond 60 days. Additionally, the foster parent may disclose the address at any time during the placement.

AB 2647 (Russell), Chapter 1139, Statutes of 1996

Section 332(e) of WIC provides that juvenile court petitions must include the names and addresses, if known to the county, of both parents and any guardian of the child. This legislation amends that section to include a requirement that if the county is aware that one of the parents is

a victim of domestic violence, and that this parent is currently living apart from the batterer-parent, the victim-parent's address must be kept confidential.

Section 361(b) of WIC specifies conditions which must, by clear and convincing evidence, exist before a child may be taken from the physical custody of his/her parent(s) or guardian. One of the specified conditions is that there is a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child, or there would be if the child returned home. This legislation adds to this section a provision that allows the juvenile court, as a reasonable means to protect the minor, to remove an offending parent or guardian from the home. Further, the court may now allow the nonoffending parent or guardian to retain custody of the child as long as that parent provides the court with an acceptable plan which demonstrates that he or she will be able to protect the child from future harm.

Section 362.1 of WIC requires the court to include, in its orders placing a child into foster care and ordering reunification services, a provision for visitation between the parent or guardian and the child. Visitation is to be as frequent as possible, but consistent with the child's well-being. This legislation adds a requirement that such visitation is not to jeopardize the child's safety and that to protect the child's safety, the court may keep the minor's address confidential.

Section 16206 of WIC delineates the requirements for statewide social worker training. This legislation amends WIC Section 16206 to add information regarding the dynamics and effects of domestic violence upon families to the list of topics that are to be included in social worker training. The legislation specifies that the training is to be developed in consultation with the Child Welfare Training Advisory Board, domestic violence victims' advocates, and other public and private agencies that provide programs for victims of domestic violence or programs of intervention for perpetrators.

Finally, this legislation amends WIC Section 16208 to require the CDSS, in consultation with various agencies and the County Welfare Directors Association, to develop written procedures for screening each referral of child abuse or neglect to assess whether abuse of another family or household member is occurring. The legislation requires the procedures to be incorporated into the statewide protocol for screening telephone referrals of child abuse or neglect, also known as the Emergency Response Protocol.

SB 86 (Haynes), Chapter 36, Statutes of 1996

This legislation amends WIC Section 355 and makes changes to the way in which social studies that are submitted for jurisdictional hearings, and the hearsay information contained in those social studies, are considered admissible evidence at the time of the hearing. The legislation requires the preparer of the report to be available for cross-examination once any of the parties has made a timely request. The juvenile court has the ability to deem the preparer of the report

available if the court determines that the preparer is on standby and can be present in court for cross-examination within a reasonable time of the request.

The legislation also specifies that if specific hearsay information contained in the social study is objected to by any of the parties to the court proceedings, that specific hearsay evidence cannot, by itself, support a jurisdictional finding by the court unless the petitioner establishes one or more of the following exceptions: 1) the hearsay evidence would be admissible in any civil or criminal proceeding under any statutory decisional exception to the prohibition against hearsay; 2) the hearsay declarant is a minor under 12 years of age and is the subject of the jurisdictional hearing, unless the objecting party establishes that the evidence of the minor is unreliable for specified reasons; 3) the hearsay declarant is a peace officer, a specified health practitioner, a licensed social worker or a specified teacher; or, 4) the hearsay declarant is available for cross-examination.

This legislation does not limit the right of any party to the jurisdictional proceedings to subpoena any witness whose statements are contained in the social study or to provide the court with evidence relevant to the weight of the hearsay information or the credibility of the hearsay declarant/witness.

SB 86 became effective on May 6, 1996.

SB 1516 (Solis), Chapter 1084, Statutes of 1996

Section 361.2 of WIC currently provides that when, under WIC Section 361, the court determines that a child must be removed from the home and a noncustodial parent requests custody, the court must place the child with the noncustodial parent unless the court determines that placement with the noncustodial parent would be detrimental to the child.

This legislation amends WIC Section 361.2 to require that in determining detriment to the child if placed with the noncustodial parent, the court must consider the child's safety, protection and physical or emotional well-being.

SB 1675 (Russell), Chapter 405, Statutes of 1996

This legislation amends and renumbers Health and Safety Code (HSC) Section 10605 to extend to all counties the option to increase the fee for a certified copy of a birth certificate by up to \$3 for the purpose of providing dependency mediation services in the juvenile court. These provisions are now located in HSC Section 103625.

The increased fee may be collected until December 31, 1998. However, the county's board of supervisors may discontinue the increased fee earlier if it finds that the fee is no longer needed for dependency mediation funding. Additionally, this legislation amends WIC Section 350 to extend to each juvenile court the provisions regarding the development and establishment of a

dependency mediation program.

SB 1811 (Polanco), Chapter 945, Statutes of 1996

This legislation adds WIC Section 304.7 to specify that on or before July 31, 1997, the Judicial Council must develop and implement standards for the education and training of all judges who conduct dependency hearings, including a training component relating to dependency procedures for newly appointed judges or elected judges. All commissioners and referees must meet the new minimum standards by July 31, 1998.

The Judicial Council will be required to submit an annual legislative report on the extent to which judges, commissioners and referees have complied with meeting the new standards for education and training.

AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE PROGRAM

AB 1127 (Friedman), Chapter 216, Statutes of 1996

This legislation adds WIC Section 16521.5 and requires the following changes:

- o Requires a foster care provider, in consultation with the county case manager, to ensure that adolescents who remain in long-term foster care, as defined by the CDSS, receive age-appropriate pregnancy prevention information to the extent that state and county resources are provided.
- o Requires a foster care provider, in consultation with the county case manager, and to the extent that county and state resources are provided, to ensure that a foster youth is provided with appropriate referrals to health services when the foster youth reaches age 18 or is emancipated.
- o Requires the prospective foster care provider, as part of the home study process, to notify the county if he or she objects to participating in adolescent pregnancy prevention training, or the dissemination of pregnancy prevention information or information regarding referrals to health services. The legislation also requires a licensed foster care provider to notify the county if he or she objects to participating in these activities. If the provider objects, the county case manager must assume the responsibility for the appropriate referrals to health services and the dissemination of pregnancy prevention information.
- o Requires the CDSS, in consultation with the State Department of Health Services, to convene a working group to develop a pregnancy prevention plan that will effectively address the needs of adolescent foster youth. The work group must include specified representatives, including representatives from the County Welfare Director's Association, the Foster Parent's

Association, and the California Youth Connection, among others. The legislation also specifies that the work group is to meet not more than three times and thereafter is to provide consultation to the CDSS upon request.

- o Specifies that the provisions regarding referrals to health services and dissemination of pregnancy prevention information shall not take effect until the CDSS, in consultation with the work group, develops guidelines that describe the duties and responsibilities of foster care providers and county case managers in delivering pregnancy prevention services and information.
- o Requires the CDSS to adopt regulations to implement the above provisions. The CDSS anticipates the regulations will be issued in the summer of 1998.

AB 2154 (Kuehl), Chapter 1138, Statutes of 1996

This legislation amends WIC Sections 366.25, 366.3 and 11404.1 to require that permanency planning hearings, after the first one, be held every 12 months rather than every 18 months for a child in foster care. This conforms California statute to changes made in federal law.

AB 2322 (Bates), Chapter 1007, Statutes of 1996

This legislation adds HSC Section 1507, amends WIC Section 17710 and adds WIC Section 17732.1. These statutes address special health care needs children who have developmental disabilities and who are regional center clients. Such children would be permitted to remain in specialized foster care homes after age 18 up through age 23 in order to complete their educational programs, if specified conditions are met. These conditions include the monitoring and supervision of the placements by the regional center, and the notification by the CDSS to the home that the State Foster Family Home and Small Family Home Insurance Fund does not cover this expanded population.

AB 2824 (Bordonaro), Chapter 247, Statutes of 1996

This legislation adds HSC Section 1531.1, authorizing the use of delayed egress devices in residential facilities which serve persons who have a developmental disability and are receiving services and case management from a regional center, and whose interdisciplinary team has made specific determinations.

AB 2985 (Woods), Chapter 1015, Statutes of 1996

This legislation adds WIC Section 11462.06 to require the CDSS to deem affiliated leases for shelter care for foster children to be allowable costs, as long as specified conditions are met. These conditions include, effective July 1, 1998, an approval letter from the Charitable Trust Section of the Department of Justice.

AB 3043 (Takasugi), Chapter 671, Statutes of 1996

The legislation amends WIC Sections 11462, 11462.01, and 11468.6 to do the following: 1) continue the existing suspension of group home cost of living adjustments and the prohibition of group home rate increases based on program changes, unless specified conditions are met; 2) amend the circumstances under, and the process by which, a rate classification level (RCL) 13 or 14 group home is reclassified to a lower RCL; 3) clarify that the existing audit finding appeal process also applies to an RCL 13 or 14 provider; 4) add language to WIC Section 11462(l) to specify that donations and contributions made to nonprofit organizations shall not be considered by the CDSS in the determination of maximum expenditures; and 5) require the CDSS to report to the Legislature by December 1, 1996 on its progress in implementing the Level of Care Assessment Instrument.

AB 3043 became effective on September 23, 1996.

AB 3062 (Friedman), Chapter 1016, Statutes of 1996

This legislation amends HSC Section 1529.2 to require that every foster parent complete a minimum of 12 hours of training prior to the placement of a child in the home, and complete a minimum of eight additional hours of training annually. Counties may grant a hardship waiver or an extension of the training deadline on a case-by-case basis. The legislation specifies the contents of the initial and annual training. Counties may require additional training.

SB 1365 (Haynes), Chapter 794, Statutes of 1996

The legislation adds WIC Sections 4094.8 and 11402.6 to authorize the operation of the Van Horn Regional Treatment Facility in Riverside as a pilot project community care facility with a secure perimeter. The facility shall be operated at the election of the following counties: Riverside, San Bernardino, Orange, San Diego and Los Angeles. All placements are to be limited to minors adjudicated by the juvenile court under WIC Section 602. However, if federal financial participation for children placed in this facility is unavailable, it will not be operated with a secure perimeter. The pilot sunsets on January 1, 2000.

SB 1365 became effective on September 24, 1996.

SB 1780 (Committee on Budget and Fiscal Review), Chapter 206, Statutes of 1996

This Budget Trailer legislation includes the following foster care items:

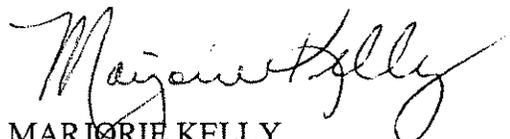
- o Adds WIC Section 11462.1 to require the CDSS, by February 1, 1997, to provide the Legislature with a new incremental AFDC-FC rate proposal.
- o Repeals and adds WIC Section 11466.25 to specify that group home overpayments shall

begin to accrue on the date the final audit report is issued.

- o Amends WIC Section 16525.10 to extend the Options for Recovery program through June 30, 1997, if funds are provided in the Budget Act.
- o Adds WIC Section 10830 to require fingerprinting as an eligibility criteria for AFDC, but exempts AFDC-FC cases.

SB 1780 became effective on July 22, 1996.

If you have questions regarding adoptions-related legislation, please contact Joe Murray, Adoptions Policy Bureau, at (916) 323-0467. Questions relating to child abuse prevention legislation should be directed to Dick Kuest, Office of Child Abuse Prevention, at (916) 445-2771. Questions regarding statutes affecting child welfare services should be directed to your Child Welfare Services Operations consultant at (916) 445-2832. Questions regarding Foster Care Program legislation should be directed to the Foster Care Policy Bureau at (916) 445-0813.


MARJORIE KELLY
Deputy Director
Children and Family Services Division

c: County Welfare Directors Association