

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



May 17, 1993

ALL-COUNTY INFORMATION NOTICE NO. I- 21-93

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: 1992 SUMMARY OF CHAPTERED LEGISLATION

This letter summarizes legislation chaptered during 1992 which affects the Office of Child Abuse Prevention, the Adoptions Program, the Child Welfare Services Program and the Foster Care Program. Unless otherwise noted, the statutes listed became effective on January 1, 1993.

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

SB 1148 (Bergeson), Chapter 1353, Statutes of 1992

This new law markedly restructures the Independent Adoption Program, operative January 1, 1994. Its most salient features, affecting placements with nonrelatives, include: advisement of rights given to birth parents by licensed private adoption agencies or certain licensed clinical social workers at least ten days prior to signing an adoption placement agreement; adoptive placement pursuant to the adoption placement agreement between the birth parent and prospective adoptive parents; a consent to adoption which, if not revoked, automatically becomes permanent 120 days after being signed; and the right of a consenting birth parent either to waive his or her right of revocation or to revoke the consent and reclaim the child during the 120-day period. The Department and delegated county adoption agencies will continue to investigate independent adoption petitions and prepare reports for the court. The statute is discussed in detail in a forthcoming ACIN.

SB 1564 (Watson), Chapter 455, Statutes of 1992

Existing law provides that in the Agency Adoption Program the prospective adoptive parents may file the adoption petition in the superior court of the county where they reside. Chapter 455 provides, in addition, that the petition

to adopt a dependent child of the juvenile court who has been freed for adoption may be filed in either the county where the prospective adoptive parents reside or the county where the child was freed for adoption.

AB 3456 (Conroy), Chapter 667, Statutes of 1992

This statute modifies the relinquishment process in the Agency Adoption Program by allowing birth parents to sign a relinquishment that names the person or persons with whom the birth parent intends the agency will place the child for adoption. If the child is not placed with the intended adopting parents or if the adoption is not completed, the agency is required to notify the relinquishing parent, who will then have 30 days in which to rescind the relinquishment.

The Department is revising regulations and forms for relinquishment and statements of understanding to address this new statute, which became effective on January 1, 1993. An ACL explaining implementation of the changes is forthcoming.

AB 2650 (Speier), Chapter 162, Statutes of 1992

In 1989, the Legislature directed the California Law Revision Commission to review statutes relating to civil proceedings that adjudicated issues of children and families and to make recommendations regarding the establishment of a Family Code. This chaptered legislation is a result of that review. Chapter 162 reorganizes the family law formerly located in the Civil Code, Code of Civil Procedure, Evidence Code, and Probate Code but makes no substantive changes. It will become operative on January 1, 1994.

AB 2840 (Frizzelle), Chapter 435, Statutes of 1992

This statute requires California residents who adopt a child through an intercountry adoption in the child's native country to adopt the child again under California adoption law if the U.S. Immigration and Naturalization Service requires readoption. The statute also permits California residents who adopted a foreign-born child through an intercountry adoption in the child's native country to adopt the child under California law if they so desire.

OFFICE OF CHILD ABUSE PREVENTION

AB 2365 (Bronzan), Chapter 717, Statutes of 1992

This statute defines and includes family preservation services as a component of Child Welfare Services. It authorizes a one time permanent transfer of funds from Aid to Families with Dependent Children-Foster Care (AFDC-FC) to Child Welfare Services for those counties that have had a family preservation program in operation at least three years. It permits those counties that have an approved plan and have financed family preservation services with county funds

to count the length of time the county-funded program was in operation in calculating the three year requirement. It allows the transfer of funds to become part of the state budget process beginning in fiscal year 1993-94. It limits the amount of funds to be permanently transferred to a negotiated total not to exceed 70 percent of the highest annual amount of State General Funds spent on family preservation. It limits the transfer of funds to those counties with an approved family preservation plan. After the permanent transfer of funds, it limits family preservation services paid for with the transferred dollars to those children described in Welfare and Institutions Section 300, et seq. It removes the incentive/penalty provisions in current law after the transfer of funds. It requires a county to match on a 30 percent county and 70 percent state basis after permanent transfer of funds.

AB 3243 (Bronzan), Chapter 1106, Statutes of 1992

This is a companion statute to AB 3679. This law requires the Department to allocate Child Abuse Prevention Intervention and Treatment (CAPIT) funds appropriated to it in the annual Budget Act for the purpose of establishing services for child abuse and neglect prevention through contracts between participating counties and public and private agencies according to specific percentages. It authorizes the boards of supervisors in participating counties to allocate annually a portion of these funds as a supplement to funds that would be allocated to statewide training and technical assistance.

AB 3679 (Hunter), Chapter 1122, Statutes of 1992

This is a companion statute to AB 3243. This law revises the procedures for selection of pilot projects for the provision of services for child abuse and neglect prevention. It requires counties to monitor the projects they fund, while the Office of Child Abuse Prevention monitors innovative training and technical assistance projects. It revises the funding allocation, authorization, and subcontracting requirements. It eliminates the county option to revert administration of services to the Department. This statute became effective September 29, 1992.

AB 3633 (Polanco), Chapter 844, Statutes of 1992

This statute authorizes the Department of Justice to coordinate and integrate state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child deaths. The existing child abuse reporting law requires child protective agencies that receive a report of abuse alleged to have occurred in facilities licensed to care for children by the Department to notify the licensing office. This statute extends that requirement to apply when a child protective service agency receives a report of the death of a child who was, at the time of death, living at, enrolled in, or regularly attending a facility licensed to care for children by the Department, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.

FAMILY AND CHILDREN'S SERVICESAB 2691 (Areias), Chapter 865, Statutes of 1992

This statute authorizes, if a minor is a dependent or ward of the court, that a driver's license application may be signed by specified relatives or a foster parent. This statute also authorizes a probation officer or child protective services worker to sign a minor's driver's license application, if the minor files proof of financial responsibility at the time of the application. The probation officer or child protective services worker will be required to notify the foster parents or responsible party of the signature and verification. The statute makes other related provisions which will be discussed in detail in a future All-County Letter.

AB 3332 (McClintock), Chapter 665, Statutes of 1992

This statute requires that when out-of-home services are used with regard to child welfare services, the required written case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. The statute provides that if the case plan includes a recommendation for unsupervised sibling visitation, the plan shall note that information necessary to accomplish this visitation has been provided to the child or to the sibling. Regulations will be developed for this legislation.

AB 3617 (Epple), Chapter 497, Statutes of 1992

This statute prohibits any social worker or probation officer, acting as an officer of the court, from obtaining certain financial interest in any business which has received any funds from court-ordered child welfare services. The statute also authorizes enforcement of that prohibition by any law enforcement agency or private entity. It also prohibits such a social worker or probation officer from receiving consideration for the out-of-home placement, except that received as an employee of the county or state.

AB 3663 (Horcher), Chapter 1327, Statutes of 1992

This statute prohibits a district attorney, who has represented a minor in the interest of the state in a dependency proceeding, from appearing on behalf of the people of the State of California in any juvenile court hearing which is based upon a petition that alleges that the same minor has committed a crime. This statute prohibits a district attorney who represents or who has represented a minor in a proceeding where the minor is alleged to be a dependent child of the juvenile court from discussing the substance of that case with a district attorney representing the people in a proceeding in which that same minor is alleged to have committed a crime.

SB 485 (Green), Chapter 722, Statutes of 1992

This legislation made various changes to the rate structure for the AFDC-FC and Seriously Emotionally Disturbed (SED) programs. Those changes include: 1) a delay in the implementation of the five percent specialized care augmentation for one year; 2) implementation of the group home standardized rates schedule so the rate floor equals the standard rate for each RCL from July 1, 1992 through September 13, 1992 and adjustment to the standard rate for each RCL by an amount equal to the California Necessities Index (CNI) (i.e., 1.81 percent during FY 1992/93) during that same time period; 3) a reduction of the rate floor to 92.5 percent and elimination of the 1.81 percent CNI from September 14, 1992 through the remainder of FY 1992-93; 4) elimination of state reimbursement for AFDC-FC funding for children placed in for-profit group homes after January 1, 1993 and termination of the rate of any group home program which is not organized and operated on a nonprofit basis by that date; 5) a prohibition against the Department establishing a rate for a new program of a new group home provider during the period of September 14, 1992 and continuing until June 30, 1993; and 6) a prohibition against the Department establishing a rate for a new program of an existing group home provider or a program change unless specified conditions are met and demonstrated by the county.

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 Frank Ingram, Office of Child Abuse Prevention, at (916) 657-2030. Questions regarding statutes impacting child welfare services should be directed to your Child Welfare Services Operations consultant, at (916) 657-2189. Questions regarding Foster Care legislation should be directed to Sheilah Dupuy, Foster Care Program Bureau, at (916) 323-4142.


MARJORIE KELLY
Deputy Director
Children and Family Services Division

c: County Welfare Directors Association

SB 1445 (Killea), Chapter 1064, Statutes of 1992

This statute provides that a minor 12 years of age or older may file a petition for the appointment of a guardian of the minor and requires an increased level of service by local officials, as specified.

SB 1573 (Thompson), Chapter 1153, Statutes of 1992

This statute requires the Director of the California Department of Social Services to deny a new application for a group home if it is determined that it is located in Shasta County and will serve minors adjudged to be wards of the court on the basis of certain criminal conduct. This statute requires the Department to consult with prescribed entities and provide a report to the Legislature regarding the placement of children in community care facilities outside their county of residence. This statute requires, as a condition of placement outside the county of residence, that the county of residence agree to pay the placement county cost of providing services to the minor. This statute requires the probation officer of the ward to send notice to the probation officer of the county in which the community care facility is located before the placement, thereby imposing a state mandated local program. This statute prohibits a licensed community care facility from receiving a ward of the court until that notice is received, within a prescribed time period, by the probation officer of the county in which the community care facility is located. Since violation of these provisions will expand the definition of an existing crime, this statute imposes a state mandated local program. This statute prohibits a minor adjudged to be a ward of the court on the basis of certain criminal conduct, and who is placed in a community care facility outside his or her county of residence, and who is then arrested and remanded back to his or her county of residence, from being placed into the placement county without certain testimony or documentation or a request, if any, that the ward not be returned from the placement county.

SB 1646 (Calderon), Chapter, Statutes of 1992

Existing law provides that no dependent child of the juvenile court shall be taken from the physical custody of his or her parents or guardian with whom the child resides at the time the dependency petition is initiated unless the juvenile court makes specified findings, which may include a finding by clear and convincing evidence that the minor has been sexually abused by a parent, guardian, or other specified individuals, and cannot be protected from further sexual abuse absent removal of the minor, or the minor does not wish to return to his or her parent or guardian. This statute extends the application of that provision to a finding by the juvenile court that the minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or other specified individuals. The statute expands the definition of severe physical abuse for specified purposes to include the willful, prolonged failure to provide adequate food.

SB 1725 (Killea), Chapter 811, Statutes of 1992

This statute allows any county to institute a program of advocates for pupils in foster care placement. This statute specifies the advocates' duties under the program. This statute requires the California Department of Social Services to seek approval from the Federal Government for appropriate federal funding, with these funds to be distributed to counties to reimburse them for the cost of implementation of the program. The statute requires the program to be implemented only if federal funds are available for its implementation.

AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE PROGRAM

SB 307 (Royce), Chapter 714, Statutes of 1992

This legislation provides the Department with the authority to implement group home Rate Classification Levels (RCLs) 13 and 14, and to set rates at those levels effective July 1, 1992. The legislation establishes the requirements which must be met by group homes until June 30, 1994 to be classified at RCL 13 and 14, as well as, the penalties for group home providers and county placing agencies who fail to adhere to these requirements; it also authorizes the Department to reclassify and reduce the rate of group home programs classified at RCLs 13 and 14 under specified circumstances. The requirements established for certification at RCL 13 or 14 include the approval of placements by an Interagency Placement Committee, which is comprised of membership from at least the placing agency and a licensed mental health professional from the County Department of Mental Health. The legislation also requires the Department of Mental Health or their designee to certify group home programs at RCLs 13 and 14, and to notify the Department immediately upon termination of such certification. Furthermore, the legislation establishes the penalties to be applied to group home providers classified at RCL 13 or RCL 14 during FY 1991-92 who accepted placements which were not certified under the provisions of Assembly Bill 1727, Chapter 610, Statutes of 1992.

SB 307 also states the intent of the Legislature that dependent children and wards of the court in need of out-of-home care are appropriately placed in facilities that meet their needs. It requires the Department to develop a standard program statement form for use by rate setting, community care licensing and county placement purposes for group homes, foster family agencies and small family homes (in that order). It requires the Department, by July 1, 1994, to implement a level of care assessment instrument and process that can be matched to a program statement. Each is to focus on the needs for structure, supervision and services. An ACL on the standardized Group Home Program Statement is forthcoming.

SB 307 was effective September 15, 1992.