

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 21, 1994

ALL-COUNTY INFORMATION NOTICE NO. I-08-94

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: 1993 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 1993 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, 1994.

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 244 (Russell), Chapter 377, Statutes of 1993

This legislation revises California Penal Code Section 273 to increase the amount of time spent in a county jail by birth parents convicted of a misdemeanor for obtaining financial benefits from prospective adoptive parents without the intent of completing or consenting to the adoption.

SB 255 (Boatwright), Chapter 450, Statutes of 1993

This legislation requires the attorney retained by or representing the prospective adoptive parents in an independent adoption to inform the prospective adoptive parents in writing that the birth parent(s) can change their minds, and that any moneys expended in negotiations or proceedings in connection with the child's adoption are not reimbursable. The prospective adoptive parents must sign a statement indicating their understanding of this proviso.

AB 776 also changes the due date for completion of a child welfare services case plan. That provision of the bill is discussed under the Child Welfare Services Program legislation.

This legislation went into effect on October 11, 1993.

AB 1820 (Gotch), Chapter 856, Statutes of 1993

WIC Section 18951 defines "multidisciplinary personnel" as psychiatrists, psychologists, police officers, medical personnel and social workers. AB 1820 adds to this definition "any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certified pupil personnel employee."

CHILD WELFARE SERVICES PROGRAM

SB 116 (Lockyer), Chapter 16, Statutes of 1993

Existing law provides for an optional, state-assisted program through which the Judicial Council establishes guidelines for the use of volunteer court-appointed special advocates (CASAs) for children involved in juvenile court dependency proceedings, including guardianships, adoptions and actions to terminate parental rights and control.

CASA volunteers are recruited, screened, selected and trained, and are supervised and supported by a local CASA program. They are appointed by the juvenile court as sworn officers of the court to help define the best interests of a child, as well as to act as a support person for the child through the dependency proceedings. The statutory provisions authorizing the CASA program would have expired on January 1, 1994. This legislation extends those provisions indefinitely.

SB 270 (Russell), Chapter 451, Statutes of 1993

This legislation provides that whenever a juvenile court decides against placement of a dependent minor with a relative who has been considered for placement, the juvenile court must document, for the record, the reason(s) that placement with the considered relative was not approved. This legislation also incorporates changes made by the passage of SB 426 (Presley, Chapter 892, Statutes of 1993).

SB 282 (Morgan), Chapter 1245, Statutes of 1993

The intent of this legislation is to provide an alternative to out-of-state or acute placement and state hospitalization for seriously emotionally disturbed children and adolescents. Existing law (Health and Safety Code Section 1502(a)(8)) defines a Community Treatment Facility (CTF) as a residential facility that provides mental health treatment services to children in a group setting. This statute clarifies that CTFs must be able to provide secure containment, which means that children are not permitted to leave of their own volition; all or part of a CTF may be secure, including the perimeter. SB 282 limits placements in CTFs to children certified as seriously emotionally disturbed by a licensed mental health professional and needing the level of care provided by a CTF as determined

by a county interagency placement committee. A child under the juvenile court's jurisdiction can agree to a voluntary placement or there must be informed consent by a parent, guardian, conservator or other person having custody of the minor.

The legislation requires the State Department of Mental Health to develop program regulations and to initiate a Medicaid (Medi-Cal) state plan amendment to access federal funds for mental health treatment. The CDSS is required to develop licensing regulations (this will be done by the Community Care Licensing Division) and to initiate a Title IV-E state plan amendment to access federal funds for board and care costs. AFDC-FC placements into CTFs will be contingent upon approval of Title IV-E funding.

This legislation also requires the CDSS to propose a ratesetting methodology for CTFs. That provision of the bill is discussed under the Foster Care Program legislation.

This legislation went into effect on October 11, 1993.

SB 327 (Kelley), Chapter 505, Statutes of 1993

This legislation permits Riverside County to require that specific prospective employees be fingerprinted and to use the fingerprints to obtain criminal convictions records from an appropriate law enforcement agency. The county may apply the fingerprinting requirement to prospective employees whose job assignments include a risk that, through the actions of the prospective employee, fraudulent payment of public funds could occur and/or the children or adults for whom the county department is responsible could be harmed. The bill imposes limits on the use of the criminal records information obtained; it also requires the county, if it implements the bill, to report to the Legislature by March 31, 1995. This legislation sunsets on January 1, 1996.

SB 426 (Presley), Chapter 892, Statutes of 1993

This legislation makes the following changes:

- Requires social workers to make a diligent search for suitable relatives as placement resources and to document the efforts made in the search;
- Adds factors to be considered in determining whether a relative who is under consideration for placement is, in fact, appropriate;
- Adds factors for the court to consider in determining whether family reunification services are appropriate for cases in which the parent is incarcerated or institutionalized;
- Requires the supervising agency to obtain statements from minors, regardless of age, about the minor's placement, guardianship or adoption, unless there are factors concerning the minor's age, physical, emotional or other condition that would preclude the minor from providing a meaningful response;
- Allows a minor 12 years or older to object to a termination of parental rights;

- Changes the period in which efforts are required to be made to locate an appropriate adoptive family from 60 days to 90 days for certain children determined difficult to place.

The provisions contained in SB 426 will be discussed in detail in a forthcoming ACL.

SB 1050 (Russell), Chapter 296, Statutes of 1993

This legislation extends the perinatal pilot project in ten participating counties until June 30, 1994. The perinatal pilot project was established in 1989 legislation as a collaborative effort between the State Departments of Health Services, Social Services, Developmental Services, and Alcohol and Drug Programs to provide services to women and children with substance abuse and substance exposure issues. SB 1050 provides for continuation and extension of the foster care component of the demonstration project which provides specialized recruitment and training of foster parents to care for substance-exposed and/or HIV positive infants and children, and also provides respite care to these specially trained foster parents.

SB 1050 went into effect on August 2, 1993.

AB 422 (Archie-Hudson), Chapter 1231, Statutes of 1993

This legislation requires the CDSS to prepare a guide to all programs for children and their families that are regulated by the CDSS and administered by county welfare departments. The purpose of the guide is to describe briefly all programs for children and their families that are available statewide, or in at least two counties. The guide will be provided to each county and will be updated annually. The guide will be a maximum of five pages, and can be made available to members of the public by the CDSS and the county welfare department.

AB 636 (Bates), Chapter 673, Statutes of 1993

Existing statutes (WIC Sections 17710-17736) address the placement of children with special health care needs. This legislation limits the scope of medical conditions requiring in-home health care by replacing "conditions treated with aerosols or oral medication" with "conditions that can rapidly deteriorate resulting in serious injury or death." It permits children with special health care needs to be placed with foster family agencies and expands the definition of specialized family home to include certified family homes. Foster family agencies are required to employ or contract with a registered nurse to supervise and monitor children placed in certified family homes.

This legislation also recognizes that children with special health care needs are currently residing in group homes and places limits on the further use of group homes for these children. It grandfathered-in children who were placed in a group home before January 1, 1992 and allows properly trained group home staff to continue to provide health care services. AB 636 limits group home placements made after January 1, 1992 to short term, emergency placements for the purpose of arranging a subsequent placement in a less restrictive setting, such as with the

child's natural parent or a foster family agency, or another appropriate person or facility. Short term is defined as 120 calendar days in any group home or combination of group homes. The 120 day limit begins October 4, 1993, the effective date of the legislation, for children placed in a group home after January 1, 1992. Exceptions must be approved by the Director of the CDSS.

Health care services provided to these children placed in group homes after November 1, 1993 must be provided by health care professionals that have the necessary qualifications and expertise to meet the child's in-home health care needs as determined by the individual health care plan team. The health care services provided to these children are not allowable when establishing the group home's Rate Classification Level. Further, a child with special health care needs shall not be placed in a group home unless the placement worker determines and documents that the group home has a program that meets the child's needs and there is a commonality of needs with the other children in the home.

This legislation went into effect on October 4, 1993. An ACL will be prepared to address the exception process.

AB 776 (Hannigan), Chapter 1006, Statutes of 1993

This legislation amends WIC Section 16501.1 to require that a written case plan be completed within 30 days of the initial removal of the child or of the in-person response if the child is not removed from home, or by the date of the dispositional hearing. (WIC Section 16501.1 previously referred to the jurisdictional, rather than the dispositional, hearing.) Manual of Policies and Procedures Division 31 regulations are being amended to reflect this change.

AB 776 also deals with Family Preservation funding; that provision of the bill is discussed under the Office of Child Abuse Prevention legislation.

AB 776 went into effect on October 11, 1993.

AB 1167 (Polanco), Chapter 111, Statutes of 1993

WIC Section 18986.40 defines integrated children's services programs as programs established by county governments, local education agencies, or consortia of public and private agencies to jointly provide two or more specified services, such as child welfare services and health care, to children and/or their families. AB 1167 adds crisis intervention services to the list of services which may be jointly provided under this section; it also defines the term "crisis intervention services."

AB 1197 (Bates), Chapter 1088, Statutes of 1993

This legislation imposes limitations on the placement of children under six years of age into group homes and temporary shelter care facilities. (The legislation defines a temporary shelter care facility as a facility owned and operated by the county that provides short term care and supervision for dependent children.) When detained, a child under six may be placed in these facilities only when it is necessary to secure a complete and adequate evaluation, including placement planning and transition. AB 1197 limits such placement to 60 days unless a case plan has been developed and the need for additional time is documented and

approved. When adjudicated, a child under six may be placed in these facilities only under specified circumstances. The placement must provide needed specialized treatment as documented in the case plan (placement is not to exceed 120 days) or must be for the purpose of providing family reunification services which can only be met by such placement.

This legislation requires the CDSS to develop standards for children under six; the standards must reflect the needs of all children for a family-like setting that provides culturally appropriate nurturing and safety. The CDSS is also required to develop licensing regulations (based on the standards) for group homes and temporary shelter care facilities that care for children under six.

An ACL will be prepared to provide additional information on this legislation. The Manual of Policies and Procedures Division 31 regulations will be updated to reflect these changes.

AB 1198 (Bates), Chapter 799, Statutes of 1993

AB 1198 authorizes the establishment of transitional housing placement programs to provide supervised apartment living services to minors who are at least 17 years of age, in out-of-home placement, and participating in an independent living program (ILP). The bill requires the CDSS to approve supervised transitional housing placement programs in up to three counties beginning in the 1994-95 fiscal year. Programs in additional counties may be approved in subsequent years, upon the request of the board of supervisors, if the CDSS determines that the initial three programs were successful. AB 1198 also requires the CDSS to license the community care facilities participating in these programs, and to develop a ratesetting system for the facilities.

Prior to approving a county program, the CDSS must approve a plan submitted by the county's ILP that includes assurances that the ILP will participate actively in the screening of program candidates and will assist in their supervision. A separate ACL will be issued specifying county application requirements and pilot county selection criteria.

In addition to authorizing transitional housing placement programs, AB 1198 makes amendments to the WIC sections dealing with intensive foster care programs. That provision of the bill is discussed under the Foster Care Program legislation.

AB 1399 (Lee), Chapter 489, Statutes of 1993

Current law requires a local educational agency (LEA) to appoint a surrogate parent for a child for matters related to his or her special educational needs under one or more of the following circumstances: the child is adjudicated a ward or dependent of the court, no parent can be identified, or the LEA cannot locate the parent. AB 1399 establishes, as first preference, a relative caretaker, a foster parent or court-appointed special advocate when appointing a surrogate if any of these individuals are willing and able to serve. If none of these individuals are willing or able to serve as the surrogate, the LEA shall select a surrogate of its choice. It also requires that if a child is moved from the home of a relative caretaker or foster parent acting as the surrogate parent, the LEA must appoint a new surrogate parent.

AB 636 (Bates), Chapter 673, Statutes of 1993

This legislation affects both the Child Welfare Services Program and the Foster Care Program. Please see the bill description under the Child Welfare Services legislation.

AB 1198 (Bates), Chapter 799, Statutes of 1993

WIC Section 18000 has been amended to allow participating foster family agencies in the intensive treatment pilot project in effect in Alameda and Yolo Counties the ability to accept the placement of a total of 25 children per year in the intensive treatment pilot project. Five of the 25 children may be placed in the intensive treatment pilot project who are at imminent risk of psychiatric hospitalization or placement in a group home at Rate Classification Level (RCL) 12 or above. WIC Section 18000 previously specified the number of hours that the youth counselor should assist the child/foster parents. This legislation has now defined the youth counselor hours/duties to include collateral contacts and any administrative or training functions necessary to implement the child's needs and services plan. This legislation also allows an eligible child to be placed at any one of the five pilot classification Models A through E and thereafter placed at any level higher or lower, not to exceed a total of six months at any level other than PCM E, unless it is determined to be in the best interests of the child as determined by the county interagency review team. Further, AB 1198 requires the CDSS to adopt a ratesetting system and regulations to implement this program.

WIC Section 11402 has also been amended to expand the list of eligible facilities for the purpose of AFDC-FC eligibility to include licensed transitional housing placement facilities.

AB 1198 also authorizes the establishment of transitional housing placement programs. That provision of the bill is discussed under the Child Welfare Services Program legislation.

AB 1242 (Valerie Brown), Chapter 688, Statutes of 1993

This legislation requires the state to implement an intensive treatment pilot project to test the feasibility of successfully transferring children from Napa State Hospital to certified family homes. The children eligible to participate in this pilot project must 1) be eligible for special education services under the Individuals with Disabilities with Education Act, 2) be determined to be seriously emotionally disturbed, 3) be discharged from the Program for Children and Youth at Napa State Hospital, 4) be otherwise eligible for AFDC-FC, and 5) be determined to be eligible for this pilot project subsequent to review by an interagency review team. It is anticipated that the participating foster family agencies will be selected in January 1994.

AB 2129 (Assembly Committee on Human Services), Chapter 1089, Statutes of 1993

This legislation provides the CDSS with the authority for overpayment collections and audit adjustment procedures and an administrative review process for collecting group home provider overpayments. Specifically, the legislation provides for an effective and efficient process to collect group home provider overpayments from providers for payments received which they were not entitled to receive, and to ensure overall integrity in the AFDC-FC program. Also, the legislation expands the CDSS's authority to request information, to obtain access to records and facilities, and to assess penalties for failure to comply with the CDSS's ability to collect group home provider overpayments and conduct fiscal or program audits. Moreover, the legislation mandates the CDSS to collect group home provider overpayments, including principal and interest, in the following order of priority: A lump sum repayment, a repayment agreement, and a mandatory repayment schedule, including a statutory lien, a rate request denial, and a rate termination. Further, the legislation provides for an administrative review process in which group home providers can appeal audit findings from a group home audit by requesting an informal and/or a formal hearing.

AB 2129 also contains the Foster Care Initiative Proposals. Those provisions of the bill are discussed under the Child Welfare Services Program legislation.

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) 445-0384. Questions regarding statutes impacting 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.



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c: County Welfare Directors Association