

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



March 11, 1996

ALL-COUNTY INFORMATION NOTICE NO. I-14-96

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: 1995 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 1995 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, 1996.

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) 898 (Knight) (Chapter 567, Statutes of 1995)

This legislation amends Family Code (FC) section 9102 to require that any action to vacate (set aside) an adoption by either the birth parents or adoptive parents be filed in court within one year of the finalization of the adoption, except in instances of fraud, which have a five-year limit.

AB 1523 (Granlund) (Chapter 540, Statutes of 1995)

This legislation contains the following provisions:

- o Amends Welfare and Institutions Code (WIC) section 366.21 to provide a three-year test period during which courts may terminate parental rights to a child prior to the identification of specific adoptive parents. This provision also requires the California Department of Social Services (CDSS) to prepare a legislative report on the results of the test period.

- o Amends WIC section 366.3 to require periodic reassessment of children in foster care with respect to their current potential for adoption or guardianship. ~~The court shall assume a foster child is ready for adoption unless findings of the assessment clearly indicate otherwise.~~
- o Amends WIC section 16121 to bring California statutory language into conformity with federal statutes regarding maximum Adoption Assistance Program payments to parents of eligible children.

AB 1523 also deals with various child welfare services and foster care-related issues. These provisions of the bill are discussed under the Child Welfare Services Program and AFDC-FC Program legislation.

AB 1743 (Goldsmith) (Chapter 884, Statutes of 1995)

This legislation repeals and adds FC sections 8708, 8709 and 8710. It also amends FC section 8704 and adds FC section 8711.5. These provisions repeal the existing order of foster care and adoptive placement preferences and prohibit any private or public agency that receives any funds from the State from delaying or denying a foster care or adoptive placement of a child solely on the basis of race, color or national origin. The legislation brings California law into compliance with federal guidelines for enforcement of the Multiethnic Placement Act as presented in the recently published Department of Health and Human Services Policy Guidance.

OFFICE OF CHILD ABUSE PREVENTION

SB 750 (Killea) (Chapter 880, Statutes of 1995)

This legislation amends Health and Safety Code (HSC) section 10605 and WIC section 18966 to give county boards of supervisors the option to increase the fee for birth certificates by up to \$3 for deposit into the County's Children's Trust Fund. Additional information on this statute was sent to county boards of supervisors on November 30, 1995.

CHILD WELFARE SERVICES PROGRAM

AB 247 (Baldwin) (Chapter 284, Statutes of 1995)

This legislation amends WIC section 16501 to give county welfare departments the option to require all of their employees who have frequent and routine contact with children, and who provide services to children who are alleged victims of abuse, neglect, or exploitation, to sign a declaration under penalty of perjury regarding any prior criminal conviction and to provide the county with their fingerprints. The provisions would apply to those employees hired on or after January 1, 1996, or whose duties change after January 1, 1996.

The legislation requires that any county opting to participate in this criminal clearance procedure must initiate each criminal record check through the Department of Justice (DOJ). If the DOJ record check confirms that the employee was convicted of a crime other than a minor traffic violation, the county welfare director will have discretion for determining whether substantial and convincing evidence exists for granting an exemption to the employee. Such exemptions will be permitted only if the conviction did not involve a sex offense against a minor. If the crime was a sex offense against a minor, the welfare director would be required to suspend the employee from any duties involving frequent and routine contact with children. However, the welfare director could grant an exemption if the employee was found to have been rehabilitated and has maintained specified conduct for at least ten years and received a recommendation from the appropriate

district attorney's office, or if the employee has a specified certificate of rehabilitation.

For those employees for which there is no record of prior criminal convictions, such information is to be recorded in the employee's personnel record.

AB 908 (Brulte) (Chapter 307, Statutes of 1995)

This legislation amends WIC section 16504 to require county welfare department social workers to make an in-person response whenever a referral is received from the county's income maintenance staff which alleges that the physical or emotional health or safety of a minor parent or his/her child would be jeopardized if the minor parent and child lived in the same residence with the minor's own parent, legal guardian or other adult relative. This legislation also requires county welfare department social workers to make an in-person response whenever a referral is received from the county's income maintenance staff which reports that a pregnant or parenting minor is exempt from the requirement that he/she reside with a parent, legal guardian, or other adult relative for one of the following reasons:

- o The minor has no parent or legal guardian of his or her own who is living or whose whereabouts are known;
- o No living parent or legal guardian of the minor allows the minor to live in the home of the parent or guardian; or
- o The minor lived apart from his or her parent or legal guardian for a period of at least one year before either the birth of his/her child or applying for AFDC.

The in-person response must be made within 20 calendar days from the receipt of the referral.

Additionally, this legislation amends WIC section 16506 to require that family maintenance services be provided to any minor parent and his/her child who are referred from the county's income maintenance staff and not placed in foster care, and who meet specified criteria. Under such circumstances family maintenance services shall be provided until the minor parent reaches 18 years of age.

AB 908 went into effect on August 3, 1995. These provisions of AB 908 will be implemented by amendments to Division 31 regulations which are being developed in collaboration with County Welfare Directors Association representatives.

AB 908 also deals with a number of other issues not directly related to the Child Welfare Services Program. Please also see the AFDC-FC Program summary of AB 908.

AB 1104 (Sher) (Chapter 278, Statutes of 1995)

Under existing law, if a custodial parent has been diagnosed as having a terminal condition, a court may appoint the parent and a person chosen by the parent, as joint guardians of a minor. This legislation amends Probate Code section 2105 to revise the definition of "terminal condition" by deleting the requirement that the terminal condition will result in death within two years.

AB 1355 (Knowles) (Chapter 977, Statutes of 1995)

This legislation adds section 820.21 to the Government Code to specify that the civil immunity of juvenile court social workers, child protection workers, and other public employees authorized to initiate or conduct investigations or proceedings pursuant to juvenile court law shall not extend to the following acts if committed with malice, as defined: perjury; fabrication of evidence; failure to disclose known exculpatory evidence; or obtaining testimony by duress, fraud or undue influence.

AB 1523 (Granlund) (Chapter 540, Statutes of 1995)

This legislation adds section 1228.1 to the Evidence Code to provide that neither the parent's or guardian's signature on the case plan nor the parent's or guardian's participation in the services prescribed in the case plan can be used as evidence against the parent or guardian in a court of law. However, the legislation does allow the parent's or guardian's failure to cooperate (except for good cause) in the prescribed services to be used as evidence in determining whether parental rights should be terminated.

The county must make parents and guardians aware of both these provisions during case plan discussions.

AB 1523 also deals with various foster care and adoptions-related issues. Please see the AFDC-FC Program and Adoptions Program legislation for more information on AB 1523.

AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE PROGRAM

AB 327 (Hannigan) (Chapter 453, Statutes of 1995)

This legislation adds WIC section 11465.5 authorizing the CDSS to establish a five-year pilot project in Alameda, Contra Costa, Solano, Tulare and Yuba counties, at the option of each county. This pilot will test an alternative foster care status for children who are in long-term, stable placements with relatives receiving federal AFDC-FC benefits. The pilot will allow children placed with eligible relative foster care providers to continue receiving AFDC-FC payments and Medi-Cal benefits even after dependency has been dismissed. Implementation of this legislation is dependent upon federal waivers. The CDSS has submitted a proposal for a federal waiver project in the AFDC-FC Program and is awaiting federal approval.

AB 908 (Brulte) (Chapter 307, Statutes of 1995)

This legislation amends WIC section 16525.40 to extend the foster care component of the "Options for Recovery" perinatal pilot project until June 30, 1996. This pilot began in 1988 as a collaborative effort between State and local agencies to provide services to substance-abusing pregnant and parenting women and their children. The foster care component provides fiscal resources to ten pilot counties to recruit and train foster parents to care for substance-exposed children. In addition, pilot foster parents receive 48 hours of respite per month.

This legislation also amends WIC section 11462 to continue during Fiscal Year 1995-96 the prohibition against establishing rates for new group home programs or program changes unless the following exception criteria are met: the licensee obtains a letter of recommendation from the host county, primary placing

county, or a regional consortium of counties concerning the proposed program change or new program; and the counties determine that there is not increased cost to the General Fund for new programs or program changes. Additionally, new program or program change requests may be granted if the following conditions are met: a new program or program change does not exceed 25 beds; the licensee obtains a letter of recommendation from the host county, primary placing county, or a regional consortium of counties; and the new program or program change will result in a reduction of referrals to state hospitals.

In addition, AB 908 deals with a number of other issues not directly related to AFDC-FC Program. Please also see the Child Welfare Services Program legislation for more information on AB 908. This bill went into effect on August 3, 1995.

AB 1523 (Granlund) (Chapter 540, Statutes of 1995)

This legislation adds WIC section 11461.1 directing the CDSS to work with counties, foster parent associations, representatives of the community colleges, representatives of foster youth organizations, legislative staff members and other interested parties concerning training requirements, experience, and retention of foster parents and the capacity of foster homes, and to submit to the Legislature recommendations on how to improve the quality of care in foster family homes.

It also amends HSC section 1538 to prohibit the release of unfounded complaints against a community care facility to the public. If it is determined that a complaint is intended to harass, is without a reasonable basis or, after a site inspection, is unfounded, the complaint and any related documents shall be marked confidential and shall not be disclosed to the public. If a site visit was conducted, the licensee is to be notified in writing within 30 days of the dismissal that the complaint was dismissed.

AB 1523 also deals with various child welfare services and adoptions-related issues. These provisions of the bill are discussed under the Child Welfare Services Program and Adoptions Program legislation.

AB 1525 (Granlund) (Chapter 724, Statutes of 1995)

This legislation authorizes the CDSS to delegate authority, through an agreement with a California Indian tribe or an out-of-state Indian tribe which has reservation land that extends into California pursuant to the Indian Child Welfare Act, concerning the provision of services to California Indian children under the Child Welfare Services Program and maintenance payments for California Indian children under the AFDC-FC Program. The CDSS will be working with Indian tribes and the counties to implement this bill. (This legislation amends HSC section 1505, WIC sections 215, 272, 306, 11404 and 11460, and adds WIC sections 10553.1 and 10553.2.)

AB 1743 (Goldsmith) (Chapter 884, Statutes of 1995)

See the description of this bill under the Adoptions Program legislation.

SB 321 (Russell) (Chapter 418, Statutes of 1995)

This legislation adds WIC section 11404.2 to permit children placed with relatives to continue receiving federal AFDC-FC payments after a termination of parental rights or relinquishment until an adoption is finalized when the relative has applied to adopt the child. The CDSS is currently preparing regulations to implement this legislation.

SB 969 (Watson) (Chapter 832, Statutes of 1995)

This legislation adds, amends and repeals various WIC sections concerning the intensive foster care pilot project, a program designed to transition emotionally distressed children from group care to family homes (WIC sections 18358 - 18358.50). SB 969 makes this program available to any county that wishes to participate.

Counties may apply to the Foster Care Rates Bureau for an intensive foster care rate. This rate creates the necessary flexibility required to pay for individualized services for youth moved to family homes by offsetting costs that would otherwise be spent on higher group care rates. The eligibility criteria for children considered for the program are better specified than in the existing pilots. In addition, the program is no longer restricted to children already living in group care, as entry to the program is extended to youths at risk of group placement. The two existing pilots may continue beyond January 1, 1999, and children are no longer prohibited from entering the program after June 30, 1996.

An ACL will be forwarded to counties to provide more information on the bill and on rate application procedures.

SB 1045 (Hughes) (Chapter 281, Statutes of 1995)

This bill amends WIC section 903.8 to extend the time from January 1, 1996 to June 30, 1996 for the development and implementation of enhanced statewide foster parent training. This is a six-month extension of the original mandate in which the CDSS is required to develop and implement a core curriculum for foster parent training and recruitment based on a needs assessment of foster parents. The needs assessment is to be derived from a comprehensive survey of existing foster parent training curricula and resources. This bill further requires that curricula for teenage pregnancy prevention be included in this enhanced, but voluntary, training.

SB 1262 (Alquist) (Chapter 509, Statutes of 1995)

This legislation amends WIC section 11402, and adds and repeals WIC sections 362.7 and 362.8, to establish a pilot project allowing placement of foster children in nonlicensed, nonrelative extended family homes if specified criteria are met. A nonrelative extended family home is defined as the home of a godparent or other adult who has an established "familial" relationship with the foster child. The Judicial Council will administer the pilot project and select up to five counties, one being Santa Clara and two being rural counties. The Judicial Council shall also have the responsibility of compiling and submitting the independent pilot project evaluations arranged by each participating county to the Legislature. The CDSS is required to submit to the federal Department of Health and Human Services an amendment to the Title IV-E State Plan to recognize nonlicensed, nonrelative homes as placement facilities eligible for federal financial participation. The pilot project would require that AFDC-FC payments made on behalf of eligible AFDC-FC children placed in nonrelative extended family homes be consistent with the rate paid to licensed foster family homes. However, there can be no increased cost to the State for the children placed in these homes. The responsibilities of the county placing agency and juvenile court related to the placement of a child in a nonrelative extended family home are outlined in the legislation. The CDSS is currently reviewing both policy and administrative issues related to implementation.

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 Eileen Carroll, 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