

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

## ITEM # 1 Senate Bill 1569 (Chapter 672, Statutes of 2006) Implementation

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 13, 2008, as follows:

August 13, 2008  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 13, 2008.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

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California Department of Social Services  
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## CHAPTERS

California Department of Social Services, Manual of Policies and Procedures, Division 30 (Social Service Programs), Chapter 30-700 (Service Program No. 7: In-Home Supportive Services), Sections 30-755 (Persons Served by the Non-PCSP IHSS Program) and 30-770 (Eligibility Standards); Division 40 (Reception and Application), Chapter 40-000 (Implementation Schedule), Section 40-037 (Implementation of Benefits and Services to Noncitizen Victims of Human Trafficking, Domestic Violence, or Other Serious Crimes); Chapter 40-100 (General), Section 40-105 (Applicant and Recipient Responsibility); Division 42 (Nonlinking Factors of Public Assistance Eligibility), Chapter 42-400 (Residence), Sections 42-430 (Citizenship and Alienage), 42-431 (Eligibility Requirements), and 42-433 (Proof of Citizenship or Eligible Alien Status); Chapter 42-700 (Welfare-to-Work), Section 42-711 (Welfare-to-Work Participation Requirements); Division 49, Chapter 49-000 (Cash Assistance Program for Immigrants [CAPI]), Sections 49-020 (Immigration Status), 49-030 (Ineligibility for SSI/SSP), and 49-060 (Benefit Suspensions and Terminations); Division 63 (Food Stamps), Chapter 63-400 (Eligibility Standards), Section 63-403 (California Food Assistance Program [CFAP]); Division 69 (Refugee Programs), Chapter 69-200 (Refugee Resettlement Program), Sections 69-201 (General Statement), 69-202 (United States Citizenship and Immigration Services [USCIS] Status Requirement), and 69-205 (Eligibility for Refugee Cash Assistance [RCA]); and Division 70 (Special Programs), Chapter 70-100 (Trafficking and Crime Victims Assistance Program [TCVAP]), Sections 70-101 (General Statement), 70-102 (Determination of Trafficking Victim Status), 70-103 (Determination of Trafficking Victims' Eligibility for TCVAP Benefits and Services), 70-104 (Determination of Serious Crime Victims' Eligibility for TCVAP Benefits and Services), and 70-105 (TCVAP Services and Benefits).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) amends and adds sections to the Welfare and Institutions Code to extend eligibility for certain public social services to noncertified, noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence and other serious crimes, to the same extent as refugees.

In October 2000, the federal Trafficking Victims Protection Act (TVPA) created two new nonimmigrant visas, the "T" Visa, for victims of a severe form of human trafficking, and the "U" Visa, for victims of criminal activity as defined in federal statute, to allow these individuals to remain in the United States (U.S.) The U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way with the investigation and prosecution of human traffickers; and has made a bona fide application to the Bureau of United States Citizenship and Immigration Services (USCIS) for a T Visa and the application has not been denied; or is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General and/or other law enforcement agency in the prosecution of human traffickers.

Federal law defines noncitizen victims of serious crimes as aliens who have suffered substantial physical or mental abuse as a result of having been victims of severe criminal activity and possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting

criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

Certain federal programs provide benefits and services to refugees and victims of human trafficking who meet federal eligibility criteria. Noncertified victims of human trafficking and noncitizen victims of serious crime are not eligible for federal programs. SB 1569 provides benefits and services to the same extent as those persons eligible under the federal Refugee Act of 1980. Services include, but are not limited to the equivalent of: Refugee Cash Assistance, Refugee Medical Assistance, Refugee Employment Social Services, California Work Opportunity and Responsibility to Kids, Food Stamps, Cash Assistance Program for Immigrants, and Healthy Families Program benefits. Once the trafficking victim has been certified by ORR, he or she is eligible for federal benefits and services to the same extent as refugees.

SB 1569 requires the California Department of Social Services (CDSS) to adopt regulations to implement and administer the provisions of the bill no later than July 1, 2008 (on an emergency basis if necessary). These proposed regulations require county welfare departments to determine eligibility for this program based upon a noncitizen applicant's status as a victim of a severe form of human trafficking or a victim of domestic violence or other serious crime, as defined in the law. Once determined eligible under SB 1569, other program rules apply, provided that compliance is authorized by law.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: Expenditures of \$2,951,000.00 have been budgeted in the current State Fiscal Year (SFY) as reflected in the November 2007 Subvention.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Expenditures of \$7,000.00 have been budgeted in the current SFY as reflected in the November 2007 Subvention.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not school districts. If the Commission on State mandates determines that this act contains costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553 and 10554 and Senate Bill 1569 (Chapter 672, Statutes of 2006). Subject regulations implement and make specific Welfare and Institutions Code Sections 13283, 14005.2, and 18945.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

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Backup: Sandra Ortega (916) 657-2586

#### EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.