

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The passage of Senate Bill (SB) 39, mandated the California Department of Social Services (CDSS) to promulgate emergency regulations by January 1, 2009. This legislation provides specific juvenile case file information related to child abuse or neglect that result in child fatalities, which must be made available upon public request.
2. The emergency regulations establish the processes required to be implemented by the counties to comply with Welfare and Institutions Code Sections 827 and 10850.4. A failure or delay by the county agency to comply with the release of information to both CDSS and to public requests would result in the failure to comply with the federal Child Abuse Prevention and Treatment Act reporting requirements that could leave the State vulnerable to noncompliance with its federal corrective action plan and potential loss of federal funding. Lack of instruction could also leave counties vulnerable to legal action.
3. The emergency regulations ensure that counties have a clear description of their responsibilities for reporting child fatalities and releasing sensitive case file documents within a specified time period. Further, the regulations provide guidelines concerning confidentiality for other children who may be related to the deceased child's case.
4. A delay in implementing these regulations may allow sensitive case file information to be released, which could expose the county agencies to legal action.
5. A delay in implementation of these regulations may also hinder counties from providing the necessary documentation to remain compliant with the statute. Non-compliance with this statute could expose CDSS and county departments to judicial intervention and federal sanctions.

INFORMATIVE DIGEST

Currently, the Manual of Policies and Procedures (MPP), Chapter 31-500 outlines in regulations, special requirements for child welfare services. The disclosure requirements for child fatalities resulting from abuse and/or neglect do not exist within Division 31. Section 31-502 is being adopted to include reporting and disclosure requirements at different instances of learning about child fatalities and when a determination has been made that the fatality occurred as a result of abuse and/or neglect. Further, this section provides specific information that must be released within a child's case record and the specified timeframes.

Senate Bill 39, Chapter 468, Statutes of 2007, requires child welfare agencies to notify the CDSS of any child fatality that results from abuse and/or neglect. Welfare and Institutions Code Section 10850.4 specifies pertinent information that must be released from a child's case record

per public request. This statute also stipulates that the CDSS will issue emergency regulations that adopt the reporting and disclosure requirements and procedures, which are to be implemented by January 1, 2009.

Section 31-002(c)(5) defines a child's case record, which includes all information from emergency response services through permanent placement services. Additional information is included to update the definition of a child's case record to capture both paper and electronic formatting and additional court documents, which are all inclusive of what exists within a child's case record.

Section 31-002(r)(7) defines a risk assessment, which may be released pursuant to the addition of Welfare and Institutions Code Section 10850.4. The addition of this definition provides clarification on documents that must be released by the county child welfare agencies if they exist within a child's case record.

Section 31-002(s)(1) defines a safety assessment, which may be released pursuant to the addition of Welfare and Institutions Code Section 10850.4. The addition of this definition provides clarification on documents that must be released by the county child welfare agencies if they exist within a child's case record.

Section 31-003(s)(1) defines CDSS' specific form that counties must utilize when reporting child fatalities to CDSS. The addition of this section provides counties with clarification regarding the most current form that is accepted by CDSS for purposes of child fatality reporting compliance.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists because this regulation does not affect any State agency or program.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact exists because this regulation does not affect any local entity or program.
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

Although these regulations do impose a mandate on local county child welfare agencies to respond to public requests for information, this will not create any additional costs for the local county child welfare agencies.

At this time, the CDSS is responsible for compiling all of the data received from counties relating to child abuse and neglect cases that result in a fatality. This information is prepared annually for submission to the Federal Region IX office via the Annual Progress and Services Report. An additional report is now required in collaboration with the County Welfare Director's Association (CWDA) due to the statute authorizing these regulations; however, the CDSS will not incur any additional costs as a result of these regulations.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553, 10554, and 10850.4, Welfare and Institutions Code. Subject regulations implement and make specific Section 827, Welfare and Institutions Code; Penal Code Sections 11165.12, 11166, and 11169; 42 U.S.C. 5106 (The Child Abuse Prevention and Treatment Act); 45 CFR 1340.15(b), and Rule 5.552 of the California Rules of Court.