

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814

Regulation Packages # 0306-02  
and # 0704-03

CDSS MANUAL LETTER NO. EAS-07-01

TO: HOLDERS OF THE EAS MANUAL

**Regulation Package # 0306-02****Effective 07/25/07****Sections 47-110 and 47-301**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/Eligibilit\\_617.htm](http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm).

These proposed regulations amend specific provisions and adopt new language in the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) that regulate Stage One of the California Work Opportunity and Responsibility to Kids (CalWORKs) child care program.

Current law requires the CDSS to notify Resource and Referral agencies (R&Rs) of the issuance of a revocation or a temporary suspension order (TSO) for a licensed child care provider.

Assembly Bill (AB) 72 (Statutes of 2004, Chapter 358) places additional notification and time frame requirements on CDSS. Effective January 1, 2005, CDSS is required to notify R&Rs within two business days of the issuance of a TSO or the revocation or placement on probation of a license for a child care provider within the R&Rs' jurisdiction.

AB 72 amended Section 8212 of the Education Code and added Section 1596.773 to the Health and Safety Code which affect R&Rs, county welfare departments (CWDs) and alternative payment programs (APPs). The amendments require R&Rs to remove from their referral list within two business days of receiving notice any licensed child care provider who is on probation, has their license revoked, or receives a TSO. In addition, R&Rs must notify CWDs and APPs within two business days of receiving these notices.

The new law requires CWDs and APPs to terminate payment to the child care provider within two business days of receiving notice that their license has been revoked or placed on TSO. In addition, CWDs and APPs are required to notify the parents and the child care provider of the reason for the termination within two business days of receiving notice.

Child care providers who have been placed on probation will continue to receive payment; however, CWDs and APPs are required to notify the parents within two business days that their child care provider has been placed on probation. Parents have the option to locate alternate child care arrangements or may remain with the provider without risk of subsidy payments being terminated to the provider.

These proposed regulations are to facilitate implementation of Section 8212(e) of the Education Code by providing clear, consistent procedures for CWDs to follow when they receive notification that a child care license has been placed on TSO, revoked, or that the provider has been placed on probation.

These regulations were considered at the Department's public hearing held on August 16, 2006.

**Regulation Package # 0704-03**

**Effective 07/26/07**

**Sections 40-118, 43-103, 44-209, 80-301, and 82-808**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/Eligibilit\\_617.htm](http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm).

The enactment of Assembly Bill (AB) 205 (Chapter 421, Statutes of 2003) added Family Code Sections 297.5 and 299.2 and amended Family Code Section 298.5, giving California registered domestic partners the same rights protections, benefits, responsibilities, obligations and duties as spouses with certain exceptions. Currently, the CalWORKs Manual of Policy and Procedures regulations treat a domestic partners as an adult male/female having no relationship to their partner or the child of their partner. As a result of the changes in the Family Code, registered domestic partners now have the same rights and obligations with respect to a partner's child as would apply to a stepparent or former stepparent of a child. The proposed regulations will amend CalWORKs regulations to give California registered domestic partners these rights and obligations within the CalWORKs program.

These regulations were considered at the Department's public hearing held on September 13, 2006.

## FILING INSTRUCTIONS

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing EAS Manual changes was EAS-06-04.

<u>Page(s)</u>	<u>Replace(s)</u>
68 and 69	Pages 68 and 69
354 and 355	Pages 354 and 355
358 and 359	Pages 358 and 359
431 and 432	Pages 431 and 432
628 through 630.1	Pages 628 through 630.1
639.4 through 640.3	Pages 639.4 through 640.3
849 through 851	Pages 849 through 851
854.3	Page 854.3
855 and 856	Pages 855 and 856
859 and 860	Pages 859 and 860
902 through 904	Pages 902 through 904
907	Page 907

Attachment

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**40-117 WHO MAY APPLY (Continued) 40-117**

- .22 The person closest to the family or child or pregnant woman who has knowledge of the needs of the family or child or pregnant woman and knows of the desire of the family to apply, and who requests aid in behalf of the family, or child or pregnant woman with the knowledge and consent of the parent, guardian or relative.
- .23 The person or agency which placed the child in foster care.
- .24 The representative of a public agency.
- .3 The Family or Child Absent from the State -- A request for aid per the CA 1 cannot be approved unless the county determines that the continued absence of such family or child is beyond the family's or child's control. (See Chapter 42-400.)
- .4 Repealed by Manual Letter No. EAS-86-01 (effective 1/17/86).

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

**40-118 WHO MUST BE INCLUDED ON THE STATEMENT OF FACTS (FILING UNIT) 40-118**

- .1 Mandatory Inclusion The applicant shall include the following persons if living in the home on the applicable Statement of Facts:
- .11 Applicant Child An applicant child, and
- .12 Siblings Children who are siblings or half-siblings of the applicant child, and
- .13 Parents The parents of any child listed above, or
- .14 Pregnant Woman A pregnant woman, in a one-person AU, or
- .15 SSI/SSP Child The caretaker relative, stepparent, California domestic partner of the SSI/SSP child's parent and second parent of an SSI/SSP child when aid is requested.
- .16 GAIN Sanctioned Child The caretaker relative, stepparent, California domestic partner of the child's parent, and second parent of a child who is sanctioned by the GAIN program.
- .17 Senior Parent.

<b>40-118</b>	<b>WHO MUST BE INCLUDED ON THE STATEMENT OF FACTS (FILING UNIT) (Continued)</b>	<b>40-118</b>
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|-----|-----------------------|--|
| .18 |                       |  |
| .19 |                       |  |
| .2  | Optional Persons      |  |
| .3  | Relinquishment        |  |
| .4  | County Responsibility |  |
| .41 | Deny Application      |  |
| .42 | Deny Persons          |  |

NOTE: Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code. Reference: 45 CFR 206.10(a)(1)(vii), 45 CFR 206.10(a)(5)(i), and 45 CFR 233.90(c); SSA-AT-86-01; Civil Code 224m and 229; 42 USCA 602(a); Zapata v. Woods (1982) 187 Cal. Rptr 351, 137 C.A. 3d 858; and Sections 297 and 297.5(a), Family Code.

**DIVISION 43 RESPONSIBLE RELATIVES****CHAPTER 43-100 RESPONSIBLE RELATIVES****43-100 RESPONSIBLE RELATIVES****43-100**

The code designates certain relatives who, under specified conditions, are legally liable to provide financial support or to contribute to the support of an applicant or recipient under the AFDC program and this chapter deals with the determination of responsibility of relatives in the AFDC program.

Relative responsibility should not be considered exclusively in terms of financial responsibility. Other positive factors may be found in strengthened family relationships, the contributions which relatives can make to the security of the recipient through family solidarity or through guidance and planning for the child in AFDC. These positive factors may be available from relatives who are not legally liable to provide financial support as well as those who have liability.

Responsibility rests with the county to determine not only financial responsibility of relatives in the AFDC program, but, in all programs, to develop to the maximum the potential resource of relatives in meeting social and emotional needs of the recipient.

**43-103 DEFINITIONS FOR PURPOSES OF SUPPORT RESPONSIBILITY****43-103**

- .1 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.
- .2 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.
- .3 Stepparent

A stepparent is an individual who is married to the parent of a child of whom he or she is not the natural parent.

For purpose of this section, a stepparent includes the California domestic partner of a parent.

- .4 Unmarried Parent

An unmarried parent is a parent of a child included in the FBU who is not married to the child's other natural parent.

**43-103**      **DEFINITIONS FOR PURPOSES OF SUPPORT RESPONSIBILITY**      **43-103**  
(Continued)

.5      Common-Law Marriage

California law, in Civil Code Section 4104 recognizes any out-of-state marriage as valid as long as it is valid where contracted or performed. In cases in which there was no formal marriage, it may be that a common-law marriage was established in another state. If the parents state they are married to each other, it is assumed that they are lawfully married unless this is refuted by other evidence.

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**HANDBOOK BEGINS HERE**

Basic Requirements - Common-Law Marriages

In most of the states which recognize common-law marriages, two basic requirements must be met:

1.      Agreement Must Exist to Become Husband and Wife - This agreement may consist of a written contract but usually is just a simple, oral statement such as "I take you for my wife" or "You are now my wife." The words used must be in the present tense, and must express an intent to assume the relationship of husband and wife at the time involved and not at some future time. The parties have capacity to enter the agreement. This means that (1) they must be of sound mind; and (2) they must be of the minimum age. At common-law and in most states which recognize common-law marriages, the ages are 14 for the male and 12 for the female.
2.      Must be Cohabitation Following the Verbal or Written Statements -Cohabitation is described as living together as husband and wife, each assuming the marital duties implicit in the relationship, usually including but not necessarily predicated on, sexual relations.

If these two facts are established and the state where they occurred recognizes common-law marriages, a marriage is in existence which is valid for all purposes in California and which can only be dissolved by formal divorce even in the state in which it was created. There is no such thing as an informal divorce in the United States.

**CHART - SUMMARY OF STATE LAWS ON COMMON-LAW MARRIAGE**

The following chart is intended to give the worker a general idea of the possibility of a valid common-law marriage in the various states. The chart will not provide all the answers. If the details of the law of a particular state are needed, the county counsel or district attorney or the legal staff of the SDBP should be consulted.

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**HANDBOOK CONTINUES**

<b>43-103</b>	<b>DEFINITIONS FOR PURPOSES OF SUPPORT RESPONSIBILITY</b> (Continued)	<b>43-103</b>
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**HANDBOOK CONTINUES**

Utah	Abolished
Vermont	Abolished
Virginia	Abolished
Washington	Abolished
West Virginia	Abolished
Wisconsin	Abolished 1917
Wyoming	Abolished 1931; standards unclear

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**HANDBOOK ENDS HERE**

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**.6 California Domestic Partner**

An individual who:

- .61 has a Declaration of Domestic Partnership registered with the California Secretary of State, or
- .62 is a member of a legal union, other than marriage, of two persons of the same sex, validly formed in another jurisdiction, and substantially equivalent to a California registered domestic partnership.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and Sections 297, 297.5, 298.5 and 299.2, Family Code.

<b>43-105</b>	<b>RESPONSIBILITY FOR SUPPORT</b>	<b>43-105</b>
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**.1 Parents - General**

All parents regardless of their age or their marital status are responsible to the extent of their ability for the support and care of their children whether they are natural or adopted, including minor parents, and children in foster care. This responsibility continues even though the parent is not living with the child, the marriage of the parents has been legally dissolved, the parents were never married or there has been a court order removing the children from the parent's custody. For the purpose of the AFDC program, parental responsibility ceases only where a relinquishment for adoption is in effect or where the child is a minor parent who is married and living with his/her spouse.

<b>43-105</b>	<b>RESPONSIBILITY FOR SUPPORT (Continued)</b>	<b>43-105</b>
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.2 Parents of Minor Parents

.21 General

Among the resources of minor parents is the legally required support that their parents are capable of making. These resources must be explored in order to determine eligibility for AFDC. Parents are not financially liable for their grandchildren.

.22 (Repealed by Manual Letter No. 84-65)

.23 (Repealed by Manual Letter No. 84-65)

.3 Absent Parents

The resources which may be available for support of a child for whom application for aid has been made include contributions from the absent parent(s). Both parents, to the extent of their ability are legally responsible for the support of their child(ren).

.4 Unmarried Parents

The unmarried parent is responsible for the support of his/her child(ren) (including an unborn child).

The unmarried parent is not legally responsible for the support of his/her child's other parent nor of children not his/her own.

.5 Stepparent

A stepparent is responsible for the support of his/her children from another union living outside the home; and his/her children, natural and adopted, living in the home; and his/her spouse.

If the stepparent and his/her spouse and child(ren) living in the home are needy but are ineligible or refuse to apply for public assistance or General Relief, a determination of possible misuse of AFDC funds shall be made as, specified in Operations Manual Section 20-101.

The stepparent's income, after allowable deductions, is deemed available to aided stepchildren living in the home. See Section 44-133.6 for the computation of income to the FBU from a stepparent.

.51 (Repealed by Manual Letter No. 82-26.)

**44-209 IDENTIFICATION OF PERSONS FOR THE CLAIMING OF FINANCIAL PARTICIPATION 44-209**

.1 General

If an FBU is determined to be financially eligible and an aid payment is to be issued, it is necessary to determine whether federal financial participation is available for each person in the FBU. For purposes of determining federal financial participation, AFDC recipients shall be categorized into two groups:

- a. Federally eligible persons and
- b. Essential persons.

What follows is a description of the categories of persons who shall be included in each group.

.2 Federally Eligible Persons

.21 Children

- .211 All children who are deprived of parental support and care due to the death (Section 41-420), incapacity (Section 41-430), or continued absence (Section 41-450) of a parent.
- .212 All children who are deprived of parental support and care due to the unemployment of a parent who meets federal eligibility conditions as specified in Section 41-440.4.

.22 Adults

- .221 The caretaker relative of any federally eligible child under .21 above, or of a child who is receiving SSI/SSP who would otherwise meet the conditions of .21 above.
- .222 The second parent of a federally eligible child under .21 above, or of a child who is receiving SSI/SSP who would otherwise meet the conditions of .21 above, when the deprivation of at least one child is the incapacity or unemployment of a parent who meets federal eligibility conditions as specified in Section 41-440.4.
- .223 The spouse of an incapacitated caretaker relative when the caretaker relative is a parent of a federally eligible child under .21 above, or of a child who is receiving SSI/SSP who would otherwise meet the conditions of .21 above.

.23 A pregnant woman:

<b>44-209</b>	<b>IDENTIFICATION OF PERSONS FOR THE CLAIMING OF FINANCIAL PARTICIPATION (Continued)</b>	<b>44-209</b>
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- .231 who has no federally eligible children; and
- .232 who has provided the county with medical verification of her pregnancy (see Sections 82-836 and 88-410); and
- .233 whose child, if born, and living with the mother would have been federally eligible for AFDC in the month of payment; and either
- .234 who is under the age of 19 and has not obtained a high school diploma or its equivalent; or
- .235 whose pregnancy has reached the three-month period immediately before the month of anticipated birth. If the child is born prior to the originally estimated date of birth, the anticipated month of birth is changed to the month in which birth occurred and Federal Financial Participation is retroactively available for the three-month period prior to the month of birth.

.3 Essential Persons

- .31 An essential person is a stepparent, California domestic partner of the child's parent, or ASP who is not an otherwise federally eligible person under .2 and who:
  - .311 Is related to a child determined to be federally eligible under .21, or
  - .312 Is related to a child who is either receiving SSI/SSP or sanctioned by GAIN who would otherwise be federally eligible under .21.
- .32 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

.4 Repealed by Manual Letter No. EAS-96-07, effective 9/1/96.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: 45 CFR 233.20(a)(2)(vii), FSA-AT-91-1 dated January 1, 1991; and Sections 10553, 10554, 10604, 11203, and 11450(b), Welfare and Institutions Code; and Section 297.5(a), Family Code.

**47-110** **DEFINITIONS** (Continued) **47-110**

- (d) (Reserved)
- (e) (1) Eligibility List "Eligibility List" means a waiting list for admission to state and federally subsidized child development services administered by the California Department of Education.
- (2) Exempt from Licensing or License-Exempt "Exempt from licensing" or "license-exempt" means that a child care provider is not required to obtain a child care license, as specified in the California Code of Regulations, Title 22, Division 12, Section 101158.
- (f) (1) Family Fee "Family fee" means the amount, if any, that the client shall be required to pay towards his or her child care costs, based on the fee schedule established by the State. The family fee is distinct from the co-payment, as defined in Section 47-110(c)(2).
- (2) First County "First County" means the county from which the client will move or has moved.
- (3) Former CalWORKs Client "Former CalWORKs client" means an individual who received cash aid under CalWORKs in the prior 24 months and needs child care to continue his or her employment or fulfill his or her county-approved program activity.

<b>47-110</b>	<b>DEFINITIONS (Continued)</b>	<b>47-110</b>
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(g) (Reserved)

(h) (Reserved)

(i) (1) Intercountry Transfer "Intercountry Transfer" means the transfer of responsibility for determination and payment of Stage One child care services from one county to another.

(j) (Reserved)

(k) (Reserved)

(l) (1) Licensed Provider "Licensed Provider" means an individual or organization that has obtained a child care license, as specified in the California Code of Regulations, Title 22, Division 12.

(m) (Reserved)

(n) (Reserved)

(o) (1) Overpayment "Overpayment" means payments for child care services in excess of the amount which either the client or the child care provider is eligible to receive.

(p) (1) Probation "Probation" means the period of time that a licensed child care provider is required to comply with specific terms and conditions set forth by the California Department of Social Services (CDSS) in order to stay or postpone the revocation of the provider's license.

(q) (Reserved)

(r) (1) Registration Fee "Registration Fee" means a one-time or periodic service or application fee charged by a child care provider.

(2) Resource and Referral Program "Resource and Referral Program (R & R)" means a program that provides information and referrals for child care, information and referrals for community services, and coordination of community resources.



**47-120 CHILD CARE REQUEST PROCESS (Continued) 47-120**

- .12 Written Request

A written request may include, but is not limited to, the county's child care request form, a notation on the informing notice, the eligibility/status report, or a letter from a client.
- .121 Client Responsibility

The client shall deliver or mail the written request to the county.
- .122 County Responsibility

Upon the receipt of a written request, the county shall date stamp the request, retain a copy in the case file, provide a copy to the person responsible for processing child care requests who retains a copy in the child care case file, and provide or mail a written confirmation to the client.
- .123 Date of Request

The date of request shall be determined as follows:

  - (a) If the client hand delivers the written request, the date of the request shall be the date stamped by the county.
  - (b) If the client mails the request, the date of the request shall be the date postmarked on the envelope. The county shall retain a copy of the envelope in the case file. If the request date cannot be determined by the postmark, the date of the request shall be three days prior to the date stamped by the county.
- .2 Required Information

The county shall inform clients that the following information must be received in order to process their child care request:
- .21 Client Information

Client information as specified in Section 47-320.2; and
- .22 Provider Information

Provider information as specified in Section 47-260.

**47-301 ADMINISTRATION OF CHILD CARE SERVICES (Continued) 47-301**

.4 Information Sharing

The county shall provide information about the client to the agency administering Stage Two or Three child care to establish eligibility for child care services and to allow the agency to provide child care to the family. This information may be shared with other entities not administering the program when the client has consented in writing that the information may be released.

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.41 Confidentiality

AB 1542, Chapter 270, Statutes of 1997, did not change the confidentiality provisions in Welfare and Institutions Code Section 10850. All client information is kept confidential and is not open to examination except for purposes directly connected with the administration of public social services, or as otherwise authorized. Alternative Payment Programs (APP), Resource and Referral Programs and child care providers are an integral part of Stage One child care service delivery. Client confidentiality would not be violated as long as the communication with any of these entities is directly related to providing Stage One child care services, or transition to Stage Two or Stage Three. In exchanging client information for purposes of administering the seamless child care program, each of these agencies are bound by the same confidentiality requirements.

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.5 Transitioning Clients

The counties shall manage a client's transition from Stage One to Stage Two or Stage Three when the county determines that the family's situation is stable. The client's child care shall continue in Stage One until child care is provided in Stages Two or Three, unless the family is otherwise ineligible.

**47-301 ADMINISTRATION OF CHILD CARE SERVICES** **47-301**  
(Continued)

- .51 Stage One Time Limit                      A client shall be served in Stage One for a maximum of six months unless the family's situation is not stable, or child care is not available in Stage Two or Three.
- .52 Extension of Six-Month Time Limit                      The county shall extend the six-month time limit if the county has not determined stability or if child care is not available in Stage Two or Stage Three.

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**HANDBOOK BEGINS HERE**

- .6 Placement on Eligibility Lists for Subsidized Child Care                      Stage One clients should be referred for placement on eligibility lists for CDE subsidized child care as soon as possible.
- .7 Referral Priority for Stages Two and Three                      Former CalWORKs clients should be referred for transition to Stage Two and Stage Three eligibility lists before the county refers other Stage Two or Three eligible clients.

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- .8 Contracts to Provide Stage One Child Care                      The county shall have the option to contract with public or private child care agencies to provide any or all of the Stage One services.
- .81 Compliance with Regulations                      Public or private child care agencies, including those that contract with the county to provide Stage One child care services shall comply with Division 47.
- .9 Administrative Actions - Licensed Child Care Providers
- .91 Temporary Suspension Order (TSO) or Revocation of Child Care License                      When the county is notified by the R&R program that a licensed child care provider's license has been temporarily suspended or revoked, the county shall do the following within two business days:
- .911                      Terminate payment to the child care provider as of the effective date of the TSO or license revocation; and

**47-301 ADMINISTRATION OF CHILD CARE SERVICES 47-301**  
(Continued)

- .912 Inform the parents and the child care provider in writing that the payment has been terminated and the reason for the termination.
  
- .92 Probationary Status
  - When the county is notified by the R&R program that a licensed child care provider's license has been placed on probation, the county shall do the following within two business days:
    - Inform the parents in writing that their child care provider has been placed on probation and that they have an option to locate alternate child care arrangements or remain with the provider without risk of subsidy payments being terminated.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 42 U.S.C. 9801 Note (b)(4); 42 U.S.C. 9858e; 45 CFR 205.50; 45 CFR 98.51(a)(2)(i); Sections 8212, 8350, 8351, 8352, 8354 and 8358.5, Education Code; and Sections 10540, 10850, 11323.3, 11323.4(f) and 11323.8, Welfare and Institutions Code.

**47-310 INTERCOUNTY TRANSFERS 47-310**

- .1 First County
  - Upon notification of the CalWORKs Child Care client transferring to a new county, the first county shall:
    - .11 Inform Clients
      - Inform the client in writing of the responsibility to apply for child care in the second county and the payment responsibility information specified in Section 47-310.3 in order to avoid a break in child care services.
  
- .2 Second County
  - The second county shall:
    - .21 Establish a Child Care Case
      - Establish a child care case as soon as the client applies for and meets the child care eligibility requirements as specified in Section 47-220, regardless of the status of the cash aid transfer.

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.211 Cash Aid Determination If cash aid is approved, the client receives child care as a current CalWORKs client.

If cash aid is denied, the client receives child care as a former CalWORKs client as defined in Section 47-110(f)(3), if otherwise eligible.

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**HANDBOOK ENDS HERE**

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.22 Make Appropriate Referral Refer the child care case to the responsible agency as provided in Section 47-301.5, if the second county determines that the client is eligible for Stage Two or Stage Three child care.

.23 Availability of Stages Provide child care in Stage One until child care is provided in Stage Two or Three, as provided by Section 47-301.5, unless the family is otherwise ineligible.

.3 Change in Payment Responsibility There shall be no delay in child care payments when the county receives from the client the necessary child care payment information specified in Section 47-420.21.

.31 When Changing Providers When the client moves and is changing providers:

.311 First County The first county shall pay for child care through the last day the existing provider provides services.

.312 Second County The second county shall become responsible to pay child care to the new provider regardless of the completion of a cash aid transfer period.

**47-310 INTERCOUNTY TRANSFERS (Continued)** **47-310**

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| .313 | Cash Aid Transfer Period<br>as Specified in Section<br>40-187.16 | The period of time in which the second county<br>determines eligibility and the first county remains<br>responsible for payment of aid. |
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| .32  | When Not Changing Providers | When the client moves and does not change providers:   |
| .321 | On Cash Aid                 | The first county shall continue to pay for child care<br>until the cash aid transfer period is completed, or<br>sooner with mutual agreement between both counties.                                    |
| .322 | Off Cash Aid                | The first county shall continue to pay for child care for<br>up to 30 days from the date the client moves out of the<br>county, at which time the second county assumes<br>responsibility for payment. |

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; and Section 40-187, CDSS Manual of Policies and Procedures.

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**CHAPTER 80-300 DEFINITIONS AND FORMS**

**80-301 DEFINITIONS** **80-301**

The following definitions apply to the regulations in Divisions 40 through 50 and 80 through 90.

- (a) (1) Aid Payment "Aid Payment" means any payment made to an AU.
  
- (2) Aid to Families with Dependent Children "AFDC" means the financial aid program for needy children and their parents or caretaker relatives when the children lack parental support and care. This term refers to the program in general, regardless of source of funding.
  
- (3) Aid to Families with Dependent Children - Foster Care (AFDC-FC) "AFDC-FC" means the part of the AFDC program which provides aid to children in Foster Care.
  
- (4) Aid to Families with Dependent Children - Family Group (AFDC-FG) "AFDC-FG" means the part of the AFDC program which provides aid to children deprived parental support due to absence, death or incapacity.
  
- (5) Aid to Families with Dependent Children- Unemployed Parent (AFDC-U) "AFDC-U" means the part of the AFDC program which provides aid to children deprived of parental support due to the unemployment of the principal earner.
  
- (6) Alternatively Sentenced Parent (ASP) "ASP" means a parent who is a convicted offender permitted to live at home while serving a court-imposed sentence that precludes the parent from providing support through paid employment.
  
- (7) Applicant "Applicant" means a person who requests aid or a person on whose behalf a request for aid is made.
  
- (8) Applicant Child "Applicant child" means a child for whom aid has been requested but whose eligibility has not yet been determined.

<b>80-301</b>	<b>DEFINITIONS (Continued)</b>	<b>80-301</b>
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- |         |                             |   |
|---------|-----------------------------|---|
| (9)     | Assistance Unit (AU)        | Section 80-301(a)(9)(MR) shall become inoperative and Section 80-301(a)(9)(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration. |
| (MR)    |                             | "AU" means a group of related persons living in the same home who have been determined eligible for AFDC.   |
| (QR)    |                             | "AU" means a group of related persons living in the same home who have been determined eligible for CalWORKs and for whom cash aid has been authorized.   |
| (b) (1) | Beginning Date of Aid (BDA) | "BDA" means the effective date that cash aid starts.  |
| (c) (1) | California Domestic Partner | "California Domestic Partner" means an individual who:  |
| (A)     |                             | has a Declaration of Domestic Partnership registered with the California Secretary of State or  |
| (B)     |                             | is a member of a legal union, other than a marriage, of two persons of the same sex, validity formed in another jurisdiction, and substantially equivalent to a California registered domestic partnership.         |
| (2)     | Caretaker Relative          | "Caretaker relative" means a relative, related to the degree specified in Section 82-808.11, who:   |
| (A)     |                             | Lives with a child who is part of the filing unit, and  |
| (B)     |                             | Exercises responsibility for the day-to-day care and control of the child.  |
| (3)     | Child                       | "Child" means a person who meets the age requirements as specified in Section 42-101. Where appropriate, "child" shall also mean "children".  |
| (4)     | Collect                     | "Collect" means to regain AFDC funds which are overpaid to a person by using collection methods other than grant adjustments.   |



**80-301**      **DEFINITIONS** (Continued) **80-301**

- (2) GED      "GED" means the General Education Development program which provides educational programs for persons no longer enrolled in public schools.
  
- (3) Grant Adjust      "Grant Adjust" means to regain AFDC funds which were overpaid to an AU by reducing the aid payment.
  
- (h) (1) Half-Sibling      "Half-sibling" means a brother or sister having only one biological and/or adoptive parent in common with the applicant child.

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**HANDBOOK BEGINS HERE**

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- (i) (1) Immediate Need Payment      "Immediate Need Payment" means an aid payment made in advance of a completed determination of eligibility for AFDC when specific criteria are met.
  
- (2) Intentional Program Violation (IPV)      "IPV" means an Intentional Program Violation, (See Section 20-351) which is a determination made by a state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, or pursuant to an administrative disqualification hearing that an individual has intentionally:
  - (A) Made a false or misleading statement or misrepresented, concealed, or withheld facts; or
  - (B) Committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity; and
  - (C) Committed these acts to establish or maintain CalWORKs eligibility, or to increase or prevent a reduction in the amount of the CalWORKs grant.

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- (j) (Reserved)

**80-301**      **DEFINITIONS** (Continued) **80-301**

- (5) Sponsored Noncitizen      "Sponsored noncitizen" means a noncitizen whose entry into the United States was sponsored by a person who executed an I-864 Affidavit of Support or similar agreement on behalf of a noncitizen as a condition of the noncitizen's entry into the United States.
- (6) California Department of Social Services (CDSS)      "CDSS" means the state department which supervises the counties in the administration of the AFDC program. Also referred to as Department.
- (7) Statement of Facts      "Statement of Facts" means the CA 8 (Rev. 2/84) CA 8A (Rev. 10/89), CA 20 (Rev. 4/88), CA 22 (Rev. 10/85); CA 23 (Rev. 1/85), CA 24 (Rev. 1/85), JA2 (Rev. 4/90) or SAWS 2 (Rev. Pending) are the state required forms used to collect the information necessary to determine a family's eligibility. See Section 80-310 for title and definition of forms.
- (8) Statewide Fingerprint Imaging System (SFIS)      "Statewide Fingerprint Imaging System (SFIS)" means an automated system that captures fingerprint and photo images and stores them in a statewide database.
- (9) Stepparent      "Stepparent" means a person who is not the biological parent, but is either married to, or the California domestic partner of, the parent of the child.
- (10) Strike      "Strike" means a concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.
- (11) Striker      "Striker" means an applicant or recipient who is participating in a strike on the last day of the month.
- (12) Supplemental Security Income/State Supplementary Program      "SSI/SSP child" means a child who would be eligible for AFDC except that he/she is receiving SSI/SSP. SSI/SSP is the federal/state assistance program for persons who are aged, disabled or blind as authorized by Title XVI of the Social Security Act.

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<b>80-301</b>	<b>DEFINITIONS (Continued)</b>	<b>80-301</b>
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(t) (Reserved)

(u) (Reserved)

(v) (1) Section 80-301(v)(1)(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(QR) Voluntary Recipient Reports "Voluntary Recipient Reports" means mid-quarter reports that recipients may make to the county pursuant to Section 44-316.31(QR).

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

TERM	PREVIOUS CITE	REFERENCE
Aid to Families With Dependent Children (AFDC)	40-103.84	45 CFR 201.3 and Sections 10553 and 10554, Welfare and Institutions Code.
Aid to Families With Dependent Children - Foster Care (AFDC-FC)	40-103.843	Sections 10553, 10554, and 11400(a), Welfare and Institutions Code.

80-301 (Cont.)	<b>ELIGIBILITY AND ASSISTANCE STANDARDS DEFINITIONS AND FORMS</b>		Regulations
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80-301	DEFINITIONS (Continued)	80-301
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TERM	PREVIOUS CITE	REFERENCE
Aid to Families With Dependent Children - Family Group (AFDC-FG)	40-103.841	Section 11250, Welfare and Institutions Code.
Aid to Families With Dependent Children-Unem- ployed Parent (AFDC-U)	40-103.842	Section 11201, Welfare and Institutions Code.
Aid Payment	N/A	
Alternatively Sentenced Parent (ASP)	N/A	45 CFR 233.90(c)(1)(iii).
Applicant	40-103.5	45 CFR 206.10 and Sections 11023.5 and 11051 Welfare and Institutions Code.
Applicant Child	N/A	45 CFR 206.10 and Sections 10553 and 10554, Welfare and Institutions Code.
Assistance Unit	N/A	45 CFR 233.90, 42 USCA(a)(38), and SSA-AT-86-01.
Beginning Date of Aid	N/A	Section 11266, Welfare and Institutions Code.
California Domestic Partner	N/A	Sections 297, 297.5, 298.5 and 299.2, Family Code.
Caretaker Relative	N/A	42 USCA 606(a), 45 CFR 233.90(c)(1)(v), and Section 11203, Welfare and Institutions Code.
Child	N/A	45 CFR 233.90(c)(1)(i).

**80-301**      **DEFINITIONS** (Continued) **80-301**

TERM	PREVIOUS CITE	REFERENCE
Sanction	N/A	45 CFR 224.51 and 45 CFR 232.12(d)(1).
Second Parent	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Senior Parent	N/A	45 CFR 233.20 and Sections 10553 and 10554, Welfare and Institutions Code.
Sibling	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Sponsored Noncitizen	43-119.1	8 CFR 213a. and 299, 45 CFR 233.20(a)(3)(xv) and 45 CFR 233.51 and Section 11008.13, Welfare and Institutions Code.
State Department of Social Services (SDSS)	N/A	Section 10054, Welfare and Institutions Code.
Statewide Fingerprint Imaging System (SFIS)	N/A	42 USC 402(a)(6) and Section 10830, Welfare and Institutions Code.
Statement of Facts	N/A	Sections 10553, 10554, and 11054, Welfare and Institutions Code.
Stepparent	43-103.3	45 CFR 233.20(a)(3)(xiv); Section 11008.14, Welfare and Institutions Code; and Sections 297 and 297.5, Family Code.
Strike	41-701.21	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
Striker	41-701.23	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
SSI/SSP Child	N/A	45 CFR 233.90.
Voluntary Recipient Reports	N/A	Section 11265.3, Welfare and Institutions Code.

**80-310 DEFINITIONS - FORMS****80-310**

The following forms apply to the regulations in Divisions 40 through 50 and 80 through 89.

(a) (Reserved)

(b) (Reserved)

(c) (1) CA 2.1 NA

The "Child/Spousal and Medical Support Notice and Agreement" (Rev. 12/89) is used to inform the applicant of his/her responsibility to participate in the support enforcement process and of his/her right to claim exemption from participation.

(2) CA 2.1 (Q)

The "Support Questionnaire" (Rev. 2/91) is used to collect information about the absent parent.

(3) CA 8

The "Statement of Facts for Additional Persons" (Rev. 2/84) is used to collect the information necessary to determine eligibility when adding a person.

(4) CA 8A

The "Statement of Facts to Add a Child Under 16 Years" (Rev. 10/89) is used to collect the information necessary to determine eligibility when adding a child.

(5) CA 13

The "Caretaker Relative Agreement" (Rev. 10/86) is used to designate the caretaker relative as agreed by two persons who live in separate homes when both could qualify as the caretaker relative of a child.

(6) CA 20

The "Statement of Facts Supporting Eligibility for Assistance -Redetermination" (Rev. 8/90) is used to collect the information necessary to determine eligibility at the time of the annual redetermination.

(7)

Section 80-310(c)(7)(MR) shall become inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

## CHAPTER 82-800 ASSISTANCE UNIT

## 82-804 LIVING IN THE HOME OF A CARETAKER RELATIVE

82-804

- .1 Living In The Home An eligible child shall be living in the home of the caretaker relative.
- .2 Home of a Caretaker Relative The home of a caretaker relative is a family setting being maintained or in the process of being established for a child. A child is considered to be living in the home of a caretaker relative even when:
- .21 Court Jurisdiction A child is under the jurisdiction of the court and is living in the home of the relative (e.g., receiving probation services or protective supervision); or
- .22 Legal Custody A child's legal custody is held by an agency that does not have physical possession of the child.

[Previous cite: 44-203.111 - .113 and .12]

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 45 CFR 233.90 and 45 CFR 237.50(b)(2), Sections 10553, 10554, and 11450, Welfare and Institutions Code, and SSA-AT-86-01.

## 82-808 CARETAKER RELATIVE REQUIREMENTS

82-808

- .1 Relationship of a Caretaker Relative The caretaker relative shall be related to the applicant/eligible child as specified below.
- .11 Degree of Relatedness The caretaker relative may be any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. (See Appendix A).
- .111 Biological Relatives The acceptable caretaker relative shall be a parent (1st degree), grandparent (2nd degree), sibling (2nd degree), great-grandparent (3rd degree), uncle or aunt (3rd degree), nephew or niece (3rd degree), great-great grandparent (4th degree), great-uncle or aunt (4th degree), first cousin (4th degree), great-great-great grandparent (5th degree), great-great uncle or aunt (5th degree), or a first cousin once removed (5th degree).

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**HANDBOOK BEGINS HERE**

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|-----|--|---|
| (a) |  | If A or B are first cousins, B's children are first cousins once removed to A and A's children are first cousins once removed to B. A's children and B's children are second cousins. |
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**HANDBOOK ENDS HERE**

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|------|------------------------------|---|
| .112 | Step- Relatives              | A stepfather, stepmother, California domestic partner of a parent, or stepbrother or stepsister, or   |
| .113 | Spouses of Relatives         | A spouse or California domestic partner of any person named above even after the marriage or domestic partnership has been terminated by death or dissolution or termination of the California domestic partnership, or   |
| .114 | Adoptive Relatives           | A person who legally adopts the child or that person's relatives, as specified.   |
| .12  | Relinquishment/<br>Adoption  | The caretaker relative shall be any of the relatives specified above when a child has been relinquished, adopted or parental rights are terminated.   |
| .13  | Relationship<br>Verification | Counties shall document in the case record evidence used to verify the relationship of the caretaker relative to the child.   |
| .14  | Types of Evidence            | Counties shall use the following evidence to verify the relationship of a child to the caretaker relative.  |
| .141 | Acceptable                   | Evidence includes:<br>Adoption papers or records<br>Baptismal records of birth and parentage<br>Birth certificate<br>Bureau of Vital Statistics or local government records of birth and parentage<br>Census records<br>Church records (including a statement from priest, minister, etc.) of parentage or relationship |

**82-808 CARETAKER RELATIVE REQUIREMENTS (Continued) 82-808**

Court records of parentage  
Court support records  
Day care center records  
Declaration of California Registered  
Domestic Partnership  
Divorce papers or termination of California registered  
domestic partnership  
Family Bible  
Hospital or public health records of birth  
and parentage  
Indian census records  
Insurance policy  
Juvenile court records  
Marriage licenses/ records  
Outpatient care records maintained by a  
hospital, clinic, or physician  
Paternity records maintained by a Child  
Support Agency  
School records  
Voluntary social service agency records

- .142 No Evidence If all efforts to obtain other evidence have failed, a sworn statement signed by the caretaker relative is acceptable when:
- (A) Evidence is not conflicting, and
  - (B) The attempts to obtain verification are documented in the case record.

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**HANDBOOK BEGINS HERE**

- .143 Conflicting Evidence When evidence is conflicting, the principles of gathering evidence in Section 40-157 shall apply.

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- .2 Determining the Caretaker Relative The county shall determine who the caretaker relative is by reviewing actual circumstances in each case to determine who exercises care and control responsibility for a child.

<b>82-808</b>	<b>CARETAKER RELATIVE REQUIREMENTS (Continued)</b>	<b>82-808</b>
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- |      |                          |  |
|------|--------------------------|--|
| .3   | Care and Control Factors | The following factors shall be considered when determining responsibility for care and control. A single factor may not be determinative. The factors include, but are not limited to:                                       |
| .31  |                          | Deciding where the child attends school or child care.   |
| .32  |                          | Dealing with the school on educational decisions and problems.   |
| .33  |                          | Controlling participation in extracurricular and recreational activities.  |
| .34  |                          | Arranging medical and dental care services.  |
| .35  |                          | Claiming the child as a tax dependent.   |
| .36  |                          | Purchasing and maintaining the child's clothing.   |
| .4   | Alternating Arrangements | The determination of the caretaker relative relationship, when the child stays alternately with different persons, shall be made as follows:   |
| .41  | Less than One Month      | If a child stays alternately for periods of one month or less with each of his/her parents who are separated or divorced, the caretaker relative shall be determined as follows:   |
| .411 | Where Child Stays        | In most circumstances, the parent with whom the child stays for the majority of the time shall be the caretaker relative. The temporary absence of the parent or the child from the home does not affect this determination. |
| (a)  |                          | The parent with whom the child stays for less than the majority of the time may be the caretaker relative, if that parent can establish that he/she has majority responsibility for care and control of the child.           |

<b>82-808</b>	<b>CARETAKER RELATIVE REQUIREMENTS (Continued)</b>	<b>82-808</b>
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- .412 Applying Parent                      When the child spends an equal amount of time with each parent and each parent exercises an equal share of care and control responsibilities, the parent who applies for aid shall be the caretaker relative, providing that the child's other parent is not currently applying for or receiving aid for the child.
- .413 Equal Time                              When each parent exercises an equal share of care and control responsibilities, and each has applied for aid for the child, the caretaker relative shall be determined in the following order:
- (a)    The parent designated in a current court order as the primary caretaker for purposes of public assistance, under Civil Code Section 4600.5(h).

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**HANDBOOK BEGINS HERE**

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Civil Code Section 4600.5(h) states:

In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

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**HANDBOOK ENDS HERE**

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- (b)    When no court order designation exists and only one parent would be eligible for aid, the parent who would be eligible shall be the caretaker relative.
- (c)    When both parents would be eligible, the parents shall designate one parent as the caretaker relative. The agreement shall be documented by a CA 13.
- (d)    If the parents cannot reach agreement on the designation of a caretaker relative, the parent who first applied for aid for the child shall be the caretaker relative.

<b>82-808</b>	<b>CARETAKER RELATIVE REQUIREMENTS (Continued)</b>	<b>82-808</b>
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.414	Remains Caretaker	The parent who has been determined to be the caretaker relative of a child who stays with the other parent for alternating period of one month or less shall remain the caretaker relative while the child is with the other parent.
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.42	One Full Calendar Month or More	When a child stays alternately for periods of one full calendar month or more with different persons who are not living together, the caretaker relative shall be the person with whom the child is staying at the time. That person will have to apply for aid on behalf of the child.
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**HANDBOOK BEGINS HERE**

See Section 82-812.5 for definition of one full calendar month.

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.5	Number of Caretaker Relatives	An AU may have more than one caretaker relative. However, an eligible child shall have only one caretaker relative at one time.
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.6	Minor Parent/Caretaker Relative	A child who is a caretaker relative shall not be considered a child to establish eligibility for a senior parent.
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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 42 USC 408(a)(10); 42 USCA 606; 45 CFR 206.10; 45 CFR 206.10(a)(8); 45 CFR 233.90; 45 CFR 233.90(c)(1)(iii); 45 CFR 233.90(c)(1)(v); 45 CFR 233.90(c)(1)(v)(A); and 45 CFR 233.90(c)(2); Federal Register, Vol. 45, Page 58125, September 2, 1980; 45 CFR 237.50(b)(2); SSA-AT-86-01; ACF-AT-91-33; and Sections 10553, 10554, 10604, 11203, 11269, and 11450, Welfare and Institutions Code; and Sections 297 and 297.5(a)-(d), Family Code.