

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



April 19, 2000

ALL-COUNTY INFORMATION NOTICE NO. I-47-00

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
 Clarification Requested by
 One or More Counties
 Initiated by CDSS

SUBJECT: 1999 CHAPTERED LEGISLATION AFFECTING THE ADOPTIONS PROGRAM, THE OFFICE OF CHILD ABUSE PREVENTION, THE CHILD WELFARE SERVICES PROGRAM, THE FOSTER CARE PROGRAM AND THE FOSTER CARE AUDITS PROGRAM

This letter summarizes legislation chaptered during 1999 affecting the Adoptions Program, the Office of Child Abuse Prevention, the Child Welfare Services Program, the Foster Care Program and the Foster Care Audits Program. Unless otherwise noted, the statutes listed became effective on January 1, 2000.

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 they affect.

ADOPTIONS PROGRAMAssembly Bill (AB) 390 (Scott), Chapter 547, Statutes of 1999

This legislation contains the following provisions:

- Amends Welfare and Institutions Code (WIC) Section 16118 to make the county in which the relinquishing parent resides responsible for eligibility determination and for providing financial assistance under the Adoption Assistance Program (AAP) when a child is voluntarily relinquished to a licensed private adoption agency prior to a determination of eligibility.
- Amends WIC Section 16119 to require the California Department of Social Services (CDSS) or licensed adoption agencies to provide information to prospective adoptive families on the availability of mental health services through the Medi-Cal program or other programs. The legislation also amends this section to revise the eligibility standards and the basis for determining the negotiated amount of the AAP benefit. The negotiated amount of the AAP

benefit, if any, shall be based on the needs of the child and the circumstances of the family. In addition, the amendment requires the CDSS or licensed adoption agencies to inform the prospective adoptive family that they will continue to receive benefits in the agreed upon amount unless one of the following occurs:

- The adoptive parents are no longer legally responsible for the support of the child.
 - The child is no longer receiving support from the adoptive family.
 - The adoption assistance payment exceeds the amount the child would have been eligible for in a foster family home.
 - The adoptive parents demonstrate a need for an increased payment.
 - The adoptive parents voluntarily agree to reduce or terminate payments.
 - The adopted child has an extraordinary need that was not anticipated at the time the amount of the adoption assistance was originally negotiated.
- Amends WIC Section 16120.5 to refer to the reassessment of the child instead of the renewal of the adoption assistance agreement. Furthermore, this legislation requires that the adoption assistance agreement shall specify the responsibility of the adopting family to report changes in circumstances that might negatively affect their ability to provide for the identified needs of the child.
 - Amends WIC Section 16121.05 to specify that AAP overpayments would result only if the adoptive parents are no longer legally responsible for the support of the child, the child is no longer receiving support from the adoptive parents, or the adoptive family has committed fraud.

The Adoptions Program plans to issue regulations by June 2000 to implement the provisions of AB 390.

AB 1225 (Ashburn), Chapter 905, Statutes of 1999

This legislation amends WIC Section 16119 to require the CDSS or licensed adoption agencies to provide additional information, in writing, about the availability of AAP benefits to prospective adoptive parents. This written information must be provided not only at the time of application for AAP benefits for a child who is potentially eligible, but also immediately before the finalization of the adoption. AB 1225 also added subdivision (b) to WIC Section 16119. Subdivision (b) requires agencies to encourage families who do not choose to receive AAP benefits on behalf of their child who is eligible for such benefits to sign a deferred adoption assistance agreement.

This legislation also revises WIC Section 16122 to increase the amount the State shall compensate licensed private adoption agencies for costs incurred in placing AAP-eligible children for adoption. Effective July 1, 1999, the maximum allowable compensation amount was increased from \$3,500 to \$5,000 for costs incurred in completing the adoption of a child who was placed for adoption on or after that date.

AB 1225 became effective on October 10, 1999. The Adoptions Program plans to issue emergency regulations by June 2000 to implement the provisions of AB 1225.

Senate Bill (SB) 1270 (Senate Health & Human Services), Chapter 887, Statutes of 1999

This legislation adds Section 16121.2 and Chapter 2.6 to Part 4 of Division 9 of the Welfare and Institutions Code allowing California to join the Interstate Compact on Adoption and Medical Assistance (ICAMA). Membership in the ICAMA ensures the reciprocity of Medicaid services as well

as providing a coordinated administration of services and benefits for adopted children in interstate situations. This legislation also provides eligibility for Medi-Cal benefits to non-federal AAP eligible children entering California.

Finally, this legislation provides technical clean-up to statutes previously enacted by AB 1544 (Chapter 793, Statutes of 1997) and AB 2773 (Chapter 1056, Statutes of 1998), and deletes statutory language that authorized only the Director of the CDSS to adopt regulations. The Adoptions Program plans to issue regulations by August 2000 to implement the provisions of SB 1270.

CHILD WELFARE SERVICES PROGRAM

AB 1259 (Strom-Martin) Chapter 705, Statutes of 1999

This legislation adds Welfare and Institutions Code (WIC) Section 18986.86 to allow Humboldt, Mendocino and Alameda Counties to implement a pilot program for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system. This legislation permits a universal intake system with centralized management and support of client services. The bill also provides authority to appropriate state departments, as designated by the Secretary of Health and Human Services to waive regulations regarding the method of providing services and the method of reporting and accountability necessary to meet specified county goals.

AB 1259 also adds WIC Section 18986.87, which requires that each participating county develop outcomes and performance measures specific to the pilot project, in consultation with appropriate state departments. Implementation of the pilot must occur by not later than July 1, 2000. Under the bill's requirements, each county must complete both an interim and a final evaluation.

This new statute includes a pilot sunset date of January 1, 2005.

SB 525 (Polanco), Chapter 1012, Statutes of 1999

This legislation amends and adds provisions to Penal Code (PC) Section 11166.9 that pertain to the coordination of state and local efforts to track fatal child abuse and neglect information. The legislation contains the following provisions:

- Adds additional state and private entities to the members of the California State Child Death Review Council.
- Specifies additional duties for the Council, the Department of Justice and the Department of Health Services regarding the tracking and reporting of information regarding child deaths related to abuse or neglect.
- Requires law enforcement and child welfare agencies to cross-report all cases of child death suspected to be related to child abuse or neglect, whether or not the deceased child has any known surviving siblings.

- Mandates child welfare agencies to create a record in the Child Welfare Services/Case Management System (CWS/CMS) of all cases of child death suspected to be related to child abuse or neglect.
- Requires the county child welfare agency, upon notification that the death was determined not to be related to child abuse or neglect, to enter that information into CWS/CMS.

The CDSS plans to issue an All-County Letter on the new requirements by June 1, 2000. CDSS is reviewing existing Division 31 regulations to determine the extent to which the regulations may need to be modified.

SB 955 (Escutia), Chapter 634, Statutes of 1999

This legislation adds WIC Section 16500.1 to require the CDSS, with respect to serving the needs of children alleged to be abused or neglected to reduce out-of-home placements, encourage reunification and improve the quality of out-of-home care by utilizing best practices. The CDSS is required to review the existing array of program models provided in statute and in practice. These models include, but are not limited to, Senate Bill 163 (Chapter 795, Statutes of 1997) Wraparound Services, Children's System of Care, Family Unity or Family Conferencing models, and the Annie B. Casey Foundation's Family to Family Initiative. In addition, foster families must be involved as team members in family reunification efforts. Additionally, CDSS is required to ensure that Emergency Response, Family Maintenance, Family Reunification, and Permanent Placement services are coordinated with the implementation of the various program models. The CDSS must submit a report to the Legislature on these new provisions by January 1, 2002.

CDSS plans to review all programs that impact out-of-home placements, including the four models listed above, as well as making sure that ER, FM, FR and PP services are coordinated with these programs. This review will also determine how to incorporate the Best Practices guidelines and make recommendations. As part of its review, CDSS will examine Division 31 regulations for incorporation into the Best Practices guidelines.

SB 1089 (Bowen), Chapter 211, Statutes of 1999

This legislation amends WIC Section 16206 to require information on the causes, symptoms and treatment of post traumatic stress disorder in children to be included in the child welfare training program administered by the CDSS.

CDSS, in partnership with the California Social Work Education Center (CalSWEC), is in the process of creating a Standardized Curriculum. The intent of this curriculum is to provide a foundation of training to be used statewide for all new child welfare workers. The CDSS has ensured that the curriculum will address Post-Traumatic Stress Disorder training. It will be included in the Primary Child Welfare Module, under the subheading of Special Issues for Families in Need of Child Welfare Services.

SB 1199 (Costa), Chapter 957, Statutes of 1999

This legislation adds Penal Code Section 3058.4 to require parole officers to report to the appropriate child protective agency if a person paroled following conviction on specified child abuse

offenses (or any sex offense involving a minor victim) has violated a term or condition of parole that restricts contact with the victim or the victim's family. The legislation also requires the Department of Corrections, on an annual basis, to provide parole officers with a written summary of this duty and their existing duty under PC Section 11166 to report to child protective agencies known or suspected incidents of child abuse or neglect.

FOSTER CARE PROGRAM

AB 65 (Ducheny), Chapter 275, Statutes of 1999

This legislation adds Family Code (FC) Section 7810 and WIC Section 360.6 to require the courts to comply with the federal Indian Child Welfare Act in all Indian child custody proceedings where the tribe determines the child is a member, or eligible to be a member, of the tribe.

This legislation also adds WIC Section 305.5 to require state and local authorities to notify the tribe no later than the next working day of removal of an Indian child from parental custody. State and local authorities are also required to transfer child custody proceedings to the tribe within 24 hours in cases where a child has been identified by the tribe as an Indian child, and the tribe has reassumed exclusive jurisdiction over Indian child custody matters pursuant to Section 1918 of Title 25 of the United State Code.

AB 65 became effective on September 1, 1999. The Foster Care Program plans to issue emergency regulations by May 2000 to implement the provisions of AB 65.

AB 575 (Aroner), Chapter 997, Statutes of 1999

This legislation amends WIC Sections 202, 366.23, 366.26, 628, 635, 636, 652, 653.5, 658, 660, and 706.5 and adds WIC Sections 636.1, 706.6, 726.4, 727.2, 727.3, 727.31, and 727.4 relating to placement activities required of probation departments to ensure the needs of minors in placements whose board and care is funded through the Foster Care Program are met. The legislation contains the following provisions:

- Codifies juvenile court and county probation requirements for eligible minors in out-of-home placement to comply with federal laws.
- Defines punishment as the imposition of sanctions and prohibits a court order to place a minor in foster care as a punishment.
- Requires probation officers to prepare case plans describing the strengths and needs of a detained minor and his or her family.
- Requires the court to make specified findings on the services provided.
- Requires a review of the case plan and a status review hearing every six months for minors in foster care.
- Requires a permanency hearing within twelve months of the date a minor enters foster care.

- Requires the court to determine, at permanency hearings, whether to return a minor home, establish a legal guardianship, refer the minor for adoption, or establish an alternative planned permanent living arrangement.

The Foster Care Program plans to issue regulations by November 2000 to implement the provisions of AB 575.

AB 740 (Steinberg), Chapter 805, Statutes of 1999

This legislation amends WIC Sections 361.5 and 366.21 to allow, for the purposes of placing a sibling group together in a permanent home, family reunification services for a child three years of age or older to be limited to six months if at least one other member of the sibling group is under three years of age and family reunification did not occur. All of the children in the sibling group must have been removed from parental custody at the same time. The factors to be considered for such a decision include the wishes of each child whose age and physical and emotional condition permit a meaningful response, and the best interest of each child in the sibling group.

The Foster Care Program plans to issue regulations by November 2000 to implement the provisions of AB 740.

AB 1659 (Committee on Human Services), Chapter 881, Statutes of 1999

This legislation strengthens and ensures the implementation and intent of SB 933 (Thompson), Chapter 311, Statutes of 1998, to ensure the same personal safeguards for minors placed in group home care within California are afforded to those California minors placed outside of the State. This legislation amends FC Sections 7911 and 7911.1 to: (1) require participants of a county multidisciplinary team to have knowledge or experience in child abuse and neglect cases and to be qualified to recommend relevant services; and (2) extend the deadline for the CDSS to grant or deny an initial certification to an out-of-state group home facility that has six or fewer California children.

This legislation also amends Health and Safety Code Sections 1522, 1569.17, and 1596.871 to make various changes in Community Care Licensing fingerprint requirements, as well as related criminal background and licensure requirements.

Finally, this legislation amends WIC Sections 361.21 and 727.1 to: (1) require the juvenile court in its findings to determine, before ordering placement of a minor in an out-of-state group home, that in-state facilities or programs are unavailable or inadequate to meet the needs of the minor; and (2) extend the authority of a probation officer to remove a minor from an out-of-state facility if that facility or program is not in compliance with required standards or has an adverse impact on the health and safety of the minor.

AB 1659 became effective on October 10, 1999. The Foster Care Program plans to issue regulations by November 2000 to implement the provisions of AB 1659.

SB 543 (Bowen), Chapter 522, Statutes of 1999

This legislation adds WIC Section 369.5 to provide that only a juvenile court officer has authority to make orders regarding the administration of psychotropic medication for a dependent child of the juvenile court who has been removed from the custody of the parent. However, the juvenile court

may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication must be based on a request from a physician. This request must indicate the reasons for the request, provide a diagnosis and a description of the child's behavior, the expected results of the use of the medication, and a description of any side effects of the medication. The legislation also provides a definition for psychotropic medications. This legislation is not intended to supersede local court rules regarding a minor's right to participate in mental health decisions. The Judicial Council, on or before July 1, 2000, is required to adopt rules of court and develop appropriate forms for implementation of this section.

In addition, this legislation amends WIC Section 16010 to make changes to health and education information data requirements for children in foster care. This section provides that the case plan of a child placed in foster care, pursuant to WIC Section 358.1, is to include a summary of the health and education information or records, including mental health information or records of the child. This summary may be maintained in the form of the CWS/CMS Health and Education Passport (HEP) or a comparable format designed by the child protective agency. The legislation specifies the detailed, comprehensive content of the health and education summary.

A new requirement is that any court report or assessment (required under WIC Sections 361.5, 366.1, 366.22(b) or 366.22(d)) shall include a copy of the current HEP or comparable summary.

The child protective agency is required, as soon as possible, but not later than 30 days after the initial placement of a child into foster care, to provide the caretaker with the child's current health and education summary. At each subsequent placement, the child protective agency must provide the caretaker with a current summary within 48 hours of placement.

The child's caretaker shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's HEP or health and education summary during the time the child is in the care of the caretaker. On each required visit, the child protective agency or its designee foster family agency, must ask the caretaker if there is any new information that should be added to the child's HEP or summary. The child protection agency is then required to update the HEP or summary with such information as appropriate, but no later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee foster family agency shall take all necessary steps to assist the caretaker in obtaining relevant health and education for the child's HEP or comparable summary.

Finally, this legislation requires the juvenile court, at the initial hearing, to direct each parent to provide to the child protective agency the complete medical, dental, mental health, and educational information and medical background of the child and of the child's mother and the child's biological father, if known. The Judicial Council is to create a form for the purpose of gathering this information from the child's parents or guardians at the initial hearing. The court is to determine, at a later hearing held pursuant to WIC Section 358, whether this information has been provided to the child protective agency.

The Foster Care Program plans to issue regulations by November 2000 to implement the provisions of SB 543.

SB 1226 (Johannessen) Chapter 399, Statutes of 1999

This legislation amends WIC Section 361.5(b)(10) to provide that the court need not provide reunification services to parents or guardians if the court has terminated reunification services for any siblings or half-siblings of a child because the parent or guardian failed to reunify with the sibling or half-sibling.

This legislation also amends WIC Sections 366.21(e), 366.21(f), and 366.22(a) to specify that the failure of the parent or guardian to participate regularly and make substantive progress in court ordered treatment programs shall constitute prima facie evidence that the return of the child to the custody of his or her parent or guardian would be detrimental to the child.

FOSTER CARE AUDITS PROGRAM

Assembly Bill 1659 (Committee on Human Services), Chapter 881, Statutes of 1999

This legislation defers the implementation of the financial audit report requirement of SB 933 (Thompson), Chapter 311, Statutes of 1998. The legislation provides for the financial audit report requirement as a condition to receiving a program rate, commencing with rates set for Fiscal Year 2000/01. The financial audit report must be submitted with foster family agency rate applications due on or before April 1, 2000 and with group home rate applications due on or before May 1, 2000. However, a new provider incorporated fewer than 12 months at the time of submission of its rate application is exempted from the financial audit report.

AB 1659 became effective on October 10, 1999. The Foster Care Audits Program has amended regulations to reflect the requirements of AB 1659. The amended regulations became effective on December 30, 1999.

If you have questions regarding adoptions-related legislation, please contact Joe Murray, Adoptions Policy Bureau, at (916) 323-0467. 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. Questions pertaining to foster care audits should be directed to Stacy Alameda, Foster Care Audits Branch, at (916) 274-0455.

***Original Document Signed By
Sylvia Pizzini on 4/19/00***

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

c: County Welfare Directors Association