

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



February 9, 1999

ALL COUNTY LETTER NO. 99-09

TO: ALL COUNTY WELFARE DIRECTORS
 ALL WELFARE-TO-WORK COORDINATORS
 ALL CALWORKS PROGRAM MANAGERS

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: IMPLEMENTATION INSTRUCTIONS FOR THE DOMESTIC ABUSE REGULATIONS IN THE CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM

REFERENCE: ACL 98-12, ACL 97-72, ACL 97-71, ACL 97-54

The purpose of this letter is to provide counties with instructions for implementing the attached Domestic Abuse regulations. These regulations are being implemented on an emergency basis, as required by Assembly Bill (AB) 1542, (Chapter 270, Statutes of 1997), and have an effective date of January 1, 1999.

AB 1542 required that the California Department of Social Services (CDSS) convene a Domestic Violence Task Force comprised of representatives of state and county governments, state and county organizations, domestic violence prevention groups, advocates and service providers. In consultation with the Task Force, CDSS developed protocols to identify and assist California Work Opportunity and Responsibility for Kids (CalWORKs) applicants and recipients who are past or present victims of domestic abuse to obtain employment and become self-sufficient while not placing them at further risk or unfairly penalizing them by CalWORKs requirements and procedures. The legislation also required the Task Force to identify standards for training staff serving CalWORKs applicants and recipients. These regulations have been written based on completed protocols and training standards.

AMENDED SECTIONS

Some sections of the Manual of Policies and Procedures (MPP) have been amended merely to reference the Domestic Abuse regulations found in Section 42-715. These are Section 19-004 (Release of Confidential Information), Section 40-107 (County Responsibility), Section 40-115 (Application Process), Section 40-131 (Interview Requirement) and Section 40-181 (Continuing Activities and Determination of Eligibility).

Section 42-302 (60-Month Time Limit Requirements for Adults) was amended to change the term "violence" to "abuse", and to reference Section 42-713.22.

Section 42-701 (Introduction to Welfare-to-Work) was amended to add definitions for “Domestic Abuse”, “Domestic Relationship” and “Protocol”. Both the definitions for “domestic abuse” and “domestic relationship” were developed by the Task Force to identify CalWORKs applicants and recipients who are eligible for services and waivers of program requirements under these regulations. A definition of “protocol” was necessary since the term is now used in regulations.

Section 42-710 (18- and 24-Month Time Limits) was amended to include Section 42-710.65, which adds being a victim of domestic abuse as good cause to be excused from welfare-to-work activities, and to reference Section 42-713.31.

Section 42-713 (Good Cause for Not Participating) was amended to change the term “violence” to “abuse” to be consistent with the terminology in the Domestic Abuse Protocols that were developed by the Domestic Violence Task Force. This section was also amended to remove instructions counties were to use prior to the implementation of these regulations.

Section 82-512 (Exemption from Cooperation Requirements) was amended to change the term “violence” to “abuse” and to correct a reference to Section 42-713.22 , revising it to Section 42-701.2 where the definition of domestic abuse is now found.

DOMESTIC ABUSE PROTOCOLS AND TRAINING STANDARDS (42-715)

Using the definitions of domestic abuse and domestic relationship as defined in Section 42-701, the Domestic Abuse Protocols and Training Standards 1) establish individual case assessment procedures; 2) establish confidentiality procedures; 3) establish notice requirement procedures; 4) set requirements for referrals for counseling and other service referral strategies; 5) identify good cause criteria for waiving program requirements for victims of domestic abuse; and 6) outlines training standards for staff serving CalWORKs recipients.

Identification of Victims of Domestic Abuse (42-715.1)

This section provides counties with the information and guidelines necessary to identify victims of domestic abuse. Examples of acceptable ways to make this identification are given, along with instructions to provide comprehensive and current domestic abuse information and resource materials.

Individual Case Assessment (42-715.2)

Once an applicant or recipient has been identified as a victim of domestic abuse, the county must do an individual case assessment to develop their welfare-to-work plan. This section provides counties with guidelines for developing this plan, including involving an impartial third party if the participant and County Welfare Department staff are unable to reach an agreement on the plan.

Confidentiality (42-715.3)

This section specifies that information with respect to domestic abuse victims and their dependents is not to be released to anyone who is not directly involved in the applicant's or recipient's case unless it is information required to be disclosed by law or the release has been authorized in writing by the applicant or recipient. The confidentiality rules under Division 19 continue to apply unless they are in conflict with this section.

Notice Requirements (42-715.4)

This section specifies that victims of domestic abuse may choose alternative noticing methods. Case files must include documentation of the alternative need and the method chosen.

Waiver of Program Requirements (42-715.5)

This section specifies that counties may waive program requirements, with the exception of requirements on deprivation, assets, income and homeless assistance. Examples of program requirements that can be waived are listed in this section. Each county has the authority to develop its own criteria for waiving program requirements and establish the duration of welfare-to-work and time limit waivers as long as the waivers comply with state and federal regulations. Waivers of program requirements must be reevaluated periodically.

Standards for Training Curricula (42-715.6)

This section outlines the standards recommended for training the staff in working with domestic abuse victims. However, counties will have the flexibility to determine who on their staff is to be trained, when they are to be trained and how often the training will take place. Counties are also encouraged to use community resources in the training such as domestic abuse advocates and experts.

If you have any questions regarding the implementation instructions or the attached regulations, please contact Karen Kennedy, Supervisor of the Work Support Services Unit at (916) 657-3400, or Julie Andrews, analyst in the Work Support Services Unit at (916) 654-1887.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 2/9/99***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

Amend Section 19-004.11 to read:

19-004 RELEASE OF CONFIDENTIAL INFORMATION

19-004

.1 General Rule

.11 Confidential information may be released without the consent of the applicant/recipient, only for purposes directly connected with the administration of public social services except as specified in Section 19-004.4, EAS Manual Section 42-715.3 which addresses the confidentiality rules under the Domestic Abuse regulations, or by statute. Public social services are defined as aid or services administered by CDSS or the State Department of Health Services. (Continued)

Authority Cited: Sections 10553, 10554, and 10850, Welfare and Institutions Code.

Reference: Sections 10850 and 11495, Welfare and Institutions Code and Public Law (P.L.) 104-193, Section 837 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

Amend Section 40-107 to read:

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

.9 Domestic Abuse

For instructions on addressing domestic abuse, see Section 42-715. (Continued)

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

Reference: Sections 10613, 11209, 11268, 11324.8(a) and (f)(1), AB 312, Chapter 1568, Statutes of 1990, 11495.1, 11500(b), 11502(b), and 11511(a), Welfare and Institutions Code; 42 USC Sections 682(c)(2), (3), (4) and (5); 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; 45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b), and California Department of Health Services Manual Letter 77-1.

Amend Section 40-115.22 to read:

40-115 THE APPLICATION PROCESS (Continued)

40-115

.2 Steps in the Application Process (Continued)

.22 Exploration of Eligibility (Continued)

.226 See Section 42-715 for the treatment of domestic abuse in the application process. (Continued)

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

Reference: 45 CFR 206.10(a)(1)(ii) and Sections 10553, 10554, 10604, 11056, ~~and~~ 11266.5 (Ch. 270, Stats. 1997), and 11495.1, Welfare and Institutions Code.

Amend Section 40-131.3 to read

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Review

a. through y. (Continued)

z. See Section 42-715 for instructions in handling the discussion of domestic abuse in the application interview process.

Authority cited: Sections 10553, 10554, 10604, and 18904, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11253.5, 11265.8, 11280, 11324.8(a), AB 312, Chapter 1568, Statutes of 1990, 11451.7, 11495.1, 11500(b), and 11511(a), Welfare and Institutions Code; 7 U.S.C. 2020(i), 7 CFR 273.2(j), 42 U.S.C. 616(f), 682(c)(2), (3) and (4), 45 CFR 250.20, 45 CFR 250.40(a) and (b); 45 CFR 255.1; 45 CFR 256.1(b), and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193): California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996.

Amend Section 40-181.1 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION
OF ELIGIBILITY

40-181

.1 General County Responsibility (Continued)

(a) through (n) (Continued)

(o) See Section 42-715 for general county responsibilities for addressing domestic abuse as part of continuing activities and eligibility determination. (Continued)

Authority cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 42 U.S.C. 616(b) and (f); 45 CFR 233.28, 233.29(c), and 235.112(b); 7 CFR 273.16(b); Sections 10063, 10553, 10554, 10604, 11008, 11253.5, 11254, 11265.8, 11280, 11450.12, 11451.5, 11451.7, ~~and~~ 11486, and 11495.1, Welfare and Institutions Code; and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193): California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996.

Amend Sections 42-302.12 and .213 to read:

42-302 60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS 42-302

.1 60-Month Time Limit (Continued)

.11 Exceptions (Continued)

.12 Domestic ~~Violence~~ Abuse When an individual has been aided as an adult for 60 months, aid may continue for that adult when the individual is a victim of domestic ~~violence~~ abuse and the county has determined that good cause exists for waiving the 60-month time limit. See Section 42-713.22.

.2 Counting the 60-Month Limit (Continued)

.21 Exempt Months (Continued)

.213 Domestic ~~Violence~~ Abuse The individual is a victim of domestic ~~violence~~ abuse and the county has determined that good cause exists for waiving the 60-month time limit. See Section 42-713.22. (Continued)

Authority Cited: Sections 10553, and 10554, Welfare and Institutions Code.

Reference: Sections 11266.5, 11454, 11454.5 and 11495.1, Welfare and Institutions Code, and 42 U.S.C. 608(a)(7)(A) and(B).

Amend Sections 42-701.2(d) and (p) to read:

42-701 INTRODUCTION TO WELFARE-TO-WORK (Continued)

42-701

.2 Definitions for Terms Used in This Chapter (Continued)

(d) (1) (Continued)

(3) "Domestic Abuse" means assaultive or coercive behavior which includes physical abuse, sexual abuse, psychological abuse, economic control, stalking, isolation, and threats or other types of coercive behaviors occurring within a domestic relationship.

(4) "Domestic Relationships" are relationships between or among:

(A) Adults or minors who are a current or former spouse;

(B) Adults or minors who live together or have lived together;

(C) Adults or minors who are dating or have dated;

(D) Adults or minors who are engaged in or who have engaged in a sexual relationship;

(E) Adults or minors who are related by blood or adoption;

(F) Adults or minors who are or formerly were related by marriage;

(G) Adults or minors who are engaged or were formerly engaged to be married;

(H) Persons who have a child in common;

(I) Minor children of persons in Sections 42-701.2(d)(4)(A) through (H);
or

(J) An adult or minor acting in concert with or on behalf of a perpetrator in a relationship identified in Sections 42-701.2(d)(4)(A) through (H).
(Continued)

(p) (1) (Continued)

(4) "Protocol" means procedures, methods, a prescribed plan of action, or a set of rules that will govern actions.

Authority Cited: Sections 10531, 10553, and 10554, Welfare and Institutions Code.

Reference: Section 8172, Education Code; Sections 10800, 11320, 11320.3(b)(3)(A), 1132.6, 11322.9, 11324.6, 11324.8, 11325.21, 11331.5, 11495, 11495.1, 11495.12, and 13280, Welfare and Institutions Code; and Sections 15365.50 and 15365.55, Government Code.

Amend Section 42-710.6 to read:

42-710 18- AND 24-MONTH TIME LIMITS (Continued)

42-710

.6 (Continued)

.65 Excused from participation in welfare-to-work activities for good cause as a victim of domestic abuse, as specified in Section 42-713.31.

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

Reference: Sections 10532(c)(2), 11320.1(c) and (d), 11320.3(b), 11325.23(c), 11327.5(c), 11454, ~~and~~ 11454.5(a), and 11495.1, Welfare and Institutions Code.

Amend Section 42-713.2 to read:

42-713 GOOD CAUSE FOR NOT PARTICIPATING (Continued)

42-713

.2 (Continued)

.22 The applicant or recipient is a victim of domestic ~~violence~~ abuse.

.221 Program requirements, including time limits on receipt of assistance described in Sections 42-710 and 42-300, and welfare-to-work requirements described in Section 42-711 may be waived for an individual who is a victim of domestic ~~violence~~ abuse (as defined in Section 42-701(d)(3)) on a case-by-case basis, but only for so long as necessary, in accordance with ~~statewide protocols and /or regulations~~ Section 42-715.

(a) ~~Until statewide protocols for domestic violence victims become effective January 1, 1999, a CWD can waive program requirements, including time limits and welfare-to-work requirements, for a recipient who is a victim of domestic violence.~~ The criteria for granting waivers shall include provisions that ensure: (Continued)

(d) Waivers of program requirements, including time limits and work requirements, shall be implemented only after they are identified in a county plan certified by the Department. If a county plan has already been certified by the Department and does not contain any interim domestic ~~violence~~ abuse protocols, a CWD shall submit an addendum to this plan prior to implementation. (Continued)

Authority Cited: Section 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11320.3(b) and (f), 11325.23(c), 11326.3(f), 11454.5, and 11495.1, Welfare and Institutions Code.

Adopt Section 42-715 to read:

42-715 DOMESTIC ABUSE PROTOCOLS AND TRAINING STANDARDS 42-715

.1 Identification of victims of domestic abuse

.11 All CalWORKs applicants and recipients shall be informed verbally and in writing, and to the extent required by law, in the language understood by the recipient, of the availability of services designed to assist individuals to identify, escape, or stop future domestic abuse.

.12 Applicants and recipients shall be provided with opportunities to confidentially self-identify or disclose domestic abuse. Sworn statements by a victim of past or present abuse shall be sufficient to establish abuse unless the county documents in writing an independent and reasonable basis to find the applicant or recipient not credible.

.121 Evidence of domestic abuse includes, but is not limited to:

(a) Police, government agency or court records or files;

(b) Documentation from a domestic abuse program;

(c) Documentation from legal, clerical, medical, or other professionals from whom the applicant or recipient has sought assistance in dealing with domestic abuse;

(d) Physical evidence of abuse;

(e) A statement from another individual with knowledge of the circumstances that provide the basis for the claim of abuse; or

(f) Any other evidence that supports the statement.

.13 Information, including resource material, shall be provided during the application process, when the individual enters the county's welfare-to-work program, and at annual redetermination. Information is to be provided in a safe and private physical space for disclosing abuse.

.131 The CWD shall maintain a comprehensive and current list of local domestic abuse resources. This information may be included with the other resource material provided to applicants.

.132 Domestic abuse resource materials includes the following:

- (a) Domestic abuse resources available in the county;
- (b) Information regarding confidentiality and any required limits on confidentiality;
- (c) Information regarding any waivers of program requirements for victims of abuse available in the county;
- (d) Information on domestic abuse which includes legal services, safety planning, and the effects on children witnessing domestic abuse etc.;
- (e) Information regarding county assistance in tailoring welfare-to-work plans to meet the needs of abuse victims; and
- (f) Information regarding CalWORKs eligibility provisions for non citizen abuse victims, alien sponsor deeming requirements, and applying for legal alien status.

.14 If county-developed and implemented screening procedures include questions about behaviors indicating domestic abuse, individuals shall also be advised that answering such questions is optional. The county shall explain that this information is being requested to better assist the individual in becoming self-sufficient while promoting his or her safety.

.2 Individual case assessment

.21 Each applicant or recipient that has been identified as a victim of domestic abuse shall be assessed on an individual basis to develop a welfare-to-work plan to which the applicant or recipient has agreed. The plan shall be designed with confidentiality and the health and safety of the individual and his or her children as the primary considerations.

.211 The welfare-to-work plan may include the following:

- (a) The degree to which domestic abuse is a barrier to obtaining employment;

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- (1) Counties are encouraged to provide education and support to employers or work sites and job training programs to assist in situations where recipients have worksite problems.

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- (b) Flexibility to accommodate any prior or current legal obligations or other activities or issues related to the domestic abuse. This includes a referral to legal services;
- (c) Special cultural or religious needs;
- (d) Other services for the victim and his or her children include, but are not limited to the following:
 - (1) Mental health counseling;
 - (2) Substance abuse services;
 - (3) Medical and public health services;
 - (4) Community domestic abuse services;
 - (5) Child counseling;
 - (6) Immigration services;
 - (7) Parenting skills training;
 - (8) Independent living skills training;
 - (9) Financial planning; or
 - (10) Relocation activities.
- (e) The appropriate protection for individuals in immediate danger, which are to be integrated into the welfare-to-work plan; and

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- (1) For example, such things as keeping an individual's mailing address, place of residence, and/or workplace confidential should be clearly identified in his/her welfare-to-work plan, if this is necessary for the protection of the individual.

HANDBOOK ENDS HERE

- (f) The need for a waiver from certain program requirements.

.212 Services provided in the welfare-to-work plan or to which the individual is otherwise referred must be available to him or her. If necessary services are not available, good cause to waive certain welfare-to-work requirements may be established as specified in Section 42-713.22.

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(a) A memorandum of understanding (MOU) between a county and service providers assists in the prompt receipt of services to individuals. A MOU typically includes a discussion of confidentiality and the extent to which the provider will assist with removal of the individual's barriers to employment.

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.22 If the participant and the CWD staff are unable to reach an agreement on the welfare-to-work plan, the matter shall be referred by the CWD for an independent assessment by an impartial third party. (See Section 42-711.6)

.3 Confidentiality (See Division 19)

.31 Information with respect to domestic abuse victims and their dependents shall not be released to any outside party or other governmental agencies or to any employee of the CWD who is not directly involved in the applicant's or recipient's case.

.311 Exceptions:

(a) The information is required to be disclosed by law; or

(b) The release was authorized in writing by the applicant or recipient.

.32 Nothing in these protocols shall preclude the collection of aggregate data with respect to domestic abuse. However, information identifying individual applicants or recipients as domestic abuse victims shall not be disclosed.

.4 Notice Requirements (See Section 22-071, Section 22-072, and Section 40-126.37)

.41 County staff shall discuss personal safety with individuals who have been identified as victims of domestic abuse. Individuals shall be provided the opportunity to make decisions about how he or she is to receive communications and correspondence from the county, subject to due process requirements. The safety of the individual shall be considered at all times.

.411 Case files shall include documentation of any need for alternative notice requirements and the method chosen. Documentation should include a written statement, signed by the applicant or recipient, indicating the noticing method chosen.

(a) Alternative notice requirements include, but are not limited to:

(1) Telephone calls;

(2) Alternate mailing address; or

(3) Hand delivery.

.5 Waiver of Program Requirements

.51 A county may waive a program requirement, except as specified in Section 42-715.511, for a recipient who has been identified as a past or present victim of domestic abuse when it has been determined that good cause exists, as specified in Section 42-713.22.

.511 Program requirements that cannot be waived:

(a) Deprivation (See Section 41-400);

(b) Assets (See Section 42-200);

(c) Income (See Section 44-100) or

(d) Homeless assistance (See Section 44-211.542)

.512 Program requirements that may be waived include, but are not limited to:

(a) Time limits on receipt of assistance;

(b) Work requirements;

(c) Education requirements (based on the teen school requirement as specified in Section 42-719.11);

(d) Paternity establishment; and

(e) Child support cooperation requirement as specified in Section 82-512.11.

.52 A county shall develop criteria for waiving program requirements for victims of domestic abuse. In developing that criteria, a county can establish the duration of welfare-to-work and time limit waivers as long as the granting of such waivers complies with the state and federal regulations. However, waivers must be re-evaluated periodically based on the established criteria.

.6 Standards for Training Curricula

.61 Staff responsible for working with CalWORKs recipients shall receive training to assist them in working with domestic abuse victims. Counties shall have the flexibility to determine who is to be trained, and when and how often training shall occur.

.62 Training shall provide an awareness of the dynamics of domestic abuse and the impact of violence on the family. At a minimum, the training must be culturally competent and include the following:

(a) Dynamics of domestic abuse:

(1) How to interview adults and children who are victims of domestic abuse;

(2) How staff will learn to identify potential indicators of domestic abuse;

(3) Develop an understanding of the impact of drug and alcohol abuse on family members;

(4) Address additional mental health issues; and

(5) Obtain information about the abusers and possible referrals.

(b) Implications of CalWORKs for victims of domestic abuse:

(1) How abuse may interfere with a victim's ability to meet CalWORKs requirements; and

(2) How the services provided through the CalWORKs program assist victims of domestic abuse in becoming self sufficient.

- (c) Features of the CalWORKs program as implemented in the county, including:
 - (1) Confidentiality;
 - (2) A basic understanding of legal options/issues such as basic remedies, terminology, and an explanation of legal issues, probation and perpetrator treatment;
 - (3) Awareness of statutes pertaining to domestic abuse;
 - (4) Informing requirements;
 - (5) How to create a safe space for self-disclosure;
 - (6) Safety issues and how to tailor welfare-to-work plans to meet the needs of each individual;
 - (7) Monitoring progress of victims of domestic abuse and the individual's welfare-to-work plan; and
 - (8) The criteria for granting waivers in the county.
- (d) Impact of domestic abuse on children of all ages.
- (e) Impact of domestic abuse on individuals.
- (f) Awareness of resources that are available in the county to victims of domestic abuse.
- (g) Eligibility requirements for noncitizens.
- (h) Coordination on family support issues.
- (i) Crisis management/risk assessment.
- (j) Management of the county worker's own biases.

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.63 Counties are encouraged to use domestic abuse advocates and experts, including those from the local community to provide an awareness of the availability of resources.

- .64 A statewide resource list of available domestic abuse trainers may be helpful in assisting the counties with the provision of this training.
- .65 A statewide video to be produced for use by staff may be helpful in assisting with training.
- .66 An evaluation and assessment of the effectiveness of the domestic abuse training and services in the community may be helpful in determining if the county's goals are being met.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11495, 11495.1, 11495.15, 11495.25 and 11495.40, Welfare and Institutions Code.

Amend Section 82-512.11 to read:

82-512 EXEMPTION FROM COOPERATION REQUIREMENTS

82-512

.1 Cooperation Not in Best Interests of Child (Continued)

.11 Physical or Emotional Harm (Continued)

~~(a).~~111 (Continued)

~~(b).~~112 domestic abuse, as defined in ~~the domestic violence~~ Section 42-74301.22, to the parent or the caretaker relative, or (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 301(a)(1)(A) and (B), of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193): California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996.