

AMENDED IN ASSEMBLY APRIL 30, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2416

Introduced by Assembly Member Bates

February 21, 2002

An act to add Section 12302.6 to the Welfare and Institutions Code, relating to social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2416, as amended, Bates. In-Home Supportive Services program.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

Existing law requires each county to establish, or act as, an employer for IHSS personnel for purposes of provisions of statutory law regarding employer-employee relations.

This bill would require each county's IHSS employer of record to maintain a registry of providers who are available to provide services as an IHSS provider. The bill would require that the registry denote any IHSS provider who has voluntarily submitted to a criminal background check and obtained a criminal record clearance. The bill would further require that the registry additionally denote any individual who has obtained the criminal record clearance and has expressed a preference

to be considered for immediate placement in temporary work. The bill would provide that it shall not preclude a county from developing and enforcing criminal background check requirements that are stricter than those provided for in the bill.

Because the bill would require each county to perform additional duties in administering the IHSS program, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12302.6 is added to the Welfare and
2 Institutions Code, to read:

3 12302.6. (a) Each employer of in-home supportive service
4 providers as determined pursuant to Section 12302.25 shall
5 maintain a registry of providers who are available to provide
6 services for recipients pursuant to this article.

7 (b) (1) The registry required by this section shall denote any
8 provider who has voluntarily submitted to a criminal background
9 check and obtained a criminal record clearance pursuant to
10 subdivision ~~(d)~~ (e).

11 (2) The registry shall additionally denote any provider who has
12 obtained a criminal record clearance pursuant to subdivision (d)
13 and who has expressed a preference to be considered for
14 immediate placement in temporary work.

15 (c) *Providers who submit to a criminal background check for*
16 *any purpose described in subdivision (b) shall not be charged for*
17 *the cost of obtaining the criminal background check, except that*



1 *they may be assessed the usual and customary fee for the cost of*
2 *the rolling of fingerprints by a law enforcement agency or for*
3 *obtaining a fingerprint scan using livescan technology.*

4 (d) This section shall not preclude a county from developing
5 and enforcing criminal background check requirements that are
6 stricter than those provided for in this section. ~~In a county that~~
7 ~~requires all in-home supportive service providers to obtain a~~
8 ~~criminal record clearance, the employer shall not be required to~~
9 ~~maintain a second registry pursuant to paragraph (2) of~~
10 ~~subdivision (b).~~

11 ~~(d)~~
12 (e) (1) To obtain a criminal record clearance for purposes of
13 subdivision (b), the individual shall obtain fingerprints from a law
14 enforcement agency or other local agency authorized to take
15 fingerprints. The individual shall submit the fingerprints to the
16 State Department of Social Services with a completed form, as
17 prescribed by the department for this purpose. The department
18 shall transmit the fingerprint record and a copy of the form to the
19 Department of Justice. As an alternative, when available, live scan
20 technology may be used pursuant to this paragraph.

21 (2) The Department of Justice shall search the state and Federal
22 Bureau of Investigation criminal history information for a
23 criminal record.

24 (3) If the individual has been convicted of a crime, other than
25 a minor traffic violation, the Department of Justice shall provide
26 to the employer of record that criminal record. If no criminal
27 record information has been recorded, or if the record is limited to
28 minor traffic violations, the Department of Justice shall provide
29 the individual with a clearance stating that fact.

30 SEC. 2. Notwithstanding Section 17610 of the Government
31 Code, if the Commission on State Mandates determines that this
32 act contains costs mandated by the state, reimbursement to local
33 agencies and school districts for those costs shall be made pursuant
34 to Part 7 (commencing with Section 17500) of Division 4 of Title
35 2 of the Government Code. If the statewide cost of the claim for
36 reimbursement does not exceed one million dollars (\$1,000,000),
37 reimbursement shall be made from the State Mandates Claims
38 Fund.

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