

Senate Bill No. 914

CHAPTER 840

An act to amend Sections 13823.15, 13823.16, and 13837 of the Penal Code, relating to domestic violence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2004. Filed
with Secretary of State September 28, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 914, Bowen. State Department of Health Services: domestic violence prevention grant program.

The Office of Criminal Justice Planning was abolished in 2003. Existing law requires the Director of Finance to designate an agency or agencies to carry out the functions of the office. The Office of Criminal Justice Planning formerly administered certain grant programs relating to victims of domestic violence and sex offenses.

This bill would state the intent of the Legislature that victims' services programs that were administered by the Office of Criminal Justice Planning be temporarily redirected to the Office of Emergency Services, and that certain programs involving domestic violence and sexual assault be permanently consolidated in one office, branch, or department. The bill would revise the administration of certain grant programs relating to victims of domestic violence and sex offenses as collaboratively administered by the Office of Emergency Services and specified advisory committees.

These changes would not apply to grants approved by the Office of Emergency Services in the 2004–05 funding cycle.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. It is the intent of the Legislature that victims' services programs that were administered by the Office of Criminal Justice Planning be temporarily redirected to the Office of Emergency Services (OES) with oversight by the Office of Homeland Security (OHS). It is further the intent of the Legislature that domestic violence programs within the Domestic Violence Branch and sexual assault/rape crisis programs within the Sexual Assault Branch of the Office of Criminal Justice Planning, and the Battered Women's Shelter Program in the



Department of Health Services (DHS), be permanently consolidated into one office, branch, or department, within one state agency.

SEC. 2. Section 13823.15 of the Penal Code is amended to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved or underserved. Therefore, it is the intent of the Legislature that a goal or purpose of the Office of Emergency Services (OES) shall be to ensure that all victims of domestic violence served by the OES Comprehensive Statewide Domestic Violence Program receive comprehensive, quality services.

(b) There is in the OES a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The OES shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

- (1) Twenty-four-hour crisis hotlines.
- (2) Counseling.
- (3) Business centers.
- (4) Emergency “safe” homes or shelters for victims and families.
- (5) Emergency food and clothing.
- (6) Emergency response to calls from law enforcement.
- (7) Hospital emergency room protocol and assistance.
- (8) Emergency transportation.
- (9) Supportive peer counseling.
- (10) Counseling for children.
- (11) Court and social service advocacy.
- (12) Legal assistance with temporary restraining orders, devices, and custody disputes.
- (13) Community resource and referral.
- (14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and “safe” homes for victims of domestic violence and their children.

(c) Except as provided in subdivision (f), the OES and the advisory committee established pursuant to Section 13823.16 shall collaboratively administer the Comprehensive Statewide Domestic Violence Program, and shall allocate funds to local centers meeting the criteria for funding. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.



The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The OES shall conduct statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention.

(e) The OES shall develop and disseminate throughout the state information and materials concerning domestic violence. The OES shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The OES may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The funding process for distributing grant awards to domestic violence shelter service providers (DVSSPs) shall be administered by the OES as follows:

(1) The OES shall establish each of the following:

(A) The process and standards for determining whether to grant, renew, or deny funding to any DVSSP applying or reapplying for funding under the terms of the program.

(B) For DVSSPs applying for grants under the RFP process described in paragraph (2), a system for grading grant applications in relation to the standards established pursuant to subparagraph (A), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all DVSSPs as part of the application required under the RFP process.

(C) For DVSSPs reapplying for funding under the RFA process described in paragraph (4), a system for grading the performance of DVSSPs in relation to the standards established pursuant to subparagraph (A), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all DVSSPs receiving grants under this program.

(2) Grants for shelters that were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for domestic violence shelter funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.



(3) Grants shall be awarded to DVSSPs that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new domestic violence shelters in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(4) DVSSPs reapplying for grants shall not be subject to a competitive grant process, but shall be subject to a request for application (RFA) process. The RFA process shall consist in part of an assessment of the past performance history of the DVSSP in relation to the standards established pursuant to paragraph (1). The RFA process shall comply with all applicable state and federal statutes for domestic violence center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(5) Any DVSSP funded through this program in the previous grant cycle, including any DVSSP funded by Chapter 707 of the Statutes of 2001, shall be funded upon reapplication, unless, pursuant to the assessment required under the RFA process, its past performance history fails to meet the standards established by the OES pursuant to paragraph (1).

(6) The OES shall conduct a minimum of one site visit every three years for each DVSSP funded pursuant to this subdivision. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each shelter visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

- (A) Progress in meeting program goals and objectives.
- (B) Agency organization and facilities.
- (C) Personnel policies, files, and training.
- (D) Recordkeeping, budgeting, and expenditures.
- (E) Documentation, data collection, and client confidentiality.

(7) After each site visit conducted pursuant to paragraph (6), the OES shall provide a written report to the DVSSP summarizing the performance of the DVSSP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The OES shall also develop a corrective action plan for verifying the completion of any corrective action required. The OES shall submit its written report to the DVSSP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the DVSSP has not received a site visit during the previous three years, unless the OES is aware of criminal violations relative to the administration of grant funding.

(8) DVSSPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct



may be considered in the next RFA process. However, the OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a DVSSP fails to comply, or if other deficiencies exist that, in the judgment of the OES, cannot be corrected, the OES shall determine, using its grading system, whether continued funding for the DVSSP should be reduced or denied altogether. If a DVSSP has been determined to be deficient, the OES may, at any point during the DVSSP's funding cycle following the expiration of the period for corrective action, deny or reduce any further funding.

(9) If a DVSSP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the DVSSP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the OES. The appeal process shall allow a DVSSP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(10) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded DVSSPs for expansion of services. However, the OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the OES shall have the authority to lower the base level of grants to all currently funded DVSSPs in order to provide funding for currently funded, new, or previously unfunded DVSSPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded DVSSPs. After the amount of funding reductions has been determined, DVSSPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(11) Notwithstanding any other provision of this section, OES may reduce funding to a DVSSP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(12) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.



(13) As a condition of receiving funding pursuant to this section, DVSSPs shall do all of the following:

(A) Provide matching funds or in-kind contributions equivalent to not less than 10 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(B) Ensure that appropriate staff and volunteers having client contact meet the definition of “domestic violence counselor” as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(14) The following definitions shall apply for purposes of this subdivision:

(A) “Domestic violence” means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, including physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that woman.

(B) “Domestic violence shelter service provider” or “DVSSP” means a victim services provider that operates an established system of services providing safe and confidential emergency housing on a 24-hour basis for victims of domestic violence and their children, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(C) “Emergency shelter” means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(g) The OES may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The OES shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 3. Section 13823.16 of the Penal Code is amended to read:

13823.16. (a) The Comprehensive Statewide Domestic Violence Program established pursuant to Section 13823.15 shall be collaboratively administered by the Office of Emergency Services (OES) and an advisory council. The membership of the OES Domestic Violence Advisory Council shall consist of experts in the provision of either direct or intervention services to battered women and their



children, within the scope and intention of the OES Domestic Violence Assistance Program.

(b) The membership of the council shall consist of domestic violence victims' advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence. At least one-half of the council membership shall consist of domestic violence victims' advocates or battered women service providers from organizations such as the California Alliance Against Domestic Violence. It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state. The council shall be composed of no more than 13 voting members and two nonvoting members who shall be appointed, as follows:

(1) Seven voting members shall be appointed by the Governor.

(2) Three voting members shall be appointed by the Speaker of the Assembly.

(3) Three voting members shall be appointed by the Senate Committee on Rules.

(4) Two nonvoting members shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with the council and participate in its activities to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

(c) The OES shall collaborate closely with the council in developing funding priorities, framing the request for proposals, and soliciting proposals.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 4. Section 13837 of the Penal Code is amended to read:

13837. (a) The OES shall provide grants to proposed and existing child sexual exploitation and child sexual abuse victim counseling centers and prevention programs. Grant recipients shall provide appropriate in-person counseling and referral services during normal business hours, and maintain other standards or services which shall be determined to be appropriate by the advisory committee established pursuant to Section 13836 as grant conditions. The advisory committee shall identify the criteria to be utilized in awarding the grants provided by this chapter before any funds are allocated.

In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources



which may be used to augment any state funds appropriated for purposes of this chapter. Each center receiving funds pursuant to this chapter shall make every attempt to qualify for any available federal funding.

State funds provided to establish centers shall be utilized when possible, as determined by the advisory committee, to expand the program and shall not be expended to reduce fiscal support from other public or private sources. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the administering agency. In granting funds, the advisory committee shall give priority to centers which are operated in close proximity to medical treatment facilities.

(b) (1) It is the intent of the Legislature that a goal or purpose of the OES shall be to ensure that all victims of sexual assault and rape receive comprehensive, quality services, and to decrease the incidence of sexual assault through school and community education and prevention programs.

(2) The OES and the advisory committee established pursuant to Section 13836 shall collaboratively administer sexual assault/rape crisis center victim services programs and provide grants to proposed and existing sexual assault services programs (SASPs) operating local rape victim centers and prevention programs. All SASPs shall provide the services in subparagraphs (A) to (G), inclusive, and to the extent federal funding is made available, shall also provide the service described in subparagraph (H). The OES shall provide financial and technical assistance to SASPs in implementing the following services:

- (A) Crisis intervention, 24 hours per day, seven days per week.
- (B) Followup counseling services.
- (C) In-person counseling, including group counseling.
- (D) Accompaniment services.
- (E) Advocacy services.
- (F) Information and referrals to victims and the general public.
- (G) Community education presentations.
- (H) Rape prevention presentations and self-defense programs.

(3) The funding process for distributing grant awards to SASPs shall be administered as follows:

(A) The OES and the advisory committee established pursuant to Section 13836 shall collaboratively adopt each of the following:

(i) The process and standards for determining whether to grant, renew, or deny funding to any SASP applying or reapplying for funding under the terms of the program.

(ii) For SASPs applying for grants under the RFP process described in subparagraph (B), a system for grading grant applications in relation to the standards established pursuant to clause (i), and an appeal process for applications that are denied. A description of this grading system and



appeal process shall be provided to all SASPs as part of the application required under the RFP process.

(iii) For SASPs reapplying for funding under the RFA process described in subparagraph (D), a system for grading the performance of SASPs in relation to the standards established pursuant to clause (i), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all SASPs receiving grants under this program.

(B) Grants for centers that have previously not been funded or were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for sexual assault/rape crisis center funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(C) Grants shall be awarded to SASPs that propose to maintain services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new sexual assault/rape crisis centers in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(D) SASPs reapplying for grants shall not be subject to a competitive bidding grant process, but shall be subject to a request for application (RFA) process. The RFA process for a SASP reapplying for grant funds shall consist in part of an assessment of the past performance history of the SASP in relation to the standards established pursuant to subparagraph (A). The RFA process shall comply with all applicable state and federal statutes for sexual assault/rape crisis center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(E) Any SASP funded through this program in the previous grant cycle shall be funded upon reapplication, unless its past performance history fails to meet the standards established pursuant to clause (i) of subparagraph (A).

(F) The OES shall conduct a minimum of one site visit every three years for each agency funded to provide sexual assault/rape crisis centers. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each center visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

- (i) Progress in meeting program goals and objectives.
- (ii) Agency organization and facilities.
- (iii) Personnel policies, files, and training.
- (iv) Recordkeeping, budgeting, and expenditures.



(v) Documentation, data collection, and client confidentiality.

(G) After each site visit conducted pursuant to subparagraph (F), the OES shall provide a written report to the SASP summarizing the performance of the SASP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The OES shall also develop a corrective action plan for verifying the completion of any corrective action required. The OES shall submit its written report to the SASP no more than 60 days after the site visit. No grant under the RFA process shall be denied if the SASP did not receive a site visit during the previous three years, unless the OES is aware of criminal violations relative to the administration of grant funding.

(H) SASPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a SASP fails to comply, or if other deficiencies exist that, in the judgment of the OES, cannot be corrected, the OES shall determine, using its grading system, whether continued funding for the SASP should be reduced or denied altogether. If a SASP has been determined to be deficient, the OES may, at any point during the SASP's funding cycle following the expiration of the period for corrective action, deny or reduce any further funding.

(I) If a SASP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the SASP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the OES. The appeal process shall allow a SASP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(J) It is the intent of the Legislature that priority for additional funds that become available shall be given to currently funded, new, or previously unfunded SASPs for expansion of services. However, the OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the OES shall have the authority to lower the base level of grants to all currently funded SASPs in order to provide funding for currently funded, new, or previously unfunded SASPs that will provide services



in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded SASPs. After the amount of funding reductions has been determined, SASPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(K) Notwithstanding any other provision of this section, the OES may reduce funding to a SASP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding shall not be subject to appeal.

(L) Nothing in this section shall be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(M) As a condition of receiving funding pursuant to this section, a SASP shall do each of the following:

(i) Demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources that may be used to augment any state funds appropriated for purposes of this chapter.

(ii) Make every attempt to qualify for any available federal funding.

(N) For the purposes of this paragraph, “sexual assault” means an act or attempt made punishable by Section 220, 261, 261.5, 262, 264.1, 266c, 285, 286, 288, 288a, or 647.6.

(O) For the purposes of this paragraph, “sexual assault service program” or “SASP” means an agency operating a sexual assault/rape crisis center.

SEC. 5. The changes made to existing law in Sections 2 to 4, inclusive, of this act shall not apply to grants approved by the Office of Emergency Services in the 2004–05 funding cycle.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the efficient and orderly administration of grant programs to assist victims of domestic violence and sex offenses, it is necessary that this act take effect immediately.

