

Senate Bill No. 1569

CHAPTER 672

An act to amend Section 14005.2 of, to add Section 13283 to, and to add Chapter 10.4 (commencing with Section 18945) to Part 6 of Division 9 of, the Welfare and Institutions Code, relating to human services.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1569, Kuehl. Human services: immigrants.

Under existing law, the State Department of Social Services is required, after setting aside necessary administrative funds, to allocate all federal social services funds derived from the federal Refugee Act of 1980, which are required to be used for certain training of eligible refugees, to each eligible county, in the same proportion that refugees receiving aid in each eligible county bear to the total refugees receiving aid in all eligible counties. Services provided to persons covered by these federal provisions include employment-related and English language training services.

Existing law also provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons, including noncitizens who meet specific qualifications under the Cuban-Haitian Entrant Program and the Refugee Resettlement Program for health care services.

Existing federal law also prohibits the provision of state or local public benefits, as defined, to certain noncitizens unless specifically provided for in state law.

This bill would extend eligibility for certain public social services, including, but not limited to, refugee cash assistance, Medi-Cal, and employment social services, as well as Healthy Families Program benefits to qualified noncitizen victims of trafficking, domestic violence, and other serious crimes, as defined, who can demonstrate their eligibility for these programs, and who are taking steps to meet the eligibility conditions for certain federal benefits. By increasing counties' responsibility for administering and determining eligibility for various services, programs, and benefits, this bill would create a state-mandated local program.

This bill would require the State Department of Social Services to adopt regulations, which may be emergency regulations, as specified, to implement these provisions no later than July 1, 2008.

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.

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.

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

SECTION 1. Section 13283 is added to the Welfare and Institutions Code, to read:

13283. Notwithstanding any other provision of law, the department shall ensure that noncitizen victims of trafficking, domestic violence, and other serious crimes, as defined in subdivision (b) of Section 18945, have access to refugee cash assistance, and refugee employment social services set forth in this chapter, to the same extent as individuals who are admitted to the United States as refugees under Section 1157 of Title 8 of the United States Code. These individuals shall be subject to the same work requirements and exemptions as other participants, provided that compliance with these requirements is authorized by law. An exemption from these requirements shall be available if physical or psychological trauma related to or arising from the victimization impedes their ability to comply. Assistance and services under this subdivision shall be paid from state funds to the extent federal funding is unavailable.

SEC. 2 Section 14005.2 of the Welfare and Institutions Code is amended to read:

14005.2. Unless otherwise specified in this chapter, the eligibility of a person eligible under the Cuban-Haitian Entrant Program or the Refugee Resettlement Program for health care services under Section 14005 shall be determined by applying the same income and resource methodologies and standards and all other eligibility criteria established pursuant to this chapter that are applied by the department in determining the eligibility of a medically needy family person, except for those criteria that establish categorical relatedness, and only as long as federal funds are available. Victims of trafficking, domestic violence, and other serious crimes, as defined in subdivision (b) of Section 18945, shall be eligible for these services to the same extent as individuals who are admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code. Services under this subdivision shall be paid from state funds to the extent federal funding is unavailable.

SEC. 3. Chapter 10.4 (commencing with Section 18945) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 10.4. SERVICES AND BENEFITS FOR NONCITIZEN VICTIMS OF
TRAFFICKING, DOMESTIC VIOLENCE, AND OTHER SERIOUS CRIMES

18945. (a) Noncitizen victims of trafficking, domestic violence, and other serious crimes, as defined in subdivision (b), shall be eligible for

public social services under the division, and health care services under Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, to the same extent as individuals who are admitted to the United States as refugees under Section 1157 of Title 8 of the United States Code. These services shall discontinue if there is a final administrative denial of a visa application under Section 1101(a)(15)(T)(i) or (ii), or Section 1101(a)(15)(U)(i) or (ii), of Title 8 of the United States Code. For trafficking victims on behalf of whom law enforcement officials have not yet filed for continued presence or who have not yet filed an application for a visa, benefits issued pursuant to this subdivision shall be available for up to one year, and shall continue after that date only if an application for continued presence, or an application for a visa, is filed within the one-year period. Benefits and services under this subdivision shall be paid from state funds to the extent federal funding is unavailable.

(b) For purposes of this section, victims of trafficking, domestic violence, and other serious crimes shall be defined to include both of the following:

(1) Noncitizen victims of a severe form of trafficking in persons, who have been subjected to an act or practice described in Section 7102 (8) or (9) of Title 22 of the United States Code or Section 236.1 of the Penal Code, and who have filed an I-914 application for T Nonimmigrant status with the appropriate federal agency, are preparing to file an application for status under Section 1101(a)(15)(T)(i) or (ii) of Title 8 of the United States Code, or otherwise are taking steps to meet the conditions for federal benefits eligibility under Section 7105 of Title 22 of the United States Code.

(2) Individuals who have filed a formal application with the appropriate federal agency for status under Section 1101(a)(15)(U)(i) or (ii) of Title 8 of the United States Code.

(c) After one year from the date of application for public social services, noncitizen victims of a severe form of trafficking, as defined in paragraph (1) of subdivision (b), shall be ineligible for state funded services if a visa application has not been filed until under Section 1101(a)(15)(T)(i) or (ii) of Title 8 of the United States Code.

(d) A noncitizen victim of a severe form of trafficking, as defined in paragraph (1) of subdivision (b), who is issued a visa shall be removed from the state funded program and provided federally funded public social services benefits under the provisions of Section 1522 of Title 8 of the United States Code, or another federal program for which the noncitizen victim may be eligible.

(e) For purposes of this section, Section 13283 and Section 14005.2:

(1) In determining whether an applicant for public social services has been a victim of a severe form of human trafficking, as defined in Section 7102 (8) or (9) of Title 22 of the United States Code, or Section 236.1 of the Penal Code, the state or local agency shall consider all relevant and credible evidence. A sworn statement by a victim, or a representative if the victim is not able to competently swear, shall be sufficient if at least one

item of additional evidence is also provided, including, but not limited to, any of the following:

- (A) Police, government agency, or court records or files.
- (B) News articles.
- (C) Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime.
- (D) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.
- (E) Physical evidence.
- (F) A copy of a completed visa application.
- (G) Written notice from the federal agency of receipt of the visa application.

(2) If the victim cannot provide additional evidence, then the sworn statement shall be sufficient if the county or state agency makes a determination documented in the case file that the applicant is credible.

SEC. 4. (a) The director shall adopt regulations, as otherwise necessary, to implement the applicable provisions of this act no later than July 1, 2008. Emergency regulations to implement the applicable provisions of the act may be adopted by the director in accordance with the Administrative Procedure Act. Emergency regulations shall be exempt from review by the Office of Administrative Law and shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(b) Notwithstanding the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Social Services may implement and administer the applicable provisions of this act through an all-county letter or similar instructions from the director until such time as regulations are adopted.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.