

AMENDED IN ASSEMBLY APRIL 16, 2009

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 682

Introduced by Assembly Member Bonnie Lowenthal

February 26, 2009

An act to add and repeal Section 12305.84 of the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

AB 682, as amended, Bonnie Lowenthal. In-Home Supportive Services program: Fraud.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) Program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization.

Under existing law, the State Department of Social Services is vested with state administrative authority over the IHSS program. Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income persons, including the aged, blind, and disabled. These services include personal care option

services, which are provided as part of the IHSS program to those Medi-Cal recipients eligible for IHSS benefits.

Existing law prohibits a person from providing or receiving payment under the IHSS program if he or she has been convicted of certain crimes for specified periods. Existing law imposes specified responsibilities on the State Department of Social Services, State Department of Health Care Services, and counties with regard to identifying and investigating fraud within the IHSS program.

This bill would require the State Department of ~~Health Care~~ *Social Services*, commencing January 1, 2010, to allocate an unspecified number of personnel positions for purposes of evaluating the implementation of the above-described provisions relating to IHSS program fraud, *as defined*.

This bill would also require the ~~State Department of Health Care Services~~ *department*, in consultation with the State Department of ~~Social Health Care~~ *Services*, counties and stakeholders, to produce and deliver a report to the Legislature by December 31, 2011, that contains prescribed information relating to fraud in the IHSS program, *with respect to convictions occurring between January 1, 2005, and January 1, 2010*.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The In-Home Supportive Services (IHSS) program is one
- 4 of the fastest growing programs in the state, providing necessary
- 5 in-home care to over 400,000 seniors and people with disabilities.
- 6 (2) Due to increases in the population needing services,
- 7 particularly because of the “baby-boomer” population reaching
- 8 retirement age, the program will continue to grow.
- 9 (3) Wage and benefit increases also contribute to overall
- 10 spending in the program. However, in most instances wages are
- 11 little more than minimum wage and, while some health benefits
- 12 may be available, these benefits tend to be fewer than what would
- 13 be provided in other jobs. In addition, other common employment
- 14 benefits, such as sick leave, are not available to IHSS workers.

1 (4) Existing law contains provisions intended to combat fraud.
2 Evidence of fraud within the IHSS program is also believed to be
3 very low. Nonetheless, with such a large, growing program, it is
4 imperative that the state and all stakeholders involved adhere to a
5 zero-tolerance policy on fraud. Fraud has the potential to harm the
6 IHSS program by removing valuable resources.

7 (b) It is the intent of the Legislature, ~~in enacting this act,~~ *in*
8 *enacting this act* to determine the extent and type of fraud that
9 may occur within the IHSS program, in order to evaluate the
10 existing antifraud provisions of the law and to make revisions as
11 necessary to ensure that the IHSS program carries out its mission
12 of providing needed services to seniors and people with disabilities.

13 SEC. 2. Section 12305.84 is added to the Welfare and
14 Institutions Code, to read:

15 12305.84. (a) Commencing January 1, 2010, the ~~State~~
16 ~~Department of Health Care Services~~ *department* shall dedicate ___
17 personnel positions for purposes of evaluating the implementation
18 of Sections 12305.7, 12305.71, 12305.81, 12305.82, and 12305.83.
19 The department may fill these positions by using existing resources
20 or it may add new positions if an appropriation is provided by the
21 Legislature for that purpose.

22 (b) The ~~State Department of Health Care Services~~ *department,*
23 *in consultation with the* ~~department~~ *State Department of Health*
24 *Care Services,* counties, and stakeholders, including IHSS
25 consumers and providers, shall produce and deliver a report to the
26 Legislature by December 31, 2011. The report shall do all of the
27 following with respect to *fraud, as defined in subdivision (a) of*
28 *Section 12305.8 that resulted in a conviction, or incarceration*
29 *following a conviction, for fraud:*

30 (1) Identify the magnitude of IHSS fraud in terms of total dollars
31 inappropriately spent or removed from the program *through*
32 *instances that resulted in conviction between January 1, 2005, and*
33 *January 1, 2010.*

34 (2) Identify the magnitude of IHSS fraud in terms of the number
35 of consumers harmed or placed at risk of harm as a result of
36 fraudulent activity *that resulted in conviction between January 1,*
37 *2005, and January 1, 2010.*

38 (3) Identify the number of people involved in fraud for each of
39 the following categories: IHSS providers, IHSS consumers, state
40 workers, county workers, and others. In the case of “others,” the

1 report shall describe, with specificity, but without revealing
2 personal identifying information, the function of the persons
3 committing fraud.

4 (4) Provide recommendations as to the best means possible to
5 combat IHSS fraud, taking into account the magnitude of the
6 problem and the need to protect services for vulnerable populations.

7 (c) This section shall remain in effect only until January 1, 2012,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2012, deletes or extends that date.

10 SEC. 3. If the report required by subdivision (b) of Section
11 12305.84 of the Welfare and Institutions Code, as contained in
12 Section 2 of this act, is not delivered to the Legislature by
13 December 31, 2011, the repeal of Section 12305.84 shall not
14 terminate the obligation of the department to prepare and deliver
15 the report.