

AMENDED IN SENATE APRIL 2, 2013

SENATE BILL

No. 346

Introduced by Senator Beall

February 20, 2013

An act to ~~add Section 10850.32 to~~ *amend Section 10850 of the Welfare and Institutions Code, relating to public social services.*

LEGISLATIVE COUNSEL'S DIGEST

SB 346, as amended, Beall. ~~Public Social Services Programs:~~ *social services:* records.

Existing law establishes various public social services programs to provide for protection, care, and assistance to the people of the state in need of those services, by providing appropriate aid and services to the needy and distressed. Counties are responsible for administering *some of these programs, such as CalWORKs and Medi-Cal, CalFresh, and the Medically Indigent Services Program or the County Medical Services Program.* Existing law, in this regard, and with some exceptions, requires all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of public social services for which grants-in-aid are received by this state from the federal government be kept confidential, *and authorizes a county welfare department in the state to release lists of applicants for, or recipients of, public social services to any other county welfare department or the State Department of Social Services,* as specified.

~~This bill would, to the extent permitted by federal law, authorize a county welfare department to share information with other local governmental programs, departments, or entities participating in the administration of public medical assistance or other social services~~

~~programs in that county for the purposes of establishing a client-centered approach to the provision of those services. The bill would require the local governmental program, department, or entity receiving and maintaining information pursuant to these provisions to comply with applicable state and federal confidentiality and privacy laws. The bill would require the applicable state department to seek federal approval if necessary to implement this section with respect to a particular public medical assistance or social service program.~~

This bill would provide that if a county administers public social services through more than one county department or agency, each county department or agency that administers a public social service in that county shall be deemed a county welfare department for the purposes of these provisions. The bill would make other technical, nonsubstantive changes to these provisions.

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

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

- 1 *SECTION 1. Section 10850 of the Welfare and Institutions*
- 2 *Code is amended to read:*
- 3 10850. (a) Except as otherwise provided in this section, all
- 4 applications and records concerning any individual made or kept
- 5 by any public officer or agency in connection with the
- 6 administration of any provision of this code relating to any form
- 7 of public social services for which grants-in-aid are received by
- 8 this state from the United States government shall be confidential,
- 9 and shall not be open to examination for any purpose not directly
- 10 connected with the administration of that program, or any
- 11 investigation, prosecution, or criminal or civil proceeding
- 12 conducted in connection with the administration of ~~any such~~ *that*
- 13 program. The disclosure of any information that identifies by name
- 14 or address any applicant for or recipient of these grants-in-aid to
- 15 any committee or legislative body is prohibited, except as provided
- 16 in subdivision (b).
- 17 (b) Except as otherwise provided in this section, no person shall
- 18 publish or disclose or permit or cause to be published or disclosed
- 19 any list of persons receiving public social services. Any county
- 20 welfare department in this state may release lists of applicants for,
- 21 or recipients of, public social services, to any other county welfare

1 department or the State Department of Social Services, and these
2 lists or any other records shall be released when requested by any
3 county welfare department or the State Department of Social
4 Services. These lists or other records shall only be used for
5 purposes directly connected with the administration of public social
6 services. Except for those purposes, no person shall publish,
7 disclose, or use or permit or cause to be published, disclosed, or
8 used any confidential information pertaining to an applicant or
9 recipient.

10 ~~Any~~

11 (c) Any county welfare department and the State Department
12 of Social Services shall provide any governmental entity that is
13 authorized by law to conduct an audit or similar activity in
14 connection with the administration of public social services,
15 including any committee or legislative body so authorized, with
16 access to any public social service applications and records
17 described in subdivision (a) to the extent of the authorization.
18 Those committees, legislative bodies and other entities may only
19 request or use these records for the purpose of investigating the
20 administration of public social services, and shall not disclose the
21 identity of any applicant or recipient except in the case of a criminal
22 or civil proceeding conducted in connection with the administration
23 of public social services.

24 ~~However, this~~

25 (d) This section shall not prohibit the furnishing of this
26 information to other public agencies to the extent required for
27 verifying eligibility or for other purposes directly connected with
28 the administration of public social services, or to county
29 superintendents of schools or superintendents of school districts
30 only as necessary for the administration of federally assisted
31 programs providing assistance in cash or in-kind or services
32 directly to individuals on the basis of need. Any person knowingly
33 and intentionally violating this subdivision is guilty of a
34 misdemeanor.

35 ~~Further, in~~

36 (e) In the context of a petition for the appointment of a
37 conservator for a person who is receiving or has received aid from
38 a public agency, as indicated above, or in the context of a criminal
39 prosecution for a violation of Section 368 of the Penal Code both
40 of the following shall apply:

1 (1) An Adult Protective Services employee or Ombudsman may
2 answer truthfully at any proceeding related to the petition or
3 prosecution, when asked if he or she is aware of information that
4 he or she believes is related to the legal mental capacity of that aid
5 recipient or the need for a conservatorship for that aid recipient.
6 If the Adult Protective Services employee or Ombudsman states
7 that he or she is aware of such information, the court may order
8 the Adult Protective Services employee or Ombudsman to testify
9 about his or her observations and to disclose all relevant agency
10 records.

11 (2) The court may order the Adult Protective Services employee
12 or Ombudsman to testify about his or her observations and to
13 disclose any relevant agency records if the court has other
14 independent reason to believe that the Adult Protective Services
15 employee or Ombudsman has information that would facilitate the
16 resolution of the matter.

17 (e)

18 (f) The State Department of Social Services may make rules
19 and regulations governing the custody, use, and preservation of
20 all records, papers, files, and communications pertaining to the
21 administration of the laws relating to public social services under
22 their jurisdiction. The rules and regulations shall be binding on all
23 departments, officials and employees of the state, or of any political
24 subdivision of the state and may provide for giving information
25 to or exchanging information with agencies, public or political
26 subdivisions of the state, and may provide for giving information
27 to or exchanging information with agencies, public or private, that
28 are engaged in planning, providing, or securing social services for
29 or in behalf of recipients or applicants; and for making case records
30 available for research purposes, provided that making these case
31 records available will not result in the disclosure of the identity of
32 applicants for or recipients of public social services and will not
33 disclose any personal information in a manner that would link the
34 information disclosed to the individual to whom it pertains, unless
35 the department has complied with subdivision (t) of Section
36 1798.24 of the Civil Code.

37 (d)

38 (g) Any person, including every public officer and employee,
39 who knowingly secures or possesses, other than in the course of
40 official duty, an official list or a list compiled from official sources,

1 published or disclosed in violation of this section, of persons who
2 have applied for or who have been granted any form of public
3 social services for which state or federal funds are made available
4 to the counties is guilty of a misdemeanor.

5 (e)

6 (h) This section shall not be construed to prohibit an employee
7 of a county welfare department from disclosing confidential
8 information concerning a public social services applicant or
9 recipient to a state or local law enforcement agency investigating
10 or gathering information regarding a criminal act committed in a
11 welfare department office, a criminal act against any county or
12 state welfare worker, or any criminal act witnessed by any county
13 or state welfare worker while involved in the administration of
14 public social services at any location. Further, this section shall
15 not be construed to prohibit an employee of a county welfare
16 department from disclosing confidential information concerning
17 a public social services applicant or recipient to a state or local
18 law enforcement agency investigating or gathering information
19 regarding a criminal act intentionally committed by the applicant
20 or recipient against any off-duty county or state welfare worker in
21 retaliation for an act performed in the course of the welfare
22 worker's duty when the person committing the offense knows or
23 reasonably should know that the victim is a state or county welfare
24 worker. These criminal acts shall include only those that are in
25 violation of state or local law. Disclosure of confidential
26 information pursuant to this subdivision shall be limited to the
27 applicant's or recipient's name, physical description, and address.

28 (f)

29 (i) The provisions of this section shall be operative only to the
30 extent permitted by federal law and shall not apply to, but exclude,
31 Chapter 7 (commencing with Section 14000) of this division,
32 entitled "~~Basic Health-Care~~, Care," and for which a grant-in-aid
33 is received by the state under Title XIX of the *federal* Social
34 Security Act (42 U.S.C. Sec. 1396 et seq.).

35 (j) *For the purposes of this section, if a county administers*
36 *public social services through more than one county department*
37 *or agency, each county department or agency that administers a*
38 *public social service in that county shall be deemed a county*
39 *welfare department for the purposes of administering that public*
40 *social service.*

1 (k) *Except as provided in subdivision (i), public social services,*
2 *as defined in Section 10051, includes publicly funded health care*
3 *services established under this division.*

4 SECTION 1. ~~Section 10850.32 is added to the Welfare and~~
5 ~~Institutions Code, to read:~~

6 ~~10850.32. (a) Notwithstanding any other law, a county welfare~~
7 ~~department may, without the need to provide written documentation~~
8 ~~that consent has been obtained from the client, share information~~
9 ~~with other local governmental programs, departments, or entities~~
10 ~~participating in the administration of public medical assistance or~~
11 ~~other social services programs in that county for the purposes of~~
12 ~~establishing a client-centered approach to the provision of those~~
13 ~~services.~~

14 ~~(b) Any local governmental program, department, or entity~~
15 ~~receiving and maintaining information pursuant to this section~~
16 ~~shall comply with all applicable state and federal confidentiality~~
17 ~~and privacy laws.~~

18 ~~(c) This section shall be implemented only to the extent~~
19 ~~permitted by federal law.~~

20 ~~(d) If federal approval is necessary to implement this section~~
21 ~~with respect to a particular public medical assistance or social~~
22 ~~service program, the applicable state department shall seek that~~
23 ~~approval.~~