

AMENDED IN ASSEMBLY AUGUST 27, 2014

AMENDED IN ASSEMBLY AUGUST 22, 2014

AMENDED IN ASSEMBLY AUGUST 12, 2014

SENATE BILL

No. 878

Introduced by Committee on Budget and Fiscal Review

January 9, 2014

An act to amend Section 12301.24 of the Welfare and Institutions Code, relating to in-home supportive ~~services~~: services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 878, as amended, Committee on Budget and Fiscal Review. In-home supportive ~~services~~: services: onsite provider orientation.

Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, 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. Existing law, with some exceptions, permits IHSS program services to be provided through the employment of individual providers, a contract between the county and an entity to provide services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. Existing law requires all prospective IHSS providers to, as a condition of IHSS program participation, complete, sign, and submit a provider enrollment form and complete a provider orientation, which is required to include specified topics, including the requirements to be an eligible IHSS provider and a description of the IHSS program.

This bill would additionally require the provider orientation to include applicable federal and state requirements regarding minimum wage and overtime pay, including paid travel time and wait time, and other specified requirements. The bill would, beginning no later than April 1, 2015, require that the orientation be an onsite orientation, and that all prospective providers attend in person only after completing the application for the IHSS provider enrollment process. The bill would additionally require that any oral presentation and written materials presented at the orientation be translated into all IHSS threshold languages in the county, and would require that representatives of the recognized employee organization in the county be permitted to make a presentation of up to 30 minutes at the orientation. By increasing the duties of counties and public authorities, 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.

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.

This bill would appropriate \$1,000 from the General Fund to the State Department of Social Services for purposes of implementing the bill.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~Existing law establishes 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.~~

~~This bill would express the intent of the Legislature to enact legislation that would make statutory changes necessary to eliminate the 7% across-the-board reduction to in-home supportive services hours imposed by the settlement of the Dominguez v. Brown and Oster v. Lightborne court cases, as specified. The bill would state that this legislation is necessary in order to address the important issue of ensuring that there are adequate and quality home and community-based options to keep the elderly and disabled from needing to be institutionalized in nursing homes and other facilities.~~

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

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

1 SECTION 1. Section 12301.24 of the Welfare and Institutions
2 Code is amended to read:

3 12301.24. (a) Effective November 1, 2009, all prospective
4 providers must complete a provider orientation at the time of
5 enrollment, as developed by the department, in consultation with
6 counties, which shall include, but is not limited to, all of the
7 following:

8 (1) The requirements to be an eligible IHSS provider.

9 (2) A description of the IHSS program.

10 (3) The rules, regulations, and provider-related processes and
11 procedures, including timesheets.

12 (4) The consequences of committing fraud in the IHSS program.

13 (5) The Medi-Cal toll-free telephone fraud hotline and Internet
14 Web site for reporting suspected fraud or abuse in the provision
15 or receipt of supportive services.

16 (6) *The applicable federal and state requirements regarding*
17 *minimum wage and overtime pay, including paid travel time and*
18 *wait time, and the requirements of Section 12300.4.*

19 (b) In order to complete provider enrollment, at the conclusion
20 of the provider orientation, all applicants shall sign a statement
21 specifying that the provider agrees to all of the following:

22 (1) He or she will provide to a recipient the authorized services.

23 (2) He or she has received a demonstration of, and understands,
24 timesheet requirements, including content, signature, and
25 fingerprinting, when implemented.

26 (3) He or she shall cooperate with state or county staff to provide
27 any information necessary for assessment or evaluation of a case.

28 (4) He or she understands and agrees to program expectations
29 and is aware of the measures that the state or county may take to
30 enforce program integrity.

31 (5) He or she has attended the provider orientation and
32 understands that failure to comply with program rules and
33 requirements may result in the provider being terminated from
34 providing services through the IHSS program.

1 (c) Between November 1, 2009, and June 30, 2010, all current
2 providers shall receive the information described in this section.
3 Following receipt of this information, a provider shall submit a
4 signed agreement, consistent with the requirements of this section,
5 to the appropriate county office.

6 (d) The county shall indefinitely retain this statement in the
7 provider's file. Refusal of the provider to sign the statement
8 described in subdivision (b) shall result in the provider being
9 ineligible to receive payment for the provision of services and
10 participate as a provider in the IHSS program.

11 (e) *Beginning no later than April 1, 2015, all of the following*
12 *shall apply:*

13 (1) *The orientation described in subdivision (a) shall be an*
14 *onsite orientation that all prospective providers shall attend in*
15 *person.*

16 (2) *Prospective providers may attend the onsite orientation only*
17 *after completing the application for the IHSS provider enrollment*
18 *process described in subdivision (a) of Section 12305.81.*

19 (3) *Any oral presentation and written materials presented at*
20 *the orientation shall be translated into all IHSS threshold*
21 *languages in the county.*

22 (4) *Representatives of the recognized employee organization in*
23 *the county shall be permitted to make a presentation of up to 30*
24 *minutes at the orientation. Prior to implementing the orientation*
25 *requirements set forth in this subdivision, counties shall provide*
26 *at least the level of access to, and the ability to make presentations*
27 *at, provider orientations that they allowed the recognized employee*
28 *organization in the county as of September 1, 2014.*

29 *SEC. 2. If the Commission on State Mandates determines that*
30 *this act contains costs mandated by the state, reimbursement to*
31 *local agencies and school districts for those costs shall be made*
32 *pursuant to Part 7 (commencing with Section 17500) of Division*
33 *4 of Title 2 of the Government Code.*

34 *SEC. 3. The amount of one thousand dollars (\$1,000) is hereby*
35 *appropriated from the General Fund to the State Department of*
36 *Social Services for purposes of implementing this act.*

37 *SEC. 4. This act is a bill providing for appropriations related*
38 *to the Budget Bill within the meaning of subdivision (e) of Section*
39 *12 of Article IV of the California Constitution, has been identified*

1 *as related to the budget in the Budget Bill, and shall take effect*
2 *immediately.*

3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation that would adopt the statutory changes necessary to~~
5 ~~eliminate the 7 percent across-the-board reduction to in-home~~
6 ~~supportive services hours imposed by the settlement of the~~
7 ~~Dominguez v. Brown and Oster v. Lightborne court cases. This~~
8 ~~legislation may be the assessment mechanism required to be~~
9 ~~submitted to the Legislature due to the court settlement or another~~
10 ~~mechanism that achieves the same goal. This legislation is~~
11 ~~necessary in order to address the important issue of ensuring that~~
12 ~~there are adequate and quality home and community-based options~~
13 ~~to keep the elderly and disabled from needing to be institutionalized~~
14 ~~in nursing homes and other facilities.~~

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