

AMENDED IN ASSEMBLY JUNE 1, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 470

**Introduced by Assembly Member Chu
(Coauthor: Assembly Member Waldron)**

February 23, 2015

An act to ~~amend Section 15660 of~~ *add Section 15661 to* the Welfare and Institutions Code, relating to ~~social services, and making an appropriation therefor.~~ *services.*

LEGISLATIVE COUNSEL'S DIGEST

AB 470, as amended, Chu. In-home supportive services: fingerprinting.

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* requires the Department of Justice to conduct background checks, as requested, by employers of in-home supportive services *and other providers. Existing law* requires the department to charge a fee to the employer to cover the costs of administering the background check program.

~~This bill would require the above fees to be placed in the IHSS Fingerprint Account, which would be established by the bill. The bill would continuously appropriate those funds to the Department of Justice for use to offset costs incurred in administering the background checks and for maintenance and improvement to the systems from which the information is obtained.~~

This bill would require the Department of Justice, by October 1, 2016, and in collaboration with the department, to develop protocols to expedite the processing of provider criminal record checks for the In-Home Supportive Services program, as specified.

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

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

1 SECTION 1. Section 15661 is added to the Welfare and
2 Institutions Code, to read:

3 15661. By October 1, 2016, the Department of Justice, in
4 collaboration with the department, shall develop protocols to
5 expedite the processing of provider criminal record checks for the
6 In-Home Supportive Services program. This activity may be funded
7 through moneys appropriated by the Legislature to the Department
8 of Justice for the purpose of conducting criminal record check
9 activities pursuant to Section 15660.

10 SECTION 1. ~~Section 15660 of the Welfare and Institutions~~
11 ~~Code is amended to read:~~

12 15660. (a) ~~The Department of Justice shall secure the criminal~~
13 ~~record of a person to determine whether the person has ever been~~
14 ~~convicted of a violation or attempted violation of Section 243.4~~
15 ~~of the Penal Code, a sex offense against a minor, or of a felony~~
16 ~~that requires registration pursuant to Section 290 of the Penal Code,~~
17 ~~or whether the person has been convicted or incarcerated within~~
18 ~~the last 10 years as the result of committing a violation or attempted~~
19 ~~violation of Section 273a or 273d, or subdivision (a) or (b) of~~
20 ~~Section 368, of the Penal Code, or as the result of committing a~~
21 ~~theft, robbery, burglary, or a felony, and shall provide a subsequent~~
22 ~~arrest notification pursuant to Section 11105.2 of the Penal Code,~~
23 ~~if both of the following conditions are met:~~

24 (1) ~~The person's employer requests the determination and~~
25 ~~submits the person's fingerprints to the Department of Justice. For~~
26 ~~purposes of this paragraph, "employer" includes, but is not limited~~
27 ~~to, an in-home supportive services recipient, as defined by Section~~
28 ~~12302.2, an aged or disabled adult who is ineligible for benefits~~
29 ~~under Chapter 3 (commencing with Section 12000), who receives~~
30 ~~care by a person as described in paragraph (2), a recipient of~~
31 ~~personal care services under the Medi-Cal program pursuant to~~

1 Sections 14132.95 to 14132.97, inclusive, and a public authority
2 or nonprofit consortium, as described in subdivision (a) of Section
3 12301.6.

4 (2) ~~The person is unlicensed and provides nonmedical domestic
5 or personal care to an aged or disabled adult in the adult's own
6 home.~~

7 (b) ~~(1) If it is found that the person has ever been convicted of
8 a violation or attempted violation of Section 243.4 of the Penal
9 Code, a sex offense against a minor, or of a felony that requires
10 registration pursuant to Section 290 of the Penal Code, or that the
11 person has been convicted or incarcerated within the last 10 years
12 as the result of committing a violation or attempted violation of
13 Section 273a or 273d, or subdivision (a) or (b) of Section 368, of
14 the Penal Code, or as the result of committing a theft, robbery,
15 burglary, or a felony, the Department of Justice shall notify the
16 employer of that fact. If no criminal record information has been
17 recorded, the Department of Justice shall provide the employer
18 with a statement of that fact.~~

19 (2) ~~An employer may deny employment to a person who is the
20 subject of a report under paragraph (1) when the report indicates
21 that the person has committed any of the crimes identified in
22 paragraph (1).~~

23 (3) ~~Nothing in this section shall be construed to require an
24 employer to hire a person who is the subject of a report under
25 paragraph (1) when the report indicates that the person has not
26 committed any of the crimes indicated in paragraph (1).~~

27 (e) ~~(1) Fingerprints shall be on a card provided by the
28 Department of Justice for the purpose of obtaining a set of
29 fingerprints. The employer shall submit the fingerprints to the
30 Department of Justice. Within 30 calendar days of the receipt of
31 the fingerprints, the Department of Justice shall notify the employer
32 of the criminal record information, as provided in this subdivision.
33 If no criminal record information has been recorded, the
34 Department of Justice shall provide the employer with a statement
35 of that fact as soon as possible, but not later than 30 calendar days
36 from the date of receipt of the fingerprints. If new fingerprints are
37 required for processing, the Department of Justice shall, as soon
38 as possible, but not later than 30 calendar days from the date of
39 receipt of the fingerprints, notify the employer that the fingerprints
40 were illegible.~~

1 ~~(2) Fingerprints may be taken by any local law enforcement~~
2 ~~officer or agency for purposes of paragraph (1).~~

3 ~~(3) Counties shall notify any recipient of, or applicant for,~~
4 ~~in-home supportive services or personal care services under the~~
5 ~~Medi-Cal program, upon his or her application for in-home~~
6 ~~supportive services or personal care services, during his or her~~
7 ~~annual redetermination, or upon the recipient's changing providers,~~
8 ~~that a criminal record check is available, and that the check can~~
9 ~~be performed by the Department of Justice.~~

10 ~~(d) (1) The Department of Justice shall charge a fee to the~~
11 ~~employer to cover the costs of administering this section. All~~
12 ~~moneys assessed pursuant to this subdivision shall be deposited~~
13 ~~into the IHSS Fingerprint Account, which is hereby created in the~~
14 ~~State Treasury. Notwithstanding Section 13340 of the Government~~
15 ~~Code, funds in the IHSS Fingerprint Account shall be continuously~~
16 ~~appropriated to the Department of Justice for use to offset costs~~
17 ~~incurred pursuant to this section, subdivision (e) of Section~~
18 ~~12301.6, subdivision (a) of Section 12305.86, and for maintenance~~
19 ~~and improvement to the systems from which the information is~~
20 ~~obtained.~~

21 ~~(2) (A) If the employer is a recipient of in-home supportive~~
22 ~~services, a recipient of personal care services under the Medi-Cal~~
23 ~~program pursuant to Sections 14132.95 to 14132.97, inclusive, or~~
24 ~~a public authority or nonprofit consortium as described in~~
25 ~~subdivision (a) of Section 12301.6, payment of the fee shall be~~
26 ~~shared by the county and the state in the same ratio as described~~
27 ~~in Section 12306.~~

28 ~~(B) (i) Notwithstanding any other law, and except as provided~~
29 ~~in clause (ii), the department shall, no later than January 1, 2009,~~
30 ~~implement subparagraph (A) through an all-county letter from the~~
31 ~~director.~~

32 ~~(ii) No later than July 1, 2009, the department shall adopt~~
33 ~~regulations to implement the provisions listed in subparagraph~~
34 ~~(A).~~

35 ~~(e) It is the intent of the Legislature that the Department of~~
36 ~~Justice charge a fee to cover its cost in providing services in~~
37 ~~accordance with this section to comply with the 30-calendar-day~~

- 1 requirement for provision to the department of the criminal record
- 2 information, as contained in subdivision (c):

O