

AMENDED IN ASSEMBLY APRIL 19, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 912**

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**Introduced by Assembly Member Maldonado**

February 25, 1999

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An act to amend Section 15660 of the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 912, as amended, Maldonado. Caregiver background checks: fee waiver.

Existing law 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. Included within the scope of Medi-Cal benefits available to eligible Medi-Cal recipients are personal care services.

Existing law also provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law requires the provision of personal care services under the Medi-Cal program to eligible IHSS recipients.

Existing law authorizes individuals who are employers of caregivers of personal care services under the Medi-Cal program and the IHSS program to request from the Department of Justice a report on any criminal record of the

personal service caregivers. Existing law requires the Department of Justice to charge a fee to cover the cost of administering those provisions.

This bill would specify that *the fee charged by the Department of Justice shall be waived for individuals who are receiving personal care services under the Medi-Cal program, including those receiving services through the IHSS program, may request a waiver of those fees charged by the Department of Justice for a report on a person who is not a member of the individual's family.*

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. Section 15660 of the Welfare and  
 2 Institutions Code is amended to read:  
 3 15660. (a) The Department of Justice shall secure  
 4 any criminal record of a person to determine whether the  
 5 person has been convicted within the last 10 years of a sex  
 6 offense against a minor, a violation of Section 243.4, 273a,  
 7 273d, or subdivision (a) or (b) of Section 368, of the Penal  
 8 Code, theft, robbery, burglary, or any felony, if both of the  
 9 following conditions are met:  
 10 (1) An employer of the person requests the  
 11 determination and submits fingerprints of the person to  
 12 the Department of Justice. For purposes of this  
 13 paragraph, "employer" includes, but is not limited to, an  
 14 in-home supportive services recipient, as defined by  
 15 Section 12302.2 and any recipient of personal care  
 16 services under the Medi-Cal program pursuant to Section  
 17 ~~14132.95. Any employer described in Section 12302.2 or~~  
 18 ~~14132.95 may request a waiver of any fee charged by the~~  
 19 ~~Department of Justice for the report authorized by this~~  
 20 ~~section. 14132.95. The fee charged by the Department of~~  
 21 ~~Justice for the report authorized by this section shall be~~  
 22 ~~waived for any employer described in Section 12302.2 or~~  
 23 ~~14132.95 for a report under this section on a person who~~  
 24 ~~is not a member of the family of the employer.~~



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

4 (b) (1) If it is found that the person has been  
5 convicted within the last 10 years of a sex offense against  
6 a minor, a violation of Section 243.4, 273a, 273d, or  
7 subdivision (a) or (b) of Section 368, of the Penal Code,  
8 theft, robbery, burglary, or any felony, the Department  
9 of Justice shall notify the employer of that fact. If no  
10 criminal record information has been recorded, the  
11 Department of Justice shall provide the employer with a  
12 statement of that fact.

13 (2) Any employer may deny employment to any  
14 person who is the subject of a report under paragraph (1)  
15 when the report indicates that the person has committed  
16 any of the crimes identified in paragraph (1).

17 (3) Nothing in this section shall be construed to  
18 require any employer to hire any person who is the  
19 subject of a report under paragraph (1) when the report  
20 indicates that the person has not committed any of the  
21 crimes indicated in paragraph (1).

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

38 (2) Fingerprints may be taken by any local law  
39 enforcement officer or agency for purposes of paragraph  
40 (1).



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

9 (d) The Department of Justice shall charge a fee to the  
10 employer to cover the costs of administering this section.

11 (e) It is the intent of the Legislature that the  
12 Department of Justice charge a fee to cover its cost in  
13 providing services in accordance with this section to  
14 comply with the 30 calendar day requirement for  
15 provision to the department of the criminal record  
16 information, as contained in subdivision (c).

