

AMENDED IN SENATE AUGUST 30, 2000

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN ASSEMBLY MAY 26, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2137

Introduced by Assembly Member Maldonado

February 23, 2000

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2137, 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, *until January 1, 2003*, 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, for up to 50,000 submissions received during a fiscal year, for specified employers who request a report on a person who is not a member of the individual's recipient'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; or theft, robbery, burglary, or any felony, if both of
 9 the 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; a public authority or nonprofit
 16 consortium, as defined by Section 12301.6; and any
 17 recipient of personal care services under the Medi-Cal
 18 program pursuant to Section 14132.95.



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 or theft, robbery, burglary, or any felony, the
9 Department of Justice shall notify the employer of that
10 fact. If no criminal record information has been recorded,
11 the Department of Justice shall provide the employer
12 with a 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) Except as provided in subdivision (e), the
10 Department of Justice shall charge a fee to the employer
11 to cover the costs of administering this section.

12 (e) (1) The fee charged by the Department of Justice
13 for the report authorized by this section shall be waived
14 for *up to 50,000 submissions received during a fiscal year,*
15 *for any of the following employers who request a report*
16 *on a person who is not a member of the recipient's family:*

17 ~~(1)~~

18 (A) An employer who is an in-home supportive
19 services recipient under Section 12302.2.

20 ~~(2)~~

21 (B) An employer who is an individual provider mode
22 recipient of personal care services under Section
23 14132.95.

24 (2) *The department may not increase the applicant*
25 *processing fee in order to defray the cost of fees waived*
26 *pursuant to this subdivision.*

27 (f) It is the intent of the Legislature that the
28 Department of Justice charge a fee to cover its cost in
29 providing services in accordance with this section to
30 comply with the 30-calendar day requirement for
31 provision to the department of the criminal record
32 information, as contained in subdivision (c).

33 (g) *This section shall remain in effect only until*
34 *January 1, 2003, and as of that date is repealed, unless a*
35 *later enacted statute, that is enacted before January 1,*
36 *2003, deletes or extends that date.*

37 SEC. 2. Section 15660 is added to the Welfare and
38 Institutions Code, to read:

39 15660. (a) *The Department of Justice shall secure*
40 *any criminal record of a person to determine whether the*



1 *person has been convicted within the last 10 years of a sex*
2 *offense against a minor; a violation of Section 243.4, 273a,*
3 *273d, or subdivision (a) or (b) of Section 368, of the Penal*
4 *Code, theft, robbery, burglary, or any felony, if both of the*
5 *following conditions are met:*

6 *(1) An employer of the person requests the*
7 *determination and submits fingerprints of the person to*
8 *the Department of Justice. For purposes of this*
9 *paragraph, “employer” includes, but is not limited to, an*
10 *in-home supportive services recipient, as defined by*
11 *Section 12302.2 and any recipient of personal care*
12 *services under the Medi-Cal program pursuant to Section*
13 *14132.95.*

14 *(2) The person is unlicensed and provides nonmedical*
15 *domestic or personal care to an aged or disabled adult in*
16 *the adult’s own home.*

17 *(b) (1) If it is found that the person has been*
18 *convicted within the last 10 years of a sex offense against*
19 *a minor; a violation of Section 243.4, 273a, 273d, or*
20 *subdivision (a) or (b) of Section 368, of the Penal Code,*
21 *theft, robbery, burglary, or any felony, the Department*
22 *of Justice shall notify the employer of that fact. If no*
23 *criminal record information has been recorded, the*
24 *Department of Justice shall provide the employer with a*
25 *statement of that fact.*

26 *(2) Any employer may deny employment to any*
27 *person who is the subject of a report under paragraph (1)*
28 *when the report indicates that the person has committed*
29 *any of the crimes identified in paragraph (1).*

30 *(3) Nothing in this section shall be construed to*
31 *require any employer to hire any person who is the*
32 *subject of a report under paragraph (1) when the report*
33 *indicates that the person has not committed any of the*
34 *crimes indicated in paragraph (1).*

35 *(c) (1) Fingerprints shall be on a card provided by the*
36 *Department of Justice for the purpose of obtaining a set*
37 *of fingerprints. The employer shall submit the*
38 *fingerprints to the Department of Justice. Within 30*
39 *calendar days of the receipt of the fingerprints, the*
40 *Department of Justice shall notify the employer of the*



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2 subdivision. If no criminal record information has been
3 recorded, the Department of Justice shall provide the
4 employer with a statement of that fact as soon as possible,
5 but not later than 30 calender days of receipt of the
6 fingerprints. If new fingerprints are required for
7 processing, the Department of Justice shall, as soon as
8 possible, but not later than 30 calendar days from the date
9 of receipt of the fingerprints, notify the employer that the
10 fingerprints were illegible.

11 (2) Fingerprints may be taken by any local law
12 enforcement officer or agency for purposes of paragraph
13 (1).

14 (3) Counties shall notify any recipient of, or applicant
15 for, in-home supportive services or personal care services
16 under the Medi-Cal program, upon his or her application
17 for in-home supportive services or personal care services
18 or during his or her annual redetermination, or upon the
19 recipient's changing providers, that a criminal record
20 check is available, and that the check can be performed
21 by the Department of Justice.

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

24 (e) It is the intent of the Legislature that the
25 Department of Justice charge a fee to cover its cost in
26 providing services in accordance with this section to
27 comply with the 30 calendar day requirement for
28 provision to the department of the criminal record
29 information, as contained in subdivision (c).

30 (f) This section shall become operative on January 1,
31 2003.

