

Introduced by Senator Bowen

February 26, 1999

An act to amend Sections 11461 and 16501 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 999, as introduced, Bowen. Care of children.

Existing law provides for the California Work Opportunities and Responsibility to Kids (CalWORKs) program, under which cash and other assistance is provided to needy families, through a combination of federal, state, and local funds. Existing law provides for the reimbursement of foster care providers under the CalWORKs program, including payment for children placed in a licensed or approved family home with a capacity of 6 or less or in an approved home of a relative or nonrelative legal guardian, and provides for the adjustment of the reimbursement rates.

This bill would delete the provisions for adjustment of the reimbursement rates with regard to these foster care providers and would provide instead that, effective January 1, 2000, the reimbursement rates shall be increased by an unspecified percentage.

Existing law provides, at the option of each county, for procedures applicable to specified county welfare department employees who have frequent and routine contact with children that require the fingerprinting of the employee, the review of any criminal record, and the denial of licensure if it is found that the employee was convicted of

a crime, other than a minor traffic violation, unless a specified exemption is granted.

This bill would require every county to implement these procedures in the manner provided in the bill. Because this bill would impose new duties upon counties, this bill would impose a state-mandated local program. The bill would also make similar procedures applicable to state employees who have frequent and routine contact with children, and to their employing agencies.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

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

1 SECTION 1. Section 11461 of the Welfare and
2 Institutions Code is amended to read:

3 11461. (a) For children placed in a licensed or
4 approved family home with a capacity of six or less, or in
5 an approved home of a relative or nonrelated legal
6 guardian, the per child per month rates in the following
7 schedule shall be in effect for the period July 1, 1989,
8 through December 31, 1989:

9		
10	Age	Basic rate
11	0-4	\$ 294
12	5-8	319
13	9-11	340
14	12-14	378
15	15-20	412



1 (b) (1) Any county that, as of October 1, 1989, has in
2 effect a basic rate that is at the levels set forth in the
3 schedule in subdivision (a), shall continue to receive state
4 participation, as specified in subdivision (c) of Section
5 15200, at these levels.

6 (2) Any county that, as of October 1, 1989, has in effect
7 a basic rate that exceeds a level set forth in the schedule
8 in subdivision (a), shall continue to receive the same level
9 of state participation as it received on October 1, 1989.

10 ~~(c) The amounts in the schedule of basic rates in
11 subdivision (a) shall be adjusted as follows:~~

12 ~~(1) Effective January 1, 1990, the amounts in the
13 schedule of basic rates in subdivision (a) shall be
14 increased by 12 percent.~~

15 ~~(2) Effective May 1, 1990, any county that did not
16 increase the basic rate by 12 percent on January 1, 1990,
17 shall do both of the following:~~

18 ~~(A) Increase the basic rate in effect December 31,
19 1989, for which state participation is received by 12
20 percent.~~

21 ~~(B) Increase the basic rate, as adjusted pursuant to
22 subparagraph (A) by an additional 5 percent.~~

23 ~~(3) (A) Except as provided in subparagraph (B),
24 effective July 1, 1990, for the 1990-91 fiscal year, the
25 amounts in the schedule of basic rates in subdivision (a)
26 shall be increased by an additional 5 percent.~~

27 ~~(B) The rate increase required by subparagraph (A)
28 shall not be applied to rates increased May 1, 1990,
29 pursuant to paragraph (2).~~

30 ~~(4) Effective July 1, 1998, the amounts in the schedule
31 of basic rates in subdivision (a) shall be increased by 6
32 percent. Notwithstanding any other provision of law, the
33 6-percent increase provided for in this paragraph shall,
34 retroactive to July 1, 1998, apply to every county,
35 including any county to which paragraph (2) of
36 subdivision (b) applies, and shall apply to foster care for
37 every age group.~~

38 ~~(5) Notwithstanding any other provision of law, any
39 increase that takes effect after July 1, 1998, shall apply to
40 every county, including any county to which paragraph~~



1 ~~(2) of subdivision (b) applies, and shall apply to foster~~
2 ~~care for every age group.~~

3 ~~(6) The increase in the basic foster family home rate~~
4 ~~shall apply only to children placed in a licensed foster~~
5 ~~family home receiving the basic rate or in an approved~~
6 ~~home of a relative or nonrelated legal guardian receiving~~
7 ~~the basic rate. The increased rate shall not be used to~~
8 ~~compute the monthly amount that may be paid to~~
9 ~~licensed foster family agencies for the placement of~~
10 ~~children in certified foster homes. Effective January 1,~~
11 ~~2000, the amounts in the schedule of basic rates in~~
12 ~~subdivision (a) shall be increased by ____ percent.~~

13 (d) (1) Beginning with the 1991-92 fiscal year, the
14 schedule of basic rates in subdivision (a) shall be adjusted
15 by the percentage changes in the California Necessities
16 Index, computed pursuant to the methodology described
17 in Section 11453, subject to the availability of funds.

18 (2) Any county that, as of the 1991-92 fiscal year,
19 receives state participation for a basic rate that exceeds
20 the amount set forth in the schedule of basic rates in
21 subdivision (a) shall receive an increase each year in state
22 participation for that basic rate of one-half of the
23 percentage adjustments specified in paragraph (1) until
24 the difference between the county's adjusted state
25 participation level for its basic rate and the adjusted
26 schedule of basic rates is eliminated.

27 (3) If a county has, after receiving the adjustments
28 specified in paragraph (2), a state participation level for
29 a basic rate that is below the amount set forth in the
30 adjusted schedule of basic rates for that fiscal year, the
31 state participation level for that rate shall be further
32 increased to the amount specified in the adjusted
33 schedule of basic rates.

34 (e) (1) As used in this section, "specialized care
35 increment" means an approved amount paid with state
36 participation on behalf of an AFDC-FC child requiring
37 specialized care to a home listed in subdivision (a) in
38 addition to the basic rate. On the effective date of this
39 section, the department shall continue and maintain the
40 current ratesetting system for specialized care.



1 (2) Any county that, as of the effective date of this
2 section, has in effect specialized care increments that
3 have been approved by the department, shall continue to
4 receive state participation for those payments.

5 (3) Any county that, as of the effective date of this
6 section, has in effect specialized care increments that
7 exceed the amounts that have been approved by the
8 department, shall continue to receive the same level of
9 state participation as it received on the effective date of
10 this section.

11 (4) (A) Except for subparagraph (B), beginning
12 January 1, 1990, specialized care increments shall be
13 adjusted in accordance with the methodology for the
14 schedule of basic rates described in subdivision (c). No
15 county shall receive state participation for any increases
16 in a specialized care increment which exceeds the
17 adjustments made in accordance with this methodology.

18 (B) Notwithstanding subdivision (e) of Section 11460,
19 for the 1993–94 fiscal year, an amount equal to 5 percent
20 of the State Treasury appropriation for family homes shall
21 be added to the total augmentation for the AFDC-FC
22 program in order to provide incentives and assistance to
23 counties in the area of specialized care. This
24 appropriation shall be used, but not limited to,
25 encouraging counties to implement or expand
26 specialized care payment systems, to recruit and train
27 foster parents for the placement of children with
28 specialized care needs, and to develop county systems to
29 encourage the placement of children in family homes. It
30 is the intent of the Legislature that in the use of these
31 funds, federal financial participation shall be claimed
32 whenever possible.

33 (f) (1) As used in this section, “clothing allowance”
34 means the amount paid with state participation in
35 addition to the basic rate for the provision of additional
36 clothing for an AFDC-FC child, including, but not limited
37 to, an initial supply of clothing and school or other
38 uniforms.

39 (2) Any county that, as of the effective date of this
40 section, has in effect clothing allowances, shall continue



1 to receive the same level as it received on the effective
2 date of this section.

3 (3) Beginning January 1, 1990, clothing allowances
4 shall be adjusted annually in accordance with the
5 methodology for the schedule of basic rates described in
6 subdivision (c). No county shall be reimbursed for any
7 increases in clothing allowances which exceed the
8 adjustments made in accordance with this methodology.

9 SEC. 2. Section 16501 of the Welfare and Institutions
10 Code is amended to read:

11 16501. (a) As used in this chapter, “child welfare
12 services” means public social services which are directed
13 toward the accomplishment of any or all the following
14 purposes: protecting and promoting the welfare of all
15 children, including handicapped, homeless, dependent,
16 or neglected children; preventing or remedying, or
17 assisting in the solution of problems which may result in,
18 the neglect, abuse, exploitation, or delinquency of
19 children; preventing the unnecessary separation of
20 children from their families by identifying family
21 problems, assisting families in resolving their problems,
22 and preventing breakup of the family where the
23 prevention of child removal is desirable and possible;
24 restoring to their families children who have been
25 removed, by the provision of services to the child and the
26 families; identifying children to be placed in suitable
27 adoptive homes, in cases where restoration to the
28 biological family is not possible or appropriate; and
29 assuring adequate care of children away from their
30 homes, in cases where the child cannot be returned home
31 or cannot be placed for adoption.

32 “Child welfare services” also means services provided
33 on behalf of children alleged to be the victims of child
34 abuse, neglect, or exploitation. The child welfare services
35 provided on behalf of each child represent a continuum
36 of services, including emergency response services,
37 family preservation services, family maintenance
38 services, family reunification services, and permanent
39 placement services. The individual child’s case plan is the
40 guiding principle in the provision of these services. The



1 case plan shall be developed within 30 days of the initial
2 removal of the child or of the in-person response required
3 under subdivision (f) of Section 16501 if the child has not
4 been removed from his or her home, or by the date of the
5 jurisdictional hearing pursuant to Section 356, whichever
6 comes first.

7 (1) Child welfare services may include, but are not
8 limited to, a range of service-funded activities, including
9 case management, counseling, emergency shelter care,
10 emergency in-home caretakers, temporary in-home
11 caretakers, respite care, therapeutic day services,
12 teaching and demonstrating homemakers, parenting
13 training, substance abuse testing, and transportation.
14 These service-funded activities shall be available to
15 children and their families in all phases of the child
16 welfare program in accordance with the child's case plan
17 and departmental regulations. Funding for services is
18 limited to the amount appropriated in the annual Budget
19 Act and other available county funds.

20 (2) Service-funded activities to be provided may be
21 determined by each county, based upon individual child
22 and family needs as reflected in the service plan.

23 (3) As used in this chapter, "emergency shelter care"
24 means emergency shelter provided to children who have
25 been removed pursuant to Section 300 from their parent
26 or parents or their guardian or guardians. The
27 department may establish, by regulation, the time
28 periods for which emergency shelter care shall be
29 funded. For the purposes of this paragraph, "emergency
30 shelter care" may include "transitional shelter care
31 facilities" as defined in paragraph (11) of subdivision (a)
32 of Section 1502 of the Health and Safety Code.

33 (b) As used in this chapter, "respite care" means
34 temporary care for periods not to exceed 72 hours. This
35 care may be provided to the child's parents or guardians.
36 This care shall not be limited by regulation to care over
37 24 hours. These services shall not be provided for the
38 purpose of routine, ongoing child care.

39 (c) The county shall provide child welfare services as
40 needed pursuant to an approved service plan and in



1 accordance with regulations promulgated, in
2 consultation with the counties, by the department.
3 Counties may contract for service-funded activities as
4 defined in paragraph (1) of subdivision (a). Each county
5 shall use available private child welfare resources prior to
6 developing new county-operated resources when the
7 private child welfare resources are of at least equal
8 quality and lesser or equal cost as compared with
9 county-operated resources. Counties shall not contract
10 for needs assessment, client eligibility determination, or
11 any other activity as specified by regulations of the State
12 Department of Social Services, except as specifically
13 authorized in Section 16100.

14 (d) Nothing in this chapter shall be construed to affect
15 duties which are delegated to probation officers pursuant
16 to Sections 601 and 654.

17 (e) Any county may utilize volunteer individuals to
18 supplement professional child welfare services by
19 providing ancillary support services in accordance with
20 regulations adopted by the State Department of Social
21 Services.

22 (f) As used in this chapter, emergency response
23 services consist of a response system providing in-person
24 response, 24 hours a day, seven days a week, to reports of
25 abuse, neglect, or exploitation, as required by Article 2.5
26 (commencing with Section 11164) of Chapter 2 of Title
27 1 of Part 4 of the Penal Code for the purpose of
28 investigation pursuant to Section 11166 of the Penal Code
29 and to determine the necessity for providing initial intake
30 services and crisis intervention to maintain the child
31 safely in his or her own home or to protect the safety of
32 the child. County welfare departments shall respond to
33 any report of imminent danger to a child immediately
34 and all other reports within 10 calendar days. An
35 in-person response is not required when the county
36 welfare department, based upon an evaluation of risk,
37 determines that an in-person response is not appropriate.
38 This evaluation includes collateral, contacts, a review of
39 previous referrals, and other relevant information, as
40 indicated.



1 (g) As used in this chapter, family maintenance
2 services are activities designed to provide in-home
3 protective services to prevent or remedy neglect, abuse,
4 or exploitation, for the purposes of preventing separation
5 of children from their families.

6 (h) As used in this chapter, family reunification
7 services are activities designed to provide time-limited
8 foster care services to prevent or remedy neglect, abuse,
9 or exploitation, when the child cannot safely remain at
10 home, and needs temporary foster care, while services
11 are provided to reunite the family.

12 (i) As used in this chapter, permanent placement
13 services are activities designed to provide an alternate
14 permanent family structure for children who because of
15 abuse, neglect, or exploitation cannot safely remain at
16 home and who are unlikely to ever return home. These
17 services shall be provided on behalf of children for whom
18 there has been a judicial determination of a permanent
19 plan for adoption, legal guardianship, or long-term foster
20 care.

21 (j) As used in this chapter, family preservation services
22 include those services specified in Section 16500.5 to avoid
23 or limit out-of-home placement of children, and may
24 include those services specified in that section to place
25 children in the least restrictive environment possible.

26 (k) (1) (A) ~~In any county electing to implement this~~
27 ~~subdivision, all~~ All county welfare department employees
28 who have frequent and routine contact with children
29 shall, by February 1, ~~1997—2001~~, and all welfare
30 department employees who are expected to have
31 frequent and routine contact with children and who are
32 hired on or after January 1, ~~1996—2000~~, and all such
33 employees whose duties change after January 1, ~~1996~~
34 ~~2000~~, to include frequent and routine contact with
35 children, shall, if the employees provide services to
36 children who are alleged victims of abuse, neglect, or
37 exploitation, sign a declaration under penalty of perjury
38 regarding any prior criminal conviction, and shall
39 provide a set of fingerprints to the county welfare
40 director.



1 (B) The county welfare director shall secure from the
2 Department of Justice a criminal record to determine
3 whether the employee has ever been convicted of a crime
4 other than a minor traffic violation. The Department of
5 Justice shall deliver the criminal record to the county
6 welfare director.

7 (C) If it is found that the employee has been convicted
8 of a crime, other than a minor traffic violation, the county
9 welfare director shall determine whether there is
10 substantial and convincing evidence to support a
11 reasonable belief that the employee is of good character
12 so as to justify frequent and routine contact with children.

13 (D) No exemption shall be granted pursuant to
14 subparagraph (C) if the person has been convicted of a
15 sex offense against a minor, or has been convicted of an
16 offense specified in Section 220, 243.4, 264.1, 273d, 288, or
17 289 of the Penal Code, or in paragraph (1) of Section 273a
18 of, or subdivision (a) or (b) of Section 368 of, the Penal
19 Code, or has been convicted of an offense specified in
20 subdivision (c) of Section 667.5 of the Penal Code. The
21 county welfare director shall suspend such a person from
22 any duties involving frequent and routine contact with
23 children.

24 (E) Notwithstanding subparagraph (D), the county
25 welfare director may grant an exemption if the employee
26 or prospective employee, who was convicted of a crime
27 against an individual specified in paragraph (1) or (7) of
28 subdivision (c) of Section 667.5 of the Penal Code, has
29 been rehabilitated as provided in Section 4852.03 of the
30 Penal Code and has maintained the conduct required in
31 Section 4852.05 of the Penal Code for at least 10 years and
32 has the recommendation of the district attorney
33 representing the employee's or prospective employee's
34 county of residence, or if the employee or prospective
35 employee has received a certificate of rehabilitation
36 pursuant to Chapter 3.5 (commencing with Section
37 4852.01) of Title 6 of Part 3 of the Penal Code. In that case,
38 the county welfare director may give the employee or
39 prospective employee an opportunity to explain the



1 conviction and shall consider that explanation in the
2 evaluation of the criminal conviction record.

3 (F) If no criminal record information has been
4 recorded, the county welfare director shall cause a
5 statement of that fact to be included in that person's
6 personnel file.

7 (2) *All state employees who have frequent and routine
8 contact with children shall, by February 1, 2001, and all
9 state employees who are expected to have frequent and
10 routine contact with children and who are hired on or
11 after January 1, 2000, and all such employees whose duties
12 change after January 1, 2000, to include frequent and
13 routine contact with children, shall, if the employees
14 provide services to children who are alleged victims of
15 abuse, neglect, or exploitation, sign a declaration under
16 penalty of perjury regarding any prior criminal
17 conviction, and shall provide a set of fingerprints to their
18 employing agency. The employing agency shall secure
19 from the Department of Justice a criminal record to
20 determine whether the employee has ever been
21 convicted of a crime other than a minor traffic violation.
22 The Department of Justice shall deliver the criminal
23 record to the employing agency. If it is found that the
24 employee has been convicted of a crime, other than a
25 minor traffic violation, the employing agency shall
26 determine whether there is substantial and convincing
27 evidence to support a reasonable belief that the employee
28 is of good character so as to justify frequent and routine
29 contact with children. The requirements of
30 subparagraphs (D), (E), and (F) of paragraph (1) shall
31 apply to the employing agency and state employees.*

32 (A) *No exemption shall be granted pursuant to
33 subparagraph (C) if the person has been convicted of a
34 sex offense against a minor, or has been convicted of an
35 offense specified in Section 220, 243.4, 264.1, 273d, 288, or
36 289 of the Penal Code, or in paragraph (1) of Section 273a
37 of, or subdivision (a) or (b) of Section 368 of, the Penal
38 Code, or has been convicted of an offense specified in
39 subdivision (c) of Section 667.5 of the Penal Code. The
40 employing agency shall suspend such a person from any*



1 duties involving frequent and routine contact with
2 children.

3 (B) Notwithstanding subparagraph (D) of paragraph
4 (1), the employing agency may grant an exemption if the
5 employee or prospective employee, who was convicted
6 of a crime against an individual specified in paragraph (1)
7 or (7) of subdivision (c) of Section 667.5 of the Penal
8 Code, has been rehabilitated as provided in Section
9 4852.03 of the Penal Code and has maintained the
10 conduct required in Section 4852.05 of the Penal Code for
11 at least 10 years and has the recommendation of the
12 district attorney representing the employee's or
13 prospective employee's county of residence, or if the
14 employee or prospective employee has received a
15 certificate of rehabilitation pursuant to Chapter 3.5
16 (commencing with Section 4852.01) of Title 6 of Part 3 of
17 the Penal Code. In that case, the employing agency may
18 give the employee or prospective employee an
19 opportunity to explain the conviction and shall consider
20 that explanation in the evaluation of the criminal
21 conviction record.

22 (C) If no criminal record information has been
23 recorded, the employing agency shall cause a statement
24 of that fact to be included in that person's personnel file.

25 (3) For purposes of this subdivision, a conviction
26 means a plea or verdict of guilty or a conviction following
27 a plea of nolo contendere. Any action which the county
28 welfare director is permitted to take following the
29 establishment of a conviction may be taken when the
30 time for appeal has elapsed, or the judgment of conviction
31 has been affirmed on appeal or when an order granting
32 probation is made suspending the imposition of sentence,
33 notwithstanding a subsequent order pursuant to Sections
34 1203.4 and 1203.4a of the Penal Code permitting the
35 person to withdraw his or her plea of guilty and to enter
36 a plea of not guilty, or setting aside the verdict of guilty,
37 or dismissing the accusation, information, or indictment.
38 For purposes of this subdivision, the record of a
39 conviction, or a copy thereof certified by the clerk of the



1 court or by a judge of the court in which the conviction
2 occurred, shall be conclusive evidence of the conviction.

3 SEC. 3. Notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains costs mandated by the
6 state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million
11 dollars (\$1,000,000), reimbursement shall be made from
12 the State Mandates Claims Fund.

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