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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2084

Introduced by Assembly Member Karnette

(Principal coauthor: Senator Kuehl)

(Coauthor: Assembly Member Koretz)

(Coauthors: Senators Bowen and Romero)

February 16, 2006

An act to amend Sections 26840.7 and 26840.8 of the Government Code, and to repeal and add Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2084, as amended, Karnette. Domestic violence shelter-based programs.

Existing law provides for the funding of county programs to assist victims of domestic violence. Under existing law, a portion of each fee paid at the time of issuance of a marriage license and of authorization for the performance of a marriage is required to be collected for deposit into the county domestic violence programs special fund. Existing law requires the fees collected in the special fund to be disbursed to approved domestic violence programs on a yearly or more frequent basis.

Existing law sets forth the requirements applicable to counties distributing funds to these programs, and also sets forth eligibility, operation, and reporting requirements for the domestic violence programs and centers to which funding is provided. When a county lacks sufficient funds in the county domestic violence programs special fund to finance basic domestic violence shelter services, and community resources are not available, existing law authorizes the county to finance one or more of those basic services.

This bill would redesignate the domestic violence programs and centers as “domestic violence shelter-based programs.” The bill would recast and revise the requirements applicable to these programs and to counties, including, among other provisions, revising the definition of domestic violence for purposes of the bill, and specifying that a domestic violence shelter-based program is required to comply with the federal Americans with Disabilities Act of 1990.

This bill would limit a county’s ability to require information from domestic violence shelter-based programs funded by the bill, and would prohibit a county from requiring information in a manner inconsistent with the federal Violence Against Women Act.

This bill would identify the primary purpose of the process to determine eligibility of a domestic violence shelter-based program for funding is to ascertain that the program meets applicable service requirements. It would specify that domestic violence shelter-based programs funded under the bill would be authorized to use the funds in an unrestricted manner, and that these funds may be used for both direct and indirect costs.

~~This bill would eliminate the authority of *authorize* the county to fund basic domestic violence program services when it lacks sufficient, notwithstanding either the sufficiency of funds in the domestic violence shelter-based program special fund and or the availability of community resources are not available.~~ This bill would also require that any fees received by Alameda County, Contra Costa County, Solano County, and the City of Berkeley, in excess of the fee collected at the time of issuance of a marriage license under these provisions, shall be available to that city or county for funding domestic violence programs other than domestic violence shelter-based programs.

By revising the duties applicable to counties providing funding to domestic violence shelter-based programs, this 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.

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 26840.7 of the Government Code is
2 amended to read:

3 26840.7. In addition to the fee prescribed by Section 26840
4 and as authorized by Section 26840.3, the county clerk shall
5 collect a fee of twenty-three dollars (\$23) at the time of issuance
6 of the license. The fee shall be disposed of by the clerk pursuant
7 to Chapter 5 (commencing with Section 18290) of Part 6 of
8 Division 9 of the Welfare and Institutions Code. Of this amount,
9 four dollars (\$4) shall be used, to the extent feasible, to develop
10 or expand domestic violence shelter-based programs to target
11 underserved areas and populations.

12 SEC. 2. Section 26840.8 of the Government Code is amended
13 to read:

14 26840.8. In addition to the fee prescribed by Section 26840.1
15 and as authorized by Section 26840.3, the person issuing an
16 authorization for the performance of a marriage pursuant to Part
17 4 (commencing with Section 500) of Division 3 of the Family
18 Code or the county clerk, upon providing a blank authorization
19 form pursuant to Part 4 (commencing with Section 500) of
20 Division 3 of the Family Code, shall collect a fee of twenty-three
21 dollars (\$23) at the time of providing the authorization. The fee
22 shall be disposed of pursuant to Chapter 5 (commencing with
23 Section 18290) of Part 6 of Division 9 of the Welfare and
24 Institutions Code. Of this amount, four dollars (\$4) shall be used,
25 to the extent feasible, to develop or expand domestic violence
26 shelter-based programs to target underserved areas and
27 populations.

1 SEC. 3. Chapter 5 (commencing with Section 18290) of Part
2 6 of Division 9 of the Welfare and Institutions Code is repealed.

3 SEC. 4. Chapter 5 (commencing with Section 18290) is
4 added to Part 6 of Division 9 of the Welfare and Institutions
5 Code, to read:

6
7 CHAPTER 5. THE DOMESTIC VIOLENCE SHELTER-BASED
8 PROGRAMS ACT
9

10 18290. The Legislature hereby finds and declares that there is
11 a present and growing need to develop innovative strategies and
12 services to ameliorate and reduce the trauma of domestic
13 violence. There are hundreds of thousands of persons in
14 California who are regularly abused. In many cases, the acts of
15 domestic violence lead to the death of one of the involved
16 parties. Victims of domestic violence come from all
17 socioeconomic classes and ethnic groups, though it is the poor
18 who suffer most from domestic violence, since they have no
19 immediate access to private counseling and shelter for
20 themselves and their children. Children, even when they are not
21 physically assaulted, very often suffer deep and lasting emotional
22 effects.

23 The Legislature further finds and declares that there is a high
24 incidence of death and injury sustained by law enforcement
25 officers in the handling of domestic disturbances. Police arrests
26 for domestic violence are low, and victims are reluctant to press
27 charges or make citizen’s arrests. Furthermore, instances of
28 domestic violence are considered to be the single most
29 unreported crime in the state.

30 It is the intent of the Legislature to begin to explore and
31 determine ways of achieving reductions in serious and fatal
32 injuries to the victims of domestic violence and begin to clarify
33 the problems, causes, and cures of domestic violence. In order to
34 achieve these results, it is the intent of the Legislature that the
35 state shall support projects in several areas throughout the state
36 for the purpose of aiding victims of domestic violence by
37 providing them a place to escape the destructive environment in
38 ~~a confidential~~ *an undisclosed and secured* location, on a 24-hour
39 basis, where staff meet the requirements set forth in Section
40 1037.1 of the Evidence Code.

1 *It is further the intent of the Legislature to resolve conflicting*
2 *interpretations as to whether county boards of supervisors have*
3 *discretionary authority to fund nonshelter-based county domestic*
4 *violence programs that lack any emergency or transitional*
5 *shelter component, by restricting funding under this chapter to*
6 *shelter-based domestic violence programs, as described in*
7 *Sections 18294 and 18295. These clarifying and conforming*
8 *changes are intended to be declaratory of existing law.*

9 18291. For purposes of this chapter:

10 (a) “Domestic violence” means abuse committed against an
11 adult or a minor who is a spouse, former spouse, cohabitant,
12 former cohabitant, or person with whom the suspect has had a
13 child or is having or has had a dating or engagement relationship.

14 (b) “Cohabitant” means two unrelated adult persons living
15 together for a substantial period of time, resulting in some
16 permanency of relationship. Factors that may determine whether
17 persons are cohabiting include, but are not limited to, all of the
18 following:

19 (1) Sexual relations between the parties while sharing the
20 same living quarters.

21 (2) Sharing of income or expenses.

22 (3) Joint use or ownership of property.

23 (4) Whether the parties hold themselves out as husband and
24 wife.

25 (5) The continuity of the relationship.

26 (6) The length of the relationship.

27 (c) “Domestic violence shelter” means a shelter for domestic
28 violence victims that meets all of the following requirements:

29 (1) Provides shelter in ~~a confidential~~ *an undisclosed and*
30 *secured* location.

31 (2) Provides staff that meet the requirements set forth in
32 Section 1037.1 of the Evidence Code.

33 (3) Meets the requirements set forth in Section 18294.

34 (d) “Undisclosed” means a location that is not advertised or
35 publicized.

36 18293. (a) In order to be eligible for funding pursuant to this
37 chapter, a domestic violence shelter-based program shall
38 demonstrate its ability to receive and make use of any funds
39 available from governmental, voluntary, philanthropic, or other
40 sources that may be used to augment any state or county funds

1 appropriated for the purposes of this chapter. Each domestic
2 violence shelter-based program shall make every attempt to
3 qualify the domestic violence shelter-based program for any
4 available federal funding.

5 (b) No provision of this section is intended to prohibit
6 domestic violence shelter-based programs receiving funds
7 pursuant to this chapter from receiving additional funds from any
8 other public or private source. Funds provided pursuant to this
9 chapter shall not be used to reduce the financial support from
10 other public or private sources.

11 (c) Proposed or existing domestic violence shelter-based
12 programs that meet the requirements set forth in Section 18294,
13 shall receive funding pursuant to this chapter upon the approval
14 of the local board of supervisors.

15 (d) Funding shall be given to agencies and organizations
16 whose primary function is to administer domestic violence
17 shelter-based programs. Any additional fees received by
18 Alameda County, Contra Costa County, Solano County, and the
19 City of Berkeley at the time of issuance of a marriage license
20 pursuant to Sections 18308, 18309, and 18309.5, that are in
21 excess of the twenty-three dollar (\$23) fee collected pursuant to
22 this act, shall be available to that city or county for funding
23 domestic violence programs other than domestic violence
24 shelter-based programs.

25 (e) Prior to approving a domestic violence shelter-based
26 program or programs for this funding, the board shall consult
27 with individuals and groups that have expertise in the problems
28 of domestic violence and in the operation of domestic violence
29 shelter-based programs including operations of existing domestic
30 violence shelter-based programs.

31 (f) Upon approving one or more domestic violence
32 shelter-based programs for funding, the board shall direct the
33 county treasurer to disburse moneys from the county's domestic
34 violence shelter-based program special fund and for funding, the
35 board shall designate a local agency to monitor the domestic
36 violence shelter-based program or programs. This monitoring
37 shall include information regarding the number of persons
38 requesting services, the number of persons receiving services
39 according to the type of services provided, and the need, if any,
40 for additional services or staffing.

1 (g) A domestic violence shelter-based program that receives
2 funding pursuant to this chapter shall meet the applicable
3 standards of Titles II and III of the federal Americans with
4 Disabilities Act of 1990 (42 U.S.C.A. Sec. 12101 et seq.) and
5 federal regulations adopted thereto.

6 (h) The process to determine eligibility of a domestic violence
7 shelter-based program to receive funding pursuant to this chapter
8 shall have as its primary purpose to ascertain that the program
9 meets the service requirements of Section 18294. The process
10 shall be expedient and shall include a mechanism for annual
11 recertification.

12 (i) Funding obtained pursuant to this chapter is for the
13 unrestricted use of a recipient domestic violence shelter-based
14 program, and may be used for direct and indirect costs.

15 18294. Domestic violence shelter-based programs shall
16 provide all of the following basic services to victims of domestic
17 violence and their children:

18 (a) Shelter on a 24 hours a day, seven days a week basis.

19 (b) A 24 hours a day, seven days a week ~~toll-free~~ telephone
20 hotline for crisis calls.

21 (c) Temporary housing and food facilities.

22 (d) Psychological support and peer counseling provided in
23 accordance with Section 1037.1 of the Evidence Code.

24 (e) Referrals to existing services in the community.

25 (f) A drop-in center that operates during normal business
26 hours to assist victims of domestic violence who have a need for
27 support services.

28 (g) Arrangements for schoolage children to continue their
29 education during their stay at the domestic violence shelter-based
30 program.

31 (h) Emergency transportation as feasible.

32 18295. In addition to the services required in Section 18294,
33 to the extent possible, and in conjunction with already existing
34 community services, the domestic violence shelter-based
35 programs shall provide a method of obtaining the following
36 services for the victims of domestic violence:

37 (a) Medical care.

38 (b) Legal assistance.

39 (c) Psychological support and counseling.

40 (d) Information regarding other available social services.

1 18296. The staff of the domestic violence shelter-based
2 program shall work with social service agencies, schools, and
3 law enforcement agencies in an advocacy capacity for those
4 served by the domestic violence shelter-based programs.

5 18297. The staff of each domestic violence shelter-based
6 program shall attempt to achieve community support and
7 acceptance of the program by advocating the program to
8 community representatives and groups within the community.

9 Volunteers shall be trained and used to maximum capacity in
10 the delivery of services. Staff and volunteers shall meet the
11 training requirements set forth in Section 1037.1 of the Evidence
12 Code.

13 18298. Inasmuch as domestic violence shelter-based
14 programs are to serve a variety of cultural backgrounds, to the
15 extent feasible, a portion of the domestic violence shelter-based
16 program's personnel shall be bilingual. An effort shall be made
17 to recruit formerly battered ~~spouses~~ *persons* as staff members.

18 18299. A domestic violence shelter-based program shall
19 maintain annual fiscal reports in a form to be prescribed by the
20 Generally Accepted Accounting Principles (GAAP).

21 18300. An annual report shall be prepared by each domestic
22 violence shelter-based program for submission to the county
23 board of supervisors. The report shall be made available to the
24 public upon request, and shall include all of the following
25 elements:

26 (a) The total number of persons requesting services of the
27 domestic violence shelter-based programs.

28 (b) The number of persons served in the domestic violence
29 shelter-based program, by each type of service provided.

30 (c) A description of the social and economic characteristics of
31 persons receiving services, by type of service provided.

32 18301. In addition to any other provisions of law concerning
33 the confidentiality of personal information collected by domestic
34 violence shelters, a county shall not require a domestic violence
35 shelter-based program to provide any information not
36 enumerated in Section 18300, or require the disclosure of any
37 information pertaining to the confidential location of a domestic
38 violence shelter-based program or the location or identity of any
39 shelter resident, employee, or volunteer. A county shall not
40 require a method of data collection or recording, or impose any

1 other requirement, that is inconsistent with the federal Violence
2 Against Women Act (18 U.S.C. Sec. 2261 et seq.).

3 18304. A county may establish a program for reducing the
4 incidence of domestic violence in the county by establishing or
5 funding domestic violence shelter-based programs that meet the
6 requirements of this chapter. Geographically adjacent counties
7 may combine their respective domestic violence shelter-based
8 programs special funds in order to establish one or more
9 domestic violence shelter-based programs meeting the
10 requirements of this chapter, in order to provide services to the
11 clients of each county that combines its funds with another
12 county.

13 18305. (a) At the time of issuance of a marriage license
14 pursuant to Section 26840 of the Government Code, twenty-three
15 dollars (\$23) of each fee paid shall be collected by the county
16 clerk for deposit into the county domestic violence shelter-based
17 programs special fund. The fees collected in this special fund
18 shall be disbursed to approved domestic violence shelter-based
19 programs on a yearly or more frequent basis commencing July 1,
20 1980. The funds shall be disbursed using a request for
21 qualification (RFQ) process.

22 (b) The board of supervisors shall direct the county clerk to
23 deposit twenty-three dollars (\$23) of each fee into the county
24 domestic violence shelter-based programs special fund. The
25 county domestic violence shelter-based programs special fund
26 shall fund domestic violence shelter-based programs established
27 pursuant to Section 18304. Four dollars (\$4) of each twenty-three
28 dollars (\$23) deposited into the county domestic violence
29 shelter-based programs special fund shall be used, to the extent
30 feasible, to support or expand domestic violence shelter-based
31 programs to target underserved areas and populations. No more
32 than 8 percent of the funds shall be expended for the
33 administrative costs associated with the collection and
34 segregation of the additional marriage license fees,
35 administration of the county domestic violence shelter-based
36 programs special fund, monitoring of the domestic violence
37 shelter-based programs, and meeting the other administrative
38 requirements imposed by this chapter. Counties that do not
39 participate in the establishing or funding of domestic violence
40 shelter-based programs pursuant to this chapter shall be entitled

1 to retain up to 4 percent of the funds for the administrative costs
2 associated with the collection and segregation of the additional
3 marriage license fees and the deposit of these fees in the county
4 domestic violence shelter-based programs special fund.

5 *18305.5. Notwithstanding the availability of funds in either*
6 *the county domestic violence programs special fund, or the*
7 *availability of community resources, the county may finance*
8 *domestic violence shelter-based programs as described in*
9 *Sections 18294 and 18295.*

10 18306. The county board of supervisors shall consult with the
11 local regional domestic violence coalition, consisting of
12 representatives from existing domestic violence shelter-based
13 programs, in planning for the establishment of a new domestic
14 violence shelter-based program or for ongoing technical
15 assistance for domestic violence shelter-based programs already
16 in the county.

17 18307. (a) Notwithstanding Section 18305, a county may
18 carry over funds deposited in a county domestic violence
19 shelter-based programs special fund until the time that a domestic
20 violence shelter-based program is established to serve the needs
21 of domestic violence victims of the county. Records of these
22 funds shall be available for public review upon request.

23 (b) Funds deposited in a county domestic violence
24 shelter-based programs special fund may be used only to finance
25 all, or one or more, basic services specified in Section 18294.
26 This subdivision is declaratory of existing law. These funds shall
27 be used for shelter services, and may be used for direct or
28 indirect costs.

29 *18308. The Contra Costa County Board of Supervisors shall*
30 *direct the local registrar, county recorder, and county clerk to*
31 *deposit fees collected pursuant to Section 103626 of the Health*
32 *and Safety Code into a special fund. The county may retain up to*
33 *4 percent of the fund for administrative costs associated with the*
34 *collection and segregation of the additional fees and the deposit*
35 *of these fees into the special fund. Proceeds from the fund shall*
36 *be used for governmental oversight and coordination of domestic*
37 *violence and family violence prevention, intervention, and*
38 *prosecution efforts among the court system, the district*
39 *attorney's office, the public defender's office, law enforcement,*
40 *the probation department, mental health, substance abuse, child*

1 *welfare services, adult protective services, and community-based*
2 *organizations and other agencies working in Contra Costa*
3 *County in order to increase the effectiveness of prevention, early*
4 *intervention, and prosecution of domestic and family violence.*

5 18309. (a) The Alameda County Board of Supervisors shall
6 direct the local registrar, county recorder, and county clerk to
7 deposit fees collected pursuant to Section 26840.10 of the
8 Government Code and Section 103627 of the Health and Safety
9 Code into a special fund. The county may retain up to 4 percent
10 of the funds for administrative costs associated with the
11 collection and segregation of the additional fees and the deposit
12 of these fees into the special fund. Proceeds from the fund shall
13 be used for governmental oversight and coordination of domestic
14 violence and family violence prevention, intervention, and
15 prosecution efforts among the court system, the district attorney's
16 office, the public defender's office, law enforcement, the
17 probation department, mental health, substance abuse, child
18 welfare services, adult protective services, and community-based
19 organizations and other agencies working in Alameda County in
20 order to increase the effectiveness of prevention, early
21 intervention, and prosecution of domestic and family violence.

22 (b) The City Council of the City of Berkeley shall direct the
23 local registrar to deposit fees collected pursuant to Section
24 103627 of the Health and Safety Code into a special fund. The
25 city may retain up to 4 percent of the funds for administrative
26 costs associated with the collection and segregation of the
27 additional fees and the deposit of these fees into the special fund.
28 Proceeds from the fund shall be used for governmental oversight
29 and coordination of domestic violence and family violence
30 prevention and intervention efforts, including law enforcement,
31 mental health, public health, substance abuse, victim advocacy,
32 community education, and housing, in order to increase the
33 effectiveness of prevention, early intervention, and prosecution
34 of domestic and family violence.

35 (c) This section shall remain in effect only until January 1,
36 2010, and as of that date is repealed, unless a later enacted statute
37 deletes or extends that date.

38 18309.5. (a) The Solano County Board of Supervisors shall
39 direct the local registrar, county recorder, and county clerk to
40 deposit fees collected pursuant to Section 26840.11 of the

1 Government Code and Section 103628 of the Health and Safety
2 Code into a special fund.

3 The county may retain up to 4 percent of the fund for
4 administrative costs associated with the collection and
5 segregation of the additional fees and the deposit of these fees
6 into the special fund. Proceeds from the fund shall be used for
7 governmental oversight and coordination of domestic violence
8 and family violence prevention, intervention, and prosecution
9 efforts among the court system, the district attorney’s office, the
10 public defender’s office, law enforcement, the probation
11 department, mental health, substance abuse, child welfare
12 services, adult protective services, and community-based
13 organizations and other agencies working in Solano County in
14 order to increase the effectiveness of prevention, early
15 intervention, and prosecution of domestic and family violence.

16 (b) This section shall remain in effect only until January 1,
17 2010, and as of that date is repealed, unless a later enacted
18 statute, that is enacted before January 1, 2010, deletes or extends
19 that date.

20 *SEC. 5. Section 18308 of the Welfare and Institutions Code,*
21 *as added by Section 4 of this act, shall become operative only if*
22 *Senate Bill 968 of the 2005–06 Regular Session is enacted and*
23 *becomes operative.*

24 ~~SEC. 5.~~

25 *SEC. 6.* If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.