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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. The bill would provide that a domestic violence shelter-based program is, to the extent feasible, required to comply with the federal Americans with Disabilities Act of 1990 provide services to, or assist in referring, physically disabled victims of domestic violence.~~

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 authorize the county to fund basic domestic violence program services, notwithstanding either the sufficiency of funds in the domestic violence shelter-based program special fund or the availability of community resources. 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,

1 to the extent feasible, to develop or expand domestic violence
2 shelter-based programs to target underserved areas and
3 populations.

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5 6 of Division 9 of the Welfare and Institutions Code is repealed.

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

9

10 CHAPTER 5. THE DOMESTIC VIOLENCE SHELTER-BASED
11 PROGRAMS ACT
12

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

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

33 It is the intent of the Legislature to begin to explore and
34 determine ways of achieving reductions in serious and fatal
35 injuries to the victims of domestic violence and begin to clarify
36 the problems, causes, and cures of domestic violence. In order to
37 achieve these results, it is the intent of the Legislature that the
38 state shall support projects in several areas throughout the state
39 for the purpose of aiding victims of domestic violence by
40 providing them a place to escape the destructive environment in

1 an undisclosed and secured location, on a 24-hour basis, where
2 staff meet the requirements set forth in Section 1037.1 of the
3 Evidence Code.

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

12 18291. For purposes of this chapter:

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

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

22 (1) Sexual relations between the parties while sharing the
23 same living quarters.

24 (2) Sharing of income or expenses.

25 (3) Joint use or ownership of property.

26 (4) Whether the parties hold themselves out as husband and
27 wife.

28 (5) The continuity of the relationship.

29 (6) The length of the relationship.

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

32 (1) Provides shelter in an undisclosed and secured location.

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

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

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

38 18293. (a) In order to be eligible for funding pursuant to this
39 chapter, a domestic violence shelter-based program shall
40 demonstrate its ability to receive and make use of any funds

1 available from governmental, voluntary, philanthropic, or other
2 sources that may be used to augment any state or county funds
3 appropriated for the purposes of this chapter. Each domestic
4 violence shelter-based program shall make every attempt to
5 qualify the domestic violence shelter-based program for any
6 available federal funding.

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

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

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

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

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

1 according to the type of services provided, and the need, if any,
2 for additional services or staffing.

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

8 *(g) Programs that receive funding through this chapter shall,
9 to the extent feasible, provide services to persons with a physical
10 disability who are victims of domestic violence. If the program
11 cannot provide the services, then the program's staff, to the
12 extent feasible, shall assist in referring the person with a physical
13 disability to other programs and services in the community where
14 assistance may be obtained.*

15 (h) The process to determine eligibility of a domestic violence
16 shelter-based program to receive funding pursuant to this chapter
17 shall have as its primary purpose to ascertain that the program
18 meets the service requirements of Section 18294. The process
19 shall be expedient and shall include a mechanism for annual
20 recertification.

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

24 18294. Domestic violence shelter-based programs shall
25 provide all of the following basic services to victims of domestic
26 violence and their children:

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

28 (b) A 24 hours a day, seven days a week telephone hotline for
29 crisis calls.

30 (c) Temporary housing and food facilities.

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

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

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

37 (g) Arrangements for schoolage children to continue their
38 education during their stay at the domestic violence shelter-based
39 program.

40 (h) Emergency transportation as feasible.

1 18295. In addition to the services required in Section 18294,
2 to the extent possible, and in conjunction with already existing
3 community services, the domestic violence shelter-based
4 programs shall provide a method of obtaining the following
5 services for the victims of domestic violence:

- 6 (a) Medical care.
- 7 (b) Legal assistance.
- 8 (c) Psychological support and counseling.
- 9 (d) Information regarding other available social services.

10 18296. The staff of the domestic violence shelter-based
11 program shall work with social service agencies, schools, and
12 law enforcement agencies in an advocacy capacity for those
13 served by the domestic violence shelter-based programs.

14 18297. The staff of each domestic violence shelter-based
15 program shall attempt to achieve community support and
16 acceptance of the program by advocating the program to
17 community representatives and groups within the community.

18 Volunteers shall be trained and used to maximum capacity in
19 the delivery of services. Staff and volunteers shall meet the
20 training requirements set forth in Section 1037.1 of the Evidence
21 Code.

22 18298. Inasmuch as domestic violence shelter-based
23 programs are to serve a variety of cultural backgrounds, to the
24 extent feasible, a portion of the domestic violence shelter-based
25 program's personnel shall be bilingual. An effort shall be made
26 to recruit formerly battered persons as staff members.

27 18299. A domestic violence shelter-based program shall
28 maintain annual fiscal reports in a form to be prescribed by the
29 Generally Accepted Accounting Principles (GAAP).

30 18300. An annual report shall be prepared by each domestic
31 violence shelter-based program for submission to the county
32 board of supervisors. The report shall be made available to the
33 public upon request, and shall include all of the following
34 elements:

- 35 (a) The total number of persons requesting services of the
36 domestic violence shelter-based programs.
- 37 (b) The number of persons served in the domestic violence
38 shelter-based program, by each type of service provided.
- 39 (c) A description of the social and economic characteristics of
40 persons receiving services, by type of service provided.

1 18301. In addition to any other provisions of law concerning
2 the confidentiality of personal information collected by domestic
3 violence shelters, a county shall not require a domestic violence
4 shelter-based program to provide any information not
5 enumerated in Section 18300, or require the disclosure of any
6 information pertaining to the confidential location of a domestic
7 violence shelter-based program or the location or identity of any
8 shelter resident, employee, or volunteer. A county shall not
9 require a method of data collection or recording, or impose any
10 other requirement, that is inconsistent with the federal Violence
11 Against Women Act (18 U.S.C. Sec. 2261 et seq.).

12 18304. A county may establish a program for reducing the
13 incidence of domestic violence in the county by establishing or
14 funding domestic violence shelter-based programs that meet the
15 requirements of this chapter. Geographically adjacent counties
16 may combine their respective domestic violence shelter-based
17 programs special funds in order to establish one or more
18 domestic violence shelter-based programs meeting the
19 requirements of this chapter, in order to provide services to the
20 clients of each county that combines its funds with another
21 county.

22 18305. (a) At the time of issuance of a marriage license
23 pursuant to Section 26840 of the Government Code, twenty-three
24 dollars (\$23) of each fee paid shall be collected by the county
25 clerk for deposit into the county domestic violence shelter-based
26 programs special fund. The fees collected in this special fund
27 shall be disbursed to approved domestic violence shelter-based
28 programs on a yearly or more frequent basis commencing July 1,
29 1980. The funds shall be disbursed using a request for
30 qualification (RFQ) process.

31 (b) The board of supervisors shall direct the county clerk to
32 deposit twenty-three dollars (\$23) of each fee into the county
33 domestic violence shelter-based programs special fund. The
34 county domestic violence shelter-based programs special fund
35 shall fund domestic violence shelter-based programs established
36 pursuant to Section 18304. Four dollars (\$4) of each twenty-three
37 dollars (\$23) deposited into the county domestic violence
38 shelter-based programs special fund shall be used, to the extent
39 feasible, to support or expand domestic violence shelter-based
40 programs to target underserved areas and populations. No more

1 than 8 percent of the funds shall be expended for the
2 administrative costs associated with the collection and
3 segregation of the additional marriage license fees,
4 administration of the county domestic violence shelter-based
5 programs special fund, monitoring of the domestic violence
6 shelter-based programs, and meeting the other administrative
7 requirements imposed by this chapter. Counties that do not
8 participate in the establishing or funding of domestic violence
9 shelter-based programs pursuant to this chapter shall be entitled
10 to retain up to 4 percent of the funds for the administrative costs
11 associated with the collection and segregation of the additional
12 marriage license fees and the deposit of these fees in the county
13 domestic violence shelter-based programs special fund.

14 18305.5. Notwithstanding the availability of funds in either
15 the county domestic violence programs special fund, or the
16 availability of community resources, the county may finance
17 domestic violence shelter-based programs as described in
18 Sections 18294 and 18295.

19 18306. The county board of supervisors shall consult with the
20 local regional domestic violence coalition, consisting of
21 representatives from existing domestic violence shelter-based
22 programs, in planning for the establishment of a new domestic
23 violence shelter-based program or for ongoing technical
24 assistance for domestic violence shelter-based programs already
25 in the county.

26 18307. (a) Notwithstanding Section 18305, a county may
27 carry over funds deposited in a county domestic violence
28 shelter-based programs special fund until the time that a domestic
29 violence shelter-based program is established to serve the needs
30 of domestic violence victims of the county. Records of these
31 funds shall be available for public review upon request.

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

38 18308. The Contra Costa County Board of Supervisors shall
39 direct the local registrar, county recorder, and county clerk to
40 deposit fees collected pursuant to Section 103626 of the Health

1 and Safety Code into a special fund. The county may retain up to
2 4 percent of the fund for administrative costs associated with the
3 collection and segregation of the additional fees and the deposit
4 of these fees into the special fund. Proceeds from the fund shall
5 be used for governmental oversight and coordination of domestic
6 violence and family violence prevention, intervention, and
7 prosecution efforts among the court system, the district attorney's
8 office, the public defender's office, law enforcement, the
9 probation department, mental health, substance abuse, child
10 welfare services, adult protective services, and community-based
11 organizations and other agencies working in Contra Costa
12 County in order to increase the effectiveness of prevention, early
13 intervention, and prosecution of domestic and family violence.

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

31 (b) The City Council of the City of Berkeley shall direct the
32 local registrar to deposit fees collected pursuant to Section
33 103627 of the Health and Safety Code into a special fund. The
34 city may retain up to 4 percent of the funds for administrative
35 costs associated with the collection and segregation of the
36 additional fees and the deposit of these fees into the special fund.
37 Proceeds from the fund shall be used for governmental oversight
38 and coordination of domestic violence and family violence
39 prevention and intervention efforts, including law enforcement,
40 mental health, public health, substance abuse, victim advocacy,

1 community education, and housing, in order to increase the
2 effectiveness of prevention, early intervention, and prosecution
3 of domestic and family violence.

4 (c) This section shall remain in effect only until January 1,
5 2010, and as of that date is repealed, unless a later enacted statute
6 deletes or extends that date.

7 18309.5. (a) The Solano County Board of Supervisors shall
8 direct the local registrar, county recorder, and county clerk to
9 deposit fees collected pursuant to Section 26840.11 of the
10 Government Code and Section 103628 of the Health and Safety
11 Code into a special fund.

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

25 (b) This section shall remain in effect only until January 1,
26 2010, and as of that date is repealed, unless a later enacted
27 statute, that is enacted before January 1, 2010, deletes or extends
28 that date.

29 SEC. 5. Section 18308 of the Welfare and Institutions Code,
30 as added by Section 4 of this act, shall become operative only if
31 Senate Bill 968 of the 2005–06 Regular Session is enacted and
32 becomes operative.

33 SEC. 6. If the Commission on State Mandates determines that
34 this act contains costs mandated by the state, reimbursement to
35 local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code.

O