

AMENDED IN ASSEMBLY APRIL 14, 2009

AMENDED IN ASSEMBLY APRIL 1, 2009

AMENDED IN ASSEMBLY MARCH 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 154

Introduced by Assembly Member Evans

January 23, 2009

An act to amend Sections 16118, ~~16119, and 16131 of~~ *and 16119 of, and to add Section 16132 to*, the Welfare and Institutions Code, relating to adoption assistance.

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Evans. Adoption assistance: federal law.

Under existing law, the State Department of Social Services is required to provide assistance to families adopting children from the foster care system. Payments may be made for ongoing expenses or for one-time adoption expenses, as provided. Existing law requires the department to actively seek and make maximum use of federal funds that may be available for those purposes.

~~This bill would, in accordance with federal law, require any savings realized from the change in federal funding for adoption assistance resulting from the enactment of specified federal legislation to be spent for the provision of foster care and adoption services. state the intent of the Legislature to conform state statutes with specified federal legislation and to expend savings resulting from changes in eligibility for adoption assistance on specified services.~~

Existing law also requires the department or the licensed adoption agency to disclose specified information to prospective adoptive families.

This bill would add to those disclosure requirements that the department or licensed adoption agency inform the prospective adoptive family of their potential eligibility for a federal and state tax credit.

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 16118 of the Welfare and Institutions
2 Code is amended to read:
3 16118. (a) The department shall establish and administer the
4 program to be carried out by the department or the county pursuant
5 to this chapter. The department shall adopt any regulations
6 necessary to carry out the provisions of this chapter.
7 (b) The department shall keep the records necessary to evaluate
8 the program's effectiveness in encouraging and promoting the
9 adoption of children eligible for the Adoption Assistance Program.
10 (c) The department or the county responsible for providing
11 financial aid in the amount determined in Section 16120 shall have
12 responsibility for certifying that the child meets the eligibility
13 criteria and for determining the amount of financial assistance
14 needed by the child and the adopting family.
15 (d) The department shall actively seek and make maximum use
16 of federal funds that may be available for the purposes of this
17 chapter. In accordance with federal law, any savings in state funds
18 realized from the change in federal funding for adoption assistance
19 resulting from the enactment of Public Law 110-351 shall be spent
20 for the provision of foster care and adoption services. All gifts or
21 grants received from private sources for the purpose of this chapter
22 shall be used to offset public costs incurred under the program
23 established by this chapter.
24 (e) For purposes of this chapter, the county responsible for
25 determining the child's Adoption Assistance Program eligibility
26 status and for providing financial aid in the amount determined in
27 Sections 16120 and 16120.1 shall be the county that, at the time
28 of the adoptive placement, would otherwise be responsible for
29 making a payment pursuant to Section 11450 under the CalWORKs

1 program or Section 11461 under the Aid to Families with
2 Dependent Children-Foster Care program if the child were not
3 adopted. When the child has been voluntarily relinquished for
4 adoption prior to a determination of eligibility for this payment,
5 the responsible county shall be the county in which the
6 relinquishing parent resides. The responsible county for all other
7 eligible children shall be the county where the child is physically
8 residing prior to placement with the adoptive family. The
9 responsible county shall certify eligibility on a form prescribed by
10 the department.

11 SEC. 2. Section 16119 of the Welfare and Institutions Code is
12 amended to read:

13 16119. (a) At the time application for adoption of a child who
14 is potentially eligible for Adoption Assistance Program benefits
15 is made, and at the time immediately prior to the finalization of
16 the adoption decree, the department or the licensed adoption
17 agency, whichever is appropriate, shall provide the prospective
18 adoptive family with information, in writing, on the availability
19 of Adoption Assistance Program benefits, with an explanation of
20 the difference between these benefits and foster care payments.
21 The department or the licensed adoption agency shall also provide
22 the prospective adoptive family with information, in writing, on
23 the availability of reimbursement for the nonrecurring expenses
24 incurred in the adoption of the Adoption Assistance Program
25 eligible child. The department or licensed adoption agency shall
26 also provide the prospective adoptive family with information on
27 the availability of mental health services through the Medi-Cal
28 program or other programs.

29 (b) The department or the licensed agency shall encourage
30 families that elect not to sign an adoption assistance agreement to
31 sign a deferred adoption assistance agreement.

32 (c) The department or the county, whichever is responsible for
33 determining the child's eligibility for the Adoption Assistance
34 Program, shall assess the needs of the child and the circumstances
35 of the family.

36 (d) (1) The amount of an adoption assistance cash benefit, if
37 any, shall be a negotiated amount based upon the needs of the child
38 and the circumstances of the family. There shall be no means test
39 used to determine an adoptive family's eligibility for the Adoption
40 Assistance Program. In those instances where an otherwise eligible

1 child does not require a cash benefit, Medi-Cal eligibility may be
2 established for the child, as needed.

3 (2) For purposes of paragraph (1), “circumstances of the family”
4 includes the family’s ability to incorporate the child into the
5 household in relation to the lifestyle, standard of living, and future
6 plans and to the overall capacity to meet the immediate and future
7 plans and needs, including education, of the child.

8 (e) The department or the licensed adoption agency shall inform
9 the prospective adoptive family regarding the county responsible
10 for providing financial aid to the adoptive family in an amount
11 determined pursuant to Sections 16120 and 16120.1.

12 (f) The department or the licensed adoption agency shall inform
13 the prospective adoptive family that the adoptive parents will
14 continue to receive benefits in the agreed upon amount unless one
15 of the following occurs:

16 (1) The department determines that the adoptive parents are no
17 longer legally responsible for the support of the child.

18 (2) The department determines that the child is no longer
19 receiving support from the adoptive family.

20 (3) The adoption assistance payment exceeds the amount that
21 the child would have been eligible for in a licensed foster home.

22 (4) The adoptive parents demonstrate a need for an increased
23 payment.

24 (5) The adoptive parents voluntarily reduce or terminate
25 payments.

26 (6) The adopted child has an extraordinary need that was not
27 anticipated at the time the amount of the adoption assistance was
28 originally negotiated.

29 (g) The department or licensed adoption agency shall inform
30 the prospective adoptive family of their potential eligibility for a
31 federal tax credit under Section 23 of the Internal Revenue Code
32 of 1986 (26 U.S.C. Sec. 23) and a state tax credit under Section
33 17052.25 of the Revenue and Taxation Code.

34 ~~SEC. 3. Section 16131 of the Welfare and Institutions Code is~~
35 ~~amended to read:~~

36 ~~16131. It is the intent of the Legislature to conform state~~
37 ~~statutes to recently enacted federal legislation, the Adoption and~~
38 ~~Safe Families Act of 1997 (Public Law 105-89), and the Fostering~~
39 ~~Connections to Success and Increasing Adoptions Act of 2008~~
40 ~~(Public Law 110-351), and to expend any incentive payments~~

1 ~~received through implementation of these federal laws on any~~
2 ~~service, including postadoption assistance, that may be provided~~
3 ~~under Title IV-B or IV-E of the federal Social Security Act.~~

4 SEC. 3. Section 16132 is added to the Welfare and Institutions
5 Code, to read:

6 16132. *It is the intent of the Legislature to conform state*
7 *statutes to recently enacted federal legislation, the Fostering*
8 *Connections to Success and Increasing Adoptions Act of 2008*
9 *(Public Law 110-351) and to expend savings resulting from*
10 *changes in eligibility for adoption assistance on services, including,*
11 *but not limited to, postadoption assistance, that may be provided*
12 *under Title IV-B and IV-E of the federal Social Security Act.*