

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1763

Introduced by Assembly Member Lieu

February 9, 2010

An act to amend Sections 12301.6 and 12305.86 of, and to add Section 12305.87 to, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1763, as amended, Lieu. In-home supportive services.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

The IHSS program is administered at the statewide level by the State Department of Social Services. Existing law requires the department to convene periodic meetings in which supportive services recipients, providers, advocates, IHSS provider representatives, organizations representing recipients, counties, public authorities, nonprofit consortia, and other interested stakeholders may receive information and have the

opportunity to provide input to the department regarding the quality assurance, program integrity, and program consistency efforts, as specified.

This bill would require the department, in consultation and coordination with county welfare departments, to establish guidelines to provide counties with instructions to consistently and accurately comply with the requirements of the IHSS program.

Existing law requires that criminal background checks be conducted for prospective and existing IHSS providers.

This bill, if specified conditions are met, would authorize a public authority or nonprofit consortium to provide an individual with a copy of his or her state-level criminal offender record information search response provided to the entity by the Department of Justice, if the individual is denied placement on the registry, or if the individual's application for providing supportive services to an IHSS recipient has been denied.

This bill ~~would~~, if specified conditions are met, *would* require a county, nonprofit consortium, or public authority authorized to secure a criminal background check clearance to accept a clearance for an individual, as prescribed, from another county, nonprofit consortium, or public authority with criminal background check authority. By imposing new duties on counties, this bill would create a state-mandated local program.

This bill ~~would also~~, if specified conditions are met, *would also* require a county, nonprofit consortium, or public authority to obtain subsequent arrest notifications issued by the Department of Justice for a provider whose criminal record clearance was originally processed by another county, nonprofit consortium, or public authority with criminal background check authority.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The In-Home Supportive Services (IHSS) program provides
4 people who are blind, disabled, or over 65 years of age with
5 personal assistance and in-home supportive services so they can
6 live safely in their homes and avoid unnecessary and expensive
7 institutional care.

8 (b) IHSS is an entitlement program that is regulated by state
9 and federal laws and regulations. To be eligible, consumers must
10 be assessed and found to be aged (65 years of age or older), blind,
11 or disabled (as determined by the Social Security Administration)
12 and are unable to remain safely in their own home without
13 assistance. Recipients must also be low income, meeting the
14 income requirements consistent with eligibility for Medi-Cal.

15 (c) Both federal and state laws require the IHSS program to be
16 administered in a manner that ensures that services are comparable
17 in amount, duration, and scope in every county.

18 (d) IHSS is a complex program and has undergone substantial
19 changes over the past five years. Mechanisms have been put in
20 place to improve IHSS program integrity with the enactment of
21 the IHSS Quality Assurance Initiative (Chapter 229, Statutes of
22 2004) and the antifraud initiative (Chapter 17, Statutes of 2009).

23 (e) It is important to ensure that counties have sufficient
24 direction from the state to implement these changes consistently
25 and to minimize the need for IHSS providers and recipients to
26 provide the same information multiple times.

27 SEC. 2. Section 12301.6 of the Welfare and Institutions Code
28 is amended to read:

29 12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a
30 county board of supervisors may, at its option, elect to do either
31 of the following:

32 (1) Contract with a nonprofit consortium to provide for the
33 delivery of in-home supportive services.

34 (2) Establish, by ordinance, a public authority to provide for
35 the delivery of in-home supportive services.

36 (b) (1) To the extent that a county elects to establish a public
37 authority pursuant to paragraph (2) of subdivision (a), the enabling
38 ordinance shall specify the membership of the governing body of

1 the public authority, the qualifications for individual members, the
2 manner of appointment, selection, or removal of members, how
3 long they shall serve, and other matters as the board of supervisors
4 deems necessary for the operation of the public authority.

5 (2) A public authority established pursuant to paragraph (2) of
6 subdivision (a) shall be both of the following:

7 (A) An entity separate from the county, and shall be required
8 to file the statement required by Section 53051 of the Government
9 Code.

10 (B) A corporate public body, exercising public and essential
11 governmental functions and that has all powers necessary or
12 convenient to carry out the delivery of in-home supportive services,
13 including the power to contract for services pursuant to Sections
14 12302 and 12302.1 and that makes or provides for direct payment
15 to a provider chosen by the recipient for the purchase of services
16 pursuant to Sections 12302 and 12302.2. Employees of the public
17 authority shall not be employees of the county for any purpose.

18 (3) (A) As an alternative, the enabling ordinance may designate
19 the board of supervisors as the governing body of the public
20 authority.

21 (B) Any enabling ordinance that designates the board of
22 supervisors as the governing body of the public authority shall
23 also specify that no fewer than 50 percent of the membership of
24 the advisory committee shall be individuals who are current or
25 past users of personal assistance services paid for through public
26 or private funds or recipients of services under this article.

27 (C) If the enabling ordinance designates the board of supervisors
28 as the governing body of the public authority, it shall also require
29 the appointment of an advisory committee of not more than 11
30 individuals who shall be designated in accordance with
31 subparagraph (B).

32 (D) Prior to making designations of committee members
33 pursuant to subparagraph (C), or governing body members in
34 accordance with paragraph (4), the board of supervisors shall solicit
35 recommendations of qualified members of either the governing
36 body of the public authority or of any advisory committee through
37 a fair and open process that includes the provision of reasonable
38 written notice to, and a reasonable response time by, members of
39 the general public and interested persons and organizations.

1 (4) If the enabling ordinance does not designate the board of
2 supervisors as the governing body of the public authority, the
3 enabling ordinance shall require the membership of the governing
4 body to meet the requirements of subparagraph (B) of paragraph
5 (3).

6 (c) (1) Any public authority created pursuant to this section
7 shall be deemed to be the employer of in-home supportive services
8 personnel referred to recipients under paragraph (3) of subdivision
9 (e) within the meaning of Chapter 10 (commencing with Section
10 3500) of Division 4 of Title 1 of the Government Code. Recipients
11 shall retain the right to hire, fire, and supervise the work of any
12 in-home supportive services personnel providing services to them.

13 (2) (A) Any nonprofit consortium contracting with a county
14 pursuant to this section shall be deemed to be the employer of
15 in-home supportive services personnel referred to recipients
16 pursuant to paragraph (3) of subdivision (e) for the purposes of
17 collective bargaining over wages, hours, and other terms and
18 conditions of employment.

19 (B) Recipients shall retain the right to hire, fire, and supervise
20 the work of any in-home supportive services personnel providing
21 services for them.

22 (d) A public authority established pursuant to this section or a
23 nonprofit consortium contracting with a county pursuant to this
24 section, when providing for the delivery of services under this
25 article by contract in accordance with Sections 12302 and 12302.1
26 or by direct payment to a provider chosen by a recipient in
27 accordance with Sections 12302 and 12302.2, shall comply with
28 and be subject to all statutory and regulatory provisions applicable
29 to the respective delivery mode.

30 (e) Any nonprofit consortium contracting with a county pursuant
31 to this section or any public authority established pursuant to this
32 section shall provide for all of the following functions under this
33 article, but shall not be limited to those functions:

34 (1) The provision of assistance to recipients in finding in-home
35 supportive services personnel through the establishment of a
36 registry.

37 (2) (A) (i) The investigation of the qualifications and
38 background of potential personnel. Upon the effective date of the
39 amendments to this section made during the 2009–10 Fourth
40 Extraordinary Session of the Legislature, the investigation with

1 respect to any provider in the registry or prospective registry
2 applicant shall include criminal background checks requested by
3 the nonprofit consortium or public authority and conducted by the
4 Department of Justice pursuant to Section 15660, for those public
5 authorities or nonprofit consortia using the agencies on the effective
6 date of the amendments to this section made during the 2009–10
7 Fourth Extraordinary Session of the Legislature. Criminal
8 background checks shall be performed no later than July 1, 2010,
9 for any provider who is already on the registry on the effective
10 date of amendments to this section made during the 2009–10 Fourth
11 Extraordinary Session of the Legislature, for whom a criminal
12 background check pursuant to this section has not previously been
13 provided, as a condition of the provider’s continued enrollment in
14 the IHSS program. Criminal background checks shall be conducted
15 at the provider’s expense.

16 (ii) Upon notice from the Department of Justice notifying the
17 public authority or nonprofit consortium that the prospective
18 registry applicant has been convicted of a criminal offense specified
19 in Section 12305.81, the public authority or nonprofit consortium
20 shall deny the request to be placed on the registry for providing
21 supportive services to any recipient of the In-Home Supportive
22 Services program.

23 ~~(B) (i) If an applicant or provider is rejected as a result of~~
24 ~~information contained in the criminal background report, the~~
25 ~~applicant or provider shall receive a copy of his or her own criminal~~
26 ~~history record from the Department of Justice, as provided in~~
27 ~~Article 5 (commencing with Section 11120) of Chapter 1 of Title~~
28 ~~1 of Part 4 of the Penal Code, to review the information for~~
29 ~~accuracy and completeness. The applicant or provider shall be~~
30 ~~advised that if, upon review of his or her own criminal history~~
31 ~~record he or she finds the information to be inaccurate or~~
32 ~~incomplete, the applicant or provider shall have the right to submit~~
33 ~~a formal challenge to the Department of Justice to contest the~~
34 ~~criminal background report.~~

35 *(B) (i) Notwithstanding any other provision of law, the public*
36 *authority or nonprofit consortium may provide an individual with*
37 *a copy of his or her state-level criminal offender record information*
38 *search response, as provided to that entity by the Department of*
39 *Justice, if the individual has been denied placement on the registry*
40 *for providing supportive services to any recipient of services under*

1 the In-Home Supportive Services program based on that
2 information, and the individual makes a written request to the
3 entity for the information. The written request shall specify the
4 address to which the copy of the information is to be sent. The
5 state-level criminal record information search response shall not
6 be modified or altered from its form or content as provided by the
7 Department of Justice, and shall be sent to the address specified
8 by the individual in the written request. The public authority or
9 nonprofit consortium shall retain a copy of the individual's written
10 request and the entity's response, including the dates that the
11 entity's response was provided to the individual.

12 (ii) The department shall develop a written appeal process for
13 the current and prospective providers who are determined ineligible
14 to receive payment for the provision of services in the In-Home
15 Supportive Services program.

16 ~~(C) An applicant shall be informed of his or her right to a waiver~~
17 ~~of the fee for obtaining a copy of a criminal history record, and of~~
18 ~~how to submit a claim and proof of indigency, as required by~~
19 ~~Section 11123 of the Penal Code.~~

20 ~~(D)~~
21 (C) Nothing in this paragraph shall be construed to prohibit the
22 Department of Justice from assessing a fee pursuant to Section
23 11105 or 11123 of the Penal Code to cover the cost of furnishing
24 ~~summary criminal history information.~~ the state-level criminal
25 offender record information response.

26 ~~(E)~~
27 (D) As used in this section, "nonprofit consortium" means a
28 nonprofit public benefit corporation that has all powers necessary
29 to carry out the delivery of in-home supportive services under the
30 delegated authority of a governmental entity.

31 ~~(F)~~
32 (E) (i) A nonprofit consortium or a public authority authorized
33 to secure a criminal background check clearance pursuant to this
34 section shall accept a clearance for an individual *who is not a*
35 *registry applicant* described in clause (i) of subparagraph (A) who
36 has been deemed eligible to receive payment for providing services
37 pursuant to this article, from another nonprofit consortium, public
38 authority, or county with criminal background check authority
39 pursuant to either Section 12305.86 or this section. *Existence of a*
40 *clearance shall be determined by verification through the case*

1 *management, information, and payrolling system that another*
2 *county, nonprofit consortium, or public authority with criminal*
3 *background check authority pursuant to Section 12305.86 or this*
4 *section has deemed the current or prospective provider to be*
5 *eligible to receive payment for providing services pursuant to this*
6 *article.*

7 (ii) The Department of Justice shall process a request from a
8 nonprofit consortium or a public authority with criminal record
9 authority to receive notifications issued by the Department of
10 Justice pursuant to Section 11105.2 of the Penal Code when the
11 criminal record clearance for the provider was originally processed
12 by a county, nonprofit consortium, or public authority with criminal
13 record authority only if all of the following conditions are met:

14 (I) The request shall be submitted to the Department of Justice
15 by the nonprofit consortium or public authority to be substituted
16 to receive the notification.

17 (II) The request shall be for an individual whose original
18 clearance was obtained to enroll or continue to be enrolled as a
19 provider in the IHSS program.

20 (III) The request shall contain all prescribed data elements and
21 format protocols pursuant to a written agreement between the State
22 Department of Social Services and the Department of Justice.

23 (3) Establishment of a referral system under which in-home
24 supportive services personnel shall be referred to recipients.

25 (4) Providing for training for providers and recipients.

26 (5) (A) Performing any other functions related to the delivery
27 of in-home supportive services.

28 (B) (i) Upon request of a recipient of in-home supportive
29 services pursuant to this chapter, or a recipient of personal care
30 services under the Medi-Cal program pursuant to Section 14132.95,
31 a public authority or nonprofit consortium may provide a criminal
32 background check on a nonregistry applicant or provider from the
33 Department of Justice, in accordance with clause (i) of
34 subparagraph (A) of paragraph (2) of subdivision (e). If the person
35 who is the subject of the criminal background check is not hired
36 or is terminated because of the information contained in the
37 criminal background report, the provisions of subparagraph (B)
38 of paragraph (2) of subdivision (e) shall apply.

39 (ii) A recipient of in-home supportive services pursuant to this
40 chapter or a recipient of personal care services under the Medi-Cal

1 program may elect to employ an individual as their service provider
2 notwithstanding the individual's record of previous criminal
3 convictions, unless those convictions include any of the offenses
4 specified in Section 12305.81.

5 (6) Ensuring that the requirements of the personal care option
6 pursuant to Subchapter 19 (commencing with Section 1396) of
7 Chapter 7 of Title 42 of the United States Code are met.

8 (f) (1) Any nonprofit consortium contracting with a county
9 pursuant to this section or any public authority created pursuant
10 to this section shall be deemed not to be the employer of in-home
11 supportive services personnel referred to recipients under this
12 section for purposes of liability due to the negligence or intentional
13 torts of the in-home supportive services personnel.

14 (2) In no case shall a nonprofit consortium contracting with a
15 county pursuant to this section or any public authority created
16 pursuant to this section be held liable for action or omission of any
17 in-home supportive services personnel whom the nonprofit
18 consortium or public authority did not list on its registry or
19 otherwise refer to a recipient.

20 (3) Counties and the state shall be immune from any liability
21 resulting from their implementation of this section in the
22 administration of the In-Home Supportive Services program. Any
23 obligation of the public authority or consortium pursuant to this
24 section, whether statutory, contractual, or otherwise, shall be the
25 obligation solely of the public authority or nonprofit consortium,
26 and shall not be the obligation of the county or state.

27 (g) Any nonprofit consortium contracting with a county pursuant
28 to this section shall ensure that it has a governing body that
29 complies with the requirements of subparagraph (B) of paragraph
30 (3) of subdivision (b) or an advisory committee that complies with
31 subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

32 (h) Recipients of services under this section may elect to receive
33 services from in-home supportive services personnel who are not
34 referred to them by the public authority or nonprofit consortium.
35 Those personnel shall be referred to the public authority or
36 nonprofit consortium for the purposes of wages, benefits, and other
37 terms and conditions of employment.

38 (i) (1) Nothing in this section shall be construed to affect the
39 state's responsibility with respect to the state payroll system,
40 unemployment insurance, or workers' compensation and other

1 provisions of Section 12302.2 for providers of in-home supportive
2 services.

3 (2) The Controller shall make any deductions from the wages
4 of in-home supportive services personnel, who are employees of
5 a public authority pursuant to paragraph (1) of subdivision (c), that
6 are agreed to by that public authority in collective bargaining with
7 the designated representative of the in-home supportive services
8 personnel pursuant to Chapter 10 (commencing with Section 3500)
9 of Division 4 of Title 1 of the Government Code and transfer the
10 deducted funds as directed in that agreement.

11 (3) Any county that elects to provide in-home supportive
12 services pursuant to this section shall be responsible for any
13 increased costs to the in-home supportive services case
14 management, information, and payrolling system attributable to
15 that election. The department shall collaborate with any county
16 that elects to provide in-home supportive services pursuant to this
17 section prior to implementing the amount of financial obligation
18 for which the county shall be responsible.

19 (j) To the extent permitted by federal law, personal care option
20 funds, obtained pursuant to Subchapter 19 (commencing with
21 Section 1396) of Chapter 7 of Title 42 of the United States Code,
22 along with matching funds using the state and county sharing ratio
23 established in subdivision (c) of Section 12306, or any other funds
24 that are obtained pursuant to Subchapter 19 (commencing with
25 Section 1396) of Chapter 7 of Title 42 of the United States Code,
26 may be used to establish and operate an entity authorized by this
27 section.

28 (k) Notwithstanding any other provision of law, the county, in
29 exercising its option to establish a public authority, shall not be
30 subject to competitive bidding requirements. However, contracts
31 entered into by either the county, a public authority, or a nonprofit
32 consortium pursuant to this section shall be subject to competitive
33 bidding as otherwise required by law.

34 (l) (1) The department may adopt regulations implementing
35 this section as emergency regulations in accordance with Chapter
36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
37 Title 2 of the Government Code. For the purposes of the
38 Administrative Procedure Act, the adoption of the regulations shall
39 be deemed an emergency and necessary for the immediate
40 preservation of the public peace, health and safety, or general

1 welfare. Notwithstanding Chapter 3.5 (commencing with Section
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
3 these emergency regulations shall not be subject to the review and
4 approval of the Office of Administrative Law.

5 (2) Notwithstanding subdivision (h) of Section 11346.1 and
6 Section 11349.6 of the Government Code, the department shall
7 transmit these regulations directly to the Secretary of State for
8 filing. The regulations shall become effective immediately upon
9 filing by the Secretary of State.

10 (3) Except as otherwise provided for by Section 10554, the
11 Office of Administrative Law shall provide for the printing and
12 publication of these regulations in the California Code of
13 Regulations. Emergency regulations adopted pursuant to this
14 subdivision shall remain in effect for no more than 180 days.

15 (m) (1) In the event that a county elects to form a nonprofit
16 consortium or public authority pursuant to subdivision (a) before
17 the State Department of Health Care Services has obtained all
18 necessary federal approvals pursuant to paragraph (3) of
19 subdivision (j) of Section 14132.95, all of the following shall apply:

20 (A) Subdivision (d) shall apply only to those matters that do
21 not require federal approval.

22 (B) The second sentence of subdivision (h) shall not be
23 operative.

24 (C) The nonprofit consortium or public authority shall not
25 provide services other than those specified in paragraphs (1), (2),
26 (3), (4), and (5) of subdivision (e).

27 (2) Paragraph (1) shall become inoperative when the State
28 Department of Health Care Services has obtained all necessary
29 federal approvals pursuant to paragraph (3) of subdivision (j) of
30 Section 14132.95.

31 (n) (1) One year after the effective date of the first approval by
32 the department granted to the first public authority, the Bureau of
33 State Audits shall commission a study to review the performance
34 of that public authority.

35 (2) The study shall be submitted to the Legislature and the
36 Governor not later than two years after the effective date of the
37 approval specified in subdivision (a). The study shall give special
38 attention to the health and welfare of the recipients under the public
39 authority, including the degree to which all required services have
40 been delivered, out-of-home placement rates, prompt response to

1 recipient complaints, and any other issue the director deems
2 relevant.

3 (3) The report shall make recommendations to the Legislature
4 and the Governor for any changes to this section that will further
5 ensure the well-being of recipients and the most efficient delivery
6 of required services.

7 (o) Commencing July 1, 1997, the department shall provide
8 annual reports to the appropriate fiscal and policy committees of
9 the Legislature on the efficacy of the implementation of this
10 section, and shall include an assessment of the quality of care
11 provided pursuant to this section.

12 (p) (1) Notwithstanding any other provision of law, and except
13 as provided in paragraph (2), the department shall, no later than
14 January 1, 2009, implement subparagraphs (A) and (B) through
15 an all-county letter from the director:

16 (A) Subparagraphs (A) and (B) of paragraph (2) of subdivision
17 (e).

18 (B) Subparagraph (B) of paragraph (5) of subdivision (e).

19 (2) The department shall, no later than July 1, 2009, adopt
20 regulations to implement subparagraphs (A) and (B) of paragraph
21 (1).

22 (q) The amendments made to paragraphs (2) and (5) of
23 subdivision (e) made by the act that added this subdivision during
24 the 2007–08 Regular Session of the Legislature shall only be
25 implemented to the extent that an appropriation is made in the
26 annual Budget Act or other statute, except for the amendments
27 that added subparagraph (D) of paragraph (2) of subdivision (e),
28 which shall go into effect January 1, 2009.

29 SEC. 3. Section 12305.86 of the Welfare and Institutions Code
30 is amended to read:

31 12305.86. (a) Effective October 1, 2009, a county shall
32 investigate the background of a person who seeks to become a
33 supportive services provider and who is not listed on the registry
34 of a public authority or nonprofit consortium pursuant to Section
35 12301.6. This investigation shall include criminal background
36 checks conducted by the Department of Justice pursuant to Section
37 15660.

38 (b) No later than July 1, 2010, the county shall complete a
39 criminal background check pursuant to subdivision (a) for a
40 provider who is providing in-home supportive services prior to

October 1, 2009, and who is not listed on a public authority or nonprofit consortium registry, as a condition of the provider's continued enrollment in the IHSS program. Criminal background checks shall be conducted at the provider's expense.

(c) Upon notice from the Department of Justice that a prospective or current provider has been convicted of a criminal offense specified in Section 12305.81, the county shall deny or terminate the applicant's request to become a provider of supportive services to any recipient of the In-Home Supportive Services program.

~~(1) If an applicant or provider is rejected as a result of information contained in the criminal background report, the applicant or provider shall receive a copy of his or her own criminal history record from the Department of Justice, as provided in Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4 of the Penal Code, to review the information for accuracy and completeness. The applicant or provider shall be advised that if, upon review of his or her own criminal history record, he or she finds the information to be inaccurate or incomplete, the applicant or provider shall have the right to submit a formal challenge to the Department of Justice to contest the criminal background report.~~

(1) Notwithstanding any other provision of law, the public authority or nonprofit consortium may provide an individual with a copy of his or her state-level criminal offender record information search response, as provided to that entity by the Department of Justice, if the individual's application for providing supportive services to any recipient of services under the In-Home Supportive Services program has been denied based on that information, and the individual makes a written request to the entity for the information. The written request shall specify the address to which the copy of the information is to be sent. The state-level criminal record information search response shall not be modified or altered from its form or content as provided by the Department of Justice, and shall be sent to the address specified by the individual in the written request. The public authority or nonprofit consortium shall retain a copy of the individual's written request and the entity's response, including the dates that the entity's response was provided to the individual.

1 (2) The department shall develop a written appeal process for
2 the current and prospective providers who are determined ineligible
3 to receive payment for the provision of services under the In-Home
4 Supportive Services program.

5 ~~(3) An applicant shall be informed of his or her right to a waiver~~
6 ~~of the fee for obtaining a copy of a criminal history record, and of~~
7 ~~how to submit a claim and proof of indigency, as required by~~
8 ~~Section 11123 of the Penal Code.~~

9 (d) Nothing in this section shall be construed to prohibit the
10 Department of Justice from assessing a fee pursuant to Section
11 11105 or 11123 of the Penal Code to cover the cost of furnishing
12 ~~summary criminal history information.~~ *the state-level criminal*
13 *offender record information response.*

14 (e) (1) A county authorized to secure a criminal background
15 check clearance pursuant to this section shall accept a clearance
16 for an individual described in subdivision (a) or (b) who has been
17 deemed eligible to receive payment for providing services pursuant
18 to this article, from another county, nonprofit consortium, or public
19 authority with criminal background check authority pursuant to
20 either Section 12301.6 or this section. *Existence of a clearance*
21 *shall be determined by verification through the case management,*
22 *information, and payrolling system that another county, nonprofit*
23 *consortium, or public authority with criminal background check*
24 *authority pursuant to Section 12301.6 or this section has deemed*
25 *the current or prospective provider to be eligible to receive*
26 *payment for providing services pursuant to this article.*

27 (2) The Department of Justice shall process a request from a
28 county with criminal record authority to receive notifications issued
29 by the Department of Justice pursuant to Section 11105.2 of the
30 Penal Code when the criminal record clearance for the provider
31 was originally processed by a county, nonprofit consortium, or
32 public authority with criminal record authority only if all of the
33 following conditions are met:

34 (A) The request shall be submitted to the Department of Justice
35 by the county to be substituted to receive the notification.

36 (B) The request shall be for an individual whose original
37 clearance was obtained to enroll or continue to be enrolled as a
38 provider in the IHSS program.

1 (C) The request shall contain all prescribed data elements and
2 format protocols pursuant to a written agreement between the State
3 Department of Social Services and the Department of Justice.

4 (f) The department shall seek federal financial participation, to
5 the extent possible, to cover any costs associated with this section.

6 SEC. 4. Section 12305.87 is added to the Welfare and
7 Institutions Code, to read:

8 12305.87. The department, in consultation and coordination
9 with county welfare departments, and in accordance with Section
10 12305.72, shall establish guidelines to provide counties with
11 instructions to consistently and accurately comply with the
12 requirements of this article.

13 SEC. 5. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

18 SEC. 6. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the Constitution and shall go into
21 immediate effect. The facts constituting the necessity are:

22 In order to ensure that IHSS program requirements, including
23 criminal background checks, are uniformly and appropriately
24 applied to providers at the earliest possible time, it is necessary
25 for this act to take effect immediately.