

ASSEMBLY BILL

No. 2504

Introduced by Assembly Member Audra Strickland

February 19, 2010

An act to amend Section 10980 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2504, as introduced, Audra Strickland. CalWORKs eligibility: fraudulent representations: fines.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program for the allocation of federal funds received through the TANF program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals who meet specified eligibility criteria.

Existing law establishes criminal penalties, including the imposition of specified fines, for violation of certain provisions relating to, among other offenses, willfully and knowingly making a false statement or failing to disclose a material fact in order to obtain designated public social services, including the CalWORKs program benefits.

This bill, when an applicant or recipient commits specified offenses in connection with applying for or receiving CalWORKs benefits, would require that the fine applicable under existing law be doubled, and would require the additional amount collected as required by the bill be paid to the county treasurer in the county in which the judgment is entered. The bill would require the county treasurer to deposit half of the amount

received pursuant to the bill into the county general fund and the other half into the appropriate account for the benefit of the county district attorney's office.

By changing the penalty for certain crimes, and by increasing duties of county treasurers, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 10980 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 10980. (a) Any person who, willfully and knowingly, with the
- 4 intent to deceive, makes a false statement or representation or
- 5 knowingly fails to disclose a material fact in order to obtain aid
- 6 under the provisions of this division or who, knowing he or she is
- 7 not entitled thereto, attempts to obtain aid or to continue to receive
- 8 aid to which he or she is not entitled, or to receive a larger amount
- 9 than that to which he or she is legally entitled, is guilty of a
- 10 misdemeanor, punishable by imprisonment in the county jail for
- 11 a period of not more than six months, by a fine of not more than
- 12 five hundred dollars (\$500), or by both imprisonment and fine.
- 13 (b) Any person who knowingly makes more than one application
- 14 for aid under the provisions of this division with the intent of
- 15 establishing multiple entitlements for any person for the same
- 16 period or who makes an application for that aid for a fictitious or
- 17 nonexistent person or by claiming a false identity for any person
- 18 is guilty of a felony, punishable by imprisonment in the state prison
- 19 for a period of 16 months, two years, or three years, by a fine of
- 20 not more than five thousand dollars (\$5,000), or by both that

1 imprisonment and fine; or by imprisonment in the county jail for
2 a period of not more than one year, or by a fine of not more than
3 one thousand dollars (\$1,000), or by both imprisonment and fine.

4 (c) Whenever any person has, willfully and knowingly, with
5 the intent to deceive, by means of false statement or representation,
6 or by failing to disclose a material fact, or by impersonation or
7 other fraudulent device, obtained or retained aid under the
8 provisions of this division for himself or herself or for a child not
9 in fact entitled thereto, the person obtaining this aid shall be
10 punished as follows:

11 (1) If the total amount of the aid obtained or retained is nine
12 hundred fifty dollars (\$950) or less, by imprisonment in the county
13 jail for a period of not more than six months, by a fine of not more
14 than five hundred dollars (\$500), or by both imprisonment and
15 fine.

16 (2) If the total amount of the aid obtained or retained is more
17 than nine hundred fifty dollars (\$950), by imprisonment in the
18 state prison for a period of 16 months, two years, or three years,
19 by a fine of not more than five thousand dollars (\$5,000), or by
20 both that imprisonment and fine; or by imprisonment in the county
21 jail for a period of not more than one year, by a fine of not more
22 than one thousand dollars (\$1,000), or by both imprisonment and
23 fine.

24 (d) Any person who knowingly uses, transfers, acquires, or
25 possesses blank authorizations to participate in the federal
26 Supplemental Nutrition Assistance Program in any manner not
27 authorized by Chapter 10 (commencing with Section 18900) of
28 Part 6 with the intent to defraud is guilty of a felony, punishable
29 by imprisonment in the state prison for a period of 16 months, two
30 years, or three years, by a fine of not more than five thousand
31 dollars (\$5,000), or by both that imprisonment and fine.

32 (e) Any person who counterfeits or alters or knowingly uses,
33 transfers, acquires, or possesses counterfeited or altered
34 authorizations to participate in the federal Supplemental Nutrition
35 Assistance Program or to receive food stamps or electronically
36 transferred benefits in any manner not authorized by the Food
37 Stamp Act of 1964 (Public Law 88-525 and all amendments
38 thereto) or the Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2011
39 et seq.) or the federal regulations pursuant to the act is guilty of
40 forgery.

1 (f) Any person who fraudulently appropriates food stamps,
2 electronically transferred benefits, or authorizations to participate
3 in the federal Supplemental Nutrition Assistance Program with
4 which he or she has been entrusted pursuant to his or her duties as
5 a public employee is guilty of embezzlement of public funds.

6 (g) Any person who knowingly uses, transfers, sells, purchases,
7 or possesses food stamps, electronically transferred benefits, or
8 authorizations to participate in the federal Supplemental Nutrition
9 Assistance Program in any manner not authorized by Chapter 10
10 (commencing with Section 18900), of Part 6, or by the federal
11 Food Stamp Act of 1977 (Public Law 95-113 and all amendments
12 thereto) or the Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2011
13 et seq.) (1) is guilty of a misdemeanor if the face value of the food
14 stamp benefits or the authorizations to participate is nine hundred
15 fifty dollars (\$950) or less, and shall be punished by imprisonment
16 in the county jail for a period of not more than six months, by a
17 fine of not more than five hundred dollars (\$500), or by both
18 imprisonment and fine, or (2) is guilty of a felony if the face value
19 of the food stamps or the authorizations to participate exceeds nine
20 hundred fifty dollars (\$950), and shall be punished by
21 imprisonment in the state prison for a period of 16 months, two
22 years, or three years, by a fine of not more than five thousand
23 dollars (\$5,000), or by both that imprisonment and fine, or by
24 imprisonment in the county jail for a period of not more than one
25 year, or by a fine of not more than one thousand dollars (\$1,000),
26 or by both imprisonment and fine.

27 (h) (1) If the violation of subdivision (f) or (g) is committed by
28 means of an electronic transfer of benefits, in addition and
29 consecutive to the penalties for the violation, or attempted
30 violation, of those subdivisions, the court shall impose the
31 following punishment:

32 (A) If the electronic transfer of benefits exceeds fifty thousand
33 dollars (\$50,000), an additional term of one year in state prison.

34 (B) If the electronic transfer of benefits exceeds one hundred
35 fifty thousand dollars (\$150,000), an additional term of two years
36 in state prison.

37 (C) If the electronic transfer of benefits exceeds one million
38 dollars (\$1,000,000), an additional term of three years in state
39 prison.

1 (D) If the electronic transfer of benefits exceeds two million
2 five hundred thousand dollars (\$2,500,000), an additional term of
3 four years.

4 (2) In any accusatory pleading involving multiple charges of
5 violations of subdivision (f) or (g), or both, committed by means
6 of an electronic transfer of benefits, the additional terms provided
7 in paragraph (1) may be imposed if the aggregate losses to the
8 victims from all violations exceed the amounts specified in this
9 paragraph and arise from a common scheme or plan.

10 (i) A person who is punished by an additional term of
11 imprisonment under another provision of law for a violation of
12 subdivision (f) or (g) shall not receive an additional term of
13 imprisonment under subdivision (h).

14 (j) *Notwithstanding any other provision of this section, the*
15 *amount of a fine imposed pursuant to subdivision (a), (b), or (c),*
16 *with respect to benefits under Chapter 2 (commencing with Section*
17 *11200) of Part 3, shall be doubled in accordance with this*
18 *subdivision. The additional amount collected pursuant to this*
19 *subdivision shall be paid to the county treasurer in the county in*
20 *which the judgment is entered, and the county treasurer shall*
21 *deposit half of the amount received pursuant to this subdivision*
22 *into the county general fund, and half into the appropriate fund*
23 *or account for the benefit of the county district attorney's office.*

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution for certain
26 costs that may be incurred by a local agency or school district
27 because, in that regard, this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty for a crime
29 or infraction, within the meaning of Section 17556 of the
30 Government Code, or changes the definition of a crime within the
31 meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 However, if the Commission on State Mandates determines that
34 this act contains other costs mandated by the state, reimbursement
35 to 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.