

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1107

Introduced by Assembly Member Garcia

February 22, 2013

An act to amend Section 11495.25 of, and to repeal and add Section 11495.15 of, the Welfare and Institutions Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1107, as amended, Garcia. CalWORKs eligibility: domestic violence.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law authorizes each county to waive a program requirement at any time for a recipient who is a past or present victim of abuse, as specified.

This bill would require the State Department of Social Services to establish a standard, statewide notice and process to ensure that applicants for, or recipients of, CalWORKs aid who are past or present victims of domestic violence are not placed at further risk or unfairly penalized by program requirements or procedures. The bill would also require, with specified verification, the county to waive, for applicants or recipients, program requirements that make it more difficult for the victim to escape domestic violence, unfairly penalize the victim or family, or place them at further risk or encourage them to remain with the abuser. The bill would require counties to use the standard, statewide

notice and process to inform all CalWORKs applicants and recipients of their rights and how to secure a waiver *and to review the waivers, as specified*. By increasing the duties of county human services agencies, the bill would impose a state-mandated local program.

Existing law makes sworn statements by a victim of past or present abuse sufficient to establish abuse unless the county human services agency finds the person not credible and allows other specified forms of evidence, including official reports or documentation.

This bill would make a sworn statement by the person sufficient to establish abuse *is occurring or has occurred within the past 12 months* unless the county human services agency finds the person not credible and other prescribed forms of evidence are not available. *The bill would require additional prescribed evidence if the abuse occurred more than 12 months in the past.*

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. (a) In enacting this act, the Legislature recognizes
- 2 that some individuals who are in need of public assistance are, or
- 3 have been, victims of abuse.
- 4 (b) It is the intent of the Legislature to ensure that applicants
- 5 and recipients who are past or present victims of abuse are not
- 6 placed at further risk or unfairly penalized by program requirements
- 7 or procedures.
- 8 (c) The Legislature intends that, in implementing this act, a
- 9 standard, statewide notice to CalWORKs applicants and recipients
- 10 will be established, informing them of rights for domestic violence
- 11 victims and survivors and instructing them how to secure these
- 12 rights, as well as referrals for counseling services.
- 13 (d) It is also the intent of the Legislature that program
- 14 requirements for aid under the CalWORKs program shall not be

1 created or applied in such a way as to make it more difficult for a
2 victim to escape domestic violence or unfairly penalize the victim.

3 (e) Finally, it is the intent of the Legislature that the county
4 human services agency refer victims of domestic violence to
5 support services, including those provided by the victim's health
6 care provider.

7 SEC. 2. Section 11495.15 of the Welfare and Institutions Code
8 is repealed.

9 SEC. 3. Section 11495.15 is added to the Welfare and
10 Institutions Code, to read:

11 11495.15. (a) The State Department of Social Services shall
12 establish a standard, statewide notice and process to ensure that
13 applicants for, or recipients of, aid under this chapter who are past
14 or present victims of domestic violence are not placed at further
15 risk or unfairly penalized by program requirements or procedures.

16 (b) A county shall, with verification provided pursuant to Section
17 11495.25, waive a program requirement at any time for an applicant
18 or recipient who is a past or present victim of abuse when it has
19 been determined that the requirement makes it more difficult for
20 the victim to escape domestic violence, would unfairly penalize
21 the victim or the victim's family, places the victim at further risk
22 of abuse, or encourages the victim to remain with the abuser.
23 ~~Waivers~~ *When periodic review is necessary due to the nature of*
24 *the waiver, waivers shall be reevaluated by the county human*
25 *services agency when necessary, but in no case more often than*
26 *every six months every six months in order to determine if the*
27 *conditions under which the waiver was granted still exist. Nothing*
28 *shall preclude the applicant or recipient from contacting the county*
29 *earlier than the six month review to request information or seek*
30 *to participate in welfare to work activities, regardless of whether*
31 *he or she is waived from the welfare-to-work rules. In order to*
32 *extend the waiver beyond the first 12 months, the county shall*
33 *collect evidence of the abuse, as described in subdivision (b) of*
34 *Section 11495.25.*

35 (c) County human services agencies shall use the standard,
36 statewide informing notice *or approved county notice* and process
37 to inform all CalWORKs applicants and recipients of their rights
38 established in this section. The informing notice shall be given,
39 orally and in writing, *at the time of application, recertification, and*
40 *during the welfare-to-work planning process, process. The*

1 *informing notice shall be given in writing at recertification, in*
2 *each notice of action for sanction resulting from failure to*
3 *participate in a program requirement, and whenever an applicant*
4 *or recipient voluntarily discloses that he or she is a victim of abuse.*
5 *Proof that the applicant or recipient ~~received~~ was provided with*
6 *each notice shall be retained in his or her case file.*

7 (d) The informing notice required by subdivision (c) shall be
8 developed by the department, in consultation with the county
9 human services agencies, domestic violence and CalWORKs
10 advocates, and CalWORKs caseworkers, and it shall include the
11 rights and responsibilities established in this ~~section~~, *section*;
12 *examples of the types of rule waivers that may be requested; space*
13 *for county-specific instructions for securing a ~~waiver~~, waiver and*
14 *a service plan; space for county domestic abuse resources,*
15 *including Medi-Cal mental health ~~services~~, services;*
16 *confidentiality and the limits ~~thereof~~, thereof; family violence*
17 *option waivers available for abuse ~~victims~~, victims; the good cause*
18 *exemption to the child support cooperation ~~requirement~~,*
19 *requirement; general abuse information such as safety ~~planning~~,*
20 *planning; information about how to receive county assistance in*
21 *tailoring welfare-to-work plans to meet the needs of ~~victims~~,*
22 *victims when they do not have a waiver of the welfare-to-work*
23 *rules; and remedies available for immigrant domestic violence*
24 *survivors. Counties that wish to use a notice they have developed*
25 *may do so with the approval of the department, provided the notice*
26 *meets the minimum requirements of this subdivision.*

27 (e) Proof that an informing notice was given ~~and received~~ to an
28 applicant or recipient and the applicant or recipient did not, at
29 the time, disclose the existence of domestic abuse shall ~~never be a~~
30 ~~reason~~ not serve as a basis to deny a waiver when a waiver is
31 requested at a later date or as a basis for requesting additional
32 evidence of abuse under Section 11495.25. Abuse may be disclosed
33 at any time.

34 (f) No applicant or recipient of aid shall be required to disclose
35 his or her status, or the status of another member of the authorized
36 unit, as a domestic violence victim *in order to receive aid.*

37 (g) Nothing in this section shall limit the authority of a county
38 to waive a program rule retroactively *if the past application of the*
39 *rule unfairly penalized the individual or made it more difficult for*
40 *the individual to escape the abuse. However, the county shall*

1 *collect evidence of the abuse, as described in subdivision (b) of*
2 *Section 11495.25, in order to waive the program rules retroactively*
3 *for a period that goes beyond the most recent 12 months.*

4 SEC. 4. Section 11495.25 of the Welfare and Institutions Code
5 is amended to read:

6 11495.25. (a) When determining eligibility for program
7 waivers established in Section 11495.15, ~~either of the following~~
8 ~~shall be accepted:~~

9 ~~(a) A~~ a sworn statement by a victim of past or present abuse
10 shall be sufficient to establish abuse *that is currently occurring or*
11 *has occurred up to 12 months in the past*, unless the county human
12 services agency documents in writing an independent, reasonable
13 basis to find the recipient not credible ~~and none of the~~. *If the*
14 *documentation is made, the agency shall seek corroborating*
15 *evidence listed in subdivision (b) can be secured by the worker.*
16 *Nothing shall preclude the applicant or recipient from voluntarily*
17 *providing additional evidence that may be available beyond a*
18 *sworn statement. The evidence shall be retained in the case file.*
19 *If the applicant or recipient states that the abuse occurred longer*
20 *than 12 months in the past, evidence as described in subdivision*
21 *(b) shall also be requested from the applicant or recipient and the*
22 *county shall assist the applicant or recipient in obtaining the*
23 *evidence, as appropriate.*

24 (b) Evidence that abuse *is occurring or has occurred* at any time
25 in the past shall include, but is not limited to: police, government
26 agency, or court records or files; documentation from a domestic
27 violence program, legal, clerical, medical, or other professional
28 from whom the applicant or recipient *is seeking or has sought*
29 ~~assistance in dealing with~~ *regarding the abuse*; or other evidence,
30 such as a statement from any other individual with knowledge of
31 the circumstances that provide the basis for the claim, physical
32 evidence of abuse, or any other evidence that supports the *applicant*
33 *or recipient's sworn statement* ~~in made pursuant to~~ subdivision
34 (a).

35 SEC. 5. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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