

ASSEMBLY BILL

No. 247

**Introduced by Assembly Members Baldwin, Boland,
Bordonaro, Goldsmith, and Morrissey**
(Coauthors: Senators Hurtt, Johannessen, Kelley, and
Monteith)

February 2, 1995

An act to amend Section 16501 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 247, as introduced, Baldwin. Children: services.

Existing law sets forth security procedures that must be followed before a license or special permit may be issued to any person to operate or manage a child day care facility. These procedures require each applicant, and other specified persons, to be fingerprinted, require that any criminal record be reviewed, and require the denial of licensure if it is found that the person was convicted of a crime, other than a minor traffic violation, unless a specified exemption is granted. However, under existing law, no exemption may be granted if the conviction was for specified offenses.

This bill would enact similar procedures for child welfare services employees who have frequent and routine contact with children. By requiring increased duties of local officials, the 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 16501 of the Welfare and
2 Institutions Code is amended to read:

3 16501. (a) As used in this chapter, “child welfare
4 services” means public social services which are directed
5 toward the accomplishment of any or all the following
6 purposes: protecting and promoting the welfare of all
7 children, including handicapped, homeless, dependent,
8 or neglected children; preventing or remedying, or
9 assisting in the solution of problems which may result in,
10 the neglect, abuse, exploitation, or delinquency of
11 children; preventing the unnecessary separation of
12 children from their families by identifying family
13 problems, assisting families in resolving their problems,
14 and preventing breakup of the family where the
15 prevention of child removal is desirable and possible;
16 restoring to their families children who have been
17 removed, by the provision of services to the child and the
18 families; identifying children to be placed in suitable
19 adoptive homes, in cases where restoration to the
20 biological family is not possible or appropriate; and
21 assuring adequate care of children away from their
22 homes, in cases where the child cannot be returned home
23 or cannot be placed for adoption.

24 “Child welfare services” also means services provided
25 on behalf of children alleged to be the victims of child
26 abuse, neglect, or exploitation. The child welfare services
27 provided on behalf of each child represent a continuum



1 of services, including emergency response services,
2 family preservation services, family maintenance
3 services, family reunification services, and permanent
4 placement services. The individual child's case plan is the
5 guiding principle in the provision of these services. The
6 case plan shall be developed within 30 days of the initial
7 removal of the child or of the in-person response required
8 under subdivision (f) of Section 16501 if the child has not
9 been removed from his or her home, or by the date of the
10 jurisdictional hearing pursuant to Section 356, whichever
11 comes first.

12 (1) Child welfare services may include, but are not
13 limited to, a range of service-funded activities, including
14 case management, counseling, emergency shelter care,
15 emergency in-home caretakers, temporary in-home
16 caretakers, respite care, therapeutic day services,
17 teaching and demonstrating homemakers, parenting
18 training, substance abuse testing, and transportation.
19 These service-funded activities shall be available to
20 children and their families in all phases of the child
21 welfare program in accordance with the child's case plan
22 and departmental regulations. Funding for services is
23 limited to the amount appropriated in the annual Budget
24 Act and other available county funds.

25 (2) Service-funded activities to be provided may be
26 determined by each county, based upon individual child
27 and family needs as reflected in the service plan.

28 (3) As used in this chapter, "emergency shelter care"
29 means emergency shelter provided to children who have
30 been removed pursuant to Section 300 from their parent
31 or parents or their guardian or guardians. The
32 department may establish, by regulation, the time
33 periods for which emergency shelter care shall be
34 funded. For the purposes of this paragraph, "emergency
35 shelter care" may include "transitional shelter care
36 facilities" as defined in paragraph (11) of subdivision (a)
37 of Section 1502 of the Health and Safety Code.

38 (b) As used in this chapter, "respite care" means
39 temporary care for periods not to exceed 72 hours. This
40 care may be provided to the child's parents or guardians.



1 This care shall not be limited by regulation to care over
2 24 hours. These services shall not be provided for the
3 purpose of routine, ongoing child care.

4 (c) The county shall provide child welfare services as
5 needed pursuant to an approved service plan and in
6 accordance with regulations promulgated, in
7 consultation with the counties, by the department.
8 Counties may contract for service-funded activities as
9 defined in paragraph (1) of subdivision (a). Each county
10 shall use available private child welfare resources prior to
11 developing new county-operated resources when the
12 private child welfare resources are of at least equal
13 quality and lesser or equal cost as compared with
14 county-operated resources. Counties shall not contract
15 for needs assessment, client eligibility determination, or
16 any other activity as specified by regulations of the State
17 Department of Social Services.

18 (d) Nothing in this chapter shall be construed to affect
19 duties which are delegated to probation officers pursuant
20 to Sections 601 and 654.

21 (e) Any county may utilize volunteer individuals to
22 supplement professional child welfare services by
23 providing ancillary support services in accordance with
24 regulations adopted by the State Department of Social
25 Services.

26 (f) As used in this chapter, emergency response
27 services consist of a response system providing in-person
28 response, 24 hours a day, seven days a week, to reports of
29 abuse, neglect, or exploitation, as required by Article 2.5
30 (commencing with Section 11164) of Chapter 2 of Title
31 1 of Part 4 of the Penal Code for the purpose of
32 investigation pursuant to Section 11166 of the Penal Code
33 and to determine the necessity for providing initial intake
34 services and crisis intervention to maintain the child
35 safely in his or her own home or to protect the safety of
36 the child. County welfare departments shall respond to
37 any report of imminent danger to a child immediately
38 and all other reports within 10 calendar days. An
39 in-person response is not required when the county
40 welfare department, based upon an evaluation of risk,



1 determines that an in-person response is not appropriate.
2 This evaluation includes collateral, contacts, a review of
3 previous referrals, and other relevant information, as
4 indicated.

5 (g) As used in this chapter, family maintenance
6 services are activities designed to provide in-home
7 protective services to prevent or remedy neglect, abuse,
8 or exploitation, for the purposes of preventing separation
9 of children from their families.

10 (h) As used in this chapter, family reunification
11 services are activities designed to provide time-limited
12 foster care services to prevent or remedy neglect, abuse,
13 or exploitation, when the child cannot safely remain at
14 home, and needs temporary foster care, while services
15 are provided to reunite the family.

16 (i) As used in this chapter, permanent placement
17 services are activities designed to provide an alternate
18 permanent family structure for children who because of
19 abuse, neglect, or exploitation cannot safely remain at
20 home and who are unlikely to ever return home. These
21 services shall be provided on behalf of children for whom
22 there has been a judicial determination of a permanent
23 plan for adoption, legal guardianship, or long-term foster
24 care.

25 (j) As used in this chapter, family preservation services
26 include those services specified in Section 16500.5 to avoid
27 or limit out-of-home placement of children, and may
28 include those services specified in that section to place
29 children in the least restrictive environment possible.

30 (k) (1) (A) *All child welfare services employees who*
31 *have frequent and routine contact with children shall, by*
32 *February 1, 1996, and all child welfare services employees*
33 *who are expected to have frequent and routine contact*
34 *with children and who are hired on or after January 1,*
35 *1996, and all such employees whose duties change after*
36 *January 1, 1996, to include frequent and routine contact*
37 *with children, shall sign a declaration under penalty of*
38 *perjury regarding any prior criminal conviction, and shall*
39 *provide a set of fingerprints to the county welfare*
40 *director.*



1 (B) The county welfare director shall secure from the
2 Department of Justice a criminal record to determine
3 whether the employee has ever been convicted of a crime
4 other than a minor traffic violation. The Department of
5 Justice shall deliver the criminal record to the county
6 welfare director within 30 days of receipt of the request.

7 (C) If it is found that the employee has been convicted
8 of a crime, other than a minor traffic violation, the county
9 welfare director shall determine whether there is
10 substantial and convincing evidence to support a
11 reasonable belief that the employee is of good character
12 so as to justify frequent and routine contact with children.

13 (D) No exemption shall be granted pursuant to
14 subparagraph (C) if the person has been convicted of a
15 sex offense against a minor, or has been convicted of an
16 offense specified in Section 220, 243.4, 264.1, 273d, 288, or
17 289 of the Penal Code, or in paragraph (1) of Section 273a
18 of, or subdivision (a) or (b) of Section 368 of, the Penal
19 Code, or has been convicted of an offense specified in
20 subdivision (c) of Section 667.5 of the Penal Code. The
21 county welfare director shall suspend such a person from
22 any duties involving frequent and routine contact with
23 children.

24 (E) Notwithstanding subparagraph (D), the county
25 welfare director may grant an exemption if the employee
26 or prospective employee, who was convicted of a crime
27 against an individual specified in paragraph (1) or (7) of
28 subdivision (c) of Section 667.5 of the Penal Code, has
29 been rehabilitated as provided in Section 4852.03 of the
30 Penal Code and has maintained the conduct required in
31 Section 4852.05 of the Penal Code for at least 10 years and
32 has the recommendation of the district attorney
33 representing any such employee's or prospective
34 employee's county of residence, or if the employee or
35 prospective employee has received a certificate of
36 rehabilitation pursuant to Chapter 3.5 (commencing
37 with Section 4852.01) of Title 6 of Part 3 of the Penal Code.
38 In such a case, the county welfare director may give the
39 employee or prospective employee an opportunity to



1 *explain the conviction and shall consider that explanation*
2 *in the evaluation of the criminal conviction record.*

3 *(F) If no criminal record information has been*
4 *recorded, the county welfare director shall cause a*
5 *statement of that fact to be included in that person's*
6 *personnel file.*

7 *(2) For purposes of this subdivision, a conviction*
8 *means a plea or verdict of guilty or a conviction following*
9 *a plea of nolo contendere. Any action which the county*
10 *welfare director is permitted to take following the*
11 *establishment of a conviction may be taken when the*
12 *time for appeal has elapsed, or the judgment of conviction*
13 *has been affirmed on appeal or when an order granting*
14 *probation is made suspending the imposition of sentence,*
15 *notwithstanding a subsequent order pursuant to Sections*
16 *1203.4 and 1203.4a of the Penal Code permitting the*
17 *person to withdraw his or her plea of guilty and to enter*
18 *a plea of not guilty, or setting aside the verdict of guilty,*
19 *or dismissing the accusation, information, or indictment.*
20 *For purposes of this subdivision, the record of a*
21 *conviction, or a copy thereof certified by the clerk of the*
22 *court or by a judge of the court in which the conviction*
23 *occurred, shall be conclusive evidence of the conviction.*

24 SEC. 2. Notwithstanding Section 17610 of the
25 Government Code, if the Commission on State Mandates
26 determines that this act contains costs mandated by the
27 state, reimbursement to local agencies and school
28 districts for those costs shall be made pursuant to Part 7
29 (commencing with Section 17500) of Division 4 of Title
30 2 of the Government Code. If the statewide cost of the
31 claim for reimbursement does not exceed one million
32 dollars (\$1,000,000), reimbursement shall be made from
33 the State Mandates Claims Fund.

34 Notwithstanding Section 17580 of the Government
35 Code, unless otherwise specified, the provisions of this act
36 shall become operative on the same date that the act
37 takes effect pursuant to the California Constitution.

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