



CDSS

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January 25, 2016

ALL COUNTY LETTER (ACL) NO.: 16-08

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL COUNTY BOARDS OF SUPERVISORS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: **FEDERAL PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT: COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN (CSEC) AND RUNAWAY-RELATED IMPLEMENTATION REQUIREMENTS FOR COUNTIES**

REFERENCES: PUBLIC LAW (PL) 113-183 SOCIAL SECURITY ACT TITLE IV-E; TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (PL 106-386); SENATE BILL (SB) 855 (CHAPTER 25, STATUTES OF 2014), SB 794 (CHAPTER 425, STATUTES OF 2015); PENAL CODE § 11165.1 AND 11166; WELFARE & INSTITUTIONS CODE (WIC) §§ 16501.1, 16501.35, AND 16501.45; CALIFORNIA CHILD WELFARE INDICATORS PROJECT; ALL COUNTY INFORMATION NOTICE (ACIN) I-23-15, DATED APRIL 7, 2015; ACL NO. 15-48, DATED MAY 29, 2015; ACL NO. 15-49, DATED MAY 28, 2015; COUNTY FISCAL LETTER (CFL) NO. 15/16-22, DATED OCTOBER 1, 2015; CFL NO. 15/16-41, DATED JANUARY 25, 2016.

The purpose of this ACL is to provide instructions to county child welfare agencies and county probation departments on the implementation of the Preventing Sex Trafficking and Strengthening Families Act (PL 113-183, hereinafter referred to as the “federal act”)¹ that was signed into law on September 29, 2014. State law implementing these provisions was enacted in SB 794. These provisions, effective January 1, 2016, are set forth in WIC § 16501.1(f)(19), 16501.35 and 16501.45, and Penal Code § 11165.1 11166(j)(2)-(3). Counties will need this information to carry out the provisions of the

¹ Also known as H.R. 4980.

federal bill and state law, and to understand how to claim to their allocations for these activities under CFL No. 15/16-41, dated January 25, 2016.

Background

The federal act made numerous changes to the Title IV-E Foster Care Program and enacted new requirements regarding:

- Sex trafficking prevention, intervention, data collection and reporting;
- The reasonable and prudent parent standards;
- Adoption incentives payments;
- Successor guardianship, and
- Successful adulthood.

This ACL provides information on only the preventing sex trafficking provisions of children and youth in foster care as well as a portion of the runaway provisions as it relates to the prevention of sex trafficking. Otherwise, the runaway provisions, reasonable and prudent parent standards, adoption incentives payments, successor guardianship and successful adulthood will be addressed in separate forthcoming ACLs.

The spirit of the federal act and implementing state provisions seeks to ensure that, child welfare agencies and probation departments are responsive to the complex issues of children and youth receiving child welfare services who are victims of sex trafficking. The federal Act and implementing state provisions accomplish this by requiring that social workers and probation officers be trained on critical tools and have access to policies and procedures that they will need so that they can acquire the skill set to successfully engage, serve and stabilize this vulnerable population. The federal Act and implementing state provisions also seek to collect data to inform potential future actions that may be necessary to further combat the sex trafficking of children.

Addition of the Definition of Sex Trafficking Victim²

The federal Act draws from the Trafficking Victims Protection Act of 2000 (PL 106-386) to define “sex trafficking victim.” Specifically, the definition specifies that a sex trafficking victim is:

- An individual subject to the “recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act;” or

² Penal Code §11165.1(d)

- A victim of a “severe form of trafficking in person” in which “a commercial sex act is included by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age.”

The SB 794 incorporated this definition in Penal Code §11165.1(d). This addition is important because it clarifies that child sex trafficking must be reported as child abuse by a mandated reporter, and that appropriate reports must be made to law enforcement when a child or youth receiving child welfare services is identified as a sex trafficking victim.

Federal Requirements and Implementation Instructions

All of the following are required to be implemented by or on September 29, 2016, unless otherwise stated:

Training Requirement³: Caseworkers (i.e. county social workers and county placement probation officers) must receive “relevant training” for identifying, documenting and determining appropriate services for any child or youth for whom the state agency has responsibility for placement, care or supervision and has reasonable cause to believe is, or is at risk of being, a sex trafficking victim.

Training Instruction: The California Department of Social Services (CDSS) has contracted with the Regional Training Academies (RTAs) and the Resource Center for Family Focused Practice (RCFFP) to deliver CSEC 101: Awareness and Identification of CSEC, and CSEC 102: CSEC Engagement & Skills Training.

- CSEC 101: The RTAs and RCFFP delivered trainings starting in January of 2015 and ending in June of 2016. There is also a free, 90-minute CSEC 101 learning module available at the California Social Worker Education Center’s ["CSEC Awareness Module"](#) link.
- CSEC 102: The RTAs are currently scheduling these trainings and will be offering them through June 30, 2016. This two-day training includes both social workers AND county probation officers on Day 1, and all representatives of the multi-disciplinary team on Day 2 for an interactive, hands-on learning experience regarding determining appropriate services. *Nola Brantley Speaks* training series is also an available training resource for counties. NOTE: CSEC 101 is a pre-requisite to registering for the RTAs’ CSEC 102 training.

Both of these curriculums may constitute relevant training as required by federal law in WIC § 16501.35(a)(4). CSEC 101 may constitute relevant training for any caseworker

³WIC §16501.35(a)

while the combination of CSEC 101 and 102 may constitute relevant training for caseworkers directly managing CSEC cases.

The CDSS will release further instructions regarding the CSEC 101 and 102 trainings as necessary to ensure compliance with federal law.

After June 30, 2016, and until further instruction, ongoing trainings for CSEC 101 can be met through the CSEC Awareness Module. For CSEC 102 trainings, because they are interactive and in-person, CDSS and the County Welfare Directors Association (CWDA) will be pursuing additional funding to deliver these trainings in person.

Policies and Procedures Requirement⁴: County child welfare agencies and county probation departments must implement policies and procedures for the children or youth identified (see Policies and Procedures Instructions below for the definition of a child or youth) for all of the following activities:

1. Identifying children who are, or are at risk (defined below) of becoming, victims of commercial sexual exploitation;
2. Documenting children or youth in the Child Welfare Services/Case Management System⁵(CWS/CMS) and any other agency record as determined by the county;
3. Determining appropriate services for the child or youth; and
4. Receiving relevant training in the identification, documentation, and determination of appropriate services for any child or youth (this is the same Training Requirement that is mentioned above).

Policies and Procedures Instruction: The policies and procedures must apply to all children receiving child welfare services, including dependents or wards in foster care, non-minor dependents, and youth receiving services pursuant to § 677 of Title 42 of the United States Code, who are, or are at risk⁶ of becoming, victims of commercial sexual exploitation. This includes children and youth who:

- Are in foster care and under age 18 (or up to age 21 if they are receiving Title IV-E foster care assistance.);
- Have not been removed from the home but for whom the agency has an open case file;

⁴ Penal Code §16501.35(a)

⁶ At risk is defined, per the Special Project Code description in ACL 15-49 (page 5) , as having at a minimum of 2 indicators: prior sexual trauma; freq. AWOL/homeless; solicitation charges; probation/LE involvement; history of hard substance abuse; branding tattoos; freq. truancy; relationship w/ much older adult; tech use involving atypical sexual behavior.

- Have run away from foster care, provided they have not reached the age at which the state ends Title IV-E assistance (21) (or have not been formally discharged from care); or
- Are youth (up to age 21) who are receiving services under the Chafee Foster Care Independence Program (including closed cases).

Federal and state law requires state and local agencies to develop policies and procedures in consultation with law enforcement, juvenile justice systems, health care providers, education agencies and organizations with experience in dealing with at-risk youth. The WIC §16501.35(c) further requires CDSS, in consultation with stakeholders including but not limited to; the CWDA, Chief Probation Officers of California, former foster youth, and child advocacy organizations; to develop model policies and procedures and runaway protocols to assist the counties to comply with the requirements of the federal law and SB 794. In addition, the state law requires CDSS to consult with the Department of Health Care Services, the California Department of Education, state and local law enforcement and agencies with experience in serving CSEC and at risk youth to develop model policies and procedures. *The CDSS will be convening this workgroup shortly.* Pending completion of the workgroup activities, county child welfare and probation agencies are encouraged to refer to ACIN I-23-15 as a starting point. The ACIN contains the CSEC Model Interagency Protocol Framework as developed by the CSEC Action Team of the Child Welfare Council. Counties which have already developed CSEC Interagency Protocols under the SB 855 state CSEC Program may wish to refer to the federal statute PL 113-183 to assess compliance with federal law pending further guidance and completion of the workgroup activities as required under SB 794.

Reporting Requirements⁷: County child welfare agencies and county probation departments must report to the appropriate law enforcement agency:

1. Any child or youth who is receiving child welfare services that is identified as a victim of commercial sexual exploitation. Commercial sexual exploitation is defined as either of the following:
 - The sexual trafficking of a child where anything of value is given or received by any person (Penal Code § 236.1); or
 - The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act as specified in Penal Code § 11165.1 and 236.1(c).

⁷ Penal Code § 11166(j)(2)(3)

2. Any child or youth who is receiving child welfare services, and is reasonably believed to be a victim of commercial sexual exploitation, or is at risk of becoming commercially sexually exploited, **AND** is missing or abducted. The report of the incident must occur immediately or within 24 hours so that the law enforcement authority can enter the information into the Federal Bureau of Investigation's National Crime Information Center database. The incident must also be reported to the National Center for Missing and Exploited Children.

Reporting Instructions: Any necessary reporting instructions will be provided in a forthcoming county letter.

Runaway Protocol Requirement⁸: County child welfare agencies and county probation departments must develop and implement Runaway Protocols to expeditiously locate any missing child from foster care. At a minimum, the runaway protocol is required to include the following:

1. A description of efforts to locate the missing child; including at a minimum: 1) the timeframe for reporting missing youth, 2) the individuals or entities entitled to notice that the youth is missing, 3) any required initial and ongoing efforts to locate the youth, and 4) the plans to return the youth to placement.
2. Requirements of the social worker or probation officer to do the following:
 - a. Determine the primary factors that contributed to the child or non-minor dependent running away or otherwise being absent from care;
 - b. Respond to these factors for the child's next placement to the extent that this is possible;
 - c. Determine the child or non-minor dependent's experiences while absent from care;
 - d. Determine whether the child or non-minor dependent was a possible victim of commercial sexual exploitation; and
 - e. Document a through d above.

Runaway Protocol Instructions: Again, SB 794 requires CDSS to consult with various entities in the development of a model protocol. As such, separate and forthcoming ACLs with specific instructions on the Runaway Protocol and a best practice protocol template, as well as information on determining the child's experience while absent from care will be provided in a forthcoming ACL. While not required, counties may want to consider adding this protocol and information to their policies and procedures for serving CSEC.

⁸ WIC §16501.35(b)(1) (2)

Data Collection Requirement⁹: Social workers and probation officers must document data in the CWS/CMS, as specified, for the following children:

1. CSEC Victim During Care;
2. CSEC Victim Before Care;
3. CSEC At-Risk;
4. CSEC Absence From Placement;
5. CSEC with Closed Case, receiving Independent Living Program (ILP) Services; and
6. CSEC with open case not in foster care.

Data Collection Instructions: The CDSS provided instructions in May of 2015 for the federal AND state CSEC Program requirements. For detailed instructions and federally-required start dates, please refer to ACL 15-49.

Briefly, the first four requirements are Special Project Codes (SPCs) and are programmed into CWS/CMS and currently in effect as of June 1, 2015, to capture these populations. The permanent system changes to CWS/CMS will take effect in the spring of 2016 and at that time it is anticipated that the SPCs will no longer be necessary. The ILP and Non Foster Care case populations will be added to the CWS/CMS along with the permanent system changes in the spring and will be available then, with additional detailed instructions for use to follow.

If you have any questions, please contact the Child Trafficking Response Unit Program, within the Child Welfare Policy and Program Development Bureau, at CSECProgram@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division
c: CWDA

⁹ WIC § 16501.45(a)