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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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ARNOLD SCHWARZENEGGER
GOVERNOR

November 16, 2010

ALL COUNTY INFORMATION NOTICE NO. I-91-10 TO:

ALL COUNTY WELFARE

DIRECTORS

ALL PRIVATE ADOPTIONS AGENCIES
ALL CDSS ADOPTIONS DISTRICT OFFICES
ALL CHIEF PROBATION OFFICERS
ALL COUNTY ADOPTION AGENCIES
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: ADOPTIONS APPROVAL PROCESS - REVISIONS TO THE APPLICATION FOR ADOPTION OF A CHILD (AD 521) FORM CRIMINAL HISTORY QUESTION

REFERENCE: MARIJUANA REFORM ACT OF 1977, HEALTH AND SAFETY CODE (H&S) SECTION 11361.5 AND 11361.7

This All County Information Notice (ACIN) is to provide notice of the revision to the form entitled Application for Adoption of a Child (AD 521). Section II-Criminal History was modified to reflect that certain marijuana-related offenses covered by the Marijuana Reform Act of 1977 do not need to be disclosed as outlined in H&S sections 11361.5 and 11361.7. The updated AD 521 form can be found at the following internet website address:

<http://www.cdss.ca.gov/cdssweb/entres/forms/English/AD521.pdf>

The Marijuana Reform Act of 1977 provides that criminal records related to minor marijuana convictions or arrests, which are over two years old, shall not be considered to be relevant for any purpose by any private or public agency or person and shall be destroyed by the California Department of Justice. Individuals who obtain the protections of these laws may, two years from the date of the conviction or arrest that did not result in a conviction, indicate in response to any question concerning their prior criminal record that he/she was not arrested or convicted of such offense. Despite the mandatory destruction of these records some of these convictions/arrests may still surface during an investigation or background check. Therefore, private or public adoption agencies providing services under the oversight of the California Department of Social Services (CDSS) are required to disregard all convictions and conduct associated with the marijuana convictions listed below:

REASON FOR THIS TRANSMITTAL

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

Either, a misdemeanor conviction where more than two years have elapsed since the date of the conviction, or two years after the date of an arrest that did not result in a conviction:

- H&S Code section 11357(b) possession of 28.5 grams or less
- H&S Code section 11357(c) possession of over 28.5 grams
- H&S Code section 11357(d) possession of 28.5 grams or less on K-12 school grounds
- H&S Code section 11357(e) juvenile in possession of 28.5 grams or less
- H&S Code section 11360(b) transportation of 28.5 grams or less

Felony and misdemeanor convictions not to be considered if the conviction occurred prior to 1976:

- H&S Code section 11357 possession
- H&S Code section 11364 drug paraphernalia
- H&S Code section 11365 presence where marijuana is being unlawfully used
- H&S Code section 11550 under the influence of marijuana

Prospective adoptive parents, and all other adults who complete the AD 521, should be informed of the disclaimer in Section II-Criminal History of the form. This was modified to reflect the right to not disclose certain marijuana convictions, or arrests, that are over two years old and did not result in a conviction. Please be advised that CDSS recommends the use of the AD 521. However, if the agency prefers to use their own application document then the agency is required to incorporate this disclaimer on their document:

“You need not disclose any marijuana-related offenses covered by the marijuana reform legislation codified at H&S Code sections 11361.5 and 11361.7”.

It is the policy of CDSS for licensed public and private adoption agencies in the State of California (including agencies that facilitate independent and intercountry adoptions) to ensure that all children placed for adoption are safe, and that those homes meet health and safety standards. Thus, the approval or denial does not rest solely on the applicant’s criminal record unless the offense prohibits approval of an applicant per the Adam Walsh Child Protection and Safety Act of 2006. Otherwise all other criminal offenses should be considered in the overall assessment of the adoptive applicant(s) based on their overall suitability for the child to be adopted.

Should you have any questions about this ACIN, please contact the Adoption Policy Unit/ Permanency Policy Bureau at (916) 657-1858.

Sincerely,

Original Document Signed By:

KAREN B. GUNDERSON, Chief
Child and Youth Permanency Branch
Children and Family Services Division

[Attachment](#)