

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



July 15, 2005

ALL-COUNTY INFORMATION NOTICE NO. I-41-05

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL CDSS ADOPTIONS DISTRICT OFFICES
ALL COUNTY AND PRIVATE ADOPTION AGENCIES
ALL COUNTY CHILD WELFARE SERVICES PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: REQUIREMENTS OF FAMILY CODE SECTION 8708 REGARDING
CROSS-JURISDICTIONAL ADOPTIVE PLACEMENTS

The purpose of this All-County Information Notice is to remind agencies about specific requirements of the federal Adoptions and Safe Families Act of 1997, as amended by Public Law 105-200, that pertain to cross-jurisdictional placements. The federal requirements at 42 United States Code Section 671 (a) (23) are reflected in California law at Family Code Section 8708 and Welfare and Institutions Code Section 10950. These laws prohibit delaying or denying the adoptive placement of a child because the prospective adoptive parents live outside the adoption agency's jurisdiction. The laws further allow that complainants may seek redress through a state administrative hearing. If the hearing, or a subsequent legal ruling, finds that there has been a violation, Federal fiscal penalties will result. Federal fiscal penalties may also result from systematic violations.

Family Code Section 8708 (a) (3), in pertinent part, states:

Neither the department nor a licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights may...delay or deny the placement of a child for adoption solely because the prospective, approved adoptive family resides outside the jurisdiction of the department or the licensed adoption agency...

Welfare and Institutions Code Section 10950, in pertinent part, states:

If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his or her application for or receipt of public social services, if his or her application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefore, and is dissatisfied with that refusal, he or she shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with

the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for a state hearing.

...As used in this chapter, "recipient" means an applicant for or recipient of public social services ..., and shall include any individual who is an approved adoptive parent, as described in subdivision (C) of Section 8708 of the Family Code, and who alleges that he or she has been denied or has experienced delay in the placement of a child for adoption solely because he or she lives outside the jurisdiction of the department.

Reductions in Title IV-E funds may result from any violations. The federal law imposes penalties reducing a state's Title IV-E grant at a graduated rate of 2, 3, and 5 percent for each violation. However, the total amount of penalties that can be applied in a fiscal year cannot exceed 5 percent of a state's total Title IV-E grant. For systemic violations, states are afforded the opportunity for corrective action. If the Federal Department of Health and Human Services (HHS), Administration for Children and Families (ACF), determines that the State has completed the corrective action plan successfully, ACF will not impose a penalty. If, however, there is a violation against an individual, there is no provision for the State to take corrective action. In addition, any entity (other than the State agency) that receives Title IV-E funds violating the prohibition will be required to remit federal funds that were paid them by the State during the quarter in which the violation occurred.

To ensure maximum compliance with these requirements, agencies are strongly encouraged to review these requirements with applicable staff. Additionally, please be advised that these requirements apply to any material disseminated via print or websites regarding children available for an adoptive placement. Thus, such material should focus on meeting the child's needs and not any geographical or jurisdictional restrictions. For example, descriptions of the child should reflect the child's need to have visits with siblings, and not the adoptive family having to live in the same area as the child.

If you have any questions regarding this notice, please contact Azadeh Fares of the Concurrent Planning Policy Unit at 916-657-3751.

Sincerely,

Original Document Signed By:

PATRICIA AGUIAR, Chief
Child and Youth Permanency Branch

c: CWDA
CPOC