

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 29, 1985

ALL-COUNTY INFORMATION NOTICE I-10-85

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL DISTRICT ATTORNEYS

SUBJECT: SENATE BILL (SB) 2171
(CHAPTER 1448, STATUTES OF 1984)

REFERENCE:

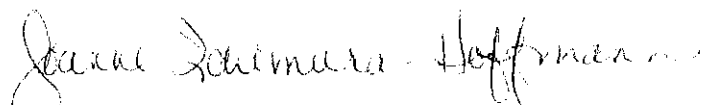
This is to inform you that Senate Bill 2171 (Chapter 1448, Statutes of 1984) was signed into law on September 25, 1984, and became effective January 1, 1985. Among other provisions, this bill consolidates the statutes under which welfare fraud cases are prosecuted, and requires that the State Department of Social Services (SDSS) evaluate the effectiveness of a statewide "Welfare Fraud Hotline". In addition, it modifies the California Right to Financial Privacy Act, to permit county welfare departments to request certain information from financial institutions, when investigating a situation of welfare fraud.

The specific provisions which impact the welfare fraud investigation and prosecution process are as follows:

- Welfare and Institutions (W&I) Code Section 10980 has been established. This section sets forth the penalties (misdemeanor and felony) for welfare fraud perpetrated against programs established within Division 9 of the W&I Code.
- Welfare and Institutions Code Sections 11482, 11482.5, 11483, and 11483.5 have been amended to state that violators of these sections shall be subject to prosecution under the provisions of W&I Code 10980.
- Penal Code (PC) Section 396 (Food Stamp Fraud) has been repealed. Most of the provisions contained within PC Section 396 have been incorporated into W&I Code, Section 10980. Note: PC Section 396.5, the Food Stamp program violation by retail and wholesale food stores, was not repealed.
- The California Right to Financial Privacy Act (Government Code Section 7480) has been amended to permit a county welfare department, when investigating a welfare fraud, to request information from a financial institution concerning whether or not a person has an account(s), and the identifying number of such account(s). This law, however, does not require the institution to honor such requests.

- SDSS is required to evaluate the effectiveness of establishing a 24-hour "Welfare Fraud Hotline", designed to encourage greater public involvement in the welfare fraud detection process.

For your information, we have attached a copy of SB 2171. If you have any questions concerning this bill, please contact Rick Tibbetts of the Fraud Program Management Section at (916) 924-2836.



JOANNE ICHIMURA-HOFFMANN
Deputy Director
Management Systems and
Evaluation Division

cc: CWDA

Attachment

Senate Bill No. 2171

CHAPTER 1448

An act to amend Section 7480 of the Government Code, to repeal Section 396 of the Penal Code, and to amend Sections 11482, 11482.5, 11483, and 11483.5 of, to add and repeal Section 11462.5 of, to add Section 11481.5 to, and to add Chapter 9 (commencing with Section 10980) to Part 2 of Division 9 of, the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2171, Nielsen. Public social services.

Under existing law, the State Department of Social Services is required to establish a reasonable-cost based rate structure for reimbursement of foster care group home providers under the Aid to Families with Dependent Children-Foster Care program.

This bill would provide that, during the 1984-85 fiscal year, the department shall develop a plan to be used in San Diego County during the 1985-86 fiscal year under which, if the county is able to establish, through documentation, that a deficiency exists in foster care for one or more specified types of psychologically or emotionally disturbed children provided by foster care group home providers, the department shall authorize a waiver of the existing ratesetting mechanism for a sufficient number of foster care group homes in the county to meet the deficiency.

A new rate would be established for these providers.

The bill would provide that its provisions shall remain in effect only until January 1, 1987, and as of that date are repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

The bill would provide that the State Department of Social Services shall make a recommendation as to whether this ratesetting mechanism should be expanded statewide for fiscal years subsequent to the 1985-86 fiscal year.

The bill would appropriate to the State Department of Social Services \$35,000 from the General Fund and \$35,000 from the Social Welfare Federal Fund, after transfer from the Federal Trust Fund, for support of the department in carrying out the foregoing provisions.

Existing law specifies that various public officials and agencies are not prohibited from requesting from an office or branch of a financial institution information as to whether a person has an account at the financial institutions, and the identifying number of such account.

This bill would also permit county welfare departments to make these requests when investigating fraud.

The bill would require the State Department of Social Services to evaluate a 24-hour welfare fraud hotline pilot project, to assess greater public involvement and assistance in welfare fraud detection.

Existing law provides for various criminal offenses concerning the receipt of, or the attempt to receive, aid under the Aid to Families with Dependent Children (AFDC) program and under the Food Stamp Program.

This bill would modify these provisions by, among other things, applying these offenses to all aid programs, including the AFDC program, the Food Stamp Program, and county aid and relief programs.

The bill would specify the penalties which shall be used for violations of these offenses concerning fraudulent conduct under these aid programs.

By affecting provisions relating to crimes and infractions, the bill would create a state-mandated local program.

Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

However, this bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

The bill would provide that its provisions would become effective only if AB 1557 is enacted during the 1983-84 Regular Session.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings and loan association in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank, credit union, or savings and loan association in this state, such police or sheriff's department or district attorney may request a bank, credit union, or savings and loan association to furnish, and a bank, credit union, or savings and loan association shall

supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

- (1) The number of items dishonored;
- (2) The number of items paid which created overdrafts;
- (3) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings and loan association and customer to pay overdrafts;
- (4) The dates and amounts of deposits and debits and the account balance on such dates;
- (5) A copy of the signature and any addresses appearing on a customer's signature card; and
- (6) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the Inheritance Tax Law (Part 8 (commencing with Section 13301), Division 2, Revenue and Taxation Code), or a police or sheriff's department or district attorney or a county welfare department when investigating welfare fraud from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts.

No additional information beyond that specified in this section shall be released to a county welfare department without either the account holder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Department of Savings and Loan by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 8954, 30313, 32383, 38502, and 40153 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

SEC 1.5. Section 396 of the Penal Code is repealed.

SEC. 2. Chapter 9 (commencing with Section 10980) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 9. PENALTIES

10980. (a) Any person who, willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact in order to obtain aid under the provisions of this division or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or to receive a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars (\$500); or by both such imprisonment and fine.

(b) Any person who knowingly makes more than one application for aid under the provisions of this division with the intent of establishing multiple entitlements for any person for the same period or who makes an application for such aid for a fictitious or

nonexistent person or by claiming a false identity for any person is guilty of a felony, punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars (\$5,000), or by both such imprisonment and fine, or by imprisonment in the county jail for a period of not more than one year, or a fine of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine.

(c) Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained or retained aid under the provisions of this division for himself or herself or for a child not in fact entitled thereto, the person obtaining such aid shall be punished as follows:

(1) If the total amount of such aid obtained or retained is four hundred dollars (\$400) or less, by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars (\$500), or by both such imprisonment and fine.

(2) If the total amount of such aid obtained or retained is more than four hundred dollars (\$400), by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars (\$5,000), or by both such imprisonment and fine; or by imprisonment in the county jail for a period of not more than one year, or a fine of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine.

(d) Any person who knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 (commencing with Section 18900) of Part 6 with the intent to defraud is guilty of a felony, punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars (\$5,000), or by both such imprisonment and fine.

(e) Any person who counterfeits or alters or knowingly uses, transfers, acquires, or possesses counterfeited or altered authorizations to participate in the federal Food Stamp Program or food stamps in any manner not authorized by the Food Stamp Act of 1964 (Public Law 88-525 and all amendments made thereto) or the federal regulations pursuant to the act is guilty of forgery.

(f) Any person who fraudulently appropriates food stamps or authorizations to participate in the federal Food Stamp Program with which he or she has been entrusted pursuant to his or her duties as a public employee is guilty of embezzlement of public funds.

SEC. 3. Section 11462.5 is added to the Welfare and Institutions Code, to read:

11462.5. (a) The Legislature finds and declares that certain extraordinary conditions in local foster care group home placement need exist in some counties. It is the intent of the Legislature in enacting this section to provide those counties with a method to pursue local foster care group home facilities for placement of

children with services and care appropriate to their needs.

(b) During the 1984-85 fiscal year, the department shall develop a plan whereby AFDC-FC payment rates for existing AFDC-FC providers under this chapter may receive a new rate for services provided in accordance with the intent expressed in subdivision (a).

(c) The department shall implement this plan for San Diego County for a one-year pilot project during the 1985-86 fiscal year.

(d) The department shall subsequently recommend whether such a procedure should be implemented statewide.

The setting of these rates for existing AFDC-FC providers may commence after all of the following procedures have been followed:

(1) A county may request the department to consider and approve the county's declaration that a deficiency of care exists for any of the following types of children; emotionally disturbed latency age children, psychiatrically diagnosed children or adolescents, psychiatrically diagnosed adolescent boys, emotionally disturbed adolescent boys, or psychiatrically diagnosed adolescent girls. As used in this section, a deficiency exists when a county has a need for group homes for one or more of the types of children referred to in this paragraph, where the number of children exceeds the number of available beds in the appropriate level of care by 30 percent or more within the county. The deficiency shall equate to six beds or more and shall not be due to placement by other counties in the requesting county's facilities. In support of this request, the county shall submit to the department all of the following information:

(A) Identification and definition of levels of care available for children who are alleged or adjudicated under Sections 300 and 602 and who are placed in group homes funded by AFDC-FC.

(B) The number of beds available for one or more of the types of children referred to in paragraph (1) in the county.

(C) The locations of facilities serving children one or more of the types of children referred to in paragraph (1) in the county.

(2) Upon receipt of the county's request, the department shall determine if insufficient placement facilities exist in the county. This determination shall be completed no later than 60 days after receipt of the request.

(3) Upon a finding that a deficiency of care exists, the county shall solicit requests from existing providers who meet the criteria in subdivision (e), and shall:

(A) Review all requests.

(B) Choose one or more providers whose program meets the county's identified deficiency.

(C) Sponsor the provider chosen in subparagraph (B) by verifying information and forwarding its application to the department.

(D) Provide information regarding the type of care and the average rate paid by the county for the same level of care provided outside the county but within California.

(E) The county shall sponsor only a sufficient number of providers to meet the number of beds for which a deficiency has been found.

(e) If a county has been found to have a deficiency pursuant to subdivision (b), a licensed group home may respond to the county's solicitation, if it meets all of the following criteria:

(1) The facility is capable and willing to serve exclusively for the county one or more of the types of children referred to in paragraph (3) for which a deficiency has been found.

(2) The facility will be located within the county.

(f) Notwithstanding Section 11462, in setting a rate pursuant to this section, the department shall determine a rate which provides for the necessary level of care, subject to all of the following limitations:

(1) Subject to paragraph (2), ratesetting tests such as reasonableness and allowability shall be applied to rate requests under this section, pursuant to subdivisions (a) and (b) of Section 11462.

(2) The new rate approved by the department shall not exceed the average rate paid by the county per child for the same level of care provided in other counties within the state.

(3) Group homes granted a new rate under this section shall be subject to departmental audits pursuant to subdivision (c) of Section 11462.

(g) In order to implement this section, there is hereby appropriated to the department the sum of thirty-five thousand dollars (\$35,000) from the General Fund and the sum of thirty-five thousand dollars (\$35,000) from the Social Welfare Federal Fund, after transfer from the Federal Trust Fund, to augment the department's support budget.

(h) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute chaptered prior to that date deletes or extends that date.

SEC. 3.5. Section 11481.5 is added to the Welfare and Institutions Code, to read:

11481.5. The department shall evaluate the effectiveness of a 24-hour welfare fraud hotline pilot project, to assess greater public involvement and assistance in welfare fraud detection.

SEC. 4. Section 11482 of the Welfare and Institutions Code is amended to read:

11482. Any person other than a needy child, who willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact to obtain aid, or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, except as specified in Section 11482.5 and shall be subject to prosecution under the provisions of

Chapter 9 (commencing with Section 10980) of Part 2.

SEC. 5. Section 11482.5 of the Welfare and Institutions Code is amended to read:

11482.5. Any person who knowingly makes more than one application for aid with the intent of establishing multiple entitlements for any person for the same period, or who makes an application for aid by claiming a false identity for any person or by making an application for a fictitious or nonexistent person, is guilty of a felony and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

SEC. 6. Section 11483 of the Welfare and Institutions Code is amended to read:

11483. Except as specified in Section 11483.5, whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining such aid shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

When the allegation is limited to failure to report not more than two thousand dollars (\$2,000) of income or resources, or the failure to report the presence of an additional person or persons in the household, all actions necessary to secure restitution shall be brought against persons in violation of Section 10980. The action for restitution may be satisfied by sending a registered letter requesting restitution to the last address at which the person was receiving public assistance.

SEC. 7. Section 11483.5 of the Welfare and Institutions Code is amended to read:

11483.5. Any person who obtains more than one aid payment for any person as a result of knowingly making more than one application for aid with the intent of establishing multiple entitlements for that person during the same period, or who obtains aid for any person by making an application claiming a false identity or by making an application for a fictitious or nonexistent person, is guilty of a felony, and shall be subject to prosecution under the provisions of Chapter 9 (commencing with Section 10980) of Part 2.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 9. This act shall only become effective if AB 1557 is enacted during the 1983-84 Regular Session.

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