

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 19, 2004

ALL COUNTY LETTER NO. 04-46

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHILD WELFARE SERVICE PROGRAM MANAGERS
ALL JUVENILE COURT JUDGES
ALL CHIEF PROBATION OFFICERS

SUBJECT: GLESMANN V. SAENZ IMPACT ON RELATIVE CAREGIVER
APPROVAL

REASON FOR THIS TRANSMITTAL

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

The purpose of this letter is to provide county welfare departments with instructions for the processing of criminal record exemptions for county relative and non-relative extended family member (NREFM) caregiver approvals, as a result of the Court Order in the Glesmann v. Saenz lawsuit. This case challenged the California Department of Social Services' (CDSS) treatment of individuals convicted of second degree robbery who had obtained a Certificate of Rehabilitation as having a non-exemptible crime. The CDSS filed an appeal of this decision on January 13, 2004. Pending the appeal on July 21, 2004, the trial judge ordered CDSS to allow applicants with second degree robbery convictions, who have obtained a Certificate of Rehabilitation, to request an exemption. As a result, this Order applies to all foster family homes, which includes the processing of criminal record exemptions for relative/NREFM caregivers.

The CDSS has modified the Community Care Licensing Division's (CCLD) Evaluator Manual, which also applies to relative/NREFM caregiver approvals, and list of Non-Exemptible crimes to reflect the Court Order. The modified Evaluator Manual is located online at the following website:

<http://cclld.ca.gov/res/pdf/04RM-07BACKGROUNDCHECKPROCEDURES.pdf>

ACTIVE CASES

Counties are instructed to immediately review all pending criminal record exemption cases to determine if the applicant is covered under the Court Order. A Certificate of Rehabilitation is filed with the Department of Justice (DOJ) who is obligated by law to place that information on the individual's criminal summary information. If an individual is identified who has been convicted of second degree robbery, and has a Certificate of Rehabilitation, the county will need to initiate procedures to allow the individual to

ACL - GLESMANN V. SAENZ IMPACT
Page Two

request a criminal record exemption. Specific procedures can be found in Section 7-1510 and 7-1515 of CCLD's updated online Evaluator Manual. If an exemption is requested, the county should apply the standards for review of criminal record exemptions as referenced in the Evaluator Manual.

If you have any questions about this memo, you may contact Mr. Lou Del Gaudio, Manager of the Kinship Care Policy & Support Unit, at (916) 657-1858, or by e-mail at lgaudio@dss.ca.gov.

Sincerely,

BRUCE WAGSTAFF
Deputy Director
Children and Family Services Division

c: CWDA