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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (Division 9 added by Stats. 1965, Ch. 1784.)

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] (Part 3 added by Stats. 1965, Ch. 1784.)

CHAPTER 5.6. Services for Undocumented Persons [13300 - 13310] (Heading of Chapter 5.6 amended by Stats. 2015, Ch. 20, Sec. 22.)

13300. (a) Subject to the availability of funding in the act that added this chapter or the annual Budget Act, the department shall contract, as described in Section 13301, with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state.

(b) Legal services provided in accordance with subdivision (a) shall be for the sole purpose of providing legal representation to unaccompanied undocumented minors who are in the physical custody of the federal Office of Refugee Resettlement or who are residing with a family member or other sponsor.

(c) For purposes of this chapter, the term "unaccompanied undocumented minors" means unaccompanied children as described in Section 279(g)(2) of Title 6 of the United States Code.

(d) For purposes of this chapter, the term "legal services" includes culturally and linguistically appropriate services provided by attorneys, paralegals, interpreters and other support staff for state court proceedings, federal immigration proceedings, and any appeals arising from those proceedings.

(Amended by Stats. 2021, Ch. 296, Sec. 70. (AB 1096) Effective January 1, 2022.)

13301. Contracts awarded pursuant to Section 13300 shall fulfill all of the following:

(a) Be executed only with nonprofit legal services organizations that meet all of the following requirements:

(1) Have at least three years of experience handling asylum, T-Visa, U-Visa, or special immigrant juvenile status cases and have represented at least 25 individuals in these matters.

(2) Have experience in representing individuals in removal proceedings and asylum applications.

(3) Have conducted trainings on these issues for practitioners beyond their staff.

(4) Have experience guiding and supervising the work of attorneys whom themselves do not regularly participate in this area of the law but nevertheless work pro bono on the types of cases described in paragraph (1).

(5) Are accredited by the Board of Immigration Appeals under the United States Department of Justice's Executive Office for Immigration Review or meet the requirements to receive funding from the Trust Fund Program administered by the State Bar of California.

(b) Provide for legal services to unaccompanied undocumented minors through a funding method, as determined by the department, that shall include all administrative and supervisory costs and court fees.

(c) Require reporting, monitoring, or audits of services provided, as determined by the department.

(d) Require contractors to coordinate efforts with the federal Office of Refugee Resettlement Legal Access Project in order to respond to and assist or represent unaccompanied undocumented minors who could benefit from the services provided under this chapter.

(e) Require contractors to maintain adequate legal malpractice insurance and to indemnify and hold the state harmless from any claims that arise from the legal services provided pursuant to this chapter.

13302. Notwithstanding any other law:

(a) Contracts or grants awarded pursuant to this chapter shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(b) Contracts or grants awarded pursuant to this chapter shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services.

(c) The client information and records of legal services provided pursuant to this chapter shall be subject to the requirements of Section 10850 and shall be exempt from inspection under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d) The state shall be immune from any liability resulting from the implementation of this chapter.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific this chapter without taking any regulatory action.

(Amended by Stats. 2021, Ch. 615, Sec. 439. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

13303. (a) Subject to the availability of funding in the act that added this section or the annual Budget Act, the department shall provide grants, as described in subdivision (b), to organizations qualified under Section 13304.

(b) Grants provided in accordance with subdivision (a) shall be for the purpose of providing one or more of the following services, as determined by the department:

(1) Services to persons residing in, or formerly residing in, California, including, but not limited to, any of the following:

(A) Services to assist with the application process for initial or renewal requests of deferred action under the DACA policy with the United States Citizenship and Immigration Services.

(B) Services to obtain other immigration remedies and benefits.

(C) Services to assist with the naturalization process and an appeal arising from the process.

(2) Services to provide legal training and technical assistance.

(3) (A) (i) Funds available for the purposes of this section shall not be used to provide legal services to an individual who has been convicted of, or who is currently appealing a conviction for, a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, or a serious felony as defined in subdivision (c) of Section 1192.7 of the Penal Code.

(ii) For the purposes of this subparagraph, "legal services" does not include activities relating to client intake, which shall be provided regardless of an individual's criminal history.

(B) Notwithstanding subparagraph (A), this section does not prohibit eligibility for services pursuant to this section for an individual whose criminal record is shown to be inaccurate.

(c) For purposes of this chapter, the following terms shall have the following meanings:

(1) "DACA" refers to Deferred Action for Childhood Arrivals status as described in guidelines issued by the United States Department of Homeland Security.

(2) "Services to assist" includes, but is not limited to, outreach, workshop presentations, document review, Freedom of Information Act requests, and screening services that seek to assist individuals with the services described in subdivision (b).

(3) "Legal training and technical assistance" includes, but is not limited to, educational and capacity building activities that will augment the competent provision of legal services to immigrants, including for organizations located in and serving underserved communities.

(4) "Immigration remedies" include, but shall not be limited to, U-visas, T-visas, special immigrant juvenile status, Violence Against Women Act self-petitions, family-based petitions, cancellation of removal, and asylum or other remedies that may also include remedies necessary to enable pursuit of immigration protections.

(5) "Immigration benefits" include, but shall not be limited to, advanced parole, employment authorization documents, and lawful Permanent Resident Card renewal.

(d) No more than 40 percent of grant funds awarded to an organization qualified under Section 13304 shall be advanced to that organization.

(e) The department shall update the Legislature on the following information in the course of budget hearings:

(1) The timeline for implementation and administration of this section, including important upcoming dates.

(2) The participating organizations awarded contracts or grants, and the aggregate amounts awarded for each service described in subdivision (b).

(3) The number of applications submitted, and the aggregate amounts requested for each service described in subdivision (b).

(4) The number of clients served.

(5) The types of services provided and in what language or languages.

(6) The regions served.

(7) The ethnic communities served.

(8) The identification of further barriers and challenges to the provision of services described in subdivision (b).

(f) In accordance with Section 1621(d) of Title 8 of the United States Code, this section provides services for undocumented persons.

(g) The sum of twenty million dollars (\$20,000,000) is hereby appropriated to the Department of Social Services in the 2017–18 fiscal year for immigration services funding to be available for payment to existing entities under contract pursuant to this section for work on behalf of clients involved in, applying for, or subject to federal Deferred Action for Childhood Arrivals status.

(h) Notwithstanding any other law, payments shall be made by the Controller to existing entities under contract pursuant to this chapter upon receipt of written notification from the State Department of Social Services of the amounts, contractors, and timing of the payments.

(Amended by Stats. 2023, Ch. 43, Sec. 66. (AB 120) Effective July 10, 2023.)

13304. (a) Any grant awarded pursuant to Section 13303 shall fulfill all of the following:

(1) Be executed only with a nonprofit organization that meets the requirements set forth in Section 501(c)(3) or 501(c)(5) of the Internal Revenue Code and that meets all of the following requirements:

(A) Except as provided in clause (i) of subparagraph (D), have at least three years of experience handling the type of immigration issues for which the organization is requesting a grant.

(B) Have conducted trainings on immigration issues for persons beyond its staff.

(C) Is recognized and accredited by the Office of Legal Access Programs under the United States Department of Justice's Executive Office for Immigration Review or meets the requirements to receive funding from the Trust Fund Program administered by the State Bar of California.

(D) (i) For a legal services organization that provides legal training and technical assistance as defined in subdivision (c) of Section 13303, have at least 10 years of experience conducting immigration legal services and technical assistance and meet the requirements to receive funding from the Trust Fund Program administered by the State Bar of California.

(ii) Notwithstanding clause (i), a legal services organization, as described in clause (i), may, at the discretion of the department, instead meet the requirements listed in subparagraphs (A) and (B).

(2) Require reporting, monitoring, or audits of services provided, as determined by the department.

(3) Require grant recipients to maintain adequate legal malpractice insurance and to indemnify and hold the state harmless from any claims that arise from the legal services provided pursuant to this chapter.

(b) For grants awarded prior to the effective date of the act that added this subdivision, with the consent of the department and the grantee, the grantee may provide any of the services described in Section 13303, as amended by that act, and any agreement

between the department and grantee shall be deemed to authorize the provision of those services.

(Amended by Stats. 2023, Ch. 43, Sec. 67. (AB 120) Effective July 10, 2023.)

13305. (a) Subject to the availability of funding in the act that added this section or the annual Budget Act, the department shall provide grants to organizations qualified under Section 13306 to provide free education and outreach information, services, and materials about services provided pursuant to subdivision (b) of Section 13303.

(b) For purposes of this section, "education and outreach" activities means the dissemination of information or activities that promote the benefits of citizenship or immigration remedies, and explain eligibility to prospective United States citizens or prospective individuals eligible for deferred action, or explain to individuals their immigration-related rights.

(1) Education and outreach activities shall include referrals to educational or legal services that support the applicants' eligibility for citizenship, deferred action, or other immigration remedies, and the importance of participating in civic engagement as a naturalized citizen.

(2) Education and outreach activities do not include representation as legal counsel that would assist in the application process for a prospective citizen or prospective individual eligible for deferred action or other immigration remedies.

(c) No more than 40 percent of grant funds awarded to an organization qualified under Section 13306 shall be advanced to that organization.

(d) The department shall update the Legislature on the following information in the course of budget hearings:

(1) The timeline for implementation of this section.

(2) The participating organizations awarded contracts or grants.

(3) The number of applications submitted.

(4) The number of clients served.

(5) The types of services provided and in what language or languages.

(6) The regions served.

(7) The ethnic communities served.

(8) The identification of further barriers and challenges to education, outreach, immigration assistance, and legal services related to naturalization and deferred action.

(e) This section shall become operative on January 1, 2016.

(Amended by Stats. 2017, Ch. 24, Sec. 42. (SB 89) Effective June 27, 2017.)

13306. (a) Grants awarded pursuant to Section 13305 shall be provided only to nonprofit organizations that meet the requirements set forth in Section 501(c)(3) or 501(c)(5) of the Internal Revenue Code and have at least three years of experience with both of the following:

(1) Conducting education and outreach with immigrant populations.

(2) Conducting outreach for government benefits and programs.

(b) This section shall become operative on January 1, 2016.

(Added by Stats. 2015, Ch. 20, Sec. 27. (SB 79) Effective June 24, 2015. Section operative January 1, 2016, by its own provisions.)

13307. The department may transfer funds appropriated for the purposes of this chapter among services described in this chapter in response to the results of requests for applications received or to changing state or federal law. Following the award of funding pursuant to this section, the department shall provide written notification to the Joint Legislative Budget Committee of the items specified in subdivision (e) of Section 13303. Subsequent to this notification, and in addition to the update required by subdivision (e) of Section 13303, the department shall provide written notification to the Department of Finance and the Joint Legislative Budget Committee no less than 30 days prior to either of the following, unless a shorter timeframe is requested by the department due to emergent circumstances:

(a) Any proposed changes that adjust the aggregate amount awarded for any particular service described in subdivision (b) of Section 13303 by more than 15 percent.

(b) For any proposed transfers of funding between the purposes of Sections 13300 and 13303.

(Added by Stats. 2017, Ch. 24, Sec. 43. (SB 89) Effective June 27, 2017.)

13308. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Added by Stats. 2017, Ch. 24, Sec. 44. (SB 89) Effective June 27, 2017.)

13310. A county shall make its best efforts to provide an undocumented minor or nonminor dependent in foster care under the jurisdiction of the juvenile court with access to immigration legal services. This access may be provided by the child welfare agency through outside legal service providers.

(Added by Stats. 2021, Ch. 528, Sec. 3. (AB 829) Effective January 1, 2022.)