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AB-2455 Home care aide registry: disclosure of personal contact information. (2017-2018)

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Assembly Bill No. 2455

CHAPTER 917

An act to amend Section 1796.29 of the Health and Safety Code, relating to home care services.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2455, Kalra. Home care aide registry: disclosure of personal contact information.

(1) Existing law establishes the Home Care Services Consumer Protection Act, which provides for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and for the registration of home care aides. The act requires the department to establish and maintain a registry of registered home care aides and home care aide applicants on the department's Internet Web site, as provided. The act prohibits the registry on the Internet Web site from providing any additional, individually identifiable information about a registered home care aide or home care aide applicant. Existing law authorizes the department to maintain additional information for registered home care aides or home care aide applicants, as necessary for the administration of the act, but prohibits the department from making that information publicly available on the registry. A violation of the act is a misdemeanor, punishable by a fine not to exceed \$1,000, by imprisonment in a county jail for a period not to exceed 180 days, or by both that fine and imprisonment.

This bill would require, for any new registration or renewal of registration of a home care aide occurring on and after July 1, 2019, the department to provide, upon request, a labor organization an electronic copy of a registered home care aide's name, telephone number, and cellular telephone number, as specified. The bill would require the department to establish a simple opt-out procedure that would allow a home care aide to prohibit the department from sharing his or her information and would require the department, at the time of registration or renewal of registration, to inform a home care aide how to use the simple opt-out procedure. The bill would prohibit a labor organization from using or disclosing the shared information, except for certain purposes. Because a violation of the Home Care Services Consumer Protection Act is punishable as a misdemeanor and this bill would expand requirements under the act, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) As California's elderly population continues to grow, so will the need for home care aides and home health aides and the valuable services they provide to enable individuals to live independently in their own homes as they age. The home care workforce is comprised primarily of women and people of color, and home care workers earn a median hourly wage of under \$10.50 an hour.

(2) Across the country, labor organizations have been organizing and representing the home care workforce and negotiating with employers concerning access to training, grievances, labor disputes, wages, rates of pay, hours of employment, and conditions of work. Home care aides who are organized are more likely to have higher wages, greater access to training, and lower turnover rates.

(b) It is the intent of the Legislature that information shared between the State Department of Social Services and labor organizations is done for the purpose of organizing and representing home care aides and that information is shared in a manner that properly restricts the type of, access to, and uses of that shared information. It is also the intent of the Legislature that home care aides who may have their information shared by the department are afforded the right to prohibit that sharing and are well informed of their right and the process through which they may exercise it.

SEC. 2. Section 1796.29 of the Health and Safety Code is amended to read:

1796.29. The department shall do all of the following in the administration of the home care aide registry:

(a) Establish and maintain on the department's Internet Web site the registry of registered home care aides and home care aide applicants.

(1) To expedite the ability of a consumer to determine if a registered home care aide or home care aide applicant has passed a background examination, pursuant to Section 1796.23, the Internet Web site shall enable consumers to look up the registration status by providing the registered home care aide's or home care aide applicant's name and registration number. The Internet Web site shall provide the registration status, the registration expiration date, and, if applicable, the home care organization with which the affiliated home care aide is associated.

(2) The Internet Web site shall not provide any additional, individually identifiable information about a registered home care aide or home care aide applicant. The department may request and may maintain additional information for registered home care aides or home care aide applicants, as necessary for the administration of this chapter, that shall not be publicly available on the home care aide registry.

(b) Update the home care aide registry upon receiving notification from a home care organization that an affiliated home care aide is no longer employed by the home care organization.

(c) Notwithstanding any other provision of this chapter to the contrary, information regarding a registered home care aide or registered home care aide applicant is not subject to public disclosure pursuant to this chapter, except as provided in subdivision (d).

(d) (1) For any new registration or renewal of registration occurring on and after July 1, 2019, the department shall provide an electronic copy of a registered home care aide's name, telephone number, and cellular telephone number on file with the department, upon its request, to a labor organization in which a provider of in-home supportive services, as described in Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or a registered home care aide, already participates and which exists for the purpose, in whole or in part, of dealing with employers of home care aides concerning access to training, grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. The labor organization shall not use this information for any purpose other than employee organizing, representation, and assistance activities. The labor organization shall not disclose this information to any other party.

(2) The department shall establish a simple opt-out procedure by which a registered home care aide or registered home care aide applicant may request that his or her contact information on file with the department not be disclosed in response to a request described in paragraph (1).

(e) At the time of any registration or renewal of registration occurring on and after July 1, 2019, the department shall do both of the following:

(1) Provide a written notice to the registering or registered home care aide that his or her information may be shared with a labor organization, as described in paragraph (1) of subdivision (d).

(2) Provide written instructions on how to utilize the simple opt-out procedure described in paragraph (2) of subdivision (d).

(f) This section applies solely to an individual who provides services as a home care aide under this chapter.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.