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SB-926 CalWORKs and CalFresh: work requirements. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

NO. 926

Introduced by Senator Skinner

January 24, 2018

An act to amend Section 11320.31 of, and to add Section 18929 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 926, Skinner. CalWORKs and CalFresh: work requirements.

Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals. Existing law generally requires a recipient of CalWORKs benefits to participate in welfare-to-work activities as a condition of eligibility for aid. Existing law prohibits sanctions from being applied for a failure or refusal to comply with program requirements if, among other reasons, the employment, offer of employment, activity, or other training for employment discriminates on specified bases or involves conditions that are in violation of applicable health and safety standards, or the employment or offer of employment exceeds the daily or weekly hours of work customary to the occupation.

This bill would additionally prohibit sanctions from being applied for a failure or refusal to comply with program requirements if the recipient provides documentation that the anticipated hours would be so unpredictable for that specific recipient that they would

not allow the recipient to anticipate compliance with program requirements related to the job, or if the recipient provides documentation that the scheduled hours exhibit a pattern of unpredictability for that specific recipient so that he or she cannot anticipate compliance with program requirements related to the job. The bill would also prohibit sanctions from being applied if the recipient self-certifies that the employment or offer of employment fails to comply with the Healthy Workplaces, Healthy Families Act of 2014, that his or her rights under the New Parent Leave Act, the Wage Theft Prevention Act of 2011, or the Domestic Worker Bill of Rights were violated, or that he or she experienced sexual harassment or other abusive conduct at the workplace. The bill would require the county human services agency, when an applicant or recipient reports refusing any offer of employment, reducing hours, voluntarily quitting any employment, or being discharged from any employment, to provide the applicant or recipient with information regarding workplace rights generally, as specified, and would require the State Department of Social Services to convene stakeholders to develop instructions for county human services agencies on how to best inform applicants and recipients of aid of those rights and remedies, and how to document self-certification, as specified. By increasing the duties of local officials, the bill would impose a state-mandated local program.

Existing federal law provides for the federal Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county. Existing federal law, as a condition of eligibility for CalFresh, requires a household member who is not exempt to comply with specified work requirements, including the requirement that a member does not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort less than 30 hours a week. Existing federal law defines "good cause" to include, among other things, circumstances beyond a member's control, resigning from a job that is unsuitable, and discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs.

This bill would, to the extent permitted by federal law, regulation, or waiver thereof, require that good cause exists for purposes of the above-mentioned work requirement if an applicant for, or recipient of, CalFresh benefits has voluntarily quit a job or reduced work hours based on at least one of the above-mentioned reasons for which welfare-to-work sanctions for a recipient of CalWORKs benefits shall not be applied, or because the scheduled work hours were so unpredictable that they did not allow the applicant or recipient to anticipate the amount of monthly income from the job. When the applicant or recipient reports refusing any offer of employment, reducing hours, voluntarily quitting any employment, or being discharged from any employment, the bill would require the county human services agency to provide the applicant or recipient with information regarding workplace rights generally, as specified. By increasing the duties of local officials, the bill would impose a state-mandated local program.

The bill would authorize the State Department of Social Services to implement these provisions through an all-county letter or similar instruction from the Director of Social Services, until regulations are adopted on or before October 1, 2020. The bill would require the all-county letter, or similar instruction, or regulation to provide, among other things, that an applicant or recipient of CalFresh or CalWORKs is authorized to self-certify under penalty of perjury that specified reasons qualify for a good cause exemption or a relief from sanction. By expanding the crime of perjury, the bill would impose a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would provide that the continuous appropriation would not be made for purposes of implementing the bill.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

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

- (a) Due to their precarious economic situations, low-income workers frequently have their rights violated.
- (b) Low-income workers are often not scheduled enough hours to prevent poverty or to comply with public benefit work requirements.
- (c) Low-income Californians should not be forced to seek employment or remain employed at a workplace that violates their basic worker rights.

(d) Low-income Californians should be informed about their worker rights when they seek public benefits or an increase in public benefits due to a loss of job or reduction in hours.

SEC. 2. Section 11320.31 of the Welfare and Institutions Code is amended to read:

11320.31. (a) Sanctions shall not be applied for a failure or refusal to comply with program requirements for reasons related to employment, an offer of employment, an activity, or other training for employment including, but not limited to, the following reasons:

(1) The employment, offer of employment, activity, or other training for employment discriminates on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

(2) The employment or offer of employment exceeds the daily or weekly hours of work customary to the occupation, the recipient provides documentation to the county human services agency that the anticipated hours would be so unpredictable for that specific recipient that they would not allow the recipient to anticipate compliance with program requirements related to the job, or the recipient provides documentation to the county human services agency that the scheduled hours exhibit a pattern of unpredictability for that specific recipient that does not allow the recipient to anticipate compliance with program requirements related to the job.

(3) The employment, offer of employment, activity, or other training for employment requires travel to and from the place of employment, activity, or other training and a recipient's home that exceeds a total of two hours in round trip time, exclusive of the time necessary to transport family members to a school or place providing care, or, when walking is the only available means of transportation, the round trip is more than two miles, exclusive of the mileage necessary to accompany family members to a school or a place providing care. A recipient who fails or refuses to comply with the program requirements based on this paragraph shall be required to participate in community service activities pursuant to Section 11322.9.

(4) The employment, offer of employment, activity, or other training for employment involves conditions that are in violation of applicable health and safety standards.

(5) The employment, offer of employment, or work activity does not provide for workers' compensation insurance.

(6) Accepting the employment or work activity would cause an interruption in an approved education or job training program in progress that would otherwise lead to employment and sufficient income to be self-supporting, excluding work experience or community service employment as described in subdivisions (d) and (j) of Section 11322.6 and Section 11322.9 or other community work experience assignments, except that a recipient may be required to engage in welfare-to-work activities to the extent necessary to meet the hours of participation required by Section 11322.8.

(7) Accepting the employment, offer of employment, or work activity would cause the recipient to violate the terms of the recipient's union membership.

(8) The recipient self-certifies that the employment or offer of employment fails to comply with the Healthy Workplaces, Healthy Families Act of 2014 (Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code).

(9) The recipient self-certifies that the recipient experienced sexual harassment or other abusive conduct at the workplace. For purposes of this section, "abusive conduct" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 12950.1 of the Government Code.

(10) The recipient self-certifies that the recipient's rights under the New Parent Leave Act (Section 12945.6 of the Government Code) were violated.

(11) The recipient self-certifies that the recipient's rights under the Wage Theft Prevention Act of 2011 were violated.

(12) The recipient self-certifies that the recipient's rights under the Domestic Worker Bill of Rights (Part 4.5 (commencing with Section 1450) of Division 2 of the Labor Code) were violated.

(b) If a recipient has received relief from a program sanction pursuant to this section, the recipient shall participate in all other welfare-to-work activities required by the recipient's welfare-to-work plan, with the exception of employment requirements. This relief shall last no longer than three months from the first date of the failure or refusal to comply with program requirements.

(c) When an applicant or recipient reports refusing any offer of employment, reducing hours, voluntarily quitting any employment, or being discharged from any employment, the county human services agency shall provide the applicant or recipient with information regarding workplace rights generally, including information about how to file complaints with the Division of Labor Standards Enforcement and the Department of Fair Employment and Housing. The State Department of Social Services shall convene stakeholders to develop instructions for county human services agencies on how to best inform applicants and recipients

of aid of their workplace rights and available remedies, and how to document applicants' or recipients' self-certification of circumstances as required by this section. Stakeholders may be convened concurrently with an existing department stakeholder meeting.

SEC. 3. Section 18929 is added to the Welfare and Institutions Code, to read:

18929. To the extent permitted by federal law, regulation, or waiver thereof, a county shall determine that good cause exists for purposes of the work requirement specified in Section 273.7(a)(1)(vii) of Title 7 of the Code of Federal Regulations if an applicant or recipient has voluntarily quit a job or reduced work hours based on at least one of the reasons enumerated in subdivision (a) of Section 11320.31, or because the scheduled work hours were so unpredictable that they did not allow the applicant or recipient to anticipate the amount of monthly income from the job. When the applicant or recipient reports refusing any offer of employment, reducing hours, voluntarily quitting any employment, or being discharged from any employment, the county human services agency shall provide the applicant or recipient with information regarding workplace rights generally, including information about how to file complaints with the Division of Labor Standards Enforcement and the Department of Fair Employment and Housing. This information shall be provided pursuant to the instructions developed by the workgroup specified in subdivision (c) of Section 11320.31.

SEC. 4. 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 State Department of Social Services may implement this act through an all-county letter or similar instruction from the Director of Social Services, until regulations are adopted. The department shall adopt regulations implementing this act on or before October 1, 2020. The all-county letter, or similar instruction, or regulation shall provide all of the following:

(a) An applicant or recipient of CalFresh or CalWORKs may self-certify under penalty of perjury that the reason the applicant or recipient voluntarily quit a job or reduced work hours qualifies for a good cause exemption, as specified in Section 18929 of the Welfare and Institutions Code.

(b) A recipient of CalWORKs may self-certify under penalty of perjury that the reason the recipient failed or refused to comply with program requirements qualifies for a relief from sanction, as specified in Section 11320.31 of the Welfare and Institutions Code.

(c) Guidance on how the county shall collect verification in instances in which more than one request for a good cause exemption or relief from sanction is made.

SEC. 5. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of this act.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.