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**AB-1301 Child welfare: adoption.** (2019-2020)

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**Assembly Bill No. 1301**

**CHAPTER 827**

An act to amend, repeal, and add Section 16122 of the Welfare and Institutions Code, relating to child welfare services.

[ Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1301, Cooley. Child welfare: adoption.

Existing law provides for the Adoption Assistance Program, to be established and administered by the State Department of Social Services or the county, for the purpose of benefitting children residing in foster homes by providing the stability and security of permanent homes. Existing law requires the state to compensate licensed private adoption agencies for the cost of placing for adoption eligible children and nonminor dependents eligible for the program, as specified.

This bill would instead, beginning July 1, 2020, require county child welfare agencies to compensate licensed private adoption agencies for the costs of supporting families through the process of adopting children and nonminor dependents who are eligible for the Adoption Assistance Program. The bill would prescribe the amount and methodology for compensation, and would require the department to establish reimbursement procedures in consultation with the counties and private adoption agencies. After all reimbursements are made under these provisions, the bill would authorize a county to use any unspent funds for additional activities related to permanency, as specified. The bill would require the department to work with counties and representatives of adoption agencies to ensure a smooth transition under these provisions, as specified, and would require those entities to develop language for certain placement agreements, as specified.

By imposing additional duties on local entities, this bill would create a state-mandated local program.

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.** The Legislature finds and declares the following:

(a) Funding for the Private Agency Adoptions Reimbursement Program was realigned to the counties pursuant to the 2011 Realignment Legislation. However, the State Department of Social Services continued to administer the program with funding provided for this purpose from the Contract Special Account created pursuant to Section 30029.8 of the Government Code.

(b) This was intended to be a temporary arrangement until the program and related funding could be transitioned to the counties.

(c) As counties have received bills for overages in the program above the amount transferred to the Contract Special Account for three fiscal years, this act provides for the transition of program responsibility and funding to the counties in order to avoid unnecessary overages.

(d) The new structure of the program as set forth in Section 16122 of the Welfare and Institutions Code, commencing July 1, 2020, is intended to streamline administration to the greatest extent possible and is intended to be cost neutral to counties.

**SEC. 2.** Section 16122 of the Welfare and Institutions Code is amended to read:

**16122.** (a) It is the intent of the Legislature in enacting this chapter to provide children or nonminor dependents who would otherwise remain in long-term foster care with permanent adoptive homes. It is also the intent of this Legislature to encourage private adoption agencies to continue placing these children, and in so doing, to achieve a substantial savings to the state in foster care costs.

(b) From any funds appropriated for this purpose, the state shall compensate private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of placing for adoption children or nonminor dependents eligible for Adoption Assistance Program benefits pursuant to Section 16120.

These agencies shall be compensated for otherwise unreimbursed costs for the placement of these children in an amount not to exceed a total of three thousand five hundred dollars (\$3,500) per child adopted. Half of the compensation shall be paid at the time the adoptive placement agreement is signed. The remainder shall be paid at the time the adoption petition is granted by the court. Requests for compensation shall conform to claims procedures established by the department. This section shall not be construed to authorize reimbursement to private agencies for intercountry adoption services.

(c) Effective July 1, 1999, the maximum amount of reimbursement pursuant to subdivision (b) shall be five thousand dollars (\$5,000).

(d) Effective February 1, 2008, the maximum amount of reimbursement pursuant to subdivision (b) shall be ten thousand dollars (\$10,000). This rate increase shall apply only to those cases for which the adoptive home study approval occurred on or after July 1, 2007.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

**SEC. 3.** Section 16122 is added to the Welfare and Institutions Code, to read:

**16122.** (a) It is the intent of the Legislature in enacting this chapter to support permanency for children and nonminor dependents who need permanent homes through adoption or guardianship. Historically, the adoption of children from foster care has been supported by private adoption agencies pursuant to the Private Agency Adoptions Reimbursement Program. It is the intent of the Legislature to encourage counties and private adoption agencies to continue supporting these children and families both pre- and post-permanency, which supports the counties and state in meeting federal and state-required permanency outcomes for foster children. In light of the enactment and implementation of the 2011 Realignment and the Continuum of Care Reform, it is necessary to change the construction of the Private Agency Adoptions Reimbursement Program in order to allow for local control of the program and ensure the services provided are consistent with the Continuum of Care Reform, and to allow unspent funds to be utilized to support permanency activities undertaken outside of the Private Agency Adoptions Reimbursement Program.

(b) (1) As set forth in this section, a county child welfare agency shall compensate private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for the costs of supporting families through the process of adopting children or nonminor dependents eligible for the Adoption Assistance Program benefits pursuant to Section 16120.

(2) The agencies described in paragraph (1) shall be compensated for adoption services pursuant to this section. One-half of the compensation shall be paid at the time the adoptive placement agreement is signed, unless the adoption agency opts to be paid in full at the time of finalization of the adoption. The remainder shall be paid at the time the adoption petition is granted by the court. Reimbursement procedures shall be established by the department in consultation with the counties and private adoption agencies.

(3) This subdivision shall not be construed to authorize reimbursement to private agencies for intercountry adoption services.

(c) Effective July 1, 2020, the reimbursement made pursuant to subdivision (b) shall be eight thousand dollars (\$8,000) for children adopted from families approved by dually licensed private nonprofit foster family and adoption agencies, and six thousand six hundred dollars (\$6,600) for all other children. These rates shall apply to children for whom an adoption placement agreement is signed on or after that effective date. Children for whom an adoption placement agreement was signed prior to that

date shall be reimbursed pursuant to the rates in effect prior to July 1, 2020, and those claims shall be paid by the department pursuant to the process in effect at that time under former Section 16122, with the exception that a cost report shall not be required for adoptions in process as of July 1, 2020.

(d) To the extent that reimbursements made pursuant to subdivision (b) total less than the amount provided to the county for those services, the county may, at its discretion, utilize unspent funds for additional activities related to permanency, including, but not limited to, pre- and post-permanency support related to the establishment of adoptions and guardianships for foster children. This may include services outlined in guidance from the department issued in All-County Letter 18-142.

(e) (1) The department shall work with counties and representatives of adoption agencies to ensure a smooth transition to the new structure under this section, which shall include, but not be limited to, a review of existing guidance and claim forms and instructions and any necessary updates to reflect the new process.

(2) The department, counties, and adoption agencies shall develop language for the placement agreement signed between the county and a dually licensed private nonprofit foster family and adoption agency to ensure compensation is made pursuant to this section should the child transition to an adoption with a family who is under the auspices of that agency.

(f) This section shall become operative on July 1, 2020.

**SEC. 4.** To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.