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SB-1197 In-home respite services. (2023-2024)

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Senate Bill No. 1197

CHAPTER 909

An act to amend Section 4684 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1197, Alvarado-Gil. In-home respite services.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to allocate funds to private nonprofit regional centers for the provision of community services and supports for persons with developmental disabilities and their families. Existing law permits regional centers to purchase in-home respite services for regional center clients. Existing law defines in-home respite services as intermittent or regularly scheduled temporary nonmedical care and supervision provided in the client's own home, for a regional center client who resides with a family member.

Existing law, the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, requires foster care providers to be paid a per-child per-month rate, established by the State Department of Social Services, for the care and supervision of the child placed with the provider.

Existing law generally provides for the placement of foster youth in various placement settings. Existing law provides for the implementation of the resource family approval process and defines a resource family as an individual or family who has successfully met both the home environment assessment standards and permanency assessment criteria, as specified, necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian.

Existing law prohibits children who receive both AFDC-FC benefits and regional center services and who reside with a relative, nonrelative extended family member, or specified community care facility that is not vendored by the regional center as a residential facility from being prohibited from receiving in-home respite services.

This bill would add children who receive both AFDC-FC benefits and regional center services and who reside with a resource family to the above-described prohibition. The bill would also add Indian children who receive both AFDC-FC benefits and regional center services and who reside with an extended family member, as defined, or a tribally approved home, as defined, to the above-described prohibition. The bill would require regional centers to assess a small family home for service need, as specified, prior to approving in-home respite services for children in that placement type. To the extent that the bill increases the duties of the county in administering the AFDC-FC program, the bill would impose a state-mandated local program. The bill would make other technical changes.

This bill would clarify that, for purposes of the provisions relating to children who receive both AFDC-FC benefits and regional center services, the terms "child" and "children" include a nonminor dependent, as defined. The bill would find and declare that

this provision is declaratory of existing law.

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. Section 4684 of the Welfare and Institutions Code is amended to read:

4684. (a) Notwithstanding any other law, the cost of providing 24-hour out-of-home nonmedical care and supervision in community care facilities licensed or approved pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall be funded by the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program pursuant to Section 11464, for children who are both AFDC-FC recipients and regional center consumers.

(b) The cost of providing adoption assistance benefits shall be funded by the Adoption Assistance Program (AAP) under Section 16121, for children who are both AAP recipients and regional center consumers.

(c) (1) For regional center consumers who are recipients of AFDC-FC benefits, regional centers shall purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP) but that are not allowable under federal or state AFDC-FC provisions.

(2) For regional center consumers who are recipients of AAP benefits, regional centers shall purchase or secure the services that are contained in the child's IFSP or IPP.

(3) For regional center consumers receiving services under paragraph (1) or (2), these services shall be separately purchased or secured by the regional center, pursuant to Sections 4646 to 4648, inclusive, Section 4685, and Sections 95018 and 95020 of the Government Code.

(4) Regional centers shall accept referrals for evaluations of AFDC-FC-eligible children and children receiving AAP benefits for the purpose of determining eligibility for regional center services, pursuant to Section 4642. Regional centers shall assist county welfare and probation departments in identifying appropriate placement resources for children who are recipients of AFDC-FC and who are eligible for regional center services.

(d) (1) For purposes of this section, children who are recipients of AFDC-FC and regional center services shall not be prohibited from receiving in-home respite services, as defined in subdivision (a) of Section 4690.2, if they are residing with any of the following:

(A) A relative, as defined in paragraph (2) of subdivision (h) of Section 319, or, in the case of an Indian child, an extended family member, as defined in subdivision (c) of Section 224.1.

(B) A nonrelative extended family member, as defined in Section 362.7.

(C) A resource family, as defined in paragraph (1) of subdivision (c) of Section 16519.5.

(D) A tribally approved home, as defined in subdivision (r) of Section 224.1.

(E) A foster family home, as defined in paragraph (5) of subdivision (a) of Section 1502 of the Health and Safety Code, that is not vendored by the regional center as a residential facility.

(F) A small family home, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code, that is not vendored by the regional center as a residential facility. Regional centers shall assess a small family home for service need, including verification of the small family home's staffing level, through the individual program plan (IPP) process pursuant to Sections 4646 and 4648 or the individualized family service plan (IFSP) process pursuant to Sections 95018 and 95020 of the Government Code, as applicable, prior to approving in-home respite services for children residing in a licensed small family home.

(2) AFDC-FC and AAP benefits shall be for care and supervision, as defined in subdivision (b) of Section 11460, and the regional centers shall separately purchase or secure other services contained in the child's IFSP or IPP pursuant to Section 4646 to 4648, inclusive, Section 4685, and Sections 95018 and 95020 of the Government Code. Notwithstanding any other law or regulation, the receipt of AFDC-FC or AAP benefits shall not be cause to deny any other services that a child or family for which the child or family is otherwise eligible pursuant to this division.

(e) This section shall apply to all recipients of AFDC-FC and AAP benefits, including those with rates established prior to the effective date of the act that adds this subdivision, pursuant to Sections 11464 and 16121.

(f) For purposes of this section, the terms “child” and “children” include a nonminor dependent, as defined in subdivision (v) of Section 11400. The Legislature finds and declares that this subdivision is declarative of, and clarifies, existing law.

(g) Regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 2. 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.