

Assembly California Legislature



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Assembly Bill 470 Background Checks for IHSS Workers

SUMMARY: This legislation would amend Welfare and Institutions Code section 15660(d)(1) to authorize all monies collected for background checks on In-home Support Service (IHSS) providers to be deposited into a special account in the General Fund, and made available for expenditure by the Department of Justice (DOJ) to offset costs pursuant to their background check

BACKGROUND: ABX4 19 (Chapter 17, Statutes of 2009) established expanded enrollment requirements for existing and prospective IHSS providers and registry applicants. Among the expanded requirements was the prerequisite that each provider submit fingerprints and undergo and pass a criminal background check conducted by the California Department of Justice (DOJ). In order to pass the criminal background check, an individual must not have been convicted of, or incarcerated following a conviction for, a disqualifying crime within the last ten years. Prior to 2009, only registry applicants were required to clear a criminal background check. The California Department of Social Services, which administers the IHSS program, estimated that 385,425 individuals will work as IHSS providers in 2014-15. Approximately 30 percent of IHSS providers cease being providers each year.

Because Public Authority staff had experience with DOJ criminal background checks for registry applicants, most counties delegated the responsibility to conduct criminal background checks for IHSS providers to its Public Authority. In calendar year 2013, the DOJ reports that Public Authorities submitted 91,619 "Applicant Transactions" to obtain criminal offender record information for individuals

applying to become an IHSS provider or registry provider. The DOJ processed 72.47% of these criminal background checks in less than thirty days; however 27.53% required technical review by DOJ staff. The technical review process is typically triggered when the DOJ system rejects fingerprint images, there is a name check request for applicants that have had fingerprints rejected two times, or for complex and/or unique circumstances regarding criminal offender information search requests. It can take months for the DOJ to complete a technical review and the applicant is unable to be paid by IHSS until the DOJ criminal background check is complete.

CURRENT LAW: Unlike other employment categories (e.g. public school employees and law enforcement) which similarly require DOJ background checks be completed prior to employment, there is no authority under existing law for DOJ to be able to reimburse itself for expenditure on this function, as it relates to IHSS providers. This has resulted in an untenable delay in the completion of background checks for some providers, some of whom have been forced to wait for over a year for their clearance. While the problem is not solely related to the lack of funding allocation authority on the part of DOJ (as some of the delay has to do with backlog at local courts and law enforcement departments) this statutory fix is a necessary component of a comprehensive solution.

SPONSOR: California Association of Public Authorities

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