

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 2, 2007
POSITION: Oppose
SPONSOR: United Domestic Workers

BILL NUMBER: SB 868
AUTHOR: M. Ridley-Thomas
RELATED BILLS: AB 2486 (2006)

BILL SUMMARY

This bill would authorize public authorities (PAs) and non-profit consortia to request Department of Justice (DOJ) criminal background checks on prospective In-Home Supportive Services (IHSS) registry applicants and would prohibit IHSS providers or recipients from being charged a fee to cover the associated cost.

FISCAL SUMMARY

This bill would prevent charging IHSS recipients or providers for criminal background check costs, but would not prevent the DOJ from collecting a fee for this purpose. It is unknown at this time how this bill would impact the total number of criminal background checks requested. The cost of a DOJ Live Scan fee currently is \$48, but it costs an additional \$10 for subsequent arrest information, \$10 to expedite the request, and \$24 if the background check requires FBI criminal record clearance. If each of the roughly 8,800 new IHSS providers added to county registries annually is investigated and 65 percent of all non-federal costs are borne by the state, this bill would result in estimated costs of \$810,000 (\$263,000 General Fund) annually, using the standard \$48 fee. These costs would increase to \$805,000 (\$262,000 General Fund) annually if each background check were expedited, required subsequent arrest information, and required FBI criminal record clearance. These estimates assume any fee assessed by the DOJ would be paid by the PA or non-profit consortium making the background check request, and would be eligible for federal, state, and county share of costs.

Moreover, this bill would result in additional indeterminate administrative costs as a result of the requirement that a potential provider, who is determined ineligible to be an IHSS provider based on the criminal background check, be informed in writing of his or her right to request a copy of his or her criminal history record from DOJ, as well as his or her right to obtain a waiver of the fee to obtain a copy of the criminal record.

COMMENTS

The Department of Finance opposes this bill for the following reasons:

- This bill would shift costs to the state.
The efficacy of this bill likely would be minimal since placement on county registries is optional for IHSS providers.
This bill is unnecessary since counties, recipients, PAs, and non-profit consortia already have the ability to request criminal background checks. Under current law, the costs of these background checks are borne by the requester and the federal government.

Analyst/Principal (0532) N. Buchen Date Program Budget Manager Michael Wilkening Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

M. Ridley-Thomas

May 2, 2007

SB 868

- This bill is almost identical to AB 2486 (Ridley-Thomas), which was vetoed last year due to a concern that it merely would shift the costs of providing background checks to the state. This bill does not mitigate that concern.

ANALYSIS

A. Programmatic Analysis

Current Law: Current law authorizes county-created PAs and non-profit consortia as two of the five options for the provision of IHSS. One of the functions of PAs and non-profit consortia is to create a registry of IHSS providers. Current law also requires investigation of IHSS providers' backgrounds and qualifications, but the requirements do not include DOJ criminal background checks that include fingerprinting. PAs and non-profit consortia have discretion over how investigations are performed. Also, all IHSS recipients have the authority (at their own expense) to request that providers be fingerprinted and cleared through the DOJ. The DOJ is permitted under current law to assess fees for providing criminal history information. Currently, criminal background check costs are paid by IHSS recipients, IHSS providers, counties, PAs, non-profit consortia, and the federal government; the state does not participate in these costs.

This bill: This bill would authorize PAs and non-profit consortia to request DOJ criminal background checks on IHSS registry applicants employed as IHSS providers on or after January 1, 2008. This bill would prohibit IHSS recipients or providers from being charged any fees to cover the cost of processing a criminal background check. However, this bill would allow the DOJ to continue assessing fees for costs of furnishing criminal history information.

This bill would require that potential IHSS registry applicants be advised in writing of their right to request a copy of their criminal history from the DOJ if they are rejected because of information contained in their criminal background report. This bill also would require applicants to be informed of their right to have the fee waived for obtaining a copy of a criminal background report if they submit proof of indigence.

Discussion: This bill would make no substantial change to current policy. Rather, this bill would shift the responsibility for criminal background check costs. According to the author's office, this bill is intended to reduce the difficulty of initiating a criminal background check performed by the DOJ. Criminal background check performance by the DOJ is preferred by requesters, but is costly. This bill would shift the burden of the cost of criminal background checks to the state and counties, since it would specify that providers, potential providers (applicants), and recipients of IHSS would no longer be charged criminal background check fees.

An intended benefit of this bill is additional or more thorough background checks, which could increase protection for IHSS recipients. However, the county provider registries are completely optional. Even with this bill, a new IHSS provider with a criminal history that makes it through the existing investigative process required of all IHSS providers could choose to not apply to be on the registry to avoid a more robust criminal background check.

B. Fiscal Analysis

The state currently does not provide funding for IHSS criminal background check activities. PAs and non-profit consortia, which have been established to administer the IHSS program, have wide latitude to conduct IHSS provider criminal background checks. All IHSS recipients have the authority to request (at their own expense) provider criminal background checks. Currently, any criminal

M. Ridley-Thomas

May 2, 2007

SB 868

background check costs are paid by IHSS recipients, IHSS providers, counties, PAs, non-profit consortia, and the federal government. This bill would prevent charging IHSS recipients or providers for criminal background check costs, but would not prevent the DOJ from collecting a fee for this purpose. This bill does not specify a replacement funding source. Consequently, the state and counties presumably would be committed to covering non-federal criminal background check costs, which may be significant.

It is unknown at this time how this bill would impact the total number of criminal background checks requested. The cost of a standard DOJ Live Scan fee currently is \$48. There are approximately 25,000 IHSS providers on the registry. Due to fairly high turnover among IHSS providers, 35 percent of providers are new at any given time. Assuming this bill would not substantially change the number of registry applicants, the number of new IHSS providers added to county registries annually is estimated to be 35 percent of 25,000, or 8,750. If each of these new IHSS providers is investigated, and 65 percent of all non-federal costs are borne by the state, this bill would result in estimated costs of \$420,000 (\$137,000 General Fund) annually, using the standard \$48 fee. This fee increases by \$10 if subsequent arrest information is requested, \$24 if an FBI criminal record clearance is required, and the DOJ also charges \$10 to expedite requests. Annual costs would increase to \$805,000 (\$262,000 General Fund) if each background check were expedited, required subsequent arrest information, and required an FBI criminal record clearance. This assumes any fee assessed by the DOJ would be paid by the PA or non-profit consortium making the background check request, and would be eligible for federal, state, and county share of costs.

It is not known how many rejected registry applicants would request a copy of their criminal history, but the DOJ charges a \$25 processing fee to provide this information. This bill's requirement that applicants determined ineligible to be an IHSS provider based on the criminal background check be informed in writing of (1) his or her right to request a copy of his or her criminal history record from the DOJ and (2) his or her right to obtain a waiver of the DOJ's \$25 processing fee to provide that information would result in additional costs to the state.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code	
	LA	(Dollars in Thousands)								
	CO	PROP	FC	2007-2008	FC	2008-2009	FC	2009-2010		
	RV	98	FC							
5180/Social Svcs	LA	No	C	\$68 - 131	C	\$137 - 262	C	\$137 - 262	0001	
5180/Social Svcs	LA	No	C	\$142 - 272	C	\$283 - 543	C	\$283 - 543	0995	
<u>Fund Code</u>	<u>Title</u>									
0001	General Fund									
0995	Reimbursements									