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STATUTES PERTAINING TO
SWORN TESTIMONY



SENATE
COMMITTEE ON
HEALTH AND WELFARE

1971

Senate Committee on Health & Welfare

SENATE
COMMITTEE ON
HEALTH AND WELFARE

ANTHONY C. BEILENSON, Chairman
LOU CUSANOVICH, Vice Chairman

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JAMES E. WHETMORE	

William E. Barnaby, Consultant
Larry A. Agran, Committee Counsel

OFFICE OF THE GOVERNOR
Sacramento, California
Contact: Paul Beck
445-4571 11-2-71

RELEASE: Immediate

#613

Governor Ronald Reagan today called "disgraceful and cynically partisan" /the actions of a group of so-called Democratic legislative leaders who contrived an ad hoc committee "for the sole purpose of harrassing State Social Welfare Director Robert Carleson and undermining the administration's efforts to reform welfare."

The governor said, "Because obviously this hearing was contrived /so-called for the sole purpose of harrassing Bob Carleson and undermining the administration's efforts to reform welfare, those in control of the hearing chose to ignore the fact that California is the only state in which the welfare rolls have declined for the past six months in a row.

"To blatantly exploit the legislative process in this way is thoroughly disgraceful and cynically partisan.

"The personal and public villification of any citizen, including members of this administration, has no place in a legislative 'hearing' of any type.

"In just two months, far less time than it took the legislature to enact welfare reform, the Department of Social Welfare has acted extremely quickly and effectively in implementing the new law. Under Bob Carleson's leadership this progress has been made in spite of a myriad of conflicting court rulings and other obstacles," the governor said.

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GOVERNMENT CODE

9400. As used in this chapter, "committee" means a committee of either the Senate or Assembly, a joint committee of both houses, or, when any of the foregoing committees is authorized to create subcommittees, a subcommittee.

9401. A subpoena requiring the attendance of any witness before the Senate, Assembly, or a committee may be issued by the President of the Senate, Speaker of the House, or the chairman of any committee before whom the attendance of the witness is desired.

9404. The members of any committee may administer oaths to witnesses in any matter under examination.

9405. If any witness neglects or refuses to obey a subpoena, or appearing, neglects or refuses to testify, or to produce upon reasonable notice any material and proper books, papers or documents in his possession or under his control, he has committed a contempt.

9409. Any witness neglecting or refusing to attend in obedience to subpoena may be arrested by the Sergeant-at-Arms and brought before the Senate, Assembly or committee, as the case may be. The only warrant or authority necessary authorizing the arrest is a copy of a resolution of the Senate, the Assembly or committee signed by the President of the Senate, Speaker of the Assembly or chairman of the committee, as the case may be, and countersigned by the Secretary of the Senate, the Chief Clerk of the Assembly or a majority of the members of the committee, as the case may be.

9410. A person sworn and examined before the Senate or Assembly, or any committee, can not be held to answer criminally or be subject to any penalty or forfeiture for any fact or act touching which he is required to testify. Any statement made or paper produced by such witness is not competent evidence in any criminal proceeding against the witness. The witness can not refuse to testify to any fact or to produce any paper touching which he is examined for the reason that his testimony or the production of the paper may tend to disgrace him or render him infamous. Nothing in this section exempts any witness from prosecution and punishment for perjury committed by him on examination.

9411. Every State department, office, board, commission or bureau, including The Regents of the University of California, shall discharge any person who commits a contempt before any committee. Such person shall receive no compensation from the State or any agency thereof for services rendered after the date of such refusal.

No State department, office, board, commission or bureau, including The Regents of the University of California, shall ever employ or compensate for services any person who has at any time prior to the proposed employment or compensation committed a contempt before any committee.

The committee shall read this section to the person so refusing, and shall certify the refusal to the State Personnel Board and to the State Controller. Upon receipt of such certificate, the State Personnel Board shall immediately notify every State department, office, board, commission or bureau, including The Regents of the University of California, by whom such person is or has at any time been employed.

9412. Every person who, being summoned to attend as witness before the Senate, Assembly, or any committee, refuses or neglects, without lawful excuse, to attend pursuant to such summons, and every person who, being present before the Senate, Assembly, or any committee, wilfully refuses to be sworn, to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers, or documents in his possession or under his control is guilty of a misdemeanor.

Every member of the Legislature convicted of a misdemeanor under this section, in addition to the punishment prescribed, forfeits his office and is forever disqualified from holding any office in the State.

PENAL CODE

118. Every person who, having taken an oath that he will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which such an oath may by law be administered, wilfully and contrary to such oath, states as true any material matter which he knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which such testimony, declarations, depositions, or certification is permitted by law under penalty of perjury and wilfully states as true any material matter which he knows to be false, is guilty of perjury.

119. The term "oath," as used in the last two sections includes an affirmation and every other mode authorized by law of attesting the truth of that which is stated.

121. It is no defense to a prosecution for perjury that the oath was administered or taken in an irregular manner, that the person accused of perjury did not go before, or was not in the presence of, the officer purporting to administer the oath, if such accused caused or procured such officer to certify that the oath had been taken or administered.

125. An unqualified statement of that which one does not know to be true is equivalent to a statement of that which one knows to be false.

126. (§82.) Perjury is punishable by imprisonment in the State Prison not less than one nor more than fourteen years.

California Legislature

SENATE COMMITTEE
ON
HEALTH AND WELFARE

ANTHONY C. BEILENSON
CHAIRMAN

October 26, 1971

Mr. Robert Carleson, Director
State Department of Social Welfare
744 "P" Street
Sacramento, California

Dear Mr. Carleson:

This is to confirm our phone conversation of last Friday, at which time you indicated you could be present for a public hearing on November 2.

Accordingly, I have scheduled a subcommittee hearing for 9:30 A.M. on Tuesday, November 2 in Room 3191. The purpose of the hearing is to investigate implementation of the Welfare Reform Act of 1971. I have requested that Mr. Zumbrun of your Department also participate.

Your cooperation in this legislative inquiry will be appreciated.

Sincerely,

ANTHONY C. BEILENSON

ACB:bjm

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Assembly
California Legislature

JOHN L. BURTON
MEMBER OF ASSEMBLY, TWENTIETH DISTRICT
REPRESENTING SAN FRANCISCO

Chairman
Assembly Rules Committee

FOR IMMEDIATE RELEASE

November 3, 1971

Assemblyman John L. Burton (D-San Francisco) said today the Governor's actions indicate that "State Social Welfare Director Robert Carleson is on his way out-- and soon."

"Governor Reagan's very defensive remarks about Bob Carleson and the welfare mess this administration has created sound like he is softening Bob up for the old heave-ho," Burton said.

"In fact, the Governor's statements about what a great welfare director Carleson is sound very much like the remarks a baseball team owner always makes just before he fires his manager."

Burton said the administration now has to face the fact that much of its so-called welfare reform bill was "just plain illegal, and the courts aren't going to let them run their game in violation of state and federal law.

"This means the Governor has to put the blame on someone for his embarrassing situation, and I renew my earlier prediction that the scapegoat will be Bob Carleson."

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SENATE COMMITTEE ON HEALTH AND WELFARE

OATH

I do solemnly swear that the testimony I shall give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help me God.

Witness

Signature

Date

Print Name

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California Legislature

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BILLIE MITCHELL
SECRETARY

ANTHONY C. BEILENSON
CHAIRMAN

October 26, 1971

Mr. Ronald Zumbrun
State Department of Social Welfare
744 "P" Street, Room 1763
Sacramento, California

Dear Mr. Zumbrun:

I have scheduled a subcommittee hearing for 9:30 A.M. on Tuesday, November 2 in Room 3191. The purpose of the hearing is to investigate implementation of the Welfare Reform Act of 1971. Your participation in this first hearing regarding implementation of welfare reform would be appreciated.

Kindly contact the Senate Health and Welfare Committee Office as soon as possible to confirm your availability for the November 2nd hearing.

Sincerely,



ANTHONY C. BEILENSON

ACB:bjm

acknowledged with [unclear] 11/2/71

DEPARTMENT OF SOCIAL WELFARE — 744 P STREET

STATE SOCIAL WELFARE BOARD

SACRAMENTO 95814



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JACK W. THOMPSON, EXECUTIVE SECRETARY

May 21, 1971

Honorable Anthony C. Beilenson, Chairman
 Senate Health and Welfare Committee
 Room 2046, State Capitol
 Sacramento, California 95814

Dear Senator Beilenson:

I'm sorry I was not able to make it to Sacramento to offer testimony in support of SB 544 and, specifically, those provisions relating to the subject of absent parent child support.

As you know, the Board was alerted to serious statewide problems in both welfare and nonwelfare cases related to the child support issue. With the assistance of a task force consisting of state government, local government and private individuals, the Board conducted a thorough study of the whole problem. Many of the recommendations contained in SB 544 and other bills now pending before the Legislature are based on recommendations coming out of this task force report. These recommendations were based on the careful deliberations of the task force members and have the strong endorsement of the State Social Welfare Board.

The problem of absent parent child support in California has reached a critical stage in welfare and nonwelfare cases alike. While the number of absent fathers in welfare cases increases by leaps and bounds, the percentage of those contributing to the support of their AFDC children has dropped from 30.3% to 14.7% in four years.

Public interest and concern about this deteriorating situation and the lack of uniformity in enforcement program throughout the state is at a high level. As a matter of fact, we are seeing groups of welfare and nonwelfare mothers in various parts of the state organizing for the purpose of lobbying for increased enforcement activity. In our view, a consistent payment pattern by a nonwelfare absent father can have an appreciable effect on maintaining the financial independence of the family.

Senate Health and Welfare Committee

Honorable Anthony C. Bellenson

-2-

May 21, 1971

We strongly support the provisions of SB 544 relating to child support enforcement activities and respectfully urge your favorable consideration.

Very truly yours,

Robert E. Mitchell
Chairman

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814



*file
welfare*

November 2, 1971

Special Joint Subcommittee
Senate Health and Welfare Committee, and
Assembly Welfare Committee
State Capitol
Sacramento, California 95814

Gentlemen:

The attached chart cites the status of each section of the Welfare Reform Act of 1971. Also attached are replies to questions presented to this Department by a representative of Senator Beilenson's Office concerning the implementation of welfare reform.

In addition, there are data regarding significant actions taken to date in the implementation of the Welfare Reform Act of 1971.

Sincerely,

ROBERT B. CARLESON
Director of Social Welfare

Attachments

Senate Health & Welfare Committee

Sections in SB 796		84
Sections Within the Purview of SDSW for Implementation		59
Sections Implemented by SDSW Action as of 11-1-71		43
Percentage of Sections Implemented - 11-1-71		73%
Sections Remaining to be Implemented		16
In Process	12	
Other	4	

SECTION	TITLE	IMPLEMENTED BY SD ACTION AS OF NOVEMBER 1, 1971	IMPLEMENTATION STAYED BY COURT ORDER	SECTION	TITLE	IMPLEMENTED BY SDSW ACTION AS OF NOVEMBER 1, 1971	IMPLEMENTATION STAYED BY COURT ORDER
	Title	Not Applicable	Not Applicable	24.7	Age Requirements	Yes	No
	Relatives Duties	Yes	No	24.12	Property Exclusions	Yes	No
3	Attorney Fees	Yes	No	24.13	Property Exclusions	Yes	No
6	Stepfather Support	Yes	No	24.14	Lump Sum Income	Yes	No
8	Attachment of Earnings	Not Applicable	No	25	Eligibility Process	Yes	No
5	Duplicate Warrants	Not Applicable	No	25.1	Immediate Assistance	Yes	No
0	Birth Certificates	Not Applicable	No	25.2	Gross Income Limit	In Process	No
1.5	Confidentiality	Not Applicable	No	25.3	Community Work Exper	In Process	No
2	Confidentiality	Not Applicable	No	25.4	Repeal Recov Improv Aid	Yes	Not Appl
3	Confidentiality	Not Applicable	No	25.5	Separation & Desertion	In Process	No
4	Confidentiality	Not Applicable	No	26.1	Repeal Stepfather Liab	Yes	Not Appl
5	Job Development Prog.	Responsibility of SPB	No	27	Absent Parent Support	In Process	No
5.1	Career Oppor. Development	Responsibility of SPB	No	28	Maximum Aid	Yes	Yes
6	Family Planning Serv	County + SDPH Contracts	No	28.1	Work Related Expenses	Yes	No
7	County Stat Reports	No	No	28.5	Min Standards of Care	Yes	No
8.5	Correct Aid Determin	Yes	No	29	Repeal AFDC Budget Rev	Yes	Not Appli
9	Child Support Audit	Not Applicable	No	29.1	Cost of Living (AFDC)	Yes	No
0.1	County Services	Not Applicable	No	29.2	Food Stamp Cash Out	Not Applicable	No
1.2	Co Service Contracts	Not Applicable	No	29.3	Spec Needs-Vendor Paymt	No	No
2.3	County Child Care	In Process	No	29.5	In Kind Payments	No	No
3.4	Child Care Training	In Process	No	30	Support-Enforcement	Yes	No
4.5	Permitted Services	Not Applicable	No	31	Support Recoveries	Not Applicable	No
5	Information Security	Not Applicable	No	31.5	Support-Attach Wages	Not Applicable	No
6.3	Aid Entitlement	Yes	No	32.5	Repeal OAS Resid Req	Yes	No
7.5	Income Exemptions	Not Applicable	No	32.9	Repeal Lump Sum Prov	Yes	Not Appli
8	Student Loans	Yes	No	33	OAS Relatives Respons	Yes	No
9.5	Savings Interest	Yes	No	34	Support Contrib to Co	Yes	No
0	Casual Income	Yes	No	34.1	OAS Scale/Dir Option	Yes	No
1.5	Excess Property	Yes	No	34.2	Repeal Lump Sum Prov	Yes	Not Appli
2	State Aid Contracts	Yes	No	38	Repeal ATD Resid Req	Yes	No
3.2	Immediate Assistance	Yes	No	39.01	Minor Health Care Liability	Not Applicable	No
4.5	Absence from State	Yes	No	39.02	Support Incentive Fund	In Process	No
5.6	Repeal Resid Req	Yes	Not Applicable	39.1	Sharing Formula (OAS)	In Process	No
6	Alien Eligibility	Yes	No	39.2	Sharing Formula (AB)	In Process	No
7.01	Residency Requirement	Yes	No	39.3	Sharing Formula (APSB)	In Process	No
8.1	Repeal Excl Property	Yes	Not Applicable	39.4	Sharing Formula (ATD)	In Process	No
9.2	Permitted Property	Yes	No	39.5	Repeal Residency Stat	Yes	Not Appli
0	Repeal Gifts of Money	Yes	Not Applicable	39.7	Spec Appropriations	Not Applicable	No
1	Lump Sum Income	Yes	No	41	Severability Clause	Not Applicable	No
2	Annualized Employment	Yes	No	42	Emergency Clause	Not Applicable	No
3	Repeal Resid Req	Yes	Not Applicable	42.5	Sharing Admin Costs	In Process	No
4.5	Unemployment & Residency	No	No	43	Operative Date	Not Applicable	No

State of California
Department of Social Welfare

November 2, 1971

A number of allegations have been presented to the State Department of Social Welfare by a member of Senator Beilenson's staff, with a request that answers be presented at today's hearing.

I

The initial thrust of these allegations is based upon the conclusion that numerous sections of SB 796 have not been implemented by SDSW. There is nothing in SB 796 requiring simultaneous implementation of all of its provisions. Section 43, thereof, provides, with few exceptions, only that the act would become operative on October 1, 1971.

Prior to and subsequent to that date, efforts toward implementation of that act have been undertaken by many departments of both State and county government. Many provisions are specifically to be implemented by other departments of State government with or, in some cases, without SDSW involvement. Moreover, many provisions of SB 796 are self-implementing and require no regulatory treatment by SDSW. In certain instances, regulations or other guidance might be desirable for purposes of clarity or uniformity, but are not necessary for such provisions to become operative and binding on the counties which must apply them. Often, knowledge gained only by experience is crucial in identifying those problem areas which would benefit from such treatment.

Implementation of SB 796 by regulatory and administration action began on August 16, 1971. Initially, each provision was assigned a priority status based on five criteria: (1) significance (goal-related); (2) urgency; (3) complexity; (4) resources; and (5) savings. Another important consideration was the length of time required to complete the necessary research and drafting.

Steps were taken to insure that all parties involved with implementation were fully informed and utilized in the development of necessary administrative and regulatory changes. Since this act had a significant impact on the 58 counties of California, those counties played an important role in the development of the implementation plans and schedules. A task force made up of county welfare directors, members of county administrators' offices, and district attorneys' offices was established. It was the purpose of this task force to advise on the setting of priorities and the assessing of the impact of each provision on county administration.

At the same time the Department began drafting regulations, where needed, to implement the act. Some regulations already existed in draft form while others, on a priority basis, had to be developed from scratch. Input from the Regulations Unit was given to the county task force and to all county welfare administrators at a series of meetings set up to inform them of reform implementation and to receive their input in return.

Assignments were made to SDSW staff to develop plans for those new provisions of the bill which were added during negotiations between legislators and the Administration. Also, assignments were made and task forces established to review and develop implementation plans for those provisions of the bill which required research and analysis prior to regulation or program development.

Certain provisions of the act relate to programs that, prior to going into effect, must be approved by the Secretary of the Department of Health, Education, and Welfare. Assignments were made for the development of an implementation plan for each of those programs. Discussions were held with representatives of the Secretary on the Community Work Experience Program and on the provision of the act relating to 150 percent limitation on gross income. These discussions

have continued up to the present date and it is expected that these issues will be resolved in the near future.

On September 2, 1971, as a result of joint State-County meetings, the first of a series of telegrams and letters was sent to all county welfare directors informing them of the steps that were necessary in order to implement the most critical aspects of the act on October 1, 1971. These guidelines were established as a result of meetings with the county task force and covered the most significant portions of the act.

Attached to this memorandum you will find a status report covering each section of SB 796 and additional reports listing in chronological order significant actions taken by SDSW in implementing this act.

Certain regulations promulgated by the Director, SDSW, have been challenged as being "contrary to law". The Director is, of course, required to formulate and adopt regulations which are consistent with law (Section 10553 W&IC). Further, the Director is the only person authorized to adopt regulations to implement, interpret or make specific the law enforced by the Department (Section 10554 W&IC). In each of the subject areas raised by the objections listed below, either the applicable law has been misinterpreted or there has been a failure to recognize that the regulatory provisions in point are reasonable and proper interpretations of specific portions of SB 796.

WORK-RELATED EXPENSES

OBJECTION:

"Section 28.1 of SB 796 establishes a standard (i.e., flat) allowance of \$50 per month for work-related expenses.

"Section 44-133.241 of SDSW regulations, adopted September 29, 1971, allows only \$25 for part-time employment of 10 days or less per month.

"There was no discussion of such a reduction in allowance for part-time workers. There is no statutory authority for the reduction. It penalizes part-time workers, reducing their incentive to work. It also creates undue additional administrative burdens for the counties."

REPLY:

Section 28.1 of SB 796 provides that work-related expenses "shall be limited to a standard allowance of fifty dollars (\$50.00) per month, plus reasonable and necessary cost of child care." The September 2, 1971

telegram to the counties from the State Director, the official regulations distributed on September 28, 1971 and the regulations scheduled to be filed on September 28, 1971, all contain such provisions. The act specifies that the \$50.00 amount shall be the standard and shall limit the amount of work-related expenses allowed. The act does not provide that allowed work-related expenses shall never be less than this amount. Utilizing the \$50.00 standard, the Director's guidelines and regulations provide that where a recipient works less than ten working days per month, he shall be entitled to one-half of the standard. Where a recipient works more than ten working days per month, then he is entitled to the full standard.

The treatment of the standard allowance of \$50.00 per month in departmental regulations recognizes that the language "per month" carries the reasonable implication that in those cases in which the recipient is employed for one-half of the month or less, the allowance should be prorated for that period.

It is felt that the subject regulation complies with the spirit of SB 796, is a reasonable interpretation of Section 28.1 and does not conflict with any agreements reached between the legislative negotiators and the Administration. However, if the Director determines that the average monthly work-related expenses for those employed less than full-time were considered in setting the standard allowance at fifty dollars per month, this regulation will be so amended. This determination will be made after public hearing and a further study of the history of Section 28.1.

CHILD CARE

OBJECTION:

"Section 28.1 of SB 796 allows as a work-related expense the reasonable and necessary costs of child care.

"Section 44-133.242 of SDSW regulations, adopted September 29, 1971, allows such a deduction only when 'the county determines that adequate care for the recipient's children cannot be provided during his working hours by nonworking persons in his household.' This regulation adds a totally new condition to the child care provisions of Section 24 [sic] one which is unauthorized by law."

REPLY:

The objection goes to the Director's interpretation of "reasonable and necessary costs" of child care. The regulation, in effect, states that the cost of child care which could be provided by nonworking persons in the household is unnecessary. In other words, it is not necessary to pay for a service which could be provided by the family, itself; therefore, the cost of such a service is not considered necessary.

The limitation on allowable child care costs is a specific and reasonable interpretation of the word "necessary" as used in Section 28.1 and is certainly within the Director's authority to issue.

SPECIAL NEEDS

OBJECTION:

"Section 28 of SB 796 defines non-recurring special needs as those arising from 'sudden and unusual circumstances beyond the control of the needy family.'

"Section 44-265.3, adopted October 5, 1971, defines non-recurring special needs as those arising from catastrophic acts of God, such as

fire or earthquake. It also imposes a dollar limit which is not imposed by statute. Both provisions narrow the statute beyond recognition."

REPLY:

Section 28(d)(2) provides that an allowance shall be made for non-recurring special needs "caused by sudden and unusual circumstances beyond the control of the needy family". Section 28(d)(3) provides that the Department shall establish rules and regulations assuring uniform statewide application of subdivision (d).

The Director has made a specific interpretation of the language of Section 28(d)(2), as follows:

"A special need shall be allowed to replace certain items that are owned by the recipient when they are destroyed by fire, flood, earthquake, storm or other acts of God."

This interpretation is reasonable and insures uniform application of the provisions of Section 28(d)(2) statewide.

Further, Section 28(d)(2) provides that an allowance be made to such needs. It does not require that these needs be met in full, irrespective of any other limitations which might reasonably be imposed. The principle has been recognized and applied in Departmental regulations for many years with respect to other subject matter - such as the automobile allowance. Moreover, such a maximum is an effective means of assuring uniform applicability of this provision throughout the State.

OAS GRANTS

OBJECTION:

"Section 34 of SB 796 calls for payment of relative contributions directly to the county welfare department, rather than as previously to

the recipient. The purpose is to assure payment of the full grant entitlement to the recipient, with the county treating relative contributions as recoveries.

"Sections 43-103 and 43-109 of SDSW regulations, adopted September 24, 1971, fail to direct the counties to adjust OAS grants upward in accordance with the new statute. A consequence of this failure is likely to be improperly reduced grants to aged recipients." REPLY:

One purpose of Sections 33 and 34 of SB 796 is certainly that stated above. In addition, the recipient is to receive a full grant regardless of the amount contributed by the responsible adult child to the county. Any additional income received by the recipient normally is required by State and Federal law to be reflected in the grant calculation.

STEPFATHER INCOME

OBJECTION:

"Section 8.6 of SB 796 specifies that the wife's community property interest in her husband's income is determined after first excluding \$300 per month plus prior support liability (for his natural children).

"Section 44-133.5 of SDSW regulations, adopted September 24, 1971, allegedly is contrary to the statute in two respects:

(1) It defines the wife's interest as one-half the husband's gross income, rather than one-half the net after exclusions. (Where the remainder of income after exclusions is less than half the gross, the remainder, rather than half the remainder, as provided by law, is counted as the wife's interest).

(2) It excludes only the amount of prior support actually being paid, rather than the prior support liability."

REPLY:

Section 8.6 of SB 796 provides that in determining the wife's interest in the community property earnings of her husband, prior support liability of her husband, plus three hundred dollars (\$300) gross monthly income shall first be excluded. It was intended that the subject exclusions protect the lower-income stepfather and that the support of his natural children be given priority.

The official guidelines and regulations of SDSW properly provide for exclusions of amounts actually paid by a stepfather for the support of his natural children. There was never any intent expressed by the legislative negotiators or the Administration to exclude amounts which the stepfather is obligated to pay for the support of his natural children, but which amount he fails to pay or make available to his natural children. There was an intent to provide an exclusion for such payments when they are actually made. Providing a windfall exclusion for stepfathers who fail to provide support for their natural children would be inconsistent with the entire philosophy of the Welfare Reform Act and Section 8.6, as well as the principles specified in Section 42 relating to reforming the welfare program and meeting the minimum needs of truly needy individuals on an equitable basis.

The manner in which the exemptions are applied to the stepfather's gross monthly income and the manner in which the wife's interest in the community property is computed, are consistent with traditional community property concepts and with the language and spirit of SB 796. State Department of Social Welfare regulations fully protect all low-income stepfathers and provide that the full \$300, plus the amount paid to

support the stepfather's natural children are fully excluded before calculations are made. In no event, can a stepfather have less than these amounts excluded from consideration.

150% LIMITATION ON GROSS INCOME

OBJECTION:

"Section 25.2 of SB 796 expressly provides that the 150% limitation on gross income shall be exclusive of grant payment. The telegraphic guidelines issued by SDSW, dated September 2, 1971, are silent as to whether the grant payment is to be excluded in determining the gross income. The consequence of a failure to clarify this point may be to deny aid illegally to thousands of AFDC families."

REPLY:

Section 25.2 of SB 796 provides that the 150% limitation on gross income shall be "exclusive of grant payment". This quoted language was inserted for the first time in the August 5, 1971 amendments to SB 796 as a result of the legislative-administration negotiations. During June 1971, the Department had conducted a public hearing on a proposed regulation on this subject which did not exclude the grant payment. Subsequent to the August 5, 1971 amendments to SB 796, the Department has not at any time issued any guideline which provides for the inclusion of the grant payment. The State Director's September 2, 1971 telegram to all county welfare directors also did not provide for the inclusion of the grant payment. The Department's conduct at all times subsequent to August 5 have been fully consistent with the amendments which provided that the gross income shall not include the grant payment.

The Director also has indicated in writing to the counties that he is not implementing the 150% limitation provision at this time until the issue of whether it is permitted by federal law is resolved to his satisfaction. In any event, the grant payment would be excluded in any regulation or guideline promulgated by the Director unless it resolved some special element of a special federal demonstration project, or other such possibility not presently under consideration.

LOANS OR GRANTS TO UNDERGRADUATE STUDENTS

OBJECTION:

"Section 21 of SB 796 specifies that state loans or grants to undergraduate students of accredited colleges not be considered in determining eligibility or amount of the grant. The purpose of this provision to prevent welfare authorities from deducting such student loans and grants from the family income and thus discouraging young people of poor families from continuing their education.

"SDSW regulation 44-111.432, dated September 24, 1971, would exempt such funds only 'when the conditions under which they are obtained and used prevent their use for current living costs'".

REPLY:

The language in Section 21 of SB 796 exempts such loans or grants "to the extent permitted by federal law". Federal law, namely, 45 CFR 233.20(a)(3)(iv)(b) excludes such loans and grants when they are "obtained and used under conditions that preclude their use for current living costs".

The Department's regulation on this point accurately reflects the legislative intent reflected in the language of Section 21.

Certain regulations have been objected to on the grounds that they have no basis in law and that they implement concepts considered in negotiations between legislators and the Administration but not included in SB 796. This allegation confuses measures requiring legislative authority with those for which such authority might be desirable but not necessary.

In addition, there was no agreement in the negotiations covering SB796 to limit welfare reform to that bill. The Governor's Welfare Reform Plan of March 3, 1971, encompassed a wide range of items which either were not discussed in SB 796 negotiations or were discussed and, for a variety of reasons, put aside as being inappropriate to that bill. The Department will continue, as a part of its proper function, to administratively improve the operation of California's welfare system.

SPECIAL NEEDS - SPEND-DOWN

OBJECTION:

"In welfare reform negotiations, the Legislature specifically and repeatedly rejected a spend-down provision proposed by the Administration, which would have made recipients ineligible for special need grants until they had spent down a portion of their allowable cash reserves.

"Section 44-265.13 of SDSW regulations, adopted October 5, 1971, requires that recipients spend all of their cash reserves before qualifying for special needs. This violates agreements with the Legislature and has no basis in law."

REPLY:

The "spend-down" provisions discussed in negotiations applied to all personal property. The Department's regulations go only to the utilization of liquid assets. Such a provision is not contrary to State or federal

law and is consistent with the purpose for which such assets may be reserved in the first place, i.e., "to meet the current and future needs while assistance is received on a continuing basis (45 CFR 233.20(a)(3)(1)).

MULTIPLE GRANT HOUSEHOLDS

OBJECTION:

"The Burgener bills proposed to consider a portion of the grant to an aged, blind or disabled recipient living with an AFDC family available to the AFDC family, with a consequent grant reduction. The Senate rejected Burgener bills, and the same proposal was rejected by the legislative negotiators in welfare reform talks.

"Section 44-115.8 of SDSW regulations, adopted October 5, 1971, incorporates this proposal without legal basis and despite the repeated rejection of the concept by the Legislature."

REPLY:

When two recipients of the same aid or different aids are living together, no provision was made in prior regulations for "economics of scale." This multiple grant loophole required closing. There was a provision for reducing need standards for adult aid recipients living in independent shared housing situations. Reductions for "economics of scale" when two or more FBU's share housing is also taken care of in another regulation. This then only leaves a possible loophole when one or more adult aid recipients share housing with one or more FBU's.

Since, for administrative ease, the uniform standard of assistance in the adult aids only identifies one need item - Housing and Utilities - provision for reducing allowances for "economics of scale" for adult aid recipients and FBU's was restricted to this same item of need. From a practical standpoint, it is the only area where real "economics of scale" can be realized. This is accomplished by Section 44-115.8.

IV

One regulation and one possible policy determination under consideration have been objected to on the basis that the Director has unjustifiably relied on SB 796 with respect to each. This allegation fails to recognize that a major reform of the welfare system could have repercussions regarding many subject areas not directly covered by legislation. Such is the case as described below.

IN-KIND INCOME

OBJECTION:

"Section 44-115.61 of SDSW regulations, adopted October 5, 1971, arbitrarily reduces grants to children living with non-needy relatives. This is accomplished by considering the room and board provided the child to be an "in-kind" contribution and deducted from the grant. There is no legal basis for this reduction."

REPLY:

In the past, a housing allowance and similar allowances were provided for recipients in calculating their grant. This system has been replaced with a flat grant approach, the maximum amount of which includes all such former allowances. Where a recipient does not have such needs, he is charged with in-kind income, and that allowance is eliminated from the flat grant. In the case of an AFDC child living with a nonneedy relative, the child is treated in this respect in the same manner as an AFDC child living with a needy relative, and such in-kind contributions are recognized.

The Department's position with respect to this situation is consistent with State law, and is required by 45 CFR 233.20(a)(4)(i) and (a)(3)(ii)(a).

STATUS OF THE UNBORN CHILD FOR PURPOSES OF AFDC

OBJECTION:

"For over 20 years, pregnant needy women have been considered eligible for AFDC on the basis of their unborn child. SB 796 did nothing to weaken this policy. Yet in the past few weeks, there have been communications between SDSW and county welfare directors (including proposed regulations in writing) indicating the Department intends to use SB 796 as a means of denying aid to the unborn child. At least one county welfare department was prompted to send termination of aid notices, subsequently cancelled, to all women whose eligibility was so based. Further, the Director and the chief SDSW legal officer advised that the matter still is under consideration. The consequence of SDSW action in this area would be to deny an expectant mother funds for feeding and other care of the fetus.

"Any change in the existing policy as to the status of the unborn child could do grave violence to long-standing law and practice."

REPLY:

Currently, two-thirds of the states participating in the AFDC program do not consider a fetus to be a child from the time of conception, for the purposes of determining eligibility for AFDC. Section 39.01 of the SB 796 contains new provisions relating to medical care for pregnant minors. On March 17, 1971 a public hearing was conducted by the State Department of Social Welfare concerning the subject of an unwed pregnant minor's eligibility for AFDC.

Subsequent to the enactment of SB 796, the Director of the Department of Social Welfare has not furnished guidelines or regulations relating to the subject of whether a fetus should qualify, together with its mother-to-be, for eligibility in the Aid to Families with Dependent Children Program.

There have been informal discussions between the Director's staff and certain county personnel concerning this subject. One county sent out a notice to its pregnant recipients pertaining to this matter. The Director of the Department of Social Welfare immediately instructed that county to retract its notice and informed all counties that this issue has not been resolved.

The Director presently has not made any decision concerning the eligibility of a fetus. In addition, neither staff recommendations nor the transcript or testimony of the March 17, 1971 hearing have been presented to the Director for consideration. No regulations on this subject are expected to be effected prior to November 1, 1971.

In closing, however, it's clear that neither State nor federal law require the existing policy on this matter which is strictly within the Director's discretion.

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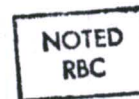
SENATE COMMITTEE ON HEALTH AND WELFARE

ANTHONY C. BEILENSON
CHAIRMAN

COMMITTEE ADDRESS
STATE CAPITOL
445-5965

WILLIAM E. BARNABY
CONSULTANT
LARRY A. AGRAN
COUNSEL
BILLIE MITCHELL
SECRETARY

December 30, 1971



Mr. Robert Carleson, Director
Department of Social Welfare
744 "p" Street
Sacramento, California 95814

Dear Bob:

As part of our continuing inquiry into implementation of welfare reform, concern has been voiced about recent pressures on the fair hearing system and the operation of the system in light of these pressures.

In order for the Senate-Assembly Subcommittee on Welfare Reform to gain a proper perspective on this matter, I am requesting that you supply my office with the pertinent fair hearing data from January, 1965 through the present: namely, the monthly DPA 9's for the above time period.

Your prompt response to this request will be appreciated.

Sincerely,

ANTHONY C. BEILENSON

ACB:bjm

Senate Committee on Health & Welfare

DEPARTMENT OF SOCIAL WELFARE

744 P STREET
SACRAMENTO 95814*file*

January 14, 1972

Hon. Anthony C. Beilenson
Chairman, Senate Committee on
Health and Welfare
State Capitol, Room 5072
Sacramento, California 95814

Dear Tony:

Pursuant to your request, furnished herewith are all SDSW DPA 9 monthly statistical data forms prepared since January of 1965. These monthly reports reflect the dramatic increase in fair hearing requests that have been filed with our Department. You will note that during 1965 the number of claims ranged from 188 to 301 claims per month. During 1970, the range was from 835 to 1,647 claims per month. During the first 10 months of 1971, the range was from 1,629 during January to a high of 9,809 claims during October.

I am pleased that you have shown interest in this problem. We have evidence indicating there is an organized effort by welfare rights organizations to "jam" the fair hearing process by urging wholesale requests for fair hearings. Appropriate action is being taken by us to insure that any improper or illegal efforts be curtailed. In the meantime, however, these efforts on the part of these organizations have been successful in creating a tremendous backlog of fair hearing cases. It would appear that the primary motivation for this is the fact that grants may be made to recipients not entitled to the grants or to the size of the grant, but they would continue to receive the grants until a fair hearing decision is reached because of Federal regulation requirements. At the same time, those persons whose cases have merit who have applied for a fair hearing from initial decisions and are not receiving aid because of the jamming process may be experiencing hardships.

Because of this problem, last year, shortly after I became Director of the State Department of Social Welfare, I presented a special budget augmentation request to the State Legislature seeking an additional amount of \$1.2 million (\$600,000 General Fund monies) to be made available to our Department for the purpose of employing additional hearing officer personnel. This request was not granted. In August 1971 during the welfare reform negotiations, I renewed this request. As a result, the Welfare Reform Act (SB 796-Beilenson) appropriated \$600,000 to the Office of Administrative Procedure for this purpose. Of course, these funds did not become available until October. I understand that the Office of Administrative Procedure is in the midst of its reorganization effort to provide the hearing officers made possible by this appropriation. The OAP has indicated that they will provide these services as quickly as they can under Civil Service Procedures.

Hon. Anthony C. BeTlenson

Page 2

January 14, 1972

As the fair hearing backlog continued to grow, and Federal conformity pressures developed, it was necessary for the State Department of Social Welfare to divert other budgeted resources to the fair hearing process. This resulted in a significant undesirable impact on other Department programs. I have made some changes in the fair hearing organization in order to help solve the problem, and a management study is being conducted at present of the entire fair hearing process. In a very short period of time I will be in a position to recommend some specific additional efforts to alleviate the problem. At that time I would appreciate your support in our efforts.

Sincerely,



ROBERT B. CARLESON
Director of Social Welfare

Encl.

January 14, 1972

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Chairman, Senate Committee on
Health and Welfare
State Capitol, Room 5072
Sacramento, California 95814

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Senate Committee on Health & Welfare

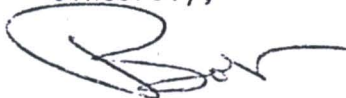
Hon. Anthony C. Beilenson

Page 2

January 14, 1972

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Sincerely,



ROBERT B. CARLESON
Director of Social Welfare

Encl.

cc - RAZumbra

Kend 1/10/72
COMMITTEE ADDRESS
STATE CAPITOL
445-5965

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SENATE COMMITTEE ON HEALTH AND WELFARE

- WILLIAM E. BARNABY
CONSULTANT
- LARRY A. AGRAN
COUNSEL
- BILLIE MITCHELL
SECRETARY

ANTHONY C. BEILENSEN
CHAIRMAN

December 30, 1971

NOTED
RBC

Mr. Robert Carleson, Director
Department of Social Welfare
744 "P" Street
Sacramento, California 95814

Dear Bob:

As part of our continuing inquiry into implementation of welfare reform, concern has been voiced about recent pressures on the fair hearing system and the operation of the system in light of these pressures.

In order for the Senate-Assembly Subcommittee on Welfare Reform to gain a proper perspective on this matter, I am requesting that you supply my office with the pertinent fair hearing data from January, 1965 through the present: namely, the monthly DPA 9's for the above time period.

Your prompt response to this request will be appreciated.

Sincerely,

Anthony C. Beilenson
ANTHONY C. BEILENSEN

ACB:bjm

t. RAZ on 1/4 " for your personal attention + advice "

*Per Linc 1/10/72 - RAZ took time for "action"
(RAZ ... Beilenson ...)*

*Mr. Kelly
Burlington*

February 25, 1972

Honorable Anthony C. Bellenson, Chairman
Senate Committee on Health & Welfare
Room 5072
State Capitol 95814

Dear Senator Bellenson:

This is in response to your letter of January 31, 1972 regarding Mr. David Kelly's proposed changes in state financial participation in the cost of foster care for AFDC children.

I certainly agree with Mr. Kelly that there is a major need to focus on ways to prevent the need for foster care. I have asked the State Social Welfare Board to conduct an in-depth study on the entire area of foster care. The Board has established a statewide task force on AFDC foster care reform. Four sub-committees, one of which is chaired by Mr. Kelly, are currently studying major problem areas. The task force is still in the process of data gathering and analysis and has not yet made any recommendations to me regarding proposed courses of action. In light of this fact, I am withholding consideration of individual proposals until the task force has completed its assignment. I am confident that the task force and the Social Welfare Board will consider Mr. Kelly's proposal when drafting their recommendations.

Sincerely,

Original Signed By Robert B. Carleson

ROBERT B. CARLESON
Director of Social Welfare

cc: Mr. David C. Kelly, Director
Humboldt County Department of Public Welfare

Robert E. Mitchell, Chairman
State Social Welfare Board

bcc: Chuck Hobbs 17-11
Jack Thompson 17-8
Phil Manriquez 17-5
B. Bishop 13-80
Director's File
Reading File
Control File # 24574
K. McKinsey 13-77

MS/jsc

Senate Committee on Health & Welfare

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SECRETARY

SENATE COMMITTEE ON HEALTH AND WELFARE

ANTHONY C. BEILENSON
CHAIRMAN

January 31, 1972

NO. 24574 DATE 2/8/72
cc FOR ACTION TO Dissep
cc Marriquet

Mr. Robert Carleson, Director
Department of Social Welfare
744 "P" Street
Sacramento, California 95814

Dear Bob:

Enclosed you will find a copy of a letter sent to me by David Kelly, Director of the Humboldt County Welfare Department. It concerns what he regards as the grossly inadequate State contribution in support of AFDC foster children.

I have informed Mr. Kelly that I would forward his letter to you, asking that you comment regarding the corrective legislation which he proposes in this area.

Personally, I found Mr. Kelly's letter to be most thoughtful in its content.

I would appreciate your early reaction to his proposals, and I have informed Mr. Kelly that in addition to my seeking your comments, I would request that a copy of your reply be sent directly to him for his consideration.

Thank you for your assistance.

Sincerely,

Anthony C. Beilenson
ANTHONY C. BEILENSON

ACB:bjm
Enclosure



WELFARE DEPARTMENT
COUNTY OF HUMBOLDT
EUREKA, CALIFORNIA 95501

January 14, 1972

Senator Anthony C. Beilenson
State Capitol - Room 5072
Sacramento, California 95814

Dear Senator Beilenson:

Beilenson
I am writing to you and several other legislators personally, as a concerned County Welfare administrator and specialist in the field of child placement, to learn of your interest in supporting much needed legislative reform in California's Aid to Families with Dependent Children foster care program. As you may be aware the number of children requiring placement in licensed boarding homes has skyrocketed beyond all proportion to State population increase in recent years. The number of children in placement in 1960 was 12,700, by 1970 the total reached 31,800 and continues to rise at a disastrous rate. While the major need is for State leadership to focus on programs that will really prevent the need for foster care - the existing placement is crippled by mounds of unfair and outdated laws.

As Chairman of Subcommittee #2, Recruitment, Retention and Compensation of Foster Homes of the California State Social Welfare Board Task Force on AFDC Foster Care Reform, I, along with other subcommittee members, have identified several major problems that could be alleviated with minor corrective legislation. The foremost problem when placement out-of-home is required of a child is the lack of an adequate number of qualified licensed foster homes. This is particularly an acute problem with teenagers where often no home at all may be available. California laws now provide a wide range of cumbersome barriers that inhibit public interest in participating in the placement programs as licensed foster homes. A major deterrent is the rate paid for foster care throughout the State.

Section 11450 of the Welfare and Institution's Code has long limited State participation of foster care to 67-1/2 percent of the first \$80 in monthly board payment. Over the years, rates have risen slowly as the County property taxpayer has had to foot the entire cost of these increases. Attachment A - an illustration of the breakdown made this year on rates paid in Humboldt County, shows that using just AFDC cost standards there are grossly inadequate amounts essential to recreational and educational items, particularly for teenagers, and practically nothing for the twenty-four-hour, seven-days-a-week "care and supervision" offered by the foster parents.

Attachment B shows the results of a recent survey comparing rates paid by eight Northern California counties for various age groups of children.

From our study and discussion with foster parents these rates are often so low that the private citizens who become foster parents actually have to subsidize the cost of maintaining the foster child from their personal incomes. California's Foster Care Program as a result actually exploits citizens who volunteer to serve as foster parents.

The recommendation is for introduction and passage of legislation that would increase State participation to a reasonable percentage of what is the actual cost of care of the counties, with emphasis on participation in the cost of the hard to recruit and hard to retain foster homes for teenagers. The following are the current regulations followed by the proposed regulations:

Current Regulation

11450. Table of amount of aid for needy families: Increase or decreases commensurate with Federal contributions: Payment for children receiving "foster care"

- (a)
- (b) For children receiving foster care who are qualified for aid under the provisions of this chapter, except as provided in Section 11403, there shall be paid the sum necessary for the adequate care of each child, but not to exceed in any month the product of eighty dollars (\$80) multiplied by the number of children in county receiving foster care. The state shall pay 67.5 percent and the county shall pay 32.5 percent of the aid furnished for the adequate care of such children.

The maximum amount of aid payable under the previous paragraph shall be increased up to one hundred dollars (\$100) per month in assistance in those cases and during such times as the United States government contributes.

Proposed Regulation

11450. Table of amount of aid for needy families: Increase or decreases commensurate with federal contributions: Payment for children receiving "foster care"

- (a)
- (b) For children ages 0 through 12 years receiving foster care who are qualified for aid under the provisions of this Chapter, except as provided in Section 11403, there shall be paid the sum necessary for the adequate care of each child but not to exceed 67.5 percent of the average foster care rate paid by the counties of California as of January 1 each year. The county shall pay 32.5 percent of the non-Federal share.
- (c) For children receiving foster care ages 13 and over who are qualified for aid under the provisions of this chapter, except as provided in Section 11403, the State shall pay the sum necessary for the adequate care of each child, but not to exceed in any month 75 percent of the non-Federal share of the average board rate paid by the counties of California as of January 1 of each year. The County shall pay 25 percent of the non-Federal share.

Current Regulation

15200. Appropriation for needy children

There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

- (a) To each county for the support and maintenance of needy children, 67.5 percent of the sums specified in Section 11450.
- (b) To the Department for the support and maintenance of needy children, the sum specified in Section 11403.

Proposed Regulation

15200. Appropriation for needy children

There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

- (a) To each county for the support and maintenance of needy children, 67.5 percent of the sums specified in Section 11450 (b) and 75 percent of the sums specified in Section 11450 (c).

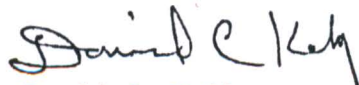
In addition, it is recommended that the legislature ask the State Department of Social Welfare to undertake an objective study of the realistic costs of successful, sustained foster home placement for the four basic age groups of foster children with the State Department required to report back to the legislature with findings and recommendations by no later than January 1, 1973. The recommendations should be for a flat statewide rate adequate to assure elimination of many special rates and fees now paid in many counties and adequate enough to compensate foster parents for participation in training - something now totally lacking.

The disconcerting thing for those of us concerned about change in the long neglected field of foster care placement is the lack of a California legislator who is dedicated to learning about and taking leadership in bringing about long overdue reforms. Someone who recognizes that tomorrow's society depends on the job we do in raising our children today.

If you have such an interest, I and other specialists in the field of child placement and protection would be glad to meet with you and assist in any way we can to pass necessary corrective legislation.

Very truly yours,

HUMBOLDT COUNTY WELFARE DEPARTMENT


David C. Kelly
County Welfare Director

DCK:sd

attachments

B.H.C. RATE STRUCTURE AS OF 7-23-71
(Corrected Copy)

Manual Section 10-225 (computed by formula) Lawrence Blythe, 7-23-71	Infant Through Six	Seven Through Twelve	Boy 13 Thru 17	Girl 13 Thru 17
.111 Predictable direct costs basic rates:				
(a) Room and Board food allowance (AFDC) (one person AFDC)	\$21.05	\$27.80	\$34.45	\$29.25
Household allowance (one person AFDC)	\$ 8.60	\$ 8.60	\$ 8.60	\$ 8.60
Housing & Utilities	\$32.00	\$32.00	\$32.00	\$32.00
(b) Clothing, etc.				
Clothing	\$ 7.15	\$10.45	\$13.95	\$11.95
Personal Needs	\$.95	\$ 1.60	\$ 2.35	\$ 2.45
Recreation	-0-	\$.55	\$ 1.30	\$ 1.95
Transportation	\$ 2.40	\$ 2.40	\$ 2.40	\$ 2.40
(c) Education and Incidentals	\$ 1.95	\$ 1.95	\$ 1.95	\$ 1.95
.111 Basic Subtotal	\$74.10	\$85.35	\$97.00	\$90.55
Amount available for following requirements:	\$ 5.90	\$.35	\$ 3.00	\$ 9.45
.112 Care and Supervision				
.113 Other costs and services rate as of 7-23-71	\$80.00	\$85.00	\$100.00	\$100.00

DCK:sd

Attachment A

FOSTER HOME RATE SURVEY

<u>COUNTY</u>	<u>AGES 0-6</u>	<u>AGES 7-12</u>	<u>AGES 13 and OVER</u>
BUTTE	\$ 76.00	\$ 81.00	\$ 93.00
CONTRA COSTA	100.00	105.00	120.00
MARIN	94.00	106.00	122.00
NAPA	72.00	82.00	92.00
SAN MATEO	97.95	103.20	126.75
SHASTA	76.00	95.00	100.00
SONOMA	80.00	90.00	100.00
YOLO	72.00	82.00	102.00
HUMBOLDT	80.00	85.00	100.00

DCK:sd

Attachment B