

Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 2277 (Reyes) – As Introduced February 16, 2022

**SUBJECT:** CalWORKs: victims of abuse

**SUMMARY:** Requires, instead of allows, a county to waive a California Work Opportunity for and Responsibility to Kids (CalWORKs) program requirement for a recipient who has been identified as a past or present victim of abuse when it has been determined that good cause exists.

**EXISTING LAW:**

- 1) Establishes in federal law the “Temporary Assistance for Needy Families” (TANF) program, which provides block grants to states to develop and implement their own state welfare-to-work (WTW) programs designed to provide cash assistance and other supports and services to low-income families. (42 United States Code Section [USC] 601 et seq.)
- 2) Establishes the state's TANF program, the CalWORKs program. CalWORKs provides cash assistance and other supports and services to low-income families and is administered by the counties. (Welfare and Institutions Code Section [WIC] 11200 et seq.)
- 3) Requires all individuals 16 years of age or older, unless they are otherwise exempt, to participate in welfare-to-work (WTW) activities as a condition of eligibility for CalWORKs. (WIC 11320.3, 11322.6)
- 4) Establishes the number of weekly hours of WTW participation necessary to remain eligible for aid, including requirements for an unemployed parent in a two-parent assistance unit, as specified. (WIC 11322.8)
- 5) Defines, for purposes of referring to CalWORKs’ Family Violence Option, the term “abuse” to mean battering or subjecting a victim to extreme cruelty by physical acts that resulted in or threatened to result in physical injury; sexual abuse; sexual activity involving a child in the home; being forced to participate in nonconsensual sexual acts or activities; threats of, or attempts at, physical or sexual abuse; mental abuse; neglect or deprivation of medical care; or stalking. (WIC 11495.12)
- 6) Requires the California Department of Social Services (CDSS) to convene a task force, as specified, to develop protocols on handling cases in which CalWORKs recipients are past or present victims of abuse. Further, requires the protocol to specify, amongst other things, how counties shall waive, on a case-by-case basis any program requirements that would make it more difficult for these individuals or their children to escape abuse, and that would be detrimental or unfairly penalize past or present victims of abuse. Provides that requirements that may be waived include, but are not limited to time limits on receipt of assistance, work requirements, educational requirements, paternity establishment, and child support cooperation requirements (WIC 11495.1 (a))

- 7) Specifies that waivers of time limits shall not be implemented if federal statutes or regulations clarify that the abuse victims are included in the 20% hardship exemptions and that no good cause waivers of the 20% limit will be granted to the state for victims of abuse, thereby incurring a penalty to the state. Further, specifies that waivers of the work requirements shall not be implemented if federal statutes or regulations clarify that the state will be penalized for failing to meet work participation requirements due to granting waivers to abuse victims. (WIC 11495.1 (c) and (d))
- 8) Authorizes a county to waive a CalWORKs program requirement for a recipient who has been identified as a past or present victim of abuse when it has been determined that good cause exists, as specified. (WIC 11495.15)
- 9) Provides that a circumstance that shall constitute good cause for a child in a CalWORKs assistance unit for whom school attendance is compulsory not attending school includes, but is not limited to, the applicant or recipient is in a domestic violence situation that results in school nonparticipation or the failure to cooperate. (WIC 11253.5 (d)(3))
- 10) Provides that sworn statements by a victim of past or present abuse shall be sufficient to establish abuse unless the agency documents a basis to find the recipient not credible, as specified. Further, evidence to support the statement may include, but is not limited to police, government, or court records or files; documentation from a domestic violence program; or a statement from any other individual with knowledge of the circumstances that provide the basis for the claim. (WIC 11495.25)
- 11) Requires a county to excuse a CalWORKs recipient from participation for good cause when the county has determined the recipient has a condition or is faced with a circumstance that temporarily prevents or significantly impairs the recipient's ability to be regularly employed or to participate in WTW activities, and requires county welfare departments to review a good cause determination to establish its continuing appropriateness, as specified, no less than every three months, and requires a recipient that has been granted good cause to provide information to the county, including written documentation, as required to complete the review. (WIC 11320.3 (f))
- 12) Establishes an optional program for states, under federal TANF law, commonly known as the Family Violence Option, which requires states to establish standards and procedures to ensure that the state will screen for and identify individuals receiving TANF assistance with a history of domestic violence, refer such individuals to counseling and supportive services, and waive, pursuant to a determination of good cause, program requirements for individuals receiving assistance in cases where compliance with such requirements would make it more difficult for individuals receiving assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence. (42 U.S.C. 602(a)(7))
- 13) Includes among the reasons for which a county may grant good cause that the applicant or recipient is a victim of domestic violence if participation in work or other WTW activities would be detrimental to, or unfairly penalize, the individual or their family, pursuant to the state option granted under federal TANF law. (WIC 11320.3 (f)(2))

- 14) Requires a CalWORKs applicant or recipient to cooperate with the county welfare department and local child support agency in establishing the paternity of their child and in establishing, modifying, or enforcing a support order with respect that child, if the applicant or recipient does not qualify for a good cause exemption. Requires the county to provide a good cause exemption from this requirement when cooperation would increase the risk of abuse for the child or the child's parent or caretaker. (WIC 11477, WIC 11477.04)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***California Work Opportunity and Responsibility to Kids:*** The CalWORKs program, which implements the federal TANF program, provides eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. CDSS is charged with program supervision at the state level, and counties administer the caseloads at the local level. CalWORKs is funded largely through the federal TANF block grant and state maintenance-of-effort contributions. Families participating in CalWORKs have access to a range of services that can include childcare and services aimed at addressing mental health needs, substance use disorders, experiences of domestic violence, and learning disabilities, among other issues. Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a WTW plan. CalWORKs-approved WTW activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance use disorders, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment.

In 2021-22, the maximum monthly grant for a family of three on CalWORKs (one parent and two children), if the family has no other income and lives in a high cost-of-living county, is \$925. The same family living in a lower cost-of-living county would be eligible for up to \$878 per month. However, the average monthly cash grant for the family is estimated to be \$717. Many families earn some income, or live in a lower cost-of-living county, and do not qualify for the maximum grant amount. About 398,400 families are projected to receive CalWORKs benefits in Fiscal Year 2022-23.

***Welfare-to-Work:*** Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a WTW plan. CalWORKs recipients may receive employment-related services aimed at moving children out of poverty and helping families meet basic needs as part of their WTW plan. CalWORKs-approved WTW activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance use disorders, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment.

***TANF program domestic violence waivers:*** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which was the final piece of federal welfare reform legislation, repealed the Aid to Families with Dependent Children program. Among a number of

new requirements and other program changes, PRWORA created a Family Violence Option to address the barriers that domestic violence poses within the context of federal aid under TANF. Under section 402(a)(7) of the Social Security Act, a state may elect to implement a special program, within its TANF program, to serve victims of domestic violence and to waive program requirements for such individuals. Federal regulations grant states broad flexibility to implement program waivers to victims of domestic violence. California's response to the Family Violence Option authority under PRWORA was included in AB 1542 (Ducheny), Chapter 270, Statutes of 1997—California's bill to implement welfare reform.

***CalWORKs domestic violence waivers:*** Section 42-715.51 of the CDSS Manual of Policies and Procedures (MPP) outlines which program requirements counties can and cannot waive for a CalWORKs recipient who has been identified as a past or present victim of domestic abuse when good cause has been established. The MPP specifies that a county cannot waive asset, income, homeless assistance, and deprivation requirements; a county may waive time limit, work, education, and child support requirements and paternity establishment. The MPP also requires a county to develop criteria for waiving requirements and states that a county can establish the duration of WTW and time limit waivers as long as the granting of such waivers complies with the state and federal regulations. Current law permits, but does not require a county to waive CalWORKs program requirements for a recipient who has been identified as a victim of domestic abuse.

CDSS publishes monthly reports that includes disaggregated data on the number of CalWORKs families who are enrolled in mandatory WTW employment-preparation activities. Included in those data are enrollees who have been exempted from WTW requirements, including due to a domestic violence waiver. In November 2021 (the most recent month with all counties reporting) 527 families (not including two-parent families) were granted a waiver of program rules due to domestic abuse. From those data, 47 counties reported granting zero waivers during the month of November. There are no data for the number of families that applied for a waiver but did not receive a waiver. Without such data, it is difficult to ascertain if there are counties that regularly opt not to grant waivers.

***Domestic violence in California:*** Data from the California Study on Violent Experiences Across the Lifespan (Cal-VEX) in 2020 reveals that 24% of adult women and 6% of adult men in California experienced intimate partner violence in their lifetimes. In addition to physical or sexual abuse, many domestic violence victims also experience mental and emotional abuse at the hands of their abusers, including stalking, deprivation of access to the family's financial resources and exertion of economic control, as well as sabotage of the victim's attempts to work or go to school. While state law provides that CalWORKs applicants and recipients should be able to confidentially disclose domestic abuse they have suffered, many victims may still not come forward to report their abuse, sometimes due to fear of retaliation from their abuser. Not reporting abuse that prevents them from complying with CalWORKs requirements can greatly affect their ability to access needed services and aid. A recipient can be sanctioned due to noncompliance with requirements or for not participating in WTW activities without a waiver, which removes aid from the household and creates greater instability for a family. For many victims who are eligible for the program, CalWORKs benefits and services can help families not have to choose between remaining in an abusive situation and becoming homeless.

***Need for this bill:*** According to the author, “Due to current waiver eligibility requirements, California fails to provide adequate safeguards to ensure that survivors of domestic abuse, who

may be facing poverty, are not denied a valuable resource. Requiring counties to provide waivers will allow survivors of domestic violence to receive the assistance they need through an efficient and expedited process. [This bill] will seek to help survivors across the state regardless of which county they reside in.”

**RELATED AND PRIOR LEGISLATION:**

**AB 557 (Rubio), Chapter 691, Statutes of 2017**, amongst other things, provided that a CalWORKs applicant or recipient who is in a domestic violence situation that results in school nonparticipation or the failure to cooperate constitutes good cause.

**AB 1653 (Garcia) of 2014**, would have required the development and dissemination of a standard, statewide notice with information about waivers of certain CalWORKs requirements for CalWORKs applicants and recipients who are victims of domestic violence. AB 1653 was held on the Senate Appropriations Committee suspense file.

**AB 1107 (Garcia) of 2013**, among other provisions, would have required CDSS to develop a standard notice and procedures to ensure victims of domestic violence are not unfairly penalized for noncompliance with CalWORKs rules and specified requirements for counties and aid recipients with respect to retroactive waivers of program requirements due to domestic violence. AB 1107 was held on the Assembly Appropriations Committee suspense file.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Coalition of California Welfare Rights Organizations (Co-Sponsor)

**Opposition**

None on file

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