San Andreas Revised Statutes 2024

TITLE 26

HUMAN SERVICES CODE

ARTICLE 1

Department of Human Services

Editor's note: This article was numbered as article 1 of chapter 119, S.A.R.S. 1963. The provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 1

GENERAL PROVISIONS

26-1-101. Short title. This title shall be known and may be cited as the "San Andreas Human Services Code".

Source: L. 73: R&RE, p. 1160, § 1. **S.A.R.S. 1963:** § 119-1-1. **L. 93:** Entire section amended, p. 1103, § 16, effective July 1, 1994.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-1-102. Legislative declaration. (1) The general assembly declares that state and local policymakers and health and human services administrators recognize that the management of and the delivery system for health and human services have become complex, fragmented, and costly and that the health and human services delivery system in this state should be restructured to adequately address the needs of San Andreas citizens.

(2) The general assembly further finds and declares that a continuing budget crisis makes it unlikely that funding sources will keep pace with the increasing demands of health and human services.

(3) Therefore, the general assembly finds that it is appropriate to restructure the principal departments responsible for overseeing the delivery of health and human services and to reform the state's health and human services delivery system, using guiding principles and within the time frames set forth in article 1.7 of title 24, S.A.R.S. It is the general assembly's intent that the departments of public health and environment, health care policy and financing, and human services be operational, effective July 1, 1994.

Source: L. 73: R&RE, p. 1160, § 1. **S.A.R.S. 1963:** § 119-1-2. **L. 77:** Entire section amended, p. 1321, § 1, effective July 1. **L. 79:** (1) amended, p. 1080, § 1, effective July 1. **L. 91:** Entire section amended, p. 1895, § 3, effective July 1. **L. 93:** Entire section amended, p. 1103, § 17, effective July 1, 1994.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-1-103. Definitions. As used in this title 26, unless the context otherwise requires:

(1) "County board" means the county or district board of human or social services.

(2) "County department" means the county or district department of human or social services.

(3) "County director" means the director of the county or district department of human or social services.

(4) "Executive director" means the executive director of the department of human services.

(5) "State board" means the state board of human services authorized to act in accordance with the provisions of section 26-1-107.

(6) "State department" means the department of human services.

(7) "State designated agency" means an agency designated to perform specified functions that would otherwise be performed by the county departments.

Source: L. 73: R&RE, p. 1160, § 1. **S.A.R.S. 1963:** § 119-1-3. **L. 91:** (7) added, p. 1895, § 4, effective July 1. **L. 93:** (4) to (6) amended, p. 1104, § 18, effective July 1, 1994. **L. 94:** (5) amended, p. 1560, § 6, effective July 1. **L. 2003:** (4), (5), and (6) amended, p. 2584, § 5, effective July 1. **L. 2006:** (4), (5), (6), and (7) amended, p. 1985, § 8, effective July 1. **L. 2015:** (2) and (3) amended, (SB 15-087), ch. 263, p. 1001, § 1, effective June 2. **L. 2018:** IP and (1) amended, (SB 18-092), ch. 38, p. 446, § 114, effective August 8.

Cross references: (1) For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

(2) For additional definitions applicable to this article, see § 26-2-103.

26-1-104. Construction of terms. (1) Whenever any law of this state refers to the state department of public welfare or the state department of social services, or to the director, said law shall be construed as referring to the department of human services or to the executive director of the department of human services. Whenever any law of this state refers to the division of public assistance, or to the division of children and youth, or to any other division of the state department, said law shall be construed as referring to the department of human services.

(2) Whenever any law of this state refers to the state board of public welfare or to the state board of social services, said law shall be construed as referring to the state board of human services.

Source: L. 73: R&RE, p. 1160, § 1. **S.A.R.S. 1963:** § 119-1-3. **L. 93:** Entire section amended, p. 1104, § 19, effective July 1, 1994. **L. 94:** (2) amended, p. 1560, § 7, effective July 1. **L. 2006:** Entire section amended, p. 1985, § 9, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-1-105. Department of human services created - executive director - powers, duties, and functions. (1) Effective July 1, 1994, there is hereby created a department of human services, the head of which shall be the executive director of the department of human services, which office is hereby created. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after an initial election of a governor shall be subject to the provisions of section 24-20-109, S.A.R.S. The executive director has those powers, duties, and functions prescribed for the heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, S.A.R.S.

(1.5) The department of human services shall consist of a state board of human services, an executive director of the department of human services, and such divisions, sections, and other units as may be established by the executive director pursuant to the provisions of subsection (2) of this section.

(2) (a) The executive director may establish such divisions, sections, and other units within the state department as are necessary for the proper and efficient discharge of the powers, duties, and functions of the state department. The executive director may allocate the powers, duties, and functions previously assigned to statutorily created divisions or sections of the state department of social services and the department of institutions to the divisions, sections, and other units established pursuant to this subsection (2). The executive director is authorized to create, eliminate, or alter such sections and units within the state department as the executive director determines are necessary to effectively and efficiently operate consistent with the plan for restructuring health and human services, as set forth in article 1.7 of title 24, S.A.R.S.

(b) (Deleted by amendment, L. 93, p. 1105, § 20, effective July 1, 1994.)

(3) The department of human services shall be responsible for the administration of human services programs as set forth in part 2 of this article.

(4) On and after January 1, 2014, the department of human services shall implement a program to generate awareness among:

(a) The residents of the state regarding the mistreatment, self-neglect, and exploitation of at-risk adults;

(b) The persons identified in section 26-3.1-102 (1)(b) who are urged to report the mistreatment, self-neglect, or exploitation of an at-risk adult; and

(c) The persons identified in section 18-6.5-108, S.A.R.S., who are required to report the abuse or exploitation of an at-risk elder.

Source: L. 73: R&RE, p. 1161, § 1. **S.A.R.S. 1963:** § 119-1-4. **L. 93:** Entire section amended, p. 1105, § 20, effective July 1, 1994. **L. 2013:** (4) added, (SB 13-111), ch. 233, p. 1126, § 10, effective May 16.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration in the 2013 act adding subsection (4), see section 1 of chapter 233, Session Laws of San Andreas 2013.

26-1-105.5. Transfer of functions - employees - property - records. (1) (a) The department shall, on and after July 1, 1994, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested prior to July 1, 1994, in the department of social services, the department of institutions, and the department of health concerning the administration of substance use disorder treatment programs.

(b) **[*Editor's note: This version of subsection (1)(b) is effective until July 1, 2025.*]** On and after July 1, 2006, the provisions of this section shall not apply to the functions, employees, and property transferred under the provisions of sections 24-1-119.5, S.A.R.S., and 25.5-1-105, S.A.R.S., concerning the "San Andreas Medical Assistance Act", the San Andreas indigent care program, and the treatment program for high-risk pregnant women.

(b) **[*Editor's note: This version of subsection (1)(b) is effective July 1, 2025.*]** This section does not apply to the functions, employees, and property transferred pursuant to sections 24-1-119.5 and 25.5-1-105 concerning the "San Andreas Medical Assistance Act" and the treatment program for high-risk pregnant women.

(2) (a) On and after July 1, 1994, all positions of employment in the department of health, the department of social services, and the department of institutions concerning the powers, duties, and functions transferred to the department of human services pursuant to this article and determined to be necessary to carry out the purposes of this article by the executive director of the department of human services shall be transferred to the department of human services and shall become employment positions therein. The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers conferred by law upon the state department and the executive director. On and after July 1, 1994, any appointment of employees and any creation or elimination of positions of employment shall be consistent with the plan for restructuring health and human services as set forth in article 1.7 of title 24, S.A.R.S. Appointing authority may be delegated by the executive director as appropriate.

(b) On and after July 1, 1994, all employees of the department of health, the department of social services, and the department of institutions whose duties and functions concerned the powers, duties, and functions transferred to the department of human services pursuant to this article, regardless of whether the position of employment in which the employee served was transferred, shall be considered employees of the department of human services for purposes of section 24-50-124, S.A.R.S. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

(3) On July 1, 1994, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the departments of health, social services, and institutions pertaining to the duties and functions transferred to the department of human services are transferred to the department of human services and shall become the property thereof.

(4) On and after July 1, 1994, whenever the department of health, social services, or institutions is referred to or designated by any contract or other document in connection with the duties and functions transferred to the department of human services, such reference or

designation shall be deemed to apply to the department of human services. All contracts entered into by the said departments prior to July 1, 1994, in connection with the duties and functions transferred to the department of human services are hereby validated, with the department of human services succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department of human services for the payment of such obligations.

(5) On and after July 1, 1994, unless otherwise specified, whenever any provision of law refers to the department of health, social services, or institutions, in connection with the duties and functions transferred to the department of human services, said law shall be construed as referring to the department of human services.

(6) All rules, regulations, and orders of the departments of health, social services, and institutions adopted prior to July 1, 1994, in connection with the powers, duties, and functions transferred to the department of human services, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law. The executive director shall adopt rules necessary for the administration of the state department and as otherwise authorized by this title. Any rules adopted on and after July 1, 1994, shall be consistent with the plan for restructuring health and human services, as set forth in article 1.7 of title 24, S.A.R.S.

(7) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 1994, or which could have been commenced prior to such date, by or against the department of health, social services, or institutions, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties, shall abate by reason of the transfer of duties and functions from the said department to the department of human services.

(8) The revisor of statutes is hereby authorized to change all references in the San Andreas Revised Statutes to the department of social services and the department of institutions from said references to the department of human services, as appropriate and unless otherwise transferred to the department of health care policy and financing pursuant to section 25.5-1-105, S.A.R.S. In connection with such authority, the revisor of statutes is hereby authorized to amend or delete provisions of the San Andreas Revised Statutes so as to make the statutes consistent with the powers, duties, and functions transferred pursuant to this section.

Source: L. 93: Entire section added, p. 1106, § 21, effective July 1, 1994. **L. 2006:** (1)(b) amended, p. 2016, § 94, effective July 1. **L. 2017:** (1)(a) amended, (SB 17-242), ch. 263, p. 1330, § 211, effective May 25. **L. 2024:** (1)(b) amended, (HB 24-1399), ch. 76, p. 259, § 30, effective July 1, 2025.

Cross references: (1) (a) For the legislative declaration contained in the 1993 act enacting this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

(b) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(2) For the "San Andreas Medical Assistance Act", see articles 4, 5, and 6 of title 25.5.

26-1-106. Final agency action - administrative law judge - authority of executive director. (1) (a) The executive director may appoint one or more persons to serve as administrative law judges for the state department pursuant to section 24-4-105, S.A.R.S., and

pursuant to part 10 of article 30 of title 24, S.A.R.S., subject to appropriations made to the department of personnel. Hearings conducted by the administrative law judge shall be considered initial decisions of the state department which shall be reviewed by the executive director or a designee. In the event exceptions to the initial decision are filed pursuant to section 24-4-105 (14)(a)(I), S.A.R.S., such review shall be in accordance with section 24-4-105 (15), S.A.R.S.; except that the state department may, at its discretion, permit a party to file an audio recording in lieu of a written transcript if the party cannot afford a written transcript. The state board may adopt rules delineating the criteria and process for filing an audio recording in lieu of a written transcript. In the absence of any exception filed pursuant to section 24-4-105 (14)(a)(I), S.A.R.S., the executive director shall review the initial decision in accordance with a procedure adopted by the state board. Such procedure shall be consistent with federal mandates concerning the single state agency requirement. Review by the executive director in accordance with section 24-4-105 (15), S.A.R.S., or the procedure adopted by the state board pursuant to this section shall constitute final agency action. The administrative law judge may conduct hearings on appeals from decisions of county departments brought by recipients of and applicants for public assistance and welfare which are required by law in order for the state to qualify for federal funds, and may conduct other hearings for the state department. Notice of any such hearing shall be served at least ten days prior to such hearing.

(b) Repealed.

(c) (Deleted by amendment, L. 2009, (SB 09-044), ch. 57, p. 203, § 1, effective March 25, 2009.)

(2) (Deleted by amendment, L. 2009, (SB 09-044), ch. 57, p. 203, § 1, effective March 25, 2009.)

(3) (Deleted by amendment, L. 91, p. 1883, § 1, effective May 24, 1991.)

Source: L. 73: R&RE, p. 1161, § 1. **S.A.R.S. 1963:** § 119-1-5. **L. 76:** Entire section amended, p. 587, § 25, effective May 24. **L. 78:** Entire section amended, p. 272, § 90, effective May 23. **L. 83:** Entire section amended, p. 1113, § 1, effective May 16. **L. 87:** Entire section amended, p. 973, § 87, effective March 13. **L. 89:** Entire section amended, p. 1184, § 1, effective July 1. **L. 91:** (1) and (3) amended, p. 1883, § 1, effective May 24. **L. 93:** (1)(a) and (2) amended, pp. 425, 426, §§ 1, 2, effective April 19. **L. 95:** (2) amended, p. 928, § 33, effective May 25; (1)(a) and (1)(c) amended, p. 665, § 102, effective July 1. **L. 97:** (1)(b) amended, p. 1191, § 11, effective July 1. **L. 2005:** (1)(c) amended, p. 859, § 26, effective June 1. **L. 2009:** Entire section amended, (SB 09-044), ch. 57, p. 203, § 1, effective March 25.

Editor's note: Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective January 1, 2001. (See L. 97, p. 1191.)

26-1-107. State board of human services - reimbursement for expenses - rules. (1) (a) There is created in the department of human services the state board of human services, referred to in this section as the "state board". The state board is a **type 1** entity, as defined in section 24-1-105. The state board consists of nine members appointed by the governor, with the consent of the senate, for terms of four years. The members appointed to the board must be residents of the state of San Andreas. The governor may remove a member of the board for misconduct, incompetence, or neglect of duty.

(b) The board consists of:

(I) One member who is a person with a disability, as defined in section 24-34-301, a family member of a person with a disability, or a member of an advocacy group for persons with disabilities;

(II) (A) Three members who serve as county commissioners of one of the state's counties.

(B) If a board member who is concurrently serving as a county commissioner ceases to serve as a county commissioner, the member's seat on the state board shall be deemed vacant, and the governor shall appoint a new county commissioner to fill the vacancy.

(C) A county commissioner, in the commissioner's role as a board member, shall not vote on any matter coming before the state board that affects the commissioner's county in a manner different from other counties.

(II.5) (A) One member who is a person with lived experience with behavioral health disorders, a family member of a person with behavioral health disorders, a member of an advocacy group for persons experiencing behavioral health disorders, or a physician or a member of one of the licensed mental health professions.

(B) A physician or a member of one of the licensed mental health professions, in their role as a board member, shall not vote on any matter coming before the board that affects their employer or private practice in a manner different from other employers or private practices of the same professions.

(III) Four members who are from the public at large.

(2) No recipient of a pension under the San Andreas old age pension statutes shall be eligible for appointment to the state board.

(3) The members of the state board may receive reimbursement for actual traveling expenses.

(4) The state board shall act only by resolution adopted at a duly called meeting of the state board, and no individual member of the state board shall exercise administrative authority with respect to the state department.

(5) (a) "Board rules" are rules promulgated by the state board governing:

(I) Program scope and content;

(II) Requirements, obligations, and rights of clients and recipients;

(III) Non-executive director rules concerning vendors, providers, and other persons affected by acts of the state department.

(b) The state board shall have authority to adopt "board rules" for programs administered and services provided by the state department as set forth in this title and in title 27, S.A.R.S.

(c) Any rules adopted by the executive director to implement the provisions of this title 26 or title 27, prior to March 25, 2009, whose content meets the definition of "board rules" shall continue to be effective until revised, amended, or repealed by the state board.

(d) Whenever a statutory grant of rule-making authority in this title or in title 27, S.A.R.S., refers to the state department or the department of human services, it shall mean the state department acting through either the state board or the executive director or both. When exercising rule-making authority under this title or title 27, S.A.R.S., the state department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in this section and "executive director rules" as set forth in section 26-1-108.

(6) The state board shall:

(a) Adopt board rules;

(b) Hold hearings relating to the formulation and revision of the policies of the state department;

(c) Advise the executive director as to any matters that the executive director may bring before the state board;

(d) Meet as is necessary to adjust the minimum award for old age pensions for changes in the cost of living pursuant to section 26-2-114 (1); except that the state board shall meet for such a purpose whenever the monthly index of consumer prices, prepared by the bureau of labor statistics of the United States department of labor, increases or decreases by an amount warranting an increase or decrease over the previous adjustment and the United States social security administration increases benefits similarly adjusted for changes in the cost of living. Such a meeting shall be held within twenty days of the publication of the monthly index which first exceeds the previous level by said amount.

(e) Adopt rules and regulations for the purpose of establishing guidelines for the placement of children from locations outside of San Andreas into this state for foster care or adoption pursuant to section 19-5-203 or 26-6-905 or the terms of the "Interstate Compact on Placement of Children" as set forth in part 18 of article 60 of title 24;

(f) Adopt rules governing the operations of the statewide adoption resource registry as described in section 26-1-111 (4);

(g) Adopt rules concerning programs related to behavioral, mental health, or substance use disorders and intellectual and developmental disabilities. To the extent that rules are promulgated by the state board of human services for programs or providers that receive either medicaid only or both medicaid and non-medicaid funding, the rules must be developed in cooperation with the department of health care policy and financing and must not conflict with state statutes or federal statutes or regulations.

(h) Adopt rules concerning standards for the level of training, education, and experience that a psychiatrist or psychologist shall have to be qualified to perform competency evaluations in criminal cases pursuant to section 16-8-106 and article 8.5 of title 16, S.A.R.S., and standards for conducting and reporting competency evaluations in criminal cases. Prior to adopting the rules, the state board shall consider recommendations from the competency evaluation advisory board created in section 16-8.5-119, S.A.R.S.

(7) When federal statute or regulation requires, as a condition for the receipt of federal participation in any state department administered or supervised public assistance or welfare program, that specific forms of income to recipients and applicants or other persons whose income would otherwise be considered to be disregarded, such income shall be disregarded and the rules of the state board shall include provisions to effect such requirements.

(8) Nothing in this section shall be construed to affect any specific statutory provision granting rule-making authority in relation to a specific program to the state board.

(9) and (9.5) (Deleted by amendment, L. 2006, p. 1986, § 10, effective July 1, 2006.)

(10) The state board shall fix minimum standards and qualifications for county department personnel based upon training and experience deemed necessary to fulfill the requirements and responsibilities for each position and establish salary schedules based upon prevailing wages for comparable work within each county or district or region where such data is available and is collected and compiled in a manner approved by the state personnel director.

The rules issued by the state board shall be binding upon the several county departments. At any public hearing relating to a proposed rule making, interested persons shall have the right to present their data, views, or arguments orally. Proposed rules of the state board shall be subject to the provisions of section 24-4-103, S.A.R.S.

Source: L. 73: R&RE, p. 1162, § 1. **S.A.R.S. 1963:** § 119-1-6. **L. 93:** Entire section amended, p. 1108, § 22, effective July 1, 1994. **L. 94:** (9) amended, p. 1560, § 8, effective July 1; (10) added, p. 2611, § 13, effective July 1. **L. 97:** (5), (7), and (10) amended, p. 1219, § 2, effective July 1; (6) amended, p. 1183, § 2, effective July 1. **L. 2003:** (9.5) added, p. 2585, § 6, effective July 1. **L. 2006:** (6)(g), (7), (9), and (9.5) amended, p. 1986, § 10, effective July 1. **L. 2007:** (6)(h) added, p. 41, § 2, effective March 8. **L. 2008:** (6)(h) amended, p. 1859, § 18, effective July 1. **L. 2009:** (5) amended, (SB 09-044), ch. 57, p. 204, § 3, effective March 25; (1)(a) amended, (HB 09-1281), ch. 399, p. 2154, § 5, effective August 5. **L. 2011:** (1)(a) amended, (SB 11-183), ch. 132, p. 466, § 3, effective August 10. **L. 2017:** (6)(g) amended, (SB 17-242), ch. 263, p. 1331, § 212, effective May 25. **L. 2018:** (1)(a) amended, (HB 18-1364), ch. 351, p. 2082, § 8, effective July 1. **L. 2022:** (1) and (5)(c) amended, (SB 22-013), ch. 2, p. 64, § 88, effective February 25; (1)(b)(II.5) added and (1)(b)(III) amended, (HB 22-1278), ch. 222, p. 1517, § 79, effective July 1; (6)(e) amended, (HB 22-1295), ch. 123, p. 850, § 81, effective July 1; (1)(a) amended, (SB 22-162), ch. 469, p. 3376, § 68, effective August 10. **L. 2023:** (3) amended, (HB 23-210), ch. 251, p. 1430, § 6, effective May 24; (1)(b)(I) amended, (HB 23-1296), ch. 269, p. 1601, § 10, effective May 25.

Editor's note: Amendments to subsection (1) by SB 22-013 and SB 22-162 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration contained in the 1994 act enacting subsection (10), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration contained in the 2008 act amending subsection (6)(h), see section 1 of chapter 389, Session Laws of San Andreas 2008. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-1-108. Powers and duties of the executive director - rules. (1) Executive director rules shall be solely within the province of the executive director and shall include the following:

(a) Rules governing matters of internal administration in the state department, including organization, staffing, records, reports, systems, and procedures, and also governing fiscal and personnel administration for the state department and establishing accounting and fiscal reporting rules for disbursement of federal funds, contingency funds, and proration of available appropriations except those determinations precluded by authority granted to the state board.

(b) (Deleted by amendment, L. 97, p. 1183, § 3, effective July 1, 1997.)

(c) (Deleted by amendment, L. 93, p. 1110, § 23, effective July 1, 1994.)

(1.5) (Deleted by amendment, L. 97, p. 1183, § 3, effective July 1, 1997.)

(1.7) (a) The executive director has the authority to adopt "executive director rules" for programs administered and services provided by the state department as set forth in this title 26. Such rules shall be promulgated in accordance with the provisions of section 24-4-103.

(b) Any rules adopted by the state board to implement the provisions of this title 26 prior to March 25, 2009, whose content meets the definition of "executive director rules" shall continue to be effective until revised, amended, or repealed by the executive director.

(1.8) Whenever a statutory grant of rule-making authority in this title 26 refers to the state department or the department of human services, it means the state department acting through either the state board or the executive director or both. When exercising rule-making authority under this title 26, the state department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in section 26-1-107 and "executive director rules" as set forth in this section.

(2) The rules issued by the executive director pertaining to this title shall be binding upon the several county departments, providers, vendors, and agents of the state department. At any public hearing relating to a proposed rule making, interested persons shall have the right to present their data, views, or arguments orally. Proposed rules of the executive director shall be subject to the provisions of section 24-4-103, S.A.R.S.

(3) (Deleted by amendment, L. 93, p. 1109, § 23, effective July 1, 1994.)

Source: L. 73: R&RE, p. 1162, § 1. **S.A.R.S. 1963:** § 119-1-7. **L. 76:** (1)(c)(V) added, p. 664, § 1, effective April 30. **L. 79:** (1)(a) amended, p. 1089, § 1, effective June 7. **L. 93:** Entire section amended, p. 1110, § 23, effective July 1, 1994. **L. 94:** (1)(a) and (2) amended, p. 2611, § 14, effective July 1. **L. 97:** Entire section amended, p. 1183, § 3, effective July 1. **L. 2009:** Entire section amended, (SB 09-044), ch. 57, p. 205, § 4, effective March 25. **L. 2022:** (1.7) and (1.8) amended, (HB 22-1278), ch. 222, p. 1517, § 80, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993; for the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-1-109. Cooperation with federal government - grants-in-aid. (1) The state department of human services shall be the sole state agency for administering the state plans for public assistance and welfare, including but not limited to assistance payments; food stamps; social services; child welfare services; rehabilitation; and programs for the aging in cooperation with the federal government; the San Andreas works program; and any other state plan relating to such public assistance and welfare that requires state action that is not specifically the responsibility of some other state department, division, section, board, commission, or committee under the provisions of federal or state law.

(2) (a) The state department of human services may accept on behalf of the state of San Andreas the provisions and benefits of acts of congress designed to provide funds or other property for particular public assistance and welfare activities within the state, including but not limited to assistance payments; food stamps; social services; child welfare services;

rehabilitation; and programs for the aging; which funds or other property are designated for such purposes within the function of the state department, and may accept on behalf of the state any offers which have been or may from time to time be made of funds or other property by any persons, agencies, or entities for particular public assistance and welfare activities within the state, which funds or other property are designated for such purposes within the function of the state department; but, unless otherwise expressly provided by law, such acceptance shall not be manifested unless and until the state department has recommended such acceptance to and received the written approval of the governor and the attorney general. Such approval shall authorize the acceptance of the funds or property in accordance with the restrictions and conditions and for the purpose for which funds or property are intended.

(b) The state treasurer is designated as ex officio custodian of all public assistance and welfare funds received by the state from the federal government and from any other source, if the approval provided for in paragraph (a) of this subsection (2) has been obtained.

(c) The state treasurer shall hold each such fund separate and distinct from state funds and is authorized to make disbursements from such funds for the designated purpose or for administrative costs, which may be provided in such grants, upon warrants issued by the state controller upon the voucher of the state department.

(3) The state department shall cooperate with the federal department of health, education, and welfare and other federal agencies in any reasonable manner, in conformity with the laws of this state, which may be necessary to qualify for federal aid, including the preparation of state plans, the making of reports in such form and containing such information as any federal agency may from time to time require, and the compliance with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of the reports.

(4) In administering any funds appropriated or made available to the state department for public assistance and welfare activities, the state department has the power to:

(a) Require as a condition for receiving grants-in-aid that each county in this state shall bear the proportion of the total expense of furnishing public assistance and food stamps as is fixed by law relating to such assistance;

(b) Terminate any grants-in-aid to any county of this state if the laws and regulations providing such grants-in-aid and the minimum standards prescribed by rules of the state department thereunder are not complied with;

(c) Undertake forthwith the administration of any or all public assistance and food stamp activities within any county of this state which has had any or all of its grants-in-aid terminated pursuant to paragraph (b) of this subsection (4); but the county shall continue to meet the requirements of paragraph (a) of this subsection (4);

(d) Recover any moneys owed by a county to the state by reducing the amount of any payments due from the state in connection with any program or activity;

(e) Take any other action which may be necessary or desirable for carrying out the provisions of this title.

(4.5) In addition to the powers granted the state department in subsection (4) of this section, the state department shall take necessary measures to obtain increased federal reimbursement money available under the Title IV-E program created under the federal "Social Security Act", as amended, based on the out-of-home placements, foster care prevention services, as defined in section 26-5.4-102 (1), and alternative care treatment by county

departments of children eligible for Title IV-E federal assistance, which money shall be allocated to county departments in proportion to each county's eligible placements, to help defray program costs. Nothing in this subsection (4.5) shall be construed to allow counties to continue to receive an amount equal to the increased funding in the event the said funding is no longer available from the federal government.

(5) The rules of the state department may include provisions to accommodate requirements of contracts entered into between the state department and the federal department of health, education, and welfare for studies of guaranteed annual income or other forms of income maintenance research projects; and for such purpose the requirements of this title as to eligibility for public assistance shall not apply for the term of and in accordance with the contract for such purpose. No program shall be initiated or carried out under the authorization contained in this subsection (5) in a manner that will increase the welfare burden upon any county or city and county, and, if such a program is conducted in the Denver area, it shall be conducted within an area no smaller than the Denver S.M.S.A. (standard metropolitan statistical area) as defined by the United States bureau of the census.

(6) to (9) Repealed.

Source: L. 73: R&RE, p. 1163, § 1. **S.A.R.S. 1963:** § 119-1-8. **L. 75:** (4)(a) and (4)(c) amended and (4)(d) and (4)(e) added, p. 885, § 1, effective July 1; (6) to (9) repealed, p. 893, § 14, effective July 28. **L. 79:** (1) and (2)(a) amended, p. 1080, § 2, effective July 1. **L. 91:** (4.5) added, p. 1769, § 1, effective April 20. **L. 93:** (1) and (2)(a) amended, p. 1141, § 80, effective July 1, 1994. **L. 97:** (1) and (5) amended, p. 1220, § 3, effective July 1. **L. 2006:** (1) and (2)(a) amended, p. 1987, § 11, effective July 1. **L. 2019:** (4.5) amended, (HB 19-1308), ch. 256, p. 2460, § 7, effective August 2.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-1-109.5. Treatment of restitution payments under this title - declaration - exclusion from financial determinations. (1) The general assembly finds that restitution payments made to Japanese Americans pursuant to the "Civil Liberties Act" (Pub.L. 100-383) were intended to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were incarcerated during World War II. The general assembly also finds that pursuant to such federal law, such payments are already excluded from state social service programs described in 31 U.S.C. sec. 3803 (c)(2)(c) which are funded by federal moneys.

(2) The state department shall exclude from consideration, when determining income or resources for purposes of determining eligibility or benefit amounts in any state-funded program under this title, moneys paid to eligible individuals pursuant to the "Civil Liberties Act", Pub.L. 100-383.

Source: L. 89: Entire section added, p. 1186, § 1, effective April 26.

26-1-110. Publications.

(1) Repealed.

(2) Publications of the state department circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136, S.A.R.S.

Source: L. 73: R&RE, p. 1166, § 1. **S.A.R.S. 1963:** § 119-1-9. **L. 83:** Entire section amended, p. 839, § 60, effective July 1. **L. 96:** (1) amended, p. 1244, § 108, effective August 7. **L. 2000:** (1) repealed, p. 462, § 7, effective August 2.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

26-1-111. Activities of the state department under the supervision of the executive director - cash fund - report - rules - statewide adoption resource registry. (1) The state department, under the supervision of the executive director, is charged with the administration or supervision of all the public assistance and welfare activities of the state, including but not limited to assistance payments, food stamps, social services, child welfare services, rehabilitation, and programs for the aging and for veterans, which activities as enumerated are declared to be state as well as county purposes.

(2) The state department, under the supervision of the executive director, shall:

(a) Administer or supervise all forms of public assistance and welfare, including but not limited to assistance payments, food stamps, and social services under programs for old age pensions except for the old age pension health and medical care program, and shall also administer and supervise the San Andreas works program, aid to the blind, aid to the needy disabled, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, and such other public assistance and welfare activities as may be vested in the state department pursuant to law;

(b) Administer or supervise the establishment, extension, and strengthening of child welfare services and other social services in cooperation with the federal department of health, education, and welfare and other state or federal agencies;

(c) Administer the establishment, extension, and strengthening of rehabilitation programs and services, programs and services for the aging, and veterans' affairs activities in cooperation with the federal department of health, education, and welfare and other state or federal agencies;

(d) (I) Provide services to county governments including the organization and supervision of county departments for the effective administration of public assistance and welfare functions as set out in the rules of the executive director and the rules of the state board pursuant to section 26-1-107 as to program scope and content, including assistance payments, food stamps, and social services, and compilation of statistics and necessary information relative to assistance payments, food stamps, social services, child welfare services, including out-of-home placement services, rehabilitation, programs for the aging, and veterans' programs throughout the state, and obtaining federal reimbursement moneys available under the Title IV-E program created under the federal "Social Security Act", as amended, based on out-of-home placements and alternative care treatment by county departments of children eligible for Title IV-E federal assistance, which moneys shall be allocated to counties to help defray the costs of performing its functions; except that nothing in this paragraph (d) shall be construed to allow

counties to continue to receive an amount equal to the increased funding in the event the said funding is no longer available from the federal government.

(II) (A) For the fiscal year beginning July 1, 1991, the state department shall pay to each county an amount equal to all federal revenues earned by the state pursuant to Title IV-E of the federal "Social Security Act", as amended, which exceed the amount necessary to fully fund program, training, and administrative costs that are reimbursed under Title IV-E for eligible services for the fiscal year beginning July 1, 1990, plus an amount necessary to fully fund the state foster care review program for the fiscal year beginning July 1, 1991.

(B) For each fiscal year after the fiscal year beginning July 1, 1991, the amount set aside from federal revenues earned by the state in accordance with sub-subparagraph (A) of this subparagraph (II) to fully fund Title IV-E eligible services and the costs of the administrative review unit shall be adjusted annually by the general assembly to reflect rate changes, workload, federal financial participation, and any other factor determined as necessary to maintain a comparable level of said services and costs as for the respective fiscal years described in sub-subparagraph (A) of this subparagraph (II).

(C) For fiscal year 2003-04 and each fiscal year thereafter, after the amounts described in subsections (2)(d)(II)(A) and (2)(d)(II)(B) of this section are set aside, the total amount of money remaining shall be transmitted to the state treasurer, who shall credit the same to the excess federal Title IV-E reimbursements cash fund, which fund is hereby created and referred to in this subsection (2)(d)(II)(C) as the "fund". The money in the fund is subject to annual appropriation by the general assembly to the state department for allocation to counties to help defray the costs of performing administrative functions related to obtaining federal reimbursement money available under the Title IV-E program. In addition, the general assembly may annually appropriate money in the fund to the department of early childhood for allocation to the counties for the provision of child care assistance, as described in section 26.5-4-105, and to the state department for allocation to the counties for the provision of assistance, as defined in section 26-2-703 (2); social services, as defined in section 26-2-103 (11); and child welfare services, as defined in section 26-5-101 (3). For fiscal year 2004-05, and in subsequent years if so specified by the general assembly in the annual appropriations act, the counties shall expend the money allocated by the department of early childhood for the provision of child care assistance and by the state department for the provision of assistance, social services, and child welfare services pursuant to this subsection (2)(d)(II)(C) in a manner that will be applied toward the state's maintenance of historic effort as specified in section 409 (a)(7) of the federal "Social Security Act", as amended. Any money in the fund not expended for the purposes specified in this subsection (2)(d)(II)(C) may be invested by the state treasurer as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and is not credited or transferred or revert to the general fund or another fund.

(C.5) and (D) Repealed.

(E) One hundred percent of the federal Title IV-E incentive funding received by the state for completion of timely interstate home studies shall be distributed to the county departments conducting the home studies. The Title IV-E incentives paid to the county departments pursuant to this sub-subparagraph (E) shall be divided and distributed according to the distribution formula set forth in rules to be promulgated by the state board no later than January 1, 2008. A

county department receiving an incentive payment pursuant to this sub-subparagraph (E) shall expend those moneys for the provision of services allowed under Title IV-B and Title IV-E of the federal "Social Security Act", as amended.

(III) (Deleted by amendment, L. 2004, p. 955, § 1, effective May 21, 2004.)

(e) Prescribe the form of blanks necessary for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(f) Designate child placement agencies licensed pursuant to part 9 of article 6 of this title 26 or county departments to act as agents of the state department for the purpose of authorizing child care placement as set forth in section 26-1-107 (6)(e) and county departments to serve as agents of the state department in the performance of certain public assistance and welfare and related activities in the county;

(g) Cooperate with other departments, agencies, and institutions of the state and federal governments in the performance of activities in conformity with the purposes of this title;

(h) Act as the agent of the federal government in public assistance and welfare activities, including but not limited to assistance payments, food stamps, social services, child welfare services, rehabilitation, and programs for the aging, in matters of mutual concern in conformity with this title and in the administration of any federal funds granted to the state to aid in the furtherance of any functions of the state department;

(i) Administer such additional public assistance and welfare activities and functions as may be vested in it pursuant to law;

(j) and (k) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(l) Repealed.

(m) (Deleted by amendment, L. 97, p. 1220, § 4, effective July 1, 1997.)

(n) and (o) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(p) Carry out the duties prescribed in article 11.7 of title 16, S.A.R.S.;

(q) Promulgate rules in accordance with section 19-3-308 (1), S.A.R.S., for determining the risk of harm to a child who is the subject of a child abuse and neglect report setting forth the appropriate response by the county departments to such risks;

(r) Adopt standards for conducting videotaped child abuse interviews in accordance with section 19-3-308.5 (3), S.A.R.S.;

(s) Promulgate rules in accordance with section 19-3-211, S.A.R.S., for establishing a conflict resolution process for resolving grievances against the county departments concerning responses to reports of child abuse and neglect and the performance of duties pursuant to article 3 of title 19, S.A.R.S. The rules must take into account and allow for any subsequent locally developed grievance procedures that apply to a locally restructured human services system to ensure consistency within the system.

(t) Repealed.

(u) Coordinate prevention and intervention programs, other than programs created in title 26.5, focused on positive youth development in accordance with state law and rules. The coordination must include the state youth development plan developed pursuant to section 26-1-111.3 that identifies key issues affecting youth to align strategic efforts and achieve positive outcomes for youth.

(3) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(4) (a) The state department shall establish a statewide adoption resource registry which shall serve authorized or licensed child placement agencies, including, but not limited to, any

agency, official, or court of the state or any of its political subdivisions authorized to place children and any other organizations or individuals whose purpose is to seek or assist in the adoptive placement of children who are listed or who may be listed in the adoption resource registry. As a means of recruiting adoptive families for children who have been legally freed for adoption by the termination of all parent-child legal relationships, including residual parental rights and responsibilities, and who are waiting for adoption in this state, such agencies and other organizations and individuals whose purpose is to seek or assist in the adoption of waiting children shall utilize any appropriate means to publicize the availability of such children. The statewide adoption resource registry shall include the age, sex, race or ethnic background of each child, a photograph of the child, and the child's social and medical history, psychological and emotional status, and known physical and mental impairments. It may also include any special services a child may need and physical descriptions, educational backgrounds, and known medical and emotional conditions of the child's parents and other relatives which may have developmental significance to the child. The statewide adoption resource registry shall be updated monthly.

(b) (Deleted by amendment, L. 93, p. 1111, § 24, effective July 1, 1994.)

(c) Unless otherwise exempted pursuant to rules adopted by the state board, each authorized or licensed child placement agency shall refer to the statewide adoption resource registry within ninety days of the termination of the parent-child legal relationship the name and a photograph and description of each child in its care, as required by regulations of the state board, who has been legally freed for adoption by the termination of the parent-child legal relationship and for whom no adoptive home has been found. The state board, in accordance with section 26-1-107 (6)(f), shall establish criteria by which an authorized or licensed child placement agency may determine that a child need not be listed with the registry. Such a child's name shall be forwarded to the state department by the authorized or licensed child placement agency, with reference to the specific reason for which the child was not placed with the registry. The state board shall establish procedures for periodic review of the status of such children in accordance with section 26-1-107 (6)(f). If the state department, in accordance with the criteria established by the state board, determines that adoption would be appropriate for a child not placed with the registry, the agency shall forthwith list the child. Each authorized or licensed child placement agency may voluntarily refer any child who has been legally freed for adoption.

(d) Expenditures by a county department for the care and maintenance of a child who has not been referred to the statewide adoption resource registry in accordance with the requirements of this section shall not be subject to state reimbursement.

(5) to (7) Repealed.

Source: L. 73: R&RE, p. 1166, § 1. **S.A.R.S. 1963:** § 119-1-10. **L. 76:** (2)(j) added, p. 665, § 1, effective May 7. **L. 77:** (2)(f) amended and (2)(k) added, p. 1005, § 5, effective May 16; (2)(j) R&RE, p. 1325, § 1, effective July 1; (4) added, p. 1327, § 1, effective July 1. **L. 79:** (4)(a) amended, p. 1090, § 1, effective May 25; (1), (2)(a), (2)(d), and (2)(h) amended, p. 1081, § 3, effective July 1. **L. 83:** (2)(l) added, p. 1238, § 2, effective July 1; (4)(c) amended, p. 2050, § 18, effective October 14. **L. 85:** (4)(a) amended, p. 935, § 1, effective April 24; (2)(l)(II) amended, p. 1063, § 2, effective May 22; (2)(j) amended, p. 1015, § 43, effective July 1. **L. 87:** (2)(k) amended, p. 821, § 38, effective October 1. **L. 89:** (2)(l) amended, p. 1188, § 1, effective March 15. **L. 89, 1st Ex. Sess.:** (2)(m) added, p. 38, § 2, effective July 25. **L. 91:** (2)(d)

amended, p. 1769, § 2, effective April 20; (2)(l) repealed and (2)(n) added, pp. 1860, 936, §§ 1, 5, effective July 1. **L. 91, 2nd Ex. Sess.:** (2)(o) added, p. 80, § 1, effective October 16. **L. 92:** (2)(p) added, p. 462, § 8, effective June 2; (2)(j) amended, p. 1156, § 9, effective July 1. **L. 93:** (2)(o)(II) repealed, p. 332, § 1, effective April 12; (2)(q) and (2)(r) added, p. 1170, § 3, effective June 3; (2)(d)(II)(C) amended, p. 1683, § 1, effective June 6; (1), IP(2), (2)(c), (2)(d)(I), (2)(h), (2)(j), (2)(k), (2)(n), (2)(o), (3), (4)(b), and (4)(c) amended and (5) and (6) added, p. 1111, § 24, effective July 1, 1994. **L. 94:** (2)(s) added, p. 2084, § 2, effective June 3. **L. 96:** (2)(f) amended, p. 1474, § 28, effective June 1. **L. 97:** (2)(a) and (2)(m) amended, p. 1220, § 4, effective July 1. **L. 2001:** (2)(d)(III) added, p. 741, § 7, effective June 1; (7) added, p. 703, § 1, effective August 8. **L. 2003:** (2)(a) amended, p. 2585, § 7, effective July 1. **L. 2004:** (2)(d) amended, p. 955, § 1, effective May 21. **L. 2006:** (6) repealed, p. 1987, § 12, effective July 1. **L. 2007:** (2)(d)(II)(D) repealed, p. 757, § 8, effective May 10; (2)(d)(II)(E) added, p. 1020, § 11, effective May 22. **L. 2009:** (2)(d)(II)(C.5) added, (SB 09-264), ch. 204, p. 929, § 7, effective May 1. **L. 2011:** (5) amended, (HB 11-1303), ch. 264, p. 1169, § 70, effective August 10; (2)(a) amended, (SB 11-210), ch. 187, p. 722, § 9, effective July 15, 2012. **L. 2012:** (5) amended, (HB 12-1311), ch. 281, p. 1629, § 77, effective July 1. **L. 2013:** (2)(s) amended and (2)(u) added, (HB 13-1239), ch. 307, p. 1630, § 5, effective July 1; (2)(t) added, (HB 13-1117), ch. 169, p. 558, § 2, effective July 1. **L. 2016:** (2)(r) amended, (SB 16-189), ch. 210, p. 774, § 69, effective June 6. **L. 2017:** (5) amended, (SB 17-242), ch. 263, p. 1331, § 213, effective May 25. **L. 2022:** (2)(d)(II)(C), (2)(f), and (2)(u) amended and (2)(t) repealed, (HB 22-1295), ch. 123, p. 850, § 82, effective July 1; (5) repealed, (HB 22-1278), ch. 222, p. 1518, § 81, effective July 1; (2)(u) amended, (SB 22-212), ch. 421, p. 2981, § 66, effective August 10.

Editor's note: (1) Subsection (2)(p) was enacted as subsection (2)(o) by House Bill 92-1021, Session Laws of San Andreas 1992, chapter 86, section 8, but has been renumbered on revision for ease of location.

(2) Subsection (7)(e) provided for the repeal of subsection (7), effective March 16, 2002. (See L. 2001, p. 703.)

(3) Subsection (2)(d)(II)(C.5) provided for its repeal, effective July 1, 2011. (L. 2009, p. 929.)

(4) Amendments to subsection (2)(u) by HB 22-1295 and SB 22-212 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1993 act amending subsection (1), the introductory portion to subsection (2), and subsections (2)(c), (2)(d)(I), (2)(h), (2)(j), (2)(k), (2)(n), (2)(o), (3), (4)(b), and (4)(c) and enacting subsections (5) and (6), see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration in the 2013 act amending subsection (2)(s) and adding subsection (2)(u), see section 1 of chapter 307, Session Laws of San Andreas 2013. For the legislative declaration in the 2013 act adding subsection (2)(t), see section 1 of chapter 169, Session Laws of San Andreas 2013. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(2) For the duty of the department of human services with respect to the San Andreas customized training program, see § 23-60-306.

26-1-111.3. Activities of the state department under the supervision of the executive director - San Andreas state youth development plan - creation - definitions. (1) (a) Subject to available funding, the state department, in collaboration with the Tony Grampsas youth services board, created in section 26-6.8-103, shall convene a group of interested parties to create a San Andreas state youth development plan. The goals of the plan are to identify key issues affecting youth and align strategic efforts to achieve positive outcomes for all youth.

(b) The plan must:

(I) Identify initiatives and strategies, organizations, and gaps in coverage that impact youth development outcomes;

(II) Identify services, funding, and partnerships necessary to ensure that youth have the means and the social and emotional skills to successfully transition into adulthood;

(III) Determine what is necessary in terms of community involvement and development to ensure youth succeed;

(IV) Develop an outline of youth service organizations based on, but not limited to, demographics, current services and capacity, and community involvement;

(V) Identify successful youth development strategies nationally and in San Andreas that could be replicated by community partners and entities across the state; and

(VI) Create a shared vision for how a strong youth development network would be shaped and measured.

(c) The plan must include a baseline measurement of youth activities, developed using available data and resources. Data and resources may be collected from, but need not be limited to, the following:

(I) An existing youth risk behavior surveillance system that monitors health-risk behaviors that contribute to the leading causes of death and disability among youth, including:

(A) Behaviors that contribute to unintentional injuries and violence;

(B) Sexual behaviors that contribute to unintended pregnancy and sexually transmitted infections, including HIV;

(C) Alcohol and other drug use;

(D) Tobacco use;

(E) Unhealthy dietary behaviors; and

(F) Inadequate physical activity;

(II) The San Andreas youth advisory council, created in section 2-2-1302, S.A.R.S.;

(III) The state department of education;

(IV) The state department of higher education, to assess workforce readiness and student achievement as youth transition through the secondary and postsecondary education systems;

(V) The state department of public health and environment;

(VI) The state department of health care policy and financing;

(VII) The state department of human services;

(VIII) The state department of labor and employment;

(IX) The state department of public safety; and

(X) The state judicial department.

(2) The state department shall be responsible for any costs associated with the development of the plan and is not required to implement this section until adequate funding is secured.

(3) The state department, in collaboration with the Tony Grampsas youth services board, created in section 26-6.8-103, shall complete the plan on or before September 30, 2014, and shall update the plan biennally thereafter.

(4) Beginning in January 2015, and every January thereafter, the department shall report progress on the development and implementation of the plan as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203, S.A.R.S.

(5) As used in this section, unless the context otherwise requires:

(a) "Entity" means any local government, state public or nonsectarian secondary school, charter school, group of public or nonsectarian secondary schools, school district or group of school districts, board of cooperative services, state institution of higher education, the San Andreas National Guard, state agency, state-operated program, private nonprofit organization, or nonprofit community-based organization.

(b) "Plan" means the San Andreas state youth development plan created pursuant to this section.

(c) "Youth" means an individual at least nine years of age and no more than twenty-one years of age.

(d) "Youth service organization" means an entity that is community-based and:

(I) Promotes innovative and evidence-based strategies for positive youth development and for reducing the occurrence and reoccurrence of child abuse and neglect;

(II) Promotes innovative primary prevention and intervention services to youth and their families in an effort to decrease high-risk behavior, including but not limited to youth crime and violence; or

(III) Promotes innovative strategies to at-risk students and their families in an effort to reduce the dropout rate in secondary schools.

Source: L. 2013: Entire section added, (HB 13-1239), ch. 307, p. 1627, § 2, effective July 1.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 307, Session Laws of San Andreas 2013.

26-1-112. Locating violators - recoveries. (1) The executive director of the department of human services or district attorneys may request and shall receive from departments, boards, bureaus, or other agencies of the state or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the state department of human services and county departments properly to carry out their powers and duties to locate and prosecute any person who has fraudulently obtained public assistance under this title. Any records established pursuant to the provisions of this section shall be available only to the state department of human services, the county departments, the attorney general, and the district attorneys, county attorneys, and courts having jurisdiction in fraud or recovery proceedings or actions.

(2) (a) All departments and agencies of the state and local governments shall cooperate in the location and prosecution of any person who has fraudulently obtained public assistance under this title, and, on request of the county board, the county director, the state department of

human services, or the district attorney of any judicial district in this state, shall supply all information on hand relative to the location, employment, income, and property of such persons, notwithstanding any other provision of law making such information confidential, except the laws pertaining to confidentiality of any tax returns filed pursuant to law with the department of revenue. The department of revenue shall furnish at no cost to inquiring departments and agencies such information as may be necessary to effectuate the purposes of this article. The procedures whereby this information will be requested and provided shall be established by rule of the state department. The state department or county departments shall use such information only for the purposes of administering public assistance under this title, and the district attorney shall use it only for the prosecution of persons who have fraudulently obtained public assistance under this title, and he shall not use the information, or disclose it, for any other purpose.

(b) (I) Whenever the state department of human services or a district attorney, for the state department, or the state department on behalf of a county department recovers any amount of fraudulently obtained public assistance funds, the federal government shall be entitled to a share proportionate to the amount of federal funds paid unless a different amount is otherwise provided by federal law, the state shall be entitled to a share proportionate to the amount of state funds paid and such additional amounts of federal funds recovered as provided by federal law, and the county department shall be entitled to a share proportionate to the amount of county funds paid unless a different amount is provided pursuant to federal law or this section.

(II) Whenever a county department, a county board, a district attorney, or a state department on behalf of a county department recovers any amount of fraudulently obtained public assistance funds in the form of assistance payments, it shall be deposited in the county general fund and the federal government shall be entitled to a share proportionate to the amount of federal funds paid unless a different amount is provided for by federal law, the state shall be entitled to a share proportionate to one-half the amount of state funds paid, and the county shall be entitled to a share proportionate to the amount of county funds paid and, in addition, a share proportionate to one-half the amount of state funds paid. In the case of funds recovered from fraudulently obtained food stamp coupons by the county department, the county board, the district attorney, or the state department on behalf of a county department, the county shall be entitled to the share of the recovered funds provided by the federal "Food Stamp Act".

(3) (a) Whenever the county department, the county board, the district attorney, or the state department on behalf of a county department pursuant to Public Law 96-58 recovers funds from food stamp coupons which were obtained through unintentional client error, the county shall be entitled to the share of the recovered funds provided by the federal "Food Stamp Act".

(b) Whenever a county department, a county board, a district attorney, or the state department on behalf of the county recovers any amount of public assistance payments funds that were obtained through unintentional client error, the federal government shall be entitled to a share proportionate to the amount of federal funds paid, unless a different amount is provided for by federal law, the state shall be entitled to a share proportionate to seventy-five percent of the amount of state funds paid, the county shall be entitled, except for the San Andreas works program, to a share proportionate to the amount of county funds paid, if any, and, in addition, a share proportionate to twenty-five percent of the amount of state funds paid. In the San Andreas works program, the county shall be entitled to a share proportionate to the amount of county funds paid and, in addition, a share proportionate to one-half the amount of state funds paid.

(4) Actual costs and expenses incurred by the district attorney's office in carrying out the provisions of subsections (2) and (3) of this section shall be billed to counties or a county within the judicial district in the proportions specified in section 20-1-302, S.A.R.S. Each county shall make an annual accounting to the state department on all amounts recovered.

Source: L. 73: R&RE, p. 1167, § 1. **S.A.R.S. 1963:** § 119-1-11. **L. 77:** (1) R&RE and (3)(c) amended, p. 1329, §§ 1, 2, effective July 1; (3)(a) and (3)(c) amended, p. 1331, § 1, effective January 1, 1978. **L. 79:** Entire section R&RE, p. 639, § 4, effective June 7. **L. 81:** (2)(b) R&RE, p. 1367, § 1, effective July 1. **L. 85:** (2)(b)(II) amended, p. 937, § 1, effective May 16. **L. 89:** (1) and (2) amended and (3) and (4) added, p. 1193, § 2, effective June 7. **L. 91:** (2)(b)(II) and (3)(a) amended, p. 1860, § 2, effective July 1. **L. 93:** (1), (2), and (3)(b) amended, p. 1142, § 81, effective July 1, 1994. **L. 97:** (3)(b) amended, p. 1221, § 5, effective July 1. **L. 2006:** (1), (2), and (3)(b) amended, p. 1988, § 13, effective July 1.

Cross references: (1) For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

(2) For the federal "Food Stamp Act", now known as the "Food and Nutrition Act of 2008", see 7 U.S.C. sec. 2011 et seq. (Section 4001 of the "Food, Conservation, and Energy Act of 2008", Pub.L. 110-234, changed the name of the federal "Food Stamp Act of 1977" to the "Food and Nutrition Act of 2008" and changed the name of the federal food stamp program to the "supplemental nutrition assistance program".)

26-1-112.5. Birth-related cost recovery program - cooperation with the department of health care policy and financing - duties of state department - repeal. (Repealed)

Source: L. 95: Entire section added, p. 1398, § 4, effective July 1.

Editor's note: Subsection (3) provided for the repeal of this section, effective June 30, 1999. (See L. 95, p. 1398.)

26-1-113. Enforcement of support - RURESA. (Repealed)

Source: L. 73: R&RE, p. 1168, § 1. **S.A.R.S. 1963:** § 119-1-12. **L. 77:** (1)(b) amended, p. 1330, § 3, effective July 1. **L. 79:** Entire section repealed, p. 643, § 6, effective June 7.

26-1-114. Records confidential - authorization to obtain records of assets - release of location information to law enforcement agencies - outstanding felony arrest warrants. (1) The state department of human services may establish reasonable rules to provide safeguards restricting the use or disclosure of information concerning applicants, recipients, and former and potential recipients of federally aided public assistance and welfare, including but not limited to assistance payments, food stamps, social services, and child welfare services, to purposes directly connected with the administration of such public assistance and welfare and related state department activities and covering the custody, use, and preservation of the records, papers, files, and communications of the state and county departments. Whenever, under provisions of law, names and addresses of applicants for, recipients of, or former and potential recipients of

public assistance and welfare are furnished to or held by another agency, department of government, or an auditor conducting a financial or performance audit of a county department of human or social services pursuant to section 26-1-114.5, the agency, department, or auditor is required to prevent the publication of lists and their uses for purposes not directly connected with the administration of public assistance and welfare.

(2) Repealed.

(3) (a) (I) Except as provided in subparagraphs (II) and (III) of this paragraph (a), or except as disclosure is otherwise required by statute or by rule of civil procedure for child support establishment or enforcement purposes, it is unlawful for any person to solicit, disclose, or make use of or to authorize, knowingly permit, participate in, or acquiesce in the use of any lists or names of or any information concerning persons applying for or receiving public assistance and welfare directly or indirectly derived from the records, papers, files, or communications of the state or county departments or subdivisions or agencies thereof or acquired in the course of the performance of official duties. No financial institution or insurance company that provides the data, whether confidential or not, required by the state department, in accordance with the provisions of this subsection (3), shall be liable for the provision of the data to the state department nor for any use made thereof by the state department.

(II) The information described in subparagraph (I) of this paragraph (a) may be disclosed for purposes directly connected with the administration of public assistance and welfare and in accordance with this paragraph (a) and paragraphs (b) and (c) of this subsection (3) and with the rules and regulations of the state department.

(III) (A) Notwithstanding any provision of state law to the contrary and to the extent allowable under federal law, at the request of the San Andreas bureau of investigation, the state department shall provide the bureau with information concerning the location of any person whose name appears in the department's records who is the subject of an outstanding felony arrest warrant. Upon receipt of such information, it shall be the responsibility of the bureau to provide appropriate law enforcement agencies with location information obtained from the state department. Location information provided pursuant to this section shall be used solely for law enforcement purposes. The state department and the bureau shall determine and employ the most cost-effective method for obtaining and providing location information pursuant to this section. Neither the state department nor its employees or agents shall be liable in civil action for providing information in accordance with the provisions of this sub-subparagraph (A).

(B) As used in sub-subparagraph (A) of this subparagraph (III), "law enforcement agency" means any agency of the state or its political subdivisions that is responsible for enforcing the laws of this state. "Law enforcement agency" includes but is not limited to any police department, sheriff's department, district attorney's office, the office of the state attorney general, and the San Andreas bureau of investigation.

(b) By signing an application or redetermination of eligibility form for assistance or welfare, an applicant authorizes the state department to obtain records pertaining to information provided in that application or redetermination of eligibility form from a financial institution, as defined in section 15-15-201 (4), S.A.R.S., or from any insurance company. The application or redetermination of eligibility form shall contain language clearly indicating that signing constitutes such an authorization.

(c) (I) In order to determine if applicants for or recipients of public assistance have assets within eligibility limits, the state department of human services may provide a list of

information identifying these applicants or recipients to any financial institution, as defined in section 15-15-201 (4), S.A.R.S., or to any insurance company. This information may include identification numbers or social security numbers. The state department of human services may require any such financial institution or insurance company to provide a written statement disclosing any assets held on behalf of individuals adequately identified on the list provided. Before a termination notice is sent to the recipient, the county department in verifying the accuracy of the information obtained as a result of the match shall contact the recipient and inform him or her of the apparent results of the computer match and give the recipient the opportunity to explain or correct any erroneous information secured by the match. The requirement to run a computerized match shall apply only to information that is entered in the financial institution's or insurance company's data processing system on the date the match is run and shall not be deemed to require any such institution or company to change its data or make new entries for the purpose of comparing identifying information. The cost of providing such computerized match shall be borne by the appropriate state department. The state department of human services shall not use the provisions of this subparagraph (I) for the information-gathering purposes of the financial institution data match system required by section 26-13-128.

(II) For the fiscal year beginning July 1, 1984, and thereafter, all funds expended by the state department to pay the cost of providing such computerized matches shall be subject to an annual appropriation by the general assembly.

(III) The state department of human services may expend funds appropriated pursuant to subparagraph (II) of this paragraph (c) in an amount not to exceed the amount of annualized general fund savings that result from the termination of recipients from public assistance specifically due to disclosure of assets pursuant to this subsection (3).

(IV) The state department of human services shall make quarterly reports concerning the value of computerized matches pursuant to this paragraph (c) to the general assembly and the joint budget committee. Such reports shall include, but need not be limited to, the number of individuals against whom computer matches were run, the number of resulting matches, and the resulting public assistance case load reduction and corresponding savings to the state department.

(d) No applicant shall be denied nor any recipient discontinued due to the disclosure of their assets unless and until the county department has assured that such assets taken together with other assets exceed the limit for eligibility of countable assets. Any information concerning assets found may be used to determine if such applicant's or recipient's eligibility for other public assistance is affected.

(4) The applicant for or recipient of public assistance and welfare, or his representative, shall have an opportunity to examine all applications and pertinent records concerning said applicant or recipient which constitute a basis for denial, modification, or termination of such public assistance and welfare or to examine such records in case of a fair hearing.

(5) Any person who violates subsection (1) or (3) of this section commits a petty offense.

Source: L. 73: R&RE, p. 1169, § 1. **S.A.R.S. 1963:** § 119-1-13. **L. 75:** (2) amended, p. 888, § 1, effective July 28. **L. 77:** (2) repealed, p. 1337, § 1, effective May 27. **L. 79:** (1), (3), and (4) amended, p. 1082, § 4, effective July 1. **L. 83:** (3) amended, p. 1114, § 1, effective June 15. **L. 90:** (3)(b) and (3)(c)(I) amended, p. 921, § 7, effective July 1. **L. 93:** (1), (3)(c)(I),

(3)(c)(III), and (3)(c)(IV) amended, p. 1144, § 82, effective July 1, 1994. **L. 95:** (3)(a) amended, p. 1124, § 4, effective July 1. **L. 98:** (3)(c)(I) amended, p. 767, § 19, effective July 1. **L. 2001:** (3)(a)(I) amended, p. 722, § 5, effective May 31. **L. 2006:** (1), (3)(c), and (3)(d) amended, p. 1989, § 14, effective July 1. **L. 2015:** (1) amended, (HB 15-1370), ch. 324, p. 1326, § 4, effective June 5. **L. 2021:** (5) amended, (SB 21-271), ch. 462, p. 3242, § 484, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration in HB 15-1370, see section 1 of chapter 324, Session Laws of San Andreas 2015.

26-1-114.5. Records - access by county auditor. (1) (a) Notwithstanding any provision of law to the contrary and subject to paragraph (b) of this subsection (1), a county department of human or social services shall provide to an auditor conducting a financial or performance audit of the county department access to all of the records, reports, papers, files, and communications of the county department, including any personal identifying information of individuals contained in the records, reports, papers, files, and communications necessary to achieve the stated audit objectives.

(b) A county department of human or social services shall not make information available if the release would violate a federal confidentiality or privacy law.

(2) This section applies to an auditor retained by a county or authorized pursuant to a county charter or ordinance.

(3) Information required to be kept confidential or exempt from public disclosure pursuant to any other law or rule of the state department of human services or the department of early childhood or upon subpoena, search warrant, discovery proceedings, or otherwise, including personal identifying information, that is obtained by an auditor pursuant to subsection (1) of this section must not be:

(a) Released, disclosed, or made available for inspection to any person by the auditor, the auditor's staff, or an audit oversight committee; or

(b) Disclosed or contained in an audit report that is released for public inspection.

(4) A person who releases information required to be kept confidential or exempt from public disclosure in violation of subsection (3) of this section is subject to the applicable criminal or civil penalty for the unlawful release of the information.

(5) Nothing in this section shall be construed to supersede the authority of the state auditor pursuant to section 2-3-107 (2)(a), S.A.R.S.

Source: L. 2015: Entire section added, (HB 15-1370), ch. 324, p. 1325, § 2, effective June 5. **L. 2022:** IP(3) amended, (HB 22-1295), ch. 123, p. 852, § 83, effective July 1.

Cross references: For the legislative declaration in HB 15-1370, see section 1 of chapter 324, Session Laws of San Andreas 2015.

26-1-115. County departments - district departments. (1) Except as provided in subsection (2) of this section, there is established in each county of the state a county department of human or social services that consists of a county board of human or social services, a county

director of human or social services, and such additional employees as may be necessary for the efficient performance of public assistance and welfare activities, including but not limited to assistance payments, food stamps, and social services.

(2) With the approval of the state department of human services, two or more counties may jointly establish a district department of human or social services. All duties and responsibilities set forth in this title 26 for county departments of human or social services also apply to district departments of human or social services.

(3) (Deleted by amendment, L. 2006, p. 1990, § 15, effective July 1, 2006.)

Source: L. 73: R&RE, p. 1170, § 1. **S.A.R.S. 1963:** § 119-1-14. **L. 79:** (1) amended, p. 1082, § 5, effective July 1. **L. 91:** (1) amended and (3) added, p. 1895, § 5, effective July 1. **L. 2006:** (1) and (3) amended, p. 1990, § 15, effective July 1. **L. 2018:** (1) and (2) amended, (SB 18-092), ch. 38, p. 446, § 115, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-1-116. County boards - district boards. (1) (a) The county board shall consist of the board of county commissioners in each county; except that "board of county commissioners" as used in this title, in the city and county of Denver, means the department or agency with the responsibility for public assistance and welfare activities and, in the city and county of Broomfield, means the city council or a board or commission appointed by the city and county of Broomfield.

(b) In the case of a district department established pursuant to section 26-1-115 (2), the district board shall consist of not less than three members, and each county in the district shall select one or more of its county commissioners to serve as a member of the district board. The district board shall, in relation to the district department, have all the powers, duties, and responsibilities which the county board has in relation to the county department.

(2) The county board shall elect a chairman who shall preside at meetings and, when authorized by the board, shall sign all necessary documents for the board.

(3) The county board may hold a meeting to address the public assistance and welfare duties, responsibilities, and activities of the county department in conjunction with a meeting of the board of county commissioners, upon full and timely notice given pursuant to the provisions of section 24-6-402. The county board shall act in accordance with rules adopted by the state board when addressing public assistance, and welfare duties, responsibilities, and activities of the county department. The county board shall act in accordance with rules adopted by the executive director of the department of early childhood when addressing child care assistance duties, responsibilities, and activities of the county department.

Source: L. 73: R&RE, p. 1170, § 1. **S.A.R.S. 1963:** § 119-1-15. **L. 79:** (1)(a) and (3) amended, p. 1083, § 6, effective July 1. **L. 2001:** (1)(a) amended, p. 256, § 1, effective November 15. **L. 2004:** (3) amended, p. 371, § 1, effective August 4. **L. 2022:** (3) amended, (HB 22-1295), ch. 123, p. 852, § 84, effective July 1.

26-1-117. County director - district director. (1) It is the duty of the county board to appoint a county director, who is charged with the executive and administrative duties and responsibilities of the county department, subject to the policies and rules of the state department and the department of early childhood, and who serves as secretary to the county board, unless a secretary is otherwise appointed by the board. The board of county commissioners of the county shall establish the salary of the county director. The state department shall reimburse the salary of the county director as provided in section 26-1-120.

(2) In the case of a district department established pursuant to section 26-1-115 (2), the district board shall appoint one district director to serve the entire district. Such district director shall be appointed in the same manner and subject to the same conditions as the county director provided for in subsection (1) of this section. The district director shall, in relation to the district department, have all the powers, duties, and responsibilities which the county director has in relation to the county department.

Source: L. 73: R&RE, p. 1170, § 1. **S.A.R.S. 1963:** § 119-1-16. **L. 81:** (1) amended, p. 1369, § 1, effective June 9. **L. 97:** (1) amended, p. 1189, § 7, effective July 1. **L. 2022:** (1) amended, (HB 22-1295), ch. 123, p. 852, § 85, effective July 1.

26-1-118. Duties of county departments, county directors, and district attorneys. (1) (a) The county departments or other state designated agencies, where applicable, shall serve as agents of the state department and are charged with the administration of public assistance, and welfare and related activities in the respective counties in accordance with the rules of the state department.

(b) The county departments or other state designated agencies, where applicable, shall serve as agents of the department of early childhood and are charged with the administration of child care assistance and related activities in the respective counties in accordance with the rules of the department of early childhood.

(2) The county departments or other state designated agencies, where applicable, shall report to the state department and the department of early childhood at such times and in such manner and form as the state department and the department of early childhood may from time to time direct. The state department and the department of early childhood may require a county department to report information concerning county employees, including but not limited to qualifications, work schedules, pay, duties, evaluations, training, and corrective and disciplinary actions. A county department may provide the information by use of a unique identifier for each employee that provides the information without identifying the name of the employee. However, nothing in this section prevents access by the state department or the department of early childhood to individual employee files, to the extent permitted by state and federal law, for purposes of carrying out the responsibility of the state department for the supervision and administration of programs funded in whole or in part by the state department or for purposes of carrying out the responsibility of the department of early childhood for the supervision and administration of child care assistance. The state department and the department of early childhood shall maintain the confidentiality of such records in a manner consistent with state and federal law.

(2.5) Repealed.

(3) The county department or other state designated agencies, where applicable, in each county shall submit quarterly and annually to the board of county commissioners a budget containing an estimate and supporting data setting forth the amount of money needed to carry out the provisions of this title.

(4) When appointed by a court of competent jurisdiction and consistent with state department rules and regulations, the county director shall perform under the supervision of such court the function of officer or agent of the court in any social services matters which may be before it.

(5) The county department may receive for placement in foster care any child upon agreement of his parent, his guardian, or any other person having legal custody of such child. Such agreements, provided for in this subsection (5), shall be in writing and on forms prescribed by the state department and may contain any proper and legal provisions for proper care of the child and such other provisions as may be considered necessary by the state department.

(6) The county department shall report, to the district attorney monthly, data relating to fraudulent activities covering, as a minimum, the activities specified in paragraphs (a), (b), and (d) of this subsection (6), and the district attorney shall likewise report, monthly to the county department, the data specified in paragraph (c) of this subsection (6), as follows when applicable:

(a) Investigations (including welfare and district attorney cases accepted for fraud investigation during the month);

(b) Welfare action - assistance denials and assistance reductions;

(c) District attorney action:

(I) Criminal complaints requested during the month;

(II) Criminal complaints declined during the month;

(III) Cases dismissed during the month;

(IV) Cases acquitted during the month;

(V) Convictions during the month;

(VI) Confessions of judgments (notes);

(d) Recoveries:

(I) Fines and penalties _____(in dollars);

(II) Restitutions ordered _____(in dollars);

(III) Restitutions collected _____(in dollars).

(7) The counties may prepare and issue to all payees, excluding heads of households in nonpublic assistance food stamp cases, at the time of delivery of any public assistance, a hermetically sealed photo identification card which is manufactured in such a secure manner as to resist duplication or intrusion and containing the full name, a card identification number, and any other data which would insure proper identification. A county department shall refer to the appropriate law enforcement agency for investigation, within ten working days after discovery, any information it may have concerning the improper use of a photo identification card by a person not eligible to possess such card.

(8) Starting in the calendar year 1979, no less than eight hours of fraud prevention training shall be given to all eligibility technicians, caseworkers, resource investigators, homemakers, supervisors, and such other persons within the county department as the county director deems necessary, who have not previously received such training. Such training shall be conducted by a law enforcement agency or its appropriate professional association.

(9) Repealed.

Source: L. 73: R&RE, p. 1171, § 1. **S.A.R.S. 1963:** § 119-1-17. **L. 75:** (5) added, p. 894, § 1, effective July 14. **L. 77:** (6) to (9) added, p. 1332, § 2, effective January 1, 1978. **L. 79:** (8) R&RE, p. 1092, § 1, effective May 22; (9) repealed, p. 1093, § 2, effective June 21. **L. 89, 1st Ex. Sess.:** (2.5) added, p. 38, § 3, effective July 25. **L. 91:** (1), (2), and (3) amended, p. 1896, § 6, effective July 1. **L. 97:** (2.5) repealed, p. 1221, § 6, effective July 1. **L. 2008:** (2) amended, p. 1527, § 3, effective May 28. **L. 2010:** (7) amended, (HB 10-1422), ch. 419, p. 2115, § 153, effective August 11. **L. 2022:** (1) and (2) amended, (HB 22-1295), ch. 123, p. 852, § 86, effective July 1.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 327, Session Laws of San Andreas 2008.

26-1-119. County staff. The county director, with the approval of the county board, shall appoint such staff as may be necessary as determined by the state department rules to administer public assistance and welfare and child welfare activities within his or her county. Such staff shall be appointed and shall serve in accordance with a merit system for the selection, retention, and promotion of county department employees as described in section 26-1-120. The salaries of the members of such staff shall be fixed in accordance with the rules and salary schedules prescribed by the state department; except that, once a county transfers its county employees to a successor merit system as provided in section 26-1-120, the salaries shall be fixed by the county commissioners.

Source: L. 73: R&RE, p. 1171, § 1. **S.A.R.S. 1963:** § 119-1-18. **L. 93:** Entire section amended, p. 1145, § 83, effective July 1, 1994. **L. 97:** Entire section amended, p. 1184, § 4, effective July 1. **L. 2006:** Entire section amended, p. 1991, § 16, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-1-120. Merit system. (1) On January 1, 2001, the merit system for the selection, retention, and promotion of employees of the county departments that has been operated by the state department pursuant to this section is abolished. Beginning on or after July 1, 1997, but no later than January 1, 2001, each county shall provide for a merit system for the selection, retention, and promotion of employees of the county departments that complies with the criteria specified in subsection (8) of this section and with any other federal standards for a merit system of personnel administration for employees, specified as a condition of receipt of federal funds as set forth in subpart F of 5 CFR 900.601, et seq. A county can combine with another county or form a district to provide such a merit system for its employees. The county department shall certify to the state department that the successor merit system of personnel administration used by the county is in conformance with the federal standards. Prior to transferring county employees to a successor merit system, each county shall submit a transition plan to the state department outlining its plan for transferring such employees and for addressing issues that may arise during the transfer, such as salary issues, retention, seniority rights, and appeal processes.

The state department shall examine and approve the transition plan if the state department determines that the transition plan is reasonable and that the merit system meets the federal standards. The county may not implement the transition plan or transfer employees to the successor merit system until the state department has approved the transition plan. The state shall not unreasonably withhold approval. Any transition plan for transferring county employees from the state merit system to a successor merit system shall include protections for employees that allow them to retain any accrued annual or sick leave benefits and that compensate such employees at the same or higher rate of salary. The state department shall provide assistance to counties regarding the transition of county employees from the state merit system to a successor merit system. Nothing in this section shall preclude a county from reorganizing employee staff functions or abolishing positions to achieve greater efficiencies in operations.

(1.5) Any moneys saved as a result of eliminating the state merit system shall be available to counties to implement the transition from the state merit system to a successor merit system.

(2) to (7) Repealed.

(8) The merit system provided by the counties shall meet the following federal criteria:

(a) The recruitment, selection, and advancement of employees shall be on the basis of relative abilities, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) The system shall provide equitable and adequate compensation.

(c) The employees shall be trained as needed to assure high quality of performance.

(d) The system shall provide for retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) The system shall assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or disability and with proper regard for the privacy and constitutional rights of such persons as citizens. This fair treatment principle shall include compliance with all federal equal opportunity and nondiscrimination laws.

(f) The system shall assure that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

(8.5) The merit system provided by the counties must assure fair treatment of applicants and employees in all aspects of personnel administration without regard to race, creed, color, religion, age, disability, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry.

(9) With respect to the merit system provided by the counties, the state board of human services shall promulgate rules on the following:

(a) Minimum standards for qualifications of certain positions that are determined by the state board to necessitate uniform standards;

(b) Establishment of maximum state reimbursement levels for the salaries of county department employees and county directors.

(10) Repealed.

(11) The county director of a county department shall be exempt from the merit system established and maintained by the state department pursuant to this section as it existed prior to

July 1, 1997. Each county shall determine whether to exempt its county director from the successor merit system designed pursuant to this section. Until the county provides for a successor merit system as provided in this section, the state department shall reimburse only eighty percent of the salary established in the compensation plan pursuant to rules of the state department or eighty percent of the actual salary, whichever is less. After the county provides for a successor merit system as provided in this section, the state department shall reimburse only eighty percent of the actual salary; except that such reimbursement shall not exceed the maximum state reimbursement level established by the state board pursuant to subsection (9) of this section.

Source: L. 73: R&RE, p. 1171, § 1. **S.A.R.S. 1963:** § 119-1-19. **L. 75:** (5)(d) amended, p. 895, § 1, effective June 29. **L. 76:** (6) added, p. 587, § 26, effective May 24. **L. 79:** (7) added, p. 1122, § 5, effective June 21. **L. 81:** (5)(d) amended, p. 1369, § 2, effective June 9; (6) repealed, p. 1370, § 3, effective June 9. **L. 83:** (7) amended, p. 964, § 15, effective July 1, 1984. **L. 86:** (5)(d) and (5)(g) amended, p. 985, § 1, effective July 1. **L. 87:** (5)(g) amended, p. 973, § 88, effective March 13. **L. 91:** (1), (5)(a) to (5)(d), (5)(g), and (5)(h) amended and (5)(p) added, p. 1785, § 1, effective April 11. **L. 92:** (7) amended, p. 1043, § 10, effective March 12. **L. 97:** Entire section amended, p. 1184, § 5, effective July 1. **L. 2008:** (8.5) added, p. 1603, § 31, effective May 29. **L. 2009:** (10) repealed, (SB 09-044), ch. 57, p. 204, § 2, effective March 25. **L. 2021:** (8.5) amended, (HB 21-1108), ch. 156, p. 897, § 42, effective September 7.

Editor's note: Subsections (2)(b), (3)(b), (4)(b), (5)(b), and (7)(b) provided for the repeal of subsections (2), (3), (4), (5), and (7), respectively, effective January 1, 2001. (See L. 97, p. 1184.)

Cross references: For the legislative declaration contained in the 2008 act enacting subsection (8.5), see section 1 of chapter 341, Session Laws of San Andreas 2008. For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

26-1-120.3. Merit system transition - progress report - repeal. (Repealed)

Source: L. 97: Entire section added, p. 1189, § 6, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2000. (See L. 97, p. 1189.)

26-1-120.5. Positions exempted from merit system - repeal. (Repealed)

Source: L. 91: Entire section added, p. 1786, § 2, effective April 11. **L. 97:** Entire section amended, p. 1190, § 8, effective July 1.

Editor's note: Subsection (3) provided for the repeal of this section, effective January 1, 2001. (See L. 97, p. 1190.)

26-1-121. Appropriations - food distribution programs. (1) (a) For carrying out the duties and obligations of the state department and county departments pursuant to this title 26 and for matching federal funds or meeting maintenance of effort requirements as may be available for public assistance and welfare activities in the state, including but not limited to assistance payments, food stamps (except the value of food stamp coupons), social services, child welfare services, rehabilitation, programs for the aging and for veterans, and related activities, the general assembly, pursuant to the constitution and laws of the state of San Andreas, shall make adequate appropriations for the payment of the costs, pursuant to the budget prepared by the executive director.

(b) Subject to the provisions of section 26-1-109 (2), if the federal law shall provide federal funds, in cash or in another form such as food stamps, for public assistance and welfare activities, including but not limited to assistance payments, food stamps, social services, and child welfare services, not otherwise provided for in this title, the state department is authorized to make such payments or offer such services in accordance with the requirements accompanying said federal funds within the limits of available state appropriations.

(c) When the executive director determines that adequate appropriations for the payment of the costs described in paragraph (a) of this subsection (1) have not been made and that an overexpenditure of an appropriation will occur based upon the state department's estimates, the state board may take actions consistent with state and federal law to bring the rate of expenditure into line with available funds. The general assembly declares that case load and utilization based on medical necessity are legitimate reasons for supplemental funding.

(2) (a) The general assembly shall appropriate from the general fund for the costs of administering assistance payments, food stamps, social services, and other public assistance and welfare functions of the state department and the state's share of the costs of administering those functions by the county departments amounts sufficient for the proper and efficient performance of the duties imposed upon them by law, including a legal advisor appointed by the attorney general. The general assembly shall make two separate appropriations, one for the administrative costs of the state department and another for the administrative costs of the county departments. Any applicable matching federal funds must be apportioned in accordance with the federal regulations accompanying the funds. Any unobligated and unexpended balances of state funds so appropriated remaining at the end of each fiscal year must be credited to the state general fund.

(b) Beginning with fiscal year 2025-26, before making the appropriation described in subsection (2)(a) of this section, the general assembly shall consider, but is not required to appropriate amounts included in, the results of the public assistance programs funding model described in section 26-1-121.5.

(3) The expenses of training personnel for special skills relating to public assistance and welfare activities, including, but not limited to, assistance payments, food stamps, social services, child welfare services, rehabilitation, and programs for the aging, as the expenses are determined and approved by the state department, may be paid from whatever state and federal funds are available for training purposes.

(4) (a) The state department is authorized to charge an administrative fee for commodities delivered to agencies that receive these commodities through food distribution programs authorized by the United States department of agriculture pursuant to 7 CFR 250.1 et seq., as amended, including the "National School Lunch Program", the "Child and Adult Care Food Program", and the "Summer Food Service Program". The department shall collect the

administrative fee authorized pursuant to this subsection (4) at least once every calendar year, or when an agency's account reaches a balance of one hundred dollars or more, from agencies that receive commodities from such programs.

(b) All administrative fees collected from agencies pursuant to paragraph (a) of this subsection (4) shall be transmitted to the state treasurer, who shall credit the same to the food distribution program service fund, which fund is hereby created and referred to in this paragraph (b) as the "fund". The moneys in the fund shall be continuously appropriated to the state department to defray the cost of administering the food distribution programs specified in paragraph (a) of this subsection (4). Any moneys in the fund not expended for the purpose of administering the food distribution programs specified in paragraph (a) of this subsection (4) may be invested by the state as provided in section 24-36-113, S.A.R.S. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The fund balances shall comply with any applicable federal laws or regulations. At the end of each fiscal year, any unexpended and unencumbered moneys in the fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

Source: L. 73: R&RE, p. 1173, § 1. **S.A.R.S. 1963:** § 119-1-20. **L. 79:** Entire section amended, p. 1083, § 7, effective July 1. **L. 84:** (1)(c) added, p. 792, § 1, effective May 11. **L. 93:** (1)(a), (1)(b), and (3) amended, p. 1145, § 84, effective July 1, 1994. **L. 97:** (1)(a) amended, p. 1221, § 7, effective July 1. **L. 2005:** (4) added, p. 743, § 1, effective June 1. **L. 2006:** (1)(a), (1)(b), and (3) amended, p. 1991, § 17, effective July 1. **L. 2020:** (1)(a), (2), and (3) amended, (HB 20-1422), ch. 116, p. 487, § 3, effective June 22. **L. 2022:** (2) amended, (SB 22-235), ch. 409, p. 2894, § 2, effective June 7; (4)(a) amended, (HB 22-1334), ch. 130, p. 896, § 1, effective August 10. **L. 2024:** (1)(a), (2)(a), and (3) amended, (HB 24-1407), ch. 81, p. 274, § 2, effective July 1.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration in HB 20-1422, see section 1 of chapter 116, Session Laws of San Andreas 2020.

26-1-121.5. Public assistance funding model - workload study - evaluation - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Funding model" means the county administration of public and medical assistance programs funding model to determine the appropriate level of funding for each county required to make eligibility determinations regarding participation in a public assistance program.

(b) "Medical assistance programs" means the following public assistance programs administered by the department of health care policy and financing: The medical assistance program, established in articles 4, 5, and 6 of title 25.5, including long-term care services; the children's basic health plan, established in article 8 of title 25.5; and the old age pension health and medical care program described in section 25.5-2-101.

(c) "Public assistance programs" means the programs of public assistance administered by the state department pursuant to article 2 of this title 26.

(2) Repealed.

(3) (a) On or before January 2, 2024, the state department shall enter into an agreement with an outside entity to develop a county administration of public and medical assistance

programs funding model to determine the amount of money necessary to fund the administration of public and medical assistance programs in each county. The outside entity may be the same entity as the third party that performs the comprehensive assessment described in subsection (2) of this section.

(b) The outside entity shall work with the state department, the department of health care policy and financing, and county departments to determine the appropriate process and data to be used in the development of the funding model.

(c) On or before July 1, 2024, the outside entity shall develop the funding model for fiscal year 2025-26.

(d) On or before November 1, 2024, the state department shall submit the results of the funding model to the joint budget committee, the department of health care policy and financing, and the county departments.

(e) This subsection (3) is repealed, effective June 30, 2026.

(4) (a) On or before July 1, 2025, and on or before July 1 every third year thereafter, the state department shall enter into an agreement with an outside entity to annually update and modify the funding model. The outside entity may be the same entity that developed prior versions of the funding model. The outside entity shall develop each update in consultation with the state department, the department of health care policy and financing, and the county departments.

(b) On or before November 1, 2025, and on or before November 1 of each year thereafter, the state department shall submit the results of the funding model to the joint budget committee, the department of health care policy and financing, and the county departments.

(5) The funding model must include:

(a) The number of eligibility staff, lead workers, supervisors and managers, customer service staff, quality assurance staff, program integrity staff, investigators, claims establishment and collections staff, appeals staff, attorneys, and additional support staff necessary for a county to perform all responsibilities required by state and federal law, and must include a component that considers the various resources, including financial resources, required to effectively hire, train, and retain staff in their respective areas of responsibility associated with public and medical assistance programs;

(b) Demographic data, including poverty statistics, and state and local economic drivers, including staff compensation, at both the county and regional levels, that may influence the overall cost of delivering public and medical assistance programs in each county;

(c) The estimated administrative workload for each county to make public assistance program eligibility determinations, to be funded by the money allocated to counties pursuant to section 26-1-122;

(d) A component that supports business process improvements as described in section 26-1-122.3 (1)(b)(IX) in each county; and

(e) Any modifications to the public and medical assistance program system that have been implemented by the department or the department of health care policy and financing, including those that may have been recommended by the third party pursuant to subsection (2)(b) of this section and provided to the joint budget committee pursuant to subsection (2)(c) of this section.

(6) (a) The joint budget committee shall use the results of the funding model to inform its decisions regarding the amount of the appropriation to the state department for county

administration of public assistance programs and the amount of the appropriation to the department of health care policy and financing for county administration of medical assistance programs.

(b) The state department shall allocate money to counties for public assistance programs in accordance with the results of the funding model. The department of health care policy and financing shall allocate money to counties as permitted by state and federal law for medical assistance programs informed by the results of the funding model. If the appropriation made for a fiscal year to either department is not equal to the amount necessary to fully fund the allocations required by the funding model, the affected department shall adjust the allocation to each county to ensure that the funding made available to all counties does not exceed the annual appropriation.

(7) (a) On or before November 15, 2026, and on or before November 15 of each year thereafter, the state department and the department of health care policy and financing shall submit a joint report regarding the funding model to the joint budget committee. The report must include the following information concerning the previous fiscal year:

(I) The results of the funding model, including the cost per county necessary to meet all state and federal requirements for the comprehensive delivery of public assistance benefits and medical assistance benefits;

(II) The total amount appropriated for public assistance programs to the state department and for medical assistance programs to the department of health care policy and financing, and the difference between each county's actual allocation and the allocation amount identified by the funding model;

(III) The final close-out for the previous fiscal year;

(IV) Any modifications made to the model to improve the accuracy of the data;

(V) A description of any assessment performed of county business processes and workflow and a description of modifications made by a county that have improved or are intended to improve workflow and the timelines of eligibility determinations, client satisfaction, and workforce retention; and

(VI) Any other issues related to funding the delivery of public and medical assistance benefits.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement described in this subsection (7) continues indefinitely.

Source: L. 2022: Entire section added, (SB 22-235), ch. 409, p. 2890, § 1, effective June 7.

Editor's note: Subsection (2)(e) provided for the repeal of subsection (2), effective June 30, 2024. (See L. 2022, p. 2890.)

26-1-122. County appropriations and expenditures - advancements - procedures. (1) (a) Except as provided in subsection (6) of this section and section 26-1-122.5, the board of county commissioners in each county of this state shall annually appropriate as provided by law such funds as shall be necessary to defray the county department's twenty percent share of the overall cost of providing the assistance payments, food stamps (except the value of food stamp coupons), and social services activities delivered in the county, including the costs allocated to

the administration of each, and shall include in the tax levy for such county the sums appropriated for that purpose. Such appropriation shall be based upon the county social services budget prepared by the county department pursuant to section 26-1-124, after taking into account state advancements provided for in this section.

(b) In the case of a district department, each county forming a part of said district shall appropriate the funds necessary to defray its proportionate share of the costs of assistance payments, food stamps (except the value of food stamp coupons), and social services activities of such individual county based on the ratio set out in paragraph (a) of this subsection (1).

(c) Additional funds shall be made available by the board of county commissioners if the county funds so appropriated prove insufficient to defray the county department's twenty percent share of actual costs for assistance payments, food stamps (except the value of food stamp coupons), and social services activities, including the administrative costs of each.

(d) Under no circumstances shall any county expend county funds in an amount to exceed its twenty percent share of actual costs for assistance payments, food stamps (except the value of food stamp coupons), and social services activities, including the administrative costs of each, except as provided in paragraph (i) of subsection (4) of this section.

(2) (a) The county boards, in accordance with the rules of the state department, shall file requests with the state department for advancement of funds for the program costs of assistance payments, food stamps (except the value of food stamp coupons), and social services and for the administrative costs of each. The state department shall determine the requirements of each county for program costs, taking into consideration available funds and all pertinent facts and circumstances, and administrative costs, in accordance with the funding model described in section 26-1-121.5, and shall certify by voucher to the controller the amounts to be paid to each county. The amounts so certified must be paid from the state treasury upon voucher of the state department and warrant of the controller and must be credited by the county treasurer to the county social services fund in accordance with the law and rules of the state department.

(b) For purposes of operating the electronic benefits transfer service as authorized in section 26-2-104 once the service has been fully developed and implemented in any county, the state department shall determine the program costs and administrative costs related to assistance payments and food stamps for each county. Upon implementation of the electronic benefits transfer service in any county, the county share of the program and administrative costs shall either be billed to the county or deducted from appropriate advances to the county or from the county block grant allocation for implementation of the San Andreas works program pursuant to part 7 of article 2 of this title. The cost of administering the electronic benefits transfer service shall not exceed the proportional cost per client that would have been paid by counties to issue benefits through the nonelectronic benefits system for the same fiscal year. Any savings that result from the use of the electronic benefits transfer service shall be shared among the state and local governments in proportion to such entities' contribution to the electronic benefits transfer service.

(3) (a) County departments shall keep such records and accounts in relation to the costs of administering assistance payments, the costs of administering food stamps, and the costs of administering social services as the state department shall prescribe by rules. Except as provided in subsection (6) of this section, all administrative costs shall be allocated, under rules of the state department, to either the performance of assistance payments functions, the performance of food stamp functions, or the performance of social services functions.

(b) Except as provided in subsection (6) of this section and section 26-1-122.5, if the county departments are administered in accordance with the policies and rules of the state department for the administration of county departments, eighty percent of the costs of administering assistance payments, food stamps, and social services in the county departments shall be advanced to the county by the state treasurer from funds appropriated or made available for such purpose, upon authorization of the state department, but in no event shall the state department authorize expenditures greater than the annual appropriation by the general assembly for the state's share of such administrative costs of the county departments. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes.

(c) For purposes of this article, and except as otherwise provided in subsection (6) of this section, under rules of the state department, administrative costs shall include: Salaries of the county director and employees of the county department staff engaged in the performance of assistance payments, food stamps, and social services activities; the county's payments on behalf of such employees for old age and survivors' insurance or pursuant to a county officers' and employees' retirement plan and for any health insurance plan, if approved by the state department; the necessary travel expenses of the county board and the administrative staff of the county department in the performance of their duties; necessary telephone and telegraph; necessary equipment and supplies; necessary payments for postage and printing, including the printing and preparation of county warrants required for the administration of the county department; and such other administrative costs as may be approved by the state department; but advancements for office space, utilities, and fixtures may be made from state funds only if federal matching funds are available.

(4) (a) County departments shall keep such records and accounts in relation to assistance payments program costs and social services program costs as the state department shall prescribe by rules and as may be required in part 7 of article 2 of this title. All program costs shall be allocated, under rules of the state department, to either assistance payments or social services.

(b) Except as provided in paragraph (d) of this subsection (4) and subsection (6) of this section, eighty percent of the amount expended for assistance payments program costs and social services program costs or the amount equal to the state's share of the amount expended as determined pursuant to section 26-1-122.5 shall be advanced to the county by the state treasurer from funds appropriated or made available for such purpose upon authorization of the state department pursuant to the provisions of this title. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes.

(c) For purposes of this article 1 and except as otherwise provided in subsection (6) of this section, under rules of the state department, program costs shall include: Amounts expended for assistance payments and social services (except for items enumerated in subsection (3)(c) of this section) under programs for aid to the needy disabled, aid to the blind, and child welfare services; expenses of treatment to prevent blindness or restore eyesight as defined in section 26-2-121; funeral and final disposition expenses as described in section 26-2-129; and state supplementation under part 2 of article 2 of this title 26.

(d) Whenever any county, by reason of an emergency or other temporary condition, shall be unable to meet its necessary financial obligations for other public assistance purposes, and at the same time meet its requirements for assistance payments and social services under the program for aid to the needy disabled, the state department may in its discretion, upon consideration of the conditions and requirements of this title, reimburse such county in excess of

eighty percent of the amount expended for assistance payments and social services under such program. The state department shall determine the amount of such excess reimbursement and the period of time during which such excess reimbursement shall be made. For such purpose, the state department may use not to exceed five percent of the total amount allocated to it by the state for administrative and program costs for assistance payments and social services under the program for which the excess reimbursement is provided.

(e) When a county department provides or purchases certain specialized social services for public assistance applicants, recipients, or others to accomplish self-support, self-care, or better family life, including day care, homemaker services, foster care, and services to persons with intellectual and developmental disabilities, in accordance with applicable rules, the state may advance funds to the county department at a rate in excess of eighty percent within available appropriations, but not to exceed the amount expended by the county department for such services. The county department contribution for the period from January 1, 1981, through June 30, 1981, is ten percent, and beginning July 1, 1981, is five percent for the aid to the needy disabled home care program, the special needs of the disabled program, aid to the blind home care program, the special needs of the blind program, the adult foster care program, and other programs providing public assistance in the form of social services required by the federal "Social Security Act", as amended, for the purpose of establishing services that promote self-sufficiency for adult clients. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes. The expenses of training personnel to provide these services as determined and approved by the state department shall be paid from whatever state and federal funds are available for such training purposes.

(f) County departments shall provide or contract to provide a central information and referral service for all available services in the county which may prevent or reduce inappropriate institutional care through the use of community-based or home-based care.

(g) The state department is authorized to provide not more than ten additional homemaker positions to be located in Adams, Larimer, Garfield, Otero, and Morgan counties. Reimbursement to each county for one hundred percent homemaker costs shall be based on a minimum case load of ten clients per reimbursed position which clients are currently in or would be admitted to skilled or intermediate care facilities or hospitals and who would not otherwise be served by current county staffing. Reports shall be provided monthly to the joint budget committee.

(h) Notwithstanding any other provision of this article, the county department may spend in excess of twenty percent of actual costs for the purpose of matching federal funds for the administration of the child support enforcement program or for the administrative costs of activities involving food stamp, public assistance, or medical assistance fraud investigations or prosecutions.

(i) Notwithstanding any other provision of this article, the county department may receive and spend federal funds to which it is entitled by reason of the county's expenditures in excess of the twenty percent required by subsection (1) of this section for any social services activity that has been approved by the department as an activity that is eligible for reimbursement under any federal program. Acceptance and expenditure of such federal funds shall in no way affect the state's share of and contribution to such payments, and the county shall be solely responsible for the provision of the nonfederal share that is in excess of the twenty percent.

(j) Repealed.

(k) (I) Notwithstanding any other provision of this article, the county department may receive and spend federal funds to which it is entitled based on the county's certification of public expenditures made by other entities within the county, which expenditures:

(A) Are from sources other than the county social services fund;

(B) Are in excess of the twenty percent required by subsection (1) of this section; and

(C) Are for a social services activity that has been approved by the state department as an activity that is eligible for reimbursement under a federal program.

(II) Acceptance and expenditure of federal funds pursuant to subparagraph (I) of this paragraph (k) shall not affect the state's share of and contribution to the assistance payments program costs and social services program costs. The county shall be solely responsible for certifying the nonfederal share that is in excess of the county's twenty-percent share. The state department may retain up to five percent of any federal funds received by a county department pursuant to this paragraph (k). In addition, the state, in accordance with the provisions of section 26-1-109 (4)(d), shall recover any federal funds received by the county through the certification of public expenditures that are subsequently determined to be ineligible for federal reimbursement.

(5) Except as otherwise provided in subsection (6) of this section, if in any fiscal year the annual appropriation by the general assembly for the state's share, together with any available federal funds for any income maintenance or social services program, or the administration of either, is not sufficient to advance to the counties the full applicable state share of costs, said program or the administration thereof shall be temporarily reduced by the state board so that all available state and federal funds shall continue to constitute eighty percent of the costs.

(6) (a) Notwithstanding any other provision of this section, the board of county commissioners in each county of this state shall annually appropriate as provided by law such funds as are necessary to defray the county's maintenance of effort requirement for the San Andreas works program, created in part 7 of article 2 of this title 26, and the San Andreas child care assistance program, created in part 1 of article 4 of title 26.5, including the costs allocated to the administration of each, and shall include in the tax levy for such county the sums appropriated for that purpose. The county's maintenance of effort requirement for the San Andreas works program for state fiscal year 1997-98 and for state fiscal years thereafter is the targeted spending level identified in section 26-2-714 (6). Such appropriation must be based upon the county social services budget prepared by the county department pursuant to section 26-1-124, after taking into account state advancements provided for in this section.

(b) Additional funds shall be made available by the board of county commissioners if the county funds so appropriated prove insufficient to defray the county department's maintenance of effort requirements for the San Andreas works program and the San Andreas child care assistance program, including the costs allocated to the administration of each.

(c) The state department shall establish rules concerning what constitutes administrative costs and program costs for the San Andreas works program. The executive director of the department of early childhood, in coordination with county departments, shall establish rules concerning what constitutes administrative costs and program costs for the San Andreas child care assistance program. The state treasurer shall make advancements to county departments for the costs of administering the San Andreas works program and the San Andreas child care assistance program from funds appropriated or made available for such purpose, upon authorization of the

department of early childhood or the state department, as applicable; except that in no event shall the department of early childhood or the state department authorize expenditures greater than the annual appropriation by the general assembly for such administrative costs of the county departments. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes.

Source: L. 73: R&RE, p. 1173, § 1. **S.A.R.S. 1963:** § 119-1-21. **L. 75:** (4)(c) amended, p. 888, § 2, effective July 28. **L. 76:** (4)(f) and (4)(g) added, p. 667, § 1, effective May 10. **L. 77:** (1)(a), (1)(b), (2), (3)(b), (3)(c), (4)(b), (4)(e), and (5) amended and (1)(c), (1)(d), and (4)(h) added, p. 1322, § 2, effective July 1. **L. 79:** (1) to (3) amended, p. 1084, § 8, effective July 1. **L. 80:** (4)(e) amended, p. 642, § 2, effective July 1. **L. 85:** (4)(h) amended, p. 938, § 2, effective May 16. **L. 87:** (1)(d) amended and (4)(i) added, p. 1155, § 2, effective June 16. **L. 93:** (1)(a), (3)(b), and (4)(b) amended, p. 1116, § 26, effective July 1; (4)(e) amended, p. 1146, § 85, effective July 1, 1994. **L. 94:** (4)(i) amended, p. 636, § 1, effective April 14. **L. 95:** (2) amended, p. 592, § 2, effective May 22. **L. 97:** Entire section amended, p. 1222, § 8, effective July 1. **L. 98:** (6)(a) amended, p. 1197, § 4, effective June 1. **L. 2000:** (6)(a) amended, p. 283, § 7, effective March 31. **L. 2008:** (4)(j) added, p. 1518, § 2, effective May 28. **L. 2009:** (4)(j) amended, (SB 09-267), ch. 206, p. 939, § 1, effective May 1. **L. 2011:** (4)(k) added, (HB 11-1196), ch. 160, p. 554, § 5, effective August 10. **L. 2017:** (4)(e) amended, (HB 17-1046), ch. 50, p. 159, § 14, effective March 16. **L. 2021:** (4)(c) amended, (SB 21-006), ch. 123, p. 497, § 26, effective September 7. **L. 2022:** (2)(a) amended, (SB 22-235), ch. 409, p. 2894, § 3, effective June 7; (6)(a) and (6)(c) amended, (HB 22-1295), ch. 123, p. 853, § 87, effective July 1.

Editor's note: Subsection (4)(j)(II) provided for the repeal of subsection (4)(j), effective January 1, 2010. (See L. 2009, p. 939.)

Cross references: (1) For the legislative declaration contained in the 1993 act amending subsections (1)(a), (3)(b), and (4)(b), see section 1 of chapter 230, Session Laws of San Andreas 1993; for the legislative declaration contained in the 1995 act amending this section, see section 1 of chapter 161, Session Laws of San Andreas 1995.

(2) For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the San Andreas constitution.

26-1-122.3. Public assistance programs - county administration - data collection and analysis - vendor contract. (1) (a) The state department shall contract with an external vendor to collect and analyze data relating to county department costs and performance associated with administering public assistance programs, including:

(I) The supplemental nutrition assistance program, established in part 3 of article 2 of this title;

(II) The medical assistance program, established in articles 4, 5, and 6 of title 25.5, S.A.R.
S.;

(III) The children's basic health plan, established in article 8 of title 25.5, S.A.R.S.;

(IV) The San Andreas works program, established in part 7 of article 2 of this title;

(V) The program for aid to the needy disabled, pursuant to article 2 of this title;

(VI) The old age pension program, pursuant to part 1 of article 2 of this title; and

(VII) Long-term care services, pursuant to article 6 of title 25.5, S.A.R.S.

(b) The contracted vendor's data collection and data analysis shall provide the general assembly, executive agencies, county departments, and public assistance program stakeholders with the following information that may be used to make targeted program improvements:

(I) The status of each county department in meeting performance measures for administering public assistance programs;

(II) An inventory of relevant county department activities, including, among others, application initiation, interactive interviews, and case reviews, and the purpose of the activities, which may include compliance with federal or state law;

(III) An assessment of administrative work not yet completed by each county department and the cause of any delay in completing the work;

(IV) The amount of time spent by each county department on each activity;

(V) The cost incurred by each county department, including staff and operating costs, relating to each activity and each client;

(VI) Any variances among county departments with respect to the cost incurred, time associated with each activity, and return on investment, and the source of those variances;

(VII) The relationship, if any, between the time and cost associated with each activity and the county department's performance with respect to the performance standards for the public assistance program;

(VIII) The level of total county department funding needed to meet the county department's required workload relating to the administration of public assistance programs for which data is collected and analyzed pursuant to this section. This information must include the total county department funding needed for current business processes and the total county department funding needed if all county departments implement best practices and business reengineering concepts adopted by peer counties found to operate in the most cost-effective manner while meeting performance measures.

(IX) Business process improvements that contribute to a county department's decreased time or costs associated with each activity and to a county department's ability to meet or exceed the performance standards for the public assistance program, including improvements associated with previous state-funded business process reengineering initiatives; and

(X) Options for a cost allocation model for the distribution of state funding to county departments for administering public assistance programs identified in paragraph (a) of this subsection (1).

(2) In order to ensure that the data collection and analysis contracted for pursuant to subsection (1) of this section yields information that is beneficial for its intended uses, prior to contracting with an external vendor for data collection and analysis, the state department shall contract with an external consultant to work with program administrators, fiscal agents, and program stakeholders to identify the scope of the data collection and analysis to be performed pursuant to this section.

(3) In collaboration with the county departments, the state department shall design a continuous quality improvement program that, at a minimum, solicits feedback from the employees of the county departments to identify incremental and breakthrough continuous improvements that should be implemented to improve the products, services, and processes

associated with the administration of public assistance programs. The state department shall provide a description of the program to the joint budget committee by February 1, 2017.

Source: L. 2016: Entire section added, (SB 16-190), ch. 201, p. 710, § 2, effective June 1.

26-1-122.5. County appropriation increases - limitations - definitions. (1) Beginning in calendar fiscal year 1994 and for each calendar fiscal year thereafter to and including calendar fiscal year 1997, the board of county commissioners in each county of this state shall annually appropriate funds for the county share of the administrative costs and program costs of public assistance and food stamps in the county in an amount equal to the actual county share for the previous fiscal year adjusted by an amount equal to the actual county share for the previous fiscal year multiplied by the percentage of change in property tax revenue.

(2) For the purposes of this section:

(a) "County share" means the actual amount of the county share for the previous fiscal year. "County share" shall not include:

(I) The amount expended by the county from the county contingency fund or the county tax base relief fund pursuant to section 26-1-126;

(II) The amount expended by the county for general assistance pursuant to part 1 of article 17 of title 30, S.A.R.S.; and

(III) The amount expended by the county for programs or services provided by the county on its own, without requirements or funding from any other governmental agency.

(b) "Percentage of change in property tax revenue" means the difference between the total property tax levied for the previous fiscal year less the amount levied for debt service for the previous fiscal year and the total property tax levied for the year for which the percentage of change in tax revenue is being calculated less the amount levied for debt service for the year in which the percentage of change in tax revenue is being calculated divided by the total property tax levied for the previous fiscal year less the amount levied for debt service for the previous fiscal year.

(3) Notwithstanding the provisions of section 26-1-122, no county in the state shall be required to contribute more than the amount set forth in subsection (1) of this section in any fiscal year. Nothing in this section shall be construed to limit the ability of a county to establish programs or services provided by the county on its own, without requirements or funding from any other governmental agency.

(4) (Deleted by amendment, L. 2008, p. 1813, § 4, effective June 2, 2008.)

(5) Any amounts remaining in the county social services fund created in section 26-1-123 at the end of any fiscal year shall remain in the county fund for expenditure as determined by the board of county commissioners for administrative costs and program costs of public assistance, medical assistance, and food stamps.

(6) The limitation set forth in this section on the increase in the county share of the administrative costs and program costs of public assistance and food stamps will result in increased costs to the state. By making state funds available, the state is encouraging counties not to exercise any right a county may have pursuant to section 20 (9) of article X of the San Andreas constitution to reduce or end its share of the costs of public assistance and food stamps for the county for three fiscal years following the fiscal year in which the state funds are

received. If a county accepts funds from the state based on the limitation provided in this section for any fiscal year, the county agrees not to exercise any rights the county may have to reduce or end its share of the costs of public assistance and food stamps for the fiscal year in which the funds are accepted. Nothing in this subsection (6) or any agreement pursuant to this subsection (6) shall be construed to affect the existence or status of any rights accruing to the state or any county pursuant to section 20 (9) of article X of the San Andreas constitution.

(7) In the event that there are any funds remaining in the department of human services budget which were appropriated for fiscal year 1994-95 to cover the additional state share of expenses required as a result of the limitation established in this section, the executive director of the department of human services shall distribute such remaining funds to counties whose assessed valuation declined between calendar year 1992 and 1993 if such county provides evidence to the department in 1994 that the county has a shortfall. Distributions to counties pursuant to this subsection (7) shall be made on a pro rata basis and shall not exceed the amount of the county's shortfall. For purposes of this section, "shortfall" means the amount by which a county's 1992 county share exceeds the property tax revenue collected by the county through its 1992 social services mill levy levied on the county's 1992 assessed valuation.

Source: L. 93: Entire section added, p. 1117, § 27, effective July 1. **L. 94:** (7) added, p. 2612, § 15, effective July 1. **L. 2006:** (1) and (6) amended, p. 1992, § 18, effective July 1. **L. 2008:** (2)(a)(I) and (4) amended, p. 1813, § 4, effective June 2.

Cross references: (1) For the legislative declaration contained in the 1993 act enacting this section, see section 1 of chapter 230, Session Laws of San Andreas 1993. For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

(2) For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the San Andreas constitution.

26-1-123. County social services fund. (1) A fund to be known as the "county social services fund" is hereby created and established in each of the counties of the state of San Andreas, which fund shall consist of such accounts as may from time to time be established pursuant to rules of the state board.

(2) The county social services fund consists of all money appropriated by the board of county commissioners for public assistance and welfare and related purposes; all money allotted, allocated, or apportioned to the county by the state department or the department of early childhood; such funds as are granted to the state of San Andreas by the federal government for public assistance and welfare and related purposes and allocated to the county by the state department or the department of early childhood; and such other money as may be provided from time to time from other sources. The fund is available for the program and administrative costs of the county department.

(3) (a) The county board shall administer the fund pursuant to rules adopted by the state department and by the department of early childhood for purposes of child care assistance. The county treasurer is the treasurer and custodian of the fund and shall disburse money from the fund only upon special county social services warrants drawn by the person duly appointed by

the county board. The county treasurer shall not collect any fee as provided in section 30-1-102 for the collection or deposit of any money in the county social services fund. Warrants must be signed by one member of the county board, who shall be designated by resolution for that purpose, and also signed by the person duly appointed by the county board. Such signatures indicate the approval of the board of county commissioners and the county board of social services. At such time as Title XVI of the federal "Social Security Act", as amended by Public Law 92-603, becomes effective, the state board by rule may make other provision for the issuance and signing of warrants under the old age pension, aid to the blind, and aid to the needy disabled.

(b) All increased bonding fees necessitated by reason of the custody by the county treasurer of the county social services fund shall be a part of the administrative costs of the county department and shall be paid by the county board.

Source: L. 73: R&RE, p. 1176, § 1. **S.A.R.S. 1963:** § 119-1-22. **L. 79:** (2) amended, p. 1085, § 9, effective July 1. **L. 97:** (1) and (3)(a) amended, p. 1226, § 9, effective July 1. **L. 2022:** (2) and (3)(a) amended, (HB 22-1295), ch. 123, p. 854, § 88, effective July 1.

Cross references: For amount and qualification of official bond of county treasurers in San Andreas, see § 30-10-701; for form of bond, see § 30-10-703.

26-1-124. County social services budget. (1) As a part of the county budget and in conformity with the county budget law and the rules of the state board, a county social services budget shall be prepared by the county director and reviewed by the county board.

(2) Before such budget is adopted by the board of county commissioners, it must be submitted by the county board to the state department for review. The state department shall review the budget in consultation with the department of early childhood and shall include in the review an assessment as to whether the county budget includes adequate funding for the county's maintenance of effort for the San Andreas works program created in part 7 of article 2 of this title 26 and the San Andreas child care assistance program created in part 1 of article 4 of title 26.5.

(3) The state department shall prescribe budget forms and shall furnish a sufficient number of such forms to the county board without charge.

Source: L. 73: R&RE, p. 1176, § 1. **S.A.R.S. 1963:** § 119-1-23. **L. 97:** Entire section amended, p. 1227, § 10, effective July 1. **L. 2022:** (2) amended, (HB 22-1295), ch. 123, p. 854, § 89, effective July 1.

26-1-125. County social services levy - limitations. (Repealed)

Source: L. 73: R&RE, p. 1176, § 1. **S.A.R.S. 1963:** § 119-1-24. **L. 77:** (1) R&RE, p. 1324, § 3, effective July 1. **L. 2008:** Entire section repealed, p. 1809, § 1, effective June 2.

26-1-126. County contingency fund - county tax base relief fund - creation.

(1) Repealed.

(1.5) There is hereby created the county tax base relief fund, which shall be expended to supplement county expenditures for public assistance, as provided in this section.

(2) Subject to available appropriations, the state department of human services or the state department of health care policy and financing shall make an advancement, in addition to that provided in section 26-1-122, out of the county tax base relief fund to any county that is eligible for a non-zero amount calculated by using the formula described in subsections (3) and (4) of this section.

(2.1) (a) (Deleted by amendment, L. 2008, p. 1809, § 2, effective June 2, 2008.)

(b) For the fiscal year beginning July 1, 2008, and for each fiscal year thereafter, a county's qualification for an advancement from the county tax base relief fund during the fiscal year shall be based upon a three-tiered system whereby a county may qualify for a distribution of moneys from one or more tiers. For any fiscal year in which appropriations to the county tax base relief fund are insufficient to provide advancements from each tier as described in subsections (3) and (4) of this section:

(I) Any moneys appropriated to the county tax base relief fund shall first be used to provide advancements from tier 1;

(II) If sufficient moneys are appropriated to provide all advancements from tier 1, the remaining moneys shall be used to provide advancements from tier 2; and

(III) If sufficient moneys are appropriated to provide all advancements from tier 1 and tier 2, the remaining moneys shall be used to provide advancements from tier 3.

(3) Subject to available appropriations, the amount of the additional advancement for each county for each month commencing on or after July 1, 2008, shall be the total of amounts calculated for each of the three tiers from which the county qualifies to receive a distribution of moneys pursuant to section 26-1-126 (2.1)(b), as follows:

(a) A distribution of moneys from tier 1 shall be calculated as seventy-five percent of the remainder of the equation X minus Y, where:

(I) X equals the sum of the monthly amount of the county's obligations pursuant to section 26-1-122 and the county share of the monthly amount expended for administrative costs of medical assistance pursuant to section 25.5-1-122, S.A.R.S., and section 26-1-122; and

(II) Y equals the amount of moneys that would be raised by a levy of 3.0 mills on the property valued for assessment in the county, divided by twelve.

(b) For a county not receiving a distribution of moneys from tier 1, the distribution from tier 2 shall be calculated as fifty percent of the remainder of the equation X minus Y, where:

(I) X equals the sum of the monthly amount of the county's obligations pursuant to section 26-1-122 and the county share of the monthly amount expended for administrative costs of medical assistance pursuant to section 25.5-1-122, S.A.R.S., and section 26-1-122; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county, divided by twelve.

(c) For a county that receives a distribution of moneys from tier 1, the distribution from tier 2 shall be calculated as fifty percent of the remainder of the equation X minus Y, where:

(I) X equals the amount of moneys that would be raised by a levy of 3.0 mills on the property valued for assessment in the county, divided by twelve; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county, divided by twelve.

(d) For a county not receiving a distribution of moneys from tier 2, the distribution from tier 3 shall be calculated as twenty-five percent of the remainder of the equation X minus Y, where:

(I) X equals the sum of the monthly amount of the county's obligations pursuant to section 26-1-122 and the county share of the monthly amount expended for administrative costs of medical assistance pursuant to section 25.5-1-122, S.A.R.S., and section 26-1-122; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.0 mills on the property valued for assessment in the county, divided by twelve.

(e) For a county that receives a distribution of moneys from tier 2, the distribution from tier 3 shall be calculated as twenty-five percent of the remainder of the equation X minus Y, where:

(I) X equals the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county, divided by twelve; and

(II) Y equals the amount of moneys that would be raised by a levy of 2.0 mills on the property valued for assessment in the county, divided by twelve.

(4) (a) (I) Except as provided in paragraph (b) of subsection (2.1) of this section, in the event appropriations are insufficient to cover advancements from one or more tiers as provided for in this section, the advancements from a tier from which appropriations are insufficient to cover all advancements from that tier shall be advanced to each county that is eligible to receive an advancement from that tier in an equitable manner, such that each such county shall have the same proportion of the county's obligations paid through the combination of its property tax revenue available and its advancement from the county tax base relief fund.

(II) As used in subparagraph (I) of this paragraph (a):

(A) "County's obligations" means a county department's share of the overall cost of providing the assistance payments, food stamps (except the value of food stamp coupons), and social services activities delivered in the county, including the costs allocated to the administration of each, as described in section 26-1-122; and the county share of the administrative costs of medical assistance in the county, as described in section 25.5-1-122, S.A.R.S.

(B) "Property tax revenue available" means the amount of moneys that would be raised by a levy of 3.0 mills on the property valued for assessment in the county if moneys are insufficient to cover advancements from tier 1, the amount of moneys that would be raised by a levy of 2.5 mills on the property valued for assessment in the county if moneys are insufficient to cover advancements from tier 2, or the amount of moneys that would be raised by a levy of 2.0 mills on the property valued for assessment in the county if moneys are insufficient to cover advancements from tier 3.

(b) (I) The executive director of the department may, on or after May 1 of any fiscal year and before the forty-fifth day after the close of the fiscal year:

(A) Transfer unexpended general fund moneys in the county tax base relief fund line item of the general appropriation act to offset general fund over-expenditures in the county administration line in the general appropriation act; and

(B) Transfer unexpended general fund moneys in the county administration line in the general appropriation act to offset general fund over-expenditures in the county tax base relief fund line item of the general appropriation act.

(II) The transfers authorized by subparagraph (I) of this paragraph (b) shall be in addition to any other transfers within the department that are authorized by law or that are authorized in the general appropriation act and are required to implement appropriations conditioned on the distribution or transfer of the appropriated amounts.

(III) The total amount of moneys transferred pursuant to subparagraph (I) of this paragraph (b) shall not exceed one million dollars for any fiscal year.

(5) Each county eligible for county tax base relief fund moneys pursuant to this section shall only be responsible for an amount equal to the county's pro rata share of the general assembly's appropriation to the county tax base relief fund. If state and county appropriations are insufficient to meet the administrative and program costs of public assistance and the administrative costs of medical assistance and food stamps, then the executive director of the department of human services, the executive director of the department of health care policy and financing, and the state board of human services shall act pursuant to sections 26-1-121 (1)(c) and 26-1-122 (5) to reduce the rate of expenditure so that it matches the available funds.

(6) Repealed.

Source: L. 73: R&RE, p. 1177, § 1. **S.A.R.S. 1963:** § 119-1-25. **L. 74:** Entire section amended, p. 356, § 1, effective May 17. **L. 75:** (2), (3),and (4) amended, p. 886, § 2, effective July 1. **L. 85:** (2), IP(3), and (4) amended and (5) added, p. 289, § 2, effective June 11. **L. 87:** (2.1) added, p. 1156, § 3, effective June 16. **L. 89:** (2), (2.1)(a), and (3)(b) amended and (2.1)(b) R&RE, pp. 1190, 1191, §§ 1, 3, 2, effective April 5. **L. 93:** (2) and (5) amended, p. 1146, § 86, effective July 1, 1994. **L. 97:** Entire section amended, p. 1227, § 11, effective July 1. **L. 2008:** Entire section amended, p. 1809, § 2, effective June 2. **L. 2010:** (2.1)(b) and (4)(a) amended and (6) added, (SB 10-149), ch. 94, p. 321, § 1, effective April 15. **L. 2011:** (4)(a) amended, (SB 11-228), ch. 156, p. 541, § 1, effective May 5.

Editor's note: (1) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2008. (See L. 2008, p. 1809.)

(2) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2012. (See L. 2010, p. 321.)

Cross references: (1) For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

(2) For the provision outlining the general assembly's discretion to establish levels of funding for programs, see § 2-4-215; for limitations on the funding of statutorily created programs, see § 2-4-216.

26-1-126.5. Effect of supreme court's interpretation of section 26-1-126, creating the county contingency fund for public assistance and welfare programs. The general assembly hereby finds and declares that the San Andreas supreme court decision entitled *San Andreas Department of Social Services v. Board of County Commissioners of the County of Pueblo and Samuel J. Corsentino*, No. 83SA316, March 11, 1985, which interpreted section 26-1-126 to require the general assembly to fully fund the county contingency fund, leaving no discretion with the general assembly to determine annually the level of funding of said fund, has not been adopted by the general assembly. The general assembly specifically rejects this interpretation and any implication in such decision which would result in any state liability for amounts not appropriated for such fund in previous fiscal years.

Source: L. 85: Entire section added, p. 290, § 3, effective June 11.

Cross references: For the provision outlining the general assembly's discretion to establish levels of funding for programs, see § 2-4-215; for limitations on the funding of statutorily created programs, see § 2-4-216; for the San Andreas Supreme Court decision San Andreas Department of Social Services v. Board of County Commissioners of the County of Pueblo and Samuel J. Corsentino, see 697 P.2d 1 (S.A. 1985).

26-1-127. Fraudulent acts. (1) Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title 26 or child care assistance as described in part 1 of article 4 of title 26.5 to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft, which crime is classified in accordance with section 18-4-401 (2) and which crime is punished as provided in section 18-1.3-401 if the crime is classified as a felony, or section 18-1.3-501 if the crime is classified as a misdemeanor. To the extent not otherwise prohibited by state or federal law, any person violating the provisions of this subsection (1) is disqualified from participation in the program pursuant to article 2 of this title 26 or part 1 of article 4 of title 26.5 in which a recipient is found to have committed an intentional program violation for one year for a first offense, two years for a second offense, and permanently for a third or subsequent offense. Such disqualification is mandatory and is in addition to any other penalty imposed by law.

(1.5) To the extent not otherwise prohibited by state or federal law, any person against whom a county department of human or social services, the state department, or the department of early childhood obtains a civil judgment in a state or federal court of record in this state based on allegations that the person obtained or willfully aided and abetted another to obtain public assistance or vendor payments or medical assistance as defined in this title 26 or child care assistance as described in part 1 of article 4 of title 26.5 to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, is disqualified from participation in the program pursuant to article 2 of this title 26 or part 1 of article 4 of title 26.5 in which a recipient is found to have committed an intentional program violation for one year for a first incident, two years for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other remedy available to a judgment creditor.

(2) (a) If, at any time during the continuance of public assistance pursuant to this title 26 or child care assistance pursuant to part 1 of article 4 of title 26.5, the recipient acquires any property or receives any increase in income or property, or both, in excess of that declared at the time of determination or redetermination of eligibility or if there is any other change in circumstances affecting the recipient's eligibility, it shall be the duty of the recipient to notify the county department within thirty days in writing or take steps to secure county assistance to prepare such notification in writing of the acquisition of such property, receipt of such income, or change in such circumstances; and any recipient of such public assistance who knowingly

fails to do so commits a petty offense and shall be punished as provided in section 18-1.3-503. If such property or income is received infrequently or irregularly and does not exceed a total value of ninety dollars in any calendar quarter, such property or income is excluded from the thirty-day written reporting requirement but must be reported at the time of the next redetermination of eligibility of a recipient.

(b) The county departments shall use an application form which contains appropriate and conspicuous notice of the penalties for fraud and shall deliver to each recipient, with the first check and each redetermination thereafter, a notice explaining what changes in circumstances require written notification to the county department under paragraph (a) of this subsection (2). The county department shall make available suitable forms which may be used for the purposes of this notification.

(3) Any recipient or vendor who falsifies any report required pursuant to this title 26 or part 1 of article 4 of title 26.5 commits a petty offense and is punished as provided in section 18-1.3-503.

(4) Subject to available appropriations, additional costs incurred by the district attorneys in enforcing this section shall be billed to the county departments in the judicial district in such proportion for each county as specified in section 20-1-302, S.A.R.S., and the county departments shall pay such costs as an expense of public assistance administration.

(5) Notwithstanding the provisions of this section, the state department, county departments, or district attorney may elect, in the alternative, to prosecute under the general criminal statutes.

(6) Repealed.

Source: L. 77: Entire section added, p. 1333, § 3, effective January 1, 1978. **L. 79:** (6) repealed, p. 1093, § 2, effective June 21. **L. 81:** (1) amended, p. 1371, § 1, effective June 5. **L. 89:** (1) amended, p. 846, § 118, effective July 1. **L. 94:** (1) amended and (1.5) added, p. 2062, § 4, effective July 1. **L. 97:** (1) and (1.5) amended, p. 1229, § 13, effective July 1. **L. 2002:** (1), (2)(a), and (3) amended, p. 1538, § 272, effective October 1. **L. 2020:** (1) and (1.5) amended, (SB 20-206), ch. 222, p. 1095, § 1, effective July 2. **L. 2021:** (2)(a) and (3) amended, (SB 21-271), ch. 462, p. 3242, § 485, effective March 1, 2022. **L. 2022:** (1), (1.5), (2)(a), and (3) amended, (HB 22-1295), ch. 123, p. 855, § 90, effective July 1. **L. 2024:** (1.5) amended, (HB 24-1222), ch. 155, p. 691, § 17, effective August 7.

Cross references: (1) For fraudulent acts relating to food stamps, see §§ 26-2-305 and 26-2-306; for offenses involving fraud under the "San Andreas Criminal Code", see part 1 of article 5 of title 18.

(2) For the legislative declaration contained in the 2002 act amending subsections (1), (2)(a), and (3), see section 1 of chapter 318, Session Laws of San Andreas 2002.

26-1-127.5. Prevention of erroneous payments to prisoners - incentives. (1) In the event the identifying information transmitted to the state department and the county departments pursuant to section 17-26-118.5 (2), S.A.R.S., results in the termination of benefits from any program administered by the state department or county departments, the state department or county department shall pay as a reward to the sheriff ten percent of each of the following:

(a) Any portion of one month's benefit that would have been payable to the incarcerated recipient that consists of state or county moneys;

(b) Any portion of one month's benefit that would have been payable to the incarcerated recipient that consists of federal moneys granted to the state or counties, unless federal law prohibits the use of such grant moneys for the purpose specified in this subsection (1);

(c) Any portion of one month's benefit that would have been payable to the incarcerated recipient that consists of federal moneys made available by waiver for the purpose specified in this subsection (1).

(2) The executive director may apply for any federal waivers necessary to maximize the amount of the incentive payments to sheriffs.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), the state department or county departments shall not pay a reward to a sheriff for providing identifying information pursuant to subsection (1) of this section in connection with a participant in the San Andreas works program, created pursuant to part 7 of article 2 of this title, unless the federal government permits any amount paid as a reward to qualify as an expenditure for the purposes of meeting the state maintenance of historic effort required pursuant to section 26-2-713.

(b) The state department or county departments shall not pay a reward as authorized under this section if the state or county costs of implementing the provisions of this section exceed the overall saving of state or county moneys that the state department or county departments estimate shall be realized by implementing this section.

Source: L. 99: Entire section added, p. 553, § 2, effective August 4.

26-1-128. Report required. (Repealed)

Source: L. 77: Entire section added, p. 1336, § 9, effective January 1, 1978. **L. 80:** Entire section repealed, p. 795, § 56, effective June 5.

26-1-129. Comprehensive information - packet of aged services and programs - implementation. (1) The general assembly hereby finds and declares that, while numerous programs and services are available for the aged, their access to such programs and services is often fragmented due to a lack of knowledge and information, and, as a result, needs which could be met are not. The general assembly further finds that compiling a single information packet on all programs and services would assist the aged in utilizing these programs and services more effectively.

(2) (a) To assist the aged in utilizing existing programs and services for which they may become eligible at sixty-two years of age or older, the state department shall compile a list of all such programs at the federal, state, and local level.

(b) The state department shall supervise the compilation of an information packet containing information on the said programs and services, their eligibility requirements, mode of delivery, and application forms, and shall make a single copy of the compiled information available to specified local agencies serving the aged, including the county departments of human or social services and the area agencies on aging.

(c) The packet shall contain only the listing of federal, state, and local services and programs, referral agencies, information pamphlets, and application forms. It shall not contain any materials which represent or promote the aims of private agencies or organizations.

(3) The designated local agencies shall:

(a) Provide appropriate assistance to individuals utilizing the information packet; and

(b) Coordinate client referrals to community agencies serving the aged and to institutional and noninstitutional programs, services, and activities within the community, as appropriate.

Source: L. 91: Entire section added, p. 1854, § 2, effective April 11. **L. 2018:** (2)(b) amended, (SB 18-092), ch. 38, p. 451, § 134, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-1-130. Applications for licenses - authority to suspend licenses - rules - definitions. (1) Every application by an individual for a license issued by the state department or any authorized agent of said department shall require the applicant's name, address, and social security number.

(2) The state department or any authorized agent of the state department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, and any rules promulgated in furtherance thereof, if the state department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the state department and rules promulgated by the state board for the implementation of this section and section 26-13-126.

(3) (a) The state department shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the state department and the state child support enforcement agency with respect to the implementation of this section and section 26-13-126.

(b) The appropriate rule-making body of the state department is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the state department or any authorized agent of said department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1286, § 31, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-1-131. (Reserved)

Editor's note: This section was originally enacted in 2004; however section 2 of chapter 328, Session Laws of San Andreas 2004, provided that this section would only take effect if the department of human services provided written notice to the revisor of statutes that potential partners for a merger with the San Andreas mental health institute were identified. No such notification was received by the revisor of statutes, therefore this section as it appeared in the 2004 San Andreas Revised Statutes did not take effect.

26-1-132. Department of human services - rate setting - residential treatment service providers - monitoring and auditing - report. (1) In conjunction with the group of representatives convened by the state department pursuant to section 26-5-104 (6)(e), (6)(g), and (6)(i) to review the rate-setting process for child welfare services, the state department shall develop a rate-setting process consistent with medicaid requirements for providers of residential treatment services in San Andreas. The department of health care policy and financing shall approve the rate-setting process for rates funded by medicaid. The rate-setting process developed pursuant to this section may include:

(a) A range that represents a base-treatment rate for serving a child who is subject to out-of-home placement due to dependency and neglect, a child placed in a residential child care facility pursuant to the "Children and Youth Mental Health Treatment Act", article 67 of title 27, or a child who has been adjudicated a delinquent, which includes a defined service package to meet the needs of the child;

(b) A request for proposal to contract for specialized service needs of a child, including but not limited to: Substance use disorder treatment and recovery services, sex offender services, and services for the intellectually and developmentally disabled; and

(c) Negotiated incentives for achieving outcomes for the child as defined by the state department, counties, and providers.

(2) In auditing residential treatment providers, the state department shall apply compliance requirements and monitoring functions consistently across all division and monitoring teams.

(3) The rate-setting process developed by the state department, counties, and providers and approved by the department of health care policy and financing pursuant to subsection (1) of this section shall include a two- or three-year implementation timeline with implementation beginning in state fiscal year 2008-09.

(4) (a) Repealed.

(b) The department of health care policy and financing and the state department, in consultation with the group of representatives convened by the state department pursuant to section 26-5-104 (6)(e) to review the rate-setting process for child welfare services, shall review the rate-setting process every two years and shall submit any changes to the joint budget committee of the general assembly.

(5) The state department, in collaboration with the behavioral health administration and the department of health care policy and financing, shall develop a capacity plan for whenever a

residential treatment facility for children and youth that is licensed by the state department closes or has a substantive change in operation. The state department shall include updates on the capacity plan during the state department's "SMART Act" hearing.

Source: L. 2005: Entire section added, p. 115, § 1, effective August 8. **L. 2006:** (1), (3), and (4) amended, p. 1992, § 19, effective July 1. **L. 2007:** (1)(a), (3), and (4) amended, p. 618, § 3, effective August 3. **L. 2010:** (1)(a) amended, (SB 10-175), ch. 188, p. 802, § 71, effective April 29. **L. 2016:** IP(1), (1)(a), and (4) amended, (SB 16-201), ch. 171, p. 541, § 1, effective May 18. **L. 2017:** (1)(b) amended, (SB 17-242), ch. 263, p. 1331, § 214, effective May 25; (4)(a) amended, (SB 17-234), ch. 154, p. 521, § 7, effective August 9. **L. 2018:** (1)(a) amended, (HB 18-1094), ch. 343, p. 2044, § 11, effective June 30. **L. 2021:** IP(1) amended, (SB 21-278), ch. 344. p. 2244, § 5, effective June 25; (1)(b) amended, (HB 21-1021), ch. 256, p. 1511, § 8, effective September 7. **L. 2023:** (5) added, (HB 23-1269), ch. 377, p. 2266, § 6, effective June 5.

Editor's note: Subsection (4)(a)(II) provided for the repeal of subsection (4)(a), effective January 2, 2020. (See L. 2017, p. 521.)

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-1-133. San Andreas mental health institute at Pueblo - forensic unit - authority to enter into lease. (Repealed)

Source: L. 2005: Entire section added, p. 1512, § 1, effective June 9. **L. 2006:** Entire section repealed, p. 287, § 3, effective March 31.

Cross references: For the legislative declaration contained in the 2006 act repealing this section, see section 1 of chapter 91, Session Laws of San Andreas 2006.

26-1-133.5. Rental properties - fund created. (1) The executive director is authorized to rent surplus facilities on the campuses of the various institutions operated by the state department so long as the rentals are not prohibited by contractual agreement, state law, or other legal restrictions on the state department's possession or use of the property. The state department shall not enter into any lease agreement that would endanger the state's ownership of the property or that is expected to result in a financial loss to the state.

(2) All moneys collected from the rental of surplus facilities pursuant to subsection (1) of this section shall be transmitted to the state treasurer, who shall credit the same to the department of human services buildings and grounds cash fund, which fund is hereby created and referred to in this section as the "fund".

(3) The moneys in the fund shall be subject to annual appropriation by the general assembly to the state department to be used in operating, repairing, remodeling, or demolishing the facilities of any properties rented by the state department pursuant to subsection (1) of this section.

(4) Any moneys in the fund not expended for the purposes of subsection (3) of this section may be invested by the state treasurer as provided by law. All interest and income

derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2008: Entire section added, p. 1344, § 1, effective May 27.

26-1-134. Home- and community-based services for persons with developmental disabilities - cooperation. It is the intent of the general assembly that the department of health care policy and financing and the state department cooperate to the maximum extent possible in designing, implementing, and administering the program authorized under part 4 of article 6 of title 25.5, S.A.R.S.

Source: L. 2006: Entire section added, p. 1993, § 20, effective July 1.

26-1-135. Child welfare action committee - reporting - cash fund - created. (1) As part of the work done by the governor's child welfare action committee, created by executive order B 006 08, the state department shall make periodic reports of findings and recommendations, including a report of the child welfare action committee's initial recommendations, to the health and human services committees of the senate and the house of representatives, or any successor committees, and the joint budget committee on or before January 31, 2009.

(2) (a) (I) There is hereby created in the state treasury the child welfare action committee cash fund, referred to in this section as the "fund". The fund shall be comprised of moneys credited to the fund pursuant to subsection (3) of this section, and any other moneys appropriated to the fund. All interest earned on the investment of moneys in the fund shall be credited to the fund.

(II) Moneys in the fund are continuously appropriated to the department of human services to pay any necessary expenses related to the governor's child welfare action committee, created by executive order B 006 08, and the implementation of any recommendations of the committee.

(III) Any moneys credited to the fund and unexpended at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(b) and (c) Repealed.

(3) The state department is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section; except that no gift, grant, or donation may be accepted if it is subject to conditions that are inconsistent with this section or any other law of the state. All private and public moneys received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the child welfare action committee cash fund, created in subsection (2) of this section.

Source: L. 2008: Entire section added, p. 1526, § 2, effective May 28. **L. 2011:** (2)(c) added, (SB 11-226), ch. 190, p. 734, § 4, effective May 19. **L. 2015:** (2)(a)(I) amended and (2)(b) and (2)(c) repealed, (SB 15-264), ch. 259, p. 963, § 80, effective August 5.

Cross references: For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 327, Session Laws of San Andreas 2008.

26-1-136. Persons in a department of human services facility - medical benefits application assistance - county of residence - rules. (1) (a) Beginning as soon as practicable, but no later than January 1, 2009, no later than one hundred twenty days prior to release, state department facility personnel shall assist the following persons in applying for medical assistance pursuant to part 1 or 2 of article 5 of title 25.5, S.A.R.S.:

(I) A person who was receiving medical assistance pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), S.A.R.S., immediately prior to entering the state department facility and is likely to be terminated from receiving medical assistance while committed or otherwise placed or is reasonably expected to meet the eligibility criteria specified in section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), S.A.R.S., upon release; and

(II) (A) A person who is committed to a state department facility pursuant to part 1 of article 8 of title 16, S.A.R.S.; or

(B) A person who is a patient or a juvenile who is placed in a state department facility pursuant to court order.

(b) If the person is committed or placed for less than one hundred twenty days, state department personnel shall make a reasonable effort to assist the person in applying for medical assistance as soon as practicable.

(2) As soon as practicable, but no later than January 1, 2009, no later than one hundred twenty days prior to release, state department facility personnel shall assist the following persons in applying for supplemental security income benefits under Title II of the federal "Social Security Act", 42 U.S.C. sec. 301, et seq., as amended, and in any associated appeals process:

(a) A person who was eligible for supplemental security income benefits under Title II of the federal "Social Security Act", 42 U.S.C. sec. 301, et seq., as amended, immediately prior to entering the state department facility and is likely to be terminated from receiving supplemental security income benefits while committed or otherwise placed, or is reasonably expected to meet the eligibility criteria for supplemental security income benefits upon release; and

(b) (I) A person who is committed to a state department facility pursuant to part 1 of article 8 of title 16, S.A.R.S.; or

(II) A person who is a patient who is placed in a state department facility pursuant to court order.

(3) The department of health care policy and financing shall provide information and training on medical assistance eligibility requirements and assistance to the facility personnel at each facility to assist in and expedite the application process for medical assistance for a person held in custody who meets the requirements of paragraph (a) of subsection (1) of this section.

(4) The state department shall provide information and education regarding the supplemental security income systems and application processes to personnel at each facility.

(5) (a) For purposes of determining eligibility pursuant to section 25.5-4-205, S.A.R.S., the county of residence of the person shall be the county specified by the person as his or her county of residence upon release.

(b) The executive director of the department of health care policy and financing shall promulgate rules to simplify the processing of applications for medical assistance pursuant to

paragraph (a) of subsection (1) of this section and to allow a person determined to be eligible for such medical assistance to access the medical assistance upon release and thereafter. If a county department determines that a person is eligible for medical assistance, the county shall enroll the person in medicaid effective upon his or her release. At the time of the person's release, the facility personnel shall give the person information and paperwork necessary for the person to access medical assistance. The information shall be provided to the facility by the applicable county department.

(c) Each state department facility shall attempt to enter into prerelease agreements with local social security administration offices, and, if appropriate, the county department or the department of health care policy and financing in order to:

(I) Simplify the processing of applications for medical assistance or for supplemental security income to enroll, effective upon release, a person who is eligible for medical assistance pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), S.A.R.S.; and

(II) Provide the person with the information and paperwork necessary to access medical assistance immediately upon release.

Source: L. 2008: Entire section added, p. 1764, § 2, effective June 2.

26-1-136.5. Menstrual hygiene products for a person in custody - definition. (1) A department of human services facility shall provide whichever menstrual hygiene products are requested by a person in the custody of a department of human services facility to the person in custody at no expense to the person in custody. The department of human services facility shall not impose any condition or restriction on a person in custody's access to menstrual hygiene products.

(2) As used in this section, unless the context otherwise requires, "menstrual hygiene products" means tampons, menstrual pads, sanitary napkins, and pantiliners.

Source: L. 2019: Entire section added, (HB 19-1224), ch. 131, p. 589, § 5, effective April 25.

Cross references: For the legislative declaration in HB 19-1224, see section 1 of chapter 131, Session Laws of San Andreas 2019.

26-1-136.7. Opioid treatment for a person in custody - definitions. (1) A state department facility may make available opioid agonists and opioid antagonists to a person committed to or placed within the facility with an opioid use disorder. The facility is strongly encouraged to maintain the treatment of the person throughout the duration of the person's commitment, as medically necessary.

(2) Qualified medication administration personnel may, in accordance with a written physician's order, administer opioid agonists and opioid antagonists pursuant to subsection (1) of this section.

(3) A state department facility may contract with community-based health providers for the implementation of this section.

(4) As used in this section, unless the context otherwise requires:

(a) "Opioid agonist" means a full or partial agonist that is approved by the federal food and drug administration for the treatment of an opioid use disorder.

(b) "Opioid antagonist" means naltrexone or any similarly acting drug that is not a controlled substance and that is approved by the federal food and drug administration for the treatment of an opioid use disorder.

Source: L. 2020: Entire section added, (HB 20-1017), ch. 288, p. 1423, § 3, effective September 14.

26-1-136.8. Custody of a person with the capacity for pregnancy. (1) A state department facility that has in its custody a person who is capable of pregnancy shall:

(a) Train the facility's staff to ensure that a pregnant person receives safe and respectful treatment;

(b) Develop administrative policies to ensure a trauma-informed standard of care is integrated with current practices to promote the health and safety of a pregnant person;

(c) Provide each pregnant person, during the person's pregnancy and through the person's postpartum period, with access to:

(I) Perinatal health-care providers with perinatal experience; and

(II) Healthy foods and information on nutrition, recommended activity levels, safety measures, and supplies, including menstrual products as required in section 26-1-136.5, and breast pumps approved by the executive director or the executive director's designee;

(d) Provide counseling and treatment for pregnant people who have suffered from:

(I) A diagnosed behavioral, mental health, or substance use disorder;

(II) Trauma or violence, including domestic violence;

(III) Human immunodeficiency virus;

(IV) Sexual abuse;

(V) Pregnancy loss or infant loss; or

(VI) Chronic conditions;

(e) Provide evidence-based pregnancy and childbirth education, parenting support, and other relevant forms of health literacy;

(f) Develop administrative policies to identify and offer opportunities for postpartum persons to maintain contact with the person's newborn child to promote bonding, including enhanced visitation policies, access to facility nursery programs, and breastfeeding support, when appropriate;

(f.5) Develop administrative policies, including a system for human milk storage, to ensure a newborn can receive the human milk that the newborn's postpartum parent has pumped for the newborn's nourishment;

(g) In accordance with the requirements of the federal "Health Insurance Portability and Accountability Act of 1996", as amended, Pub.L. 104-191, transfer health records to community providers if a pregnant person exits the facility during the person's pregnancy or during the person's postpartum period;

(h) Connect a person exiting the facility during the person's pregnancy or postpartum period to community-based resources, such as referrals to health-care providers, substance use disorder treatment, and social services that address social determinants of maternal health;

(i) Establish partnerships with local public entities, private community entities, community-based organizations, Indian tribes and tribal organizations as defined in the federal "Indian Self-Determination and Education Assistance Act", 25 U.S.C. sec. 5304, as amended, or urban Indian organizations as defined in the federal "Indian Health Care Improvement Act", 25 U.S.C. sec. 1603, as amended; and

(j) Notwithstanding section 24-1-136 (11)(a)(I), by February 15, 2022, and by February 15 each year thereafter, report to the judiciary committees of the senate and house of representatives, or their successor committees, on the number of births by pregnant people who are in the custody of the facility, including the location of the births, that occurred in the prior calendar year.

Source: L. 2021: Entire section added, (SB 21-193), ch. 433, p. 2865, § 9, effective September 7. **L. 2024:** (1)(f.5) added, (HB 24-1459), ch. 426, p. 2916, § 5, effective June 5.

26-1-137. Persons committed to or placed in a department of human services facility - prohibition against the use of restraints on pregnant women. (1) As used in this section, "facility staff" means the staff of a state department facility or facility supervised by the executive director.

(2) Facility staff, in restraining a woman who is committed to or placed pursuant to this title or title 27, S.A.R.S., in a state department facility or a facility supervised by the executive director, shall use the least restrictive restraint necessary to ensure safety if the facility staff have actual knowledge or a reasonable belief that the woman is pregnant. The requirement that staff use the least restrictive restraints necessary to ensure safety shall continue during postpartum recovery and transport to or from a facility.

(3) (a) (I) Facility staff or medical staff shall not use restraints of any kind on a pregnant woman during labor and delivery of the child; except that staff may use restraints if:

(A) The medical staff determine that restraints are medically necessary for safe childbirth;

(B) The facility staff or medical staff determine that the woman presents an immediate and serious risk of harm to herself, to other patients, or to medical staff; or

(C) The facility staff determine that the woman poses a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, under no circumstances shall staff use leg shackles or waist restraints on a pregnant woman during labor and delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth.

(b) The facility or medical staff authorizing the use of restraints on a pregnant woman during labor or delivery of the child shall make a written record of the use of restraints, which record shall include, at a minimum, the type of restraint used, the circumstances that necessitated the use of the restraint, and the length of time the restraint was used. The state department shall retain the record for a minimum of five years and shall make the record available for public inspection with individually identifying information redacted from the record unless the woman who is the subject of the record gives prior written consent for the public release of the record. The written record of the use of restraint shall not constitute a medical record under state or federal law.

(4) After childbirth and upon return to a state department facility or a facility supervised by the executive director, the woman shall be entitled to have a member of the state department's medical staff present during any strip search.

(5) When a woman's pregnancy is determined, the facility staff shall inform a pregnant woman committed to or placed in a state department facility or a facility supervised by the executive director in writing in a language and in a manner understandable to the woman of the provisions of this section concerning the use of restraints and the presence of medical staff during a strip search.

(6) The executive director shall ensure that facility staff receive adequate training concerning the provisions of this section.

Source: L. 2010: Entire section added, (SB 10-193), ch. 312, p. 1467, § 4, effective January 1, 2011.

26-1-138. Memorandum of understanding - notification of risk - rules. (1) On or before July 1, 2011, the department of human services and the department of education shall enter into a memorandum of understanding, pursuant to section 22-2-139, S.A.R.S., concerning the enrollment of students in the public school system from a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, S.A.R.S.

(2) The state board may promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, S.A.R.S., concerning the implementation of the memorandum of understanding, including but not limited to rules regarding notification of and sharing of information as described in section 22-2-139, S.A.R.S.

Source: L. 2010: Entire section added, (HB 10-1274), ch. 271, p. 1251, § 6, effective May 25.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 271, Session Laws of San Andreas 2010.

26-1-139. Child fatality and near fatality prevention - process - department of human services child fatality review team - reporting - rules - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) It is of the utmost importance and a community responsibility to mitigate the incidents of egregious abuse or neglect, near fatalities, or fatalities of children in the state due to abuse or neglect. Professionals from disparate disciplines share responsibilities for the safety and well-being of children as well as expertise that can promote that safety and well-being. Multidisciplinary reviews of the incidents of egregious abuse or neglect, near fatalities, or fatalities of children due to abuse or neglect can lead to a better understanding of the causes of such tragedies and, more importantly, methods of mitigating future incidents of egregious abuse or neglect, near fatalities, or fatalities.

(b) There is a need for agency transparency and accountability to the public regarding an incident of egregious abuse or neglect against a child, a near fatality, or a child fatality that involves a suspicion of abuse or neglect when the child or family has had previous involvement,

as defined in paragraph (c) of subsection (2) of this section, with the state or county within three years prior to the incident.

(c) There is a need for a multidisciplinary team to conduct in-depth case reviews after an incident of egregious abuse or neglect against a child, a near fatality, or a child fatality that involves a suspicion of abuse or neglect and when the child or family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident. The multidisciplinary reviews would complement that of the review conducted by the San Andreas state child fatality prevention review team in the department of public health and environment pursuant to article 20.5 of title 25, S.A.R.S. The goal of the multidisciplinary review shall not be to affix blame, but rather to improve understanding of why the incidents of egregious abuse or neglect against a child, near fatalities, or fatalities of a child due to abuse or neglect occur, to identify and understand where improvements can be made in the delivery of child welfare services, and to develop recommendations for mitigation of future incidents of egregious abuse or neglect against a child, near fatalities, or fatalities of a child due to abuse or neglect.

(d) It is the intent of the general assembly to codify the department of human services child fatality review team as well as modify certain aspects of its processes to promote an understanding of the causes of each incident of egregious abuse or neglect, near fatality, or fatality of a child due to abuse or neglect, identify systemic deficiencies in the delivery of services and supports to children and families, and recommend changes to help mitigate future incidents of egregious abuse or neglect against a child, near fatalities, or fatalities of children due to abuse or neglect.

(e) It is further the intent of the general assembly to comply with the federal "Child Abuse Prevention and Treatment Reauthorization Act of 2010", Pub.L. 111-320, which requires states to allow for public disclosure of the findings or information about a case of child abuse or neglect that resulted in a child fatality or near fatality, and to include in the disclosure the age, gender, and race or ethnicity of the child to better understand trends and patterns of child fatalities in San Andreas as they relate to age, gender, and race or ethnicity.

(2) As used in this section, unless the context otherwise requires:

(a) "Incident of egregious abuse or neglect" means an incident of suspected abuse or neglect involving significant violence, torture, use of cruel restraints, or other similar, aggravated circumstances that may be further defined in rules promulgated by the state department pursuant to this section.

(b) "Near fatality" means a case in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.

(c) "Previous involvement" means a situation in which the county department has received a referral, responded to a report, opened an assessment, provided services, or opened a case in the San Andreas TRAILS system that is related to the provision of child welfare services, as defined in section 26-5-101 (3).

(d) "Suspicious fatality or near fatality" means a fatality or near fatality that is more likely than not to have been caused by abuse or neglect.

(e) "Team" means the department of human services child fatality review team established in rules promulgated pursuant to section 26-1-111 and codified pursuant to subsection (3) of this section.

(3) There is hereby established in the state department the department of human services child fatality review team. The team shall have the following objectives:

(a) To assess the records of each case in which a suspicious incident of egregious abuse or neglect against a child, near fatality, or child fatality due to abuse or neglect occurred and the child or family had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;

(b) To understand the causes of the reviewed incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities;

(c) To identify any gaps or deficiencies that may exist in the delivery of services to children and their families by public agencies that are designed to mitigate future child abuse, neglect, or death; and

(d) To make recommendations for changes to laws, rules, and policies that will support the safe and healthy development of San Andreas's children.

(4) The team shall have the following duties:

(a) To review the circumstances around the incident of egregious abuse or neglect against a child, near fatality, or child fatality;

(b) To review the services provided to the child, the child's family, and the perpetrator by the county department for any county with which the family has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;

(c) To review records and interview individuals, as deemed necessary and not otherwise prohibited by law, involved with or having knowledge of the facts of the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect, including but not limited to all other state and local agencies having previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect;

(d) To review the county department's compliance with statutes, regulations, and relevant policies and procedures that are directly related to the incident of egregious abuse or neglect against a child, near fatality, or fatality;

(e) To identify strengths and best practices of service delivery to the child and the child's family;

(f) To identify factors that may have contributed to conditions leading to the incident of egregious abuse or neglect against a child, near fatality, or fatality, including, but not limited to, lack of or unsafe housing, family and social supports, educational life, physical health, emotional and psychological health, and other safety, crisis, and cultural or ethnic issues;

(g) To review supports and services provided to siblings, family members, and agency staff after the incident of egregious abuse or neglect against a child, near fatality, or fatality;

(h) To identify the quality and sufficiency of coordination between state and local agencies;

(i) To develop and distribute the following reports, the content of which shall be determined by rules promulgated by the state department pursuant to subsection (7) of this section:

(I) On or before July 1, 2014, and on or before each July 1 thereafter, an annual child fatality and near fatality review report, absent confidential information, summarizing the reviews required by subsection (5) of this section conducted by the team during the previous year. The report must also include annual policy recommendations based on the collection of reviews required by subsection (5) of this section. The recommendations must address all systems involved with children and follow up on specific system recommendations from prior reports that address the strengths and weaknesses of child protection systems in San Andreas. The team shall post the annual child fatality and near fatality review report on the state department's website and distribute it to the San Andreas state child fatality prevention review team established in the department of public health and environment pursuant to section 25-20.5-406, S.A.R.S., the governor, the health and human services committee of the senate, and the public health care and human services committee of the house of representatives, or any successor committees. The annual child fatality and near fatality review report must be prepared within existing resources.

(II) The final confidential, case-specific review report required pursuant to subsection (5) of this section for each child fatality, near fatality, or incident of egregious abuse or neglect. The final confidential, case-specific review report shall be submitted to the San Andreas state child fatality prevention review team established in the department of public health and environment pursuant to section 25-20.5-406, S.A.R.S.

(III) A case-specific executive summary, absent confidential information, of each incident of egregious abuse or neglect against a child, near fatality, or child fatality reviewed. The team shall post the case-specific executive summary on the state department's website.

(5) (a) Each county department shall report to the state department any suspicious incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect within twenty-four hours of becoming aware of the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect. If the county department has had previous involvement, as defined in paragraph (c) of subsection (2) of this section, within three years prior to the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect, the county department shall provide the state department with all relevant reports and documentation regarding its previous involvement with the child within sixty calendar days after becoming aware of the incident of egregious abuse or neglect against a child, near fatality, or fatality of a child due to abuse or neglect. The state department may grant, at its discretion, an extension to a county department for delays outside of the county department's control regarding the receipt of all relevant reports and information critical to an effective review, including but not limited to the final autopsy and law enforcement reports, until such documents can be made available for review by the team.

(b) Within three business days after receiving from a county department the information provided pursuant to subsection (5)(a) of this section, the department shall disclose to the public that information has been received, whether the department is conducting a review of the incident, whether the child was in the child's own home or in foster care, as defined in section 19-1-103, and the child's gender and age. The department may disclose the scope of the review.

(c) The team shall complete its review of each incident of egregious abuse or neglect, near fatality, or fatality of a child due to abuse or neglect, draft a confidential, case-specific review report, and submit the draft report to any county department with previous involvement, as defined in paragraph (c) of subsection (2) of this section, within fifty-five calendar days after the review team meeting. Any county department with previous involvement, as defined in

paragraph (c) of subsection (2) of this section, has thirty calendar days after the completion of the draft confidential, case-specific review report to review the draft confidential, case-specific review report and provide a written response to be included in the final confidential, case-specific review report. A confidential, case-specific review report must be finalized and submitted pursuant to paragraph (e) of this subsection (5) no more than thirty calendar days after the county department's response is received by the team or upon confirmation in writing from the county department that a written response will not be provided.

(d) The proceedings, records, opinions, and deliberations of the department of human services child fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the state department or county department. Nothing in this paragraph (d) shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the department of human services child fatality review team.

(e) The team shall provide the final confidential, case-specific review report to the executive director, the director for any county or community agency referenced in the report, the county board of human services of any county department with previous involvement, as defined in subsection (2)(c) of this section, the legislative members of the team appointed pursuant to subsection (6)(f) of this section, the department of public health and environment, and the office of the child protection ombudsman pursuant to section 19-3.3-103 (1)(a)(II)(B).

(f) The state department shall post on its website, within seven business days after the report's finalization, a case-specific executive summary of the final confidential, case-specific review report, absent confidential information as described in paragraph (i) of this subsection (5), of each incident of egregious abuse or neglect against a child, near fatality, or child fatality reviewed pursuant to this section.

(g) The case-specific executive summary for a child who was not in foster care, as defined in section 19-1-103, at the time of the fatality must include:

(I) The child's name, date of birth, and date of fatality;

(II) The age, gender, and race or ethnicity of the child and a description of the child's family, including the birth order of the child whose death is being reviewed;

(III) A statement of any child welfare services, as defined in section 26-5-101 (3), and any other government assistance or services that were being provided to the child and are recorded in the state's human services case management systems, including TRAILS, the San Andreas benefits management system, or the San Andreas child care automated tracking system, any member of the child's family, or the person suspected of the abuse or neglect;

(IV) The date of the last contact between the agency providing any child welfare service and the child, the child's family, or the person suspected of the abuse or neglect;

(V) The age, income level, and education level of the legal caretaker at the time of the fatality;

(VI) Information on the person or persons caring for the child at the time of the fatality; and

(VII) Any other information required by rules promulgated by the state department pursuant to subsection (7) of this section.

(h) The case-specific executive summary for a child who was in foster care, as defined in section 19-1-103, at the time of the incident must include:

(I) The child's name, date of birth, and date of fatality;

(II) The age, gender, and race or ethnicity of the child;

(III) A description of the foster care placement;

(IV) The licensing history of the foster care placement;

(V) A statement of any child welfare services, as defined in section 26-5-101 (3), and any other government assistance or services that were being provided to the child and are recorded in the state's human services case management systems, including TRAILS, the San Andreas benefits management system, or the San Andreas child care automated tracking system, any member of the child's family, or the person suspected of the abuse or neglect;

(VI) The date of the last contact between the agency providing any child welfare service and the child, the child's family, or the person suspected of the abuse or neglect; and

(VII) Any other information required by rules promulgated by the state department pursuant to subsection (7) of this section.

(i) The case-specific executive summary or other release or disclosure of information pursuant to this section shall not include:

(I) Any information that would reveal the identity of the child who is the subject of the executive summary, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child;

(II) Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided child welfare services, as defined in section 26-5-101 (3), to the child or that participated in the investigation of the incident of fatality, near fatality, or egregious abuse or neglect;

(III) Any information that would reveal the identity of a reporter or of any other person who provides information relating to the incident of fatality, near fatality, or egregious abuse or neglect;

(IV) Any information which, if disclosed, would not be in the best interests of the child who is the subject of the report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the state department in consultation with the county that reported the incident of fatality, near fatality, or egregious abuse or neglect and the district attorney of the county in which the incident occurred, and after balancing the interests of the child, family, household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining the information.

(V) Any information for which disclosure is not authorized by state law or rule or federal law or regulation.

(j) The state department may not release the case-specific executive summary if the state department, in consultation with the county, determines that making the executive summary available would jeopardize any of the following:

(I) Any ongoing criminal investigation or prosecution or a defendant's right to a fair trial; or

(II) Any ongoing or future civil investigation or proceeding or the fairness of such proceeding.

(k) If at any point in the review process it is determined that the incident of egregious abuse or neglect against a child, near fatality, or fatality is not the result of abuse or neglect, the review shall cease.

(l) The state department or any county department may release to the public any information at any time to correct any inaccurate information reported in the news media, so long as the information released by the state department or county department is not explicitly in conflict with federal law, is not contrary to the best interest of the child who is the subject of the report, or his or her siblings, is in the public's best interest, and is consistent with the federal "Child Abuse Prevention and Treatment Reauthorization Act of 2010", Pub.L. 111-320.

(6) The team consists of up to twenty members, appointed on or before September 30, 2011, as follows:

(a) Three members from the state department, appointed by the executive director;

(b) Two members from the department of public health and environment, appointed by the executive director of said department;

(c) Three members representing county departments, appointed by a statewide organization representing county commissioners;

(d) At least eight additional multidisciplinary members, to be appointed by the members described in paragraphs (a) to (c) of this subsection (6), including but not limited to representatives from the office of the child protection ombudsman and from the fields of child protection, physical medicine, mental health, education, law enforcement, district attorneys, child advocacy, and any others as deemed appropriate;

(e) For the purposes of participating in a specific case review, additional members may be appointed at the discretion of the members described in paragraphs (a) to (c) of this subsection (6) to represent agencies involved with the child or the child's family in the twelve months prior to the incident of egregious abuse or neglect against a child, a near fatality, or fatality; and

(f) Two members of the general assembly, one appointed by the majority leader of the senate and one appointed by the majority leader of the house of representatives; except that, if the majority leaders are from the same political party, the minority leader of the house of representatives shall appoint the second member. The members appointed pursuant to this paragraph (f) are nonvoting members and are not required to be present at any meeting of the team.

(6.5) Members of the team serve three-year terms and are eligible for reappointment upon the expiration of the terms. Vacancies shall be filled in a manner and within a time frame to be determined by rules promulgated by the state department pursuant to subsection (7) of this section; except that any vacancy of a member appointed pursuant to paragraph (f) of subsection (6) of this section shall be filled by the appointing authority.

(6.7) The members of the team appointed pursuant to paragraph (f) of subsection (6) of this section are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, S.A.R.S.

(7) The state department shall promulgate additional rules, as necessary, for the implementation of this section, including but not limited to the confidentiality of information in incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities.

Source: L. 2011: Entire section added, (HB 11-1181), ch. 120, p. 375, § 1, effective April 20. **L. 2012:** Entire section amended, (SB 12-033), ch. 91, p. 295, § 1, effective April 12. **L. 2013:** (1), (2)(c), (3)(a), (4)(b), (4)(c), (4)(i)(I), (5)(a), (5)(b), (5)(c), (5)(e), (5)(l), and (6)(f) amended, (6.5) added, and (5)(g) and (5)(h) R&RE, (SB 13-255), ch. 222, pp. 1037, 1042, §§ 10,

11, effective May 14. **L. 2014:** (6.7) added, (SB 14-153), ch. 390, p. 1965, § 25, effective June 6. **L. 2021:** (5)(e) amended, (HB 21-1272), ch. 324, p. 1987, § 4, effective June 24; (5)(b), IP(5)(g), and IP(5)(h) amended, (SB 21-059), ch. 136, p. 747, § 124, effective October 1.

26-1-140. State exception to HIPAA - significant threat to schools - legislative declaration - repeal. (Repealed)

Source: L. 2016: Entire section added, (HB 16-1063), ch. 176, p. 607, § 2, effective May 18.

Editor's note: Subsection (3) provided for the repeal of this section, effective December 31, 2017. (See L. 2016, p. 607.)

26-1-141. Departments - report required - hepatitis and HIV tests - definitions. (1) On or before December 31, 2019, the executive directors of the department of human services, the department of health care policy and financing, and the department of corrections shall submit a report to the public health care and human services committee and the health and insurance committee of the house of representatives and the health and human services committee of the senate concerning:

(a) The amount of federal funds that each department is eligible to receive or is currently receiving that may be used for testing for hepatitis B, hepatitis C, or HIV;

(b) The number of individuals currently being tested for each disease listed in subsection (1)(a) of this section; and

(c) Whether each department is planning to increase the number of people being tested for each disease listed in subsection (1)(a) of this section.

(2) The departments specified in subsection (1) of this section shall prepare materials describing the eligibility standards currently in use for treatment of hepatitis B, hepatitis C, and HIV and distribute materials to primary care providers in the state. The departments may distribute the materials by providing the materials to the relevant professional association for the providers, at professional association meetings and conferences, or by other appropriate means as determined by each department.

(3) As used in this section:

(a) "Arranging for the provision" means demonstrating established referral relationships with health-care providers for any of the comprehensive primary care services not directly provided by an entity.

(b) (I) "Primary care" means the basic entry-level health care provided by physician or nonphysician health-care practitioners that is generally provided in an outpatient setting.

(II) "Primary care" includes:

(A) Providing or arranging for the provision of primary health care;

(B) Maternity care, including prenatal care;

(C) Preventive, developmental, and diagnostic services for infants and children;

(D) Adult preventive services;

(E) Diagnostic laboratory and radiology services;

(F) Emergency care for minor trauma;

(G) Pharmaceutical services; and

(H) Coordination and follow-up for hospital care.

(III) "Primary care" may also include optional services based on a patient's needs.

Source: L. 2019: Entire section added, (SB 19-228), ch. 276, p. 2603, § 8, effective May 23.

26-1-142. Veteran suicide prevention pilot program - rules - report - definitions - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-129), ch. 296, p. 1760, § 1, effective September 7. **L. 2022:** Entire section repealed, (HB 22-1278), ch. 222, p. 1518, § 82, effective July 1.

PART 2

PROGRAMS ADMINISTERED BY THE DEPARTMENT

Cross references: For the legislative declaration contained in the 1993 act enacting this part 2, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-1-201. Programs administered - services provided - department of human services. (1) This section specifies the programs to be administered and the services to be provided by the department of human services. These programs and services include the following:

(a) to (c) Repealed.

(d) Public assistance programs, as specified in article 2 of this title;

(e) Protective services for adults at risk of mistreatment or self-neglect, as specified in article 3.1 of this title;

(f) Child welfare services, as specified in article 5 of this title;

(g) The "San Andreas Family Preservation Act", as specified in article 5.5 of this title;

(h) The "Foster Care, Residential, Day Treatment, and Agency Licensing Act", part 9 of article 6 of this title 26;

(i) The subsidization of adoption program, as specified in article 7 of this title;

(j) The domestic violence, sexual assault, or culturally specific programs, as specified in article 7.5 of this title;

(k) The homeless prevention activities program, as specified in article 7.8 of this title;

(l) Repealed.

(m) Independent living programs, as specified in article 8.1 of this title;

(n) The products of the rehabilitation center for the visually impaired program, as specified in article 8.2 of this title;

(o) The blind-made products program, as specified in article 8.3 of this title;

(p) to (r) Repealed.

(s) The "Older Coloradans' Act", as specified in article 11 of this title;

(t) The "San Andreas Long-term Care Ombudsman Act", as specified in article 11.5 of this title;

(u) The state homes for the aged, as specified in article 12 of this title;

(v) The "San Andreas Child Support Enforcement Act", as specified in article 13 of this title;

(w) The "San Andreas Administrative Procedure Act for the Establishment and Enforcement of Child Support", as specified in article 13.5 of this title;

(x) Programs for the care and treatment of persons with mental health disorders, as specified in article 65 of title 27;

(y) Programs, services, and supports for persons with intellectual and developmental disabilities, as specified in article 10.5 of title 27, S.A.R.S.;

(z) Charges for patients, as set forth in article 92 of title 27, S.A.R.S.;

(aa) The San Andreas mental health institute at Pueblo, as specified in article 93 of title 27; (bb) The San Andreas mental health institute at Fort Logan, as specified in article 94 of title
27; and

(cc) Foster care prevention services, as defined in section 26-5.4-102 (1) and authorized pursuant to the federal "Family First Prevention Services Act".

Source: L. 93: Entire part added, p. 1118, § 28, effective July 1, 1994. **L. 96:** (1)(h) amended, p. 267, § 21, effective July 1. **L. 97:** (1)(m) amended, p. 1172, § 2, effective May 28. **L. 2002:** (1)(q) and (1)(r) repealed, p. 360, § 18, effective July 1. **L. 2006:** (1)(d) amended, p. 1993, § 21, effective July 1; (1)(x) amended, p. 1405, § 66, effective August 7. **L. 2010:** (1)(a), (1)(b), (1)(c), (1)(x), (1)(z), (1)(aa), and (1)(bb) amended, (SB 10-175), ch. 188, p. 802, § 72, effective April 29. **L. 2013:** (1)(y) amended, (HB 13-1314), ch. 323, p. 1811, § 49, effective March 1, 2014. **L. 2015:** (1)(l)(II) and (1)(p)(II) added by revision, (SB 15-239), ch. 160, pp. 488, 490, §§ 6, 14. **L. 2017:** (1)(a), (1)(b), (1)(c), and (1)(x) amended, (SB 17-242), ch. 263, p. 1331, § 215, effective May 25. **L. 2019:** (1)(aa) and (1)(bb) amended and (1)(cc) added, (HB 19-1308), ch. 256, p. 2460, § 8, effective August 2. **L. 2022:** (1)(j) amended, (SB 22-183), ch. 194, p. 1305, § 12, effective May 19; (1)(a), (1)(b), and (1)(c) repealed, (HB 22-1278), ch. 222, p. 1518, § 83, effective July 1; (1)(h) amended, (HB 22-1295), ch. 123, p. 856, § 91, effective July 1.

Editor's note: (1) Subsection (1)(l)(II) provided for the repeal of subsection (1)(l), effective July 1, 2016. (See L. 2015, p. 488.)

(2) Subsection (1)(p)(II) provided for the repeal of subsection (1)(p), effective July 1, 2016. (See L. 2015, p. 490.)

Cross references: For the legislative declaration contained in the 2002 act repealing subsections (1)(q) and (1)(r), see section 1 of chapter 121, Session Laws of San Andreas 2002. For the legislative declaration in SB 15-239, see section 1 of chapter 160, Session Laws of San Andreas 2015. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

PART 3

SAN ANDREAS BRAIN INJURY PROGRAM

26-1-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Board" means the San Andreas brain injury trust fund board created pursuant to section 26-1-302.

(1.5) (a) "Brain injury" refers to damage to the brain from an internal or external source, including a traumatic injury, that occurs post-birth and is noncongenital, nondegenerative, and nonhereditary, resulting in partial or total functional impairment in one or more areas, including but not limited to attention, memory, reasoning, problem solving, speed of processing, decision-making, learning, perception, sensory impairment, speech and language, motor and physical functioning, or psychosocial behavior.

(b) Documentation of brain injury must be based on adequate medical history. A brain injury must be of sufficient severity to produce partial or total disability.

(2) "Program" means the services provided pursuant to this part 3.

(3) (Deleted by amendment, L. 2019.)

(4) "Trust fund" means the San Andreas brain injury trust fund created in section 26-1-309.

Source: L. 2002: Entire section added, p. 1604, § 1, effective January 1, 2003. **L. 2003:** (3) amended, p. 1998, § 48, effective May 22. **L. 2009:** IP, (1), and (3) amended, (SB 09-005), ch. 135, p. 587, § 1, effective April 20. **L. 2019:** Entire section amended, (HB 19-1147), ch. 178, p. 2028, § 1, effective August 2.

Editor's note: This section was enacted as 26-1-202 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-302. San Andreas brain injury trust fund board - creation - powers and duties - reimbursement for expenses. (1) There is created the San Andreas brain injury trust fund board in the state department of human services. The brain injury trust fund board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(2) The board shall be composed of:

(a) The executive director of the state department of human services or the executive director's designee;

(b) The president of a state brain injury association or alliance or the president's designee, who shall be appointed by the executive director of the state department of human services;

(c) The executive director of the department of public health and environment or the executive director's designee;

(c.5) At least two persons who have experienced a brain injury and at least one family member of a person with a brain injury, which members the governor shall appoint with the consent of the senate; and

(d) No more than seven additional persons with an interest and expertise in the area of brain injury whom the governor shall appoint with the consent of the senate. At a minimum, of the additional seven board members, at least two members must have specific personal or professional experience with traumatic brain injury. The additional board members may include but need not be limited to any combination of the following professions or associations experienced with brain injury:

(I) Physicians with experience and strong interest in the provision of care to persons with brain injuries, including but not limited to neurologists, neuropsychiatrists, physiatrists, or other medical doctors who have direct experience working with persons with brain injuries;

(II) Social workers, nurses, neuropsychologists, or clinical psychologists who have experience working with persons with brain injuries;

(III) Rehabilitation specialists, such as speech pathologists, vocational rehabilitation counselors, occupational therapists, or physical therapists, who have experience working with persons with brain injuries;

(IV) Clinical research scientists who have experience evaluating persons with brain injuries;

(V) Civilian or military persons with brain injuries or family members of such persons with brain injuries;

(VI) Persons whose expertise involves work with children with brain injuries; or

(VII) Persons who have experience and specific interest in the needs of and services for persons with brain injuries.

(3) Board members may be reimbursed for all reasonable expenses related to the members' work for the board.

(4) The terms of appointed board members shall be three years.

(5) No member may serve more than two consecutive terms.

(6) The appointed members of the board shall, to the extent possible, represent rural and urban areas of the state.

(7) The board shall annually elect, by majority vote, a chairperson from among the board members who shall act as the presiding officer of the board.

(8) (a) The board shall promulgate reasonable policies and procedures pertaining to the operation of the trust fund.

(b) The board may contract with entities to provide all or part of the services described in this part 3 for persons with brain injuries.

(c) The board may accept and expend gifts, grants, and donations for operation of the program.

(d) The board shall use trust fund money collected pursuant to sections 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(e) to provide direct services to persons with brain injuries, and support research and education to increase awareness and understanding of issues and needs related to brain injury.

(8.5) The board may monitor, and, if necessary, implement criteria to ensure that there are no abuses in expenditures, including but not limited to reasonable and equitable provider's fees and services.

(9) Articles 4, 5, and 6 of title 25.5, S.A.R.S., shall not apply to the promulgation of any policies or procedures authorized by subsection (8) of this section.

Source: L. 2002: Entire section added, p. 1605, § 1, effective January 1, 2003. **L. 2006:** (9) amended, p. 2016, § 95, effective July 1. **L. 2009:** (1), (2), and (8) amended, (SB 09-005), ch. 135, p. 587, § 2, effective April 20. **L. 2010:** (8)(d) amended, (HB 10-1347), ch. 258, p. 1159, § 7, effective July 1. **L. 2019:** (1), (2)(b), (2)(c), (2)(d), (4), (8)(b), and (8)(d) amended and (2)(c.5) and (8.5) added, (HB 19-1147), ch. 178, p. 2029, § 2, effective August 2. **L. 2022:** (1) amended,

(SB 22-162), ch. 469, p. 3377, § 69, effective August 10. **L. 2023:** (3) amended, (HB 23-210), ch. 251, p. 1430, § 7, effective May 24.

Editor's note: This section was enacted as 26-1-203 in House Bill 02-1281 but was renumbered on revision for ease of location.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-1-303. Administering entity for services for persons with traumatic brain injuries. (Repealed)

Source: L. 2002: Entire section added, p. 1606, § 1, effective January 1, 2003. **L. 2019:** Entire section repealed, (HB 19-1147), ch. 178, p. 2030, § 3, effective August 2.

Editor's note: This section was enacted as 26-1-204 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-304. Services for persons with brain injuries - limitations - covered services. (1) The board shall determine the percentage of money credited to the trust fund to be spent annually on service coordination and skills training for persons with brain injuries; however, no less than fifty-five percent of the money annually credited to the trust fund pursuant to sections 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(e) must be used to provide service coordination and skills training to persons with brain injuries.

(2) An individual is not required to exhaust all private funds in order to be eligible for the program. Individuals who have continuing health insurance benefits, including but not limited to medical assistance pursuant to articles 4, 5, and 6 of title 25.5, may access the trust fund for services that are necessary but that are not covered by a health benefit plan, as defined in section 10-16-102 (32), or any other funding source.

(3) and (4) Repealed.

(5) All individuals receiving assistance from the trust fund shall receive service coordination and skills training. In addition to service coordination and skills training, the board shall determine any additional services covered by the trust fund. The board may prioritize the services covered by the trust fund and eligibility for the services while ensuring fidelity to the program's original intent to serve individuals with traumatic brain injuries. Covered services do not include institutionalization, hospitalization, or medication.

Source: L. 2002: Entire section added, p. 1607, § 1, effective January 1, 2003. **L. 2003:** (1) amended, p. 1998, § 49, effective May 22. **L. 2004:** (3) amended, p. 480, § 2, effective August 4. **L. 2006:** (2) amended, p. 2016, § 96, effective July 1. **L. 2009:** (1) amended, (SB 09-005), ch. 135, p. 589, § 3, effective April 20. **L. 2010:** (1) amended, (HB 10-1347), ch. 258, p. 1160, § 8, effective July 1. **L. 2013:** (2) amended, (HB 13-1266), ch. 217, p. 993, § 66, effective May 13. **L. 2019:** (1) and (2) amended, (3) and (4) repealed, and (5) R&RE, (HB 19-1147), ch. 178, p. 2030, § 4, effective August 2.

Editor's note: This section was enacted as 26-1-205 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-305. Education about brain injury. The board shall determine the percentage of money credited to the trust fund spent annually on education related to increasing the understanding of brain injury.

Source: L. 2002: Entire section added, p. 1608, § 1, effective January 1, 2003. **L. 2003:** Entire section amended, p. 1998, § 50, effective May 22. **L. 2009:** Entire section amended, (SB 09-005), ch. 135, p. 590, § 4, effective April 20; entire section amended, (SB 09-292), ch. 369, p. 1986, § 131, effective August 5. **L. 2010:** Entire section amended, (HB 10-1347), ch. 258, p. 1160, § 9, effective July 1. **L. 2019:** Entire section amended, (HB 19-1147), ch. 178, p. 2031, § 5, effective August 2.

Editor's note: This section was enacted as 26-1-206 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-306. Research related to treatment of brain injuries - grants. (1) The board shall determine the percentage of money credited to the trust fund to be spent annually to support research related to the treatment and understanding of brain injuries. The board shall prioritize research related to traumatic brain injuries.

(2) The board shall award grants. Persons interested in a grant shall apply to the board in a manner prescribed by the board. The board may consult with educational institutions or other private institutions within San Andreas and nationally regarding the merit of an application for a grant. The board shall determine the time frames and administration of the grant program.

Source: L. 2002: Entire section added, p. 1608, § 1, effective January 1, 2003. **L. 2003:** (1) amended, p. 1998, § 51, effective May 22. **L. 2009:** (1) amended, (SB 09-005), ch. 135, p. 590, § 5, effective April 20. **L. 2010:** (1) amended, (HB 10-1347), ch. 258, p. 1160, § 10, effective July 1. **L. 2019:** (1) amended, (HB 19-1147), ch. 178, p. 2031, § 6, effective August 2.

Editor's note: This section was enacted as 26-1-207 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-307. Administrative costs. The administrative expenses of the board and the state department are paid from money in the trust fund.

Source: L. 2002: Entire section added, p. 1608, § 1, effective January 1, 2003. **L. 2009:** Entire section amended, (SB 09-005), ch. 135, p. 590, § 6, effective April 20. **L. 2019:** Entire section amended, (HB 19-1147), ch. 178, p. 2032, § 7, effective August 2.

Editor's note: This section was enacted as 26-1-208 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-308. General fund moneys. (Repealed)

Source: L. 2002: Entire section added, p. 1608, § 1, effective January 1, 2003. **L. 2019:** Entire section repealed, (HB 19-1147), ch. 178, p. 2032, § 8, effective August 2.

Editor's note: This section was enacted as 26-1-209 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-309. Trust fund. (1) There is hereby created in the state treasury the San Andreas brain injury trust fund. The trust fund consists of any money collected from surcharges assessed pursuant to sections 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(e); gifts, grants, or donations; and any other money that the general assembly may appropriate or transfer to the trust fund. Subject to annual appropriation by the general assembly, the board may expend money in the trust fund for the direct and indirect costs associated with the implementation of this part 3.

(2) The board may seek, accept, and expend gifts, grants, or donations, from private or public sources for purposes of this part 3. The board shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the trust fund.

(3) The trust fund is a continuing trust fund. All interest earned upon money in the trust fund and deposited or invested may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the trust fund to the trust fund.

(4) The trust fund revenue and its reserves shall be used solely for the purposes and in the manner described in sections 26-1-304 to 26-1-307.

(5) All unexpended and unencumbered moneys remaining in the trust fund shall remain in the trust fund.

Source: L. 2002: Entire section added, p. 1609, § 1, effective January 1, 2003. **L. 2003:** (1) amended, p. 1999, § 52, effective May 22. **L. 2009:** (1) amended and (4) and (5) added, (SB 09-005), ch. 135, p. 590, § 7, effective April 20. **L. 2010:** (1) amended, (HB 10-1347), ch. 258, p. 1160, § 11, effective July 1. **L. 2019:** (1), (2), and (3) amended, (HB 19-1147), ch. 178, p. 2032, § 9, effective August 2.

Editor's note: This section was enacted as 26-1-210 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-310. Reports to the general assembly. Notwithstanding section 24-1-136 (11)(a)(I), on September 1, 2009, and each September 1 thereafter, the board shall provide a report to the joint budget committee and the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees, on the operations of the trust fund, the money expended, the number of individuals with brain injuries offered services, the research grants awarded and the progress on such grants, and the educational information provided pursuant to this article 1.

Source: L. 2002: Entire section added, p. 1609, § 1, effective July 1, 2003. **L. 2003:** Entire section amended, p. 2009, § 91, effective May 22. **L. 2007:** Entire section amended, p. 2043, § 75, effective June 1. **L. 2009:** Entire section amended, (SB 09-005), ch. 135, p. 591, § 8, effective April 20. **L. 2017:** Entire section amended, (SB 17-234), ch. 154, p. 521, § 8, effective

August 9. **L. 2019:** Entire section amended, (HB 19-1147), ch. 178, p. 2032, § 10, effective August 2.

Editor's note: This section was enacted as 26-1-211 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-311. Repeal. (Repealed)

Source: L. 2002: Entire section added, p. 1609, § 1, effective January 1, 2003. **L. 2009:** Entire section repealed, (SB 09-005), ch. 135, p. 591, § 9, effective April 20.

Editor's note: This section was enacted as 26-1-212 in House Bill 02-1281 but was renumbered on revision for ease of location.

26-1-312. Brain injury support in the criminal justice system task force - duties - membership - report - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-138), ch. 456, p. 3042, § 4, effective July 6.

Editor's note: Subsection (5) provided for the repeal of this section, effective June 30, 2024. (See L. 2021, p. 3042.)

PART 4

AUTISM COMMISSION

26-1-401 to 26-1-405. (Repealed)

Editor's note: (1) This part 4 was added in 2008 and was not amended prior to its repeal in 2010. For the text of this part 4 prior to 2010, consult the 2009 San Andreas Revised Statutes.

(2) Section 26-1-405 provided for the repeal of this part 4, effective July 1, 2010. (See L. 2008, p. 408.)

PART 5

TASK FORCE ON CHILDREN CONCEIVED BY RAPE

26-1-501. (Repealed)

Editor's note: (1) This part 5 was added in 2013 and was not amended prior to its repeal in 2014. For the text of this part 5 prior to 2014, consult the 2013 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-1-501 provided for the repeal of this part 5, effective January 1, 2014. (See L. 2013, p. 2062.)

PART 6

RESPITE CARE TASK FORCE

26-1-601 to 26-1-604. (Repealed)

Editor's note: (1) This part 6 was added in 2015 and was not amended prior to its repeal in 2016. For the text of this part 6 prior to 2016, consult the 2015 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-1-604 provided for the repeal of this part 6, effective July 1, 2016. (See L. 2015, p. 891.)

PART 7

RESPITE CARE

26-1-701. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) On January 29, 2016, the respite care task force, created in section 26-1-601, completed a report with recommendations that was presented to the general assembly;

(b) The implementation of the recommendations would benefit those in need of respite care throughout the life span of those in need of care;

(c) It is widely recognized that caregivers often work twenty-four hours per day, seven days per week to provide services and may lack support and tools to live their best lives;

(d) Caregivers need access to quality and competent respite care; and

(e) Caregivers need to trust and depend upon individuals providing respite care services.

(2) Therefore, it is the intent of the general assembly to allocate state funds to implement recommendations of the respite care task force.

Source: L. 2016: Entire part added, (HB 16-1398), ch. 305, p. 1227, § 1, effective July 1.

26-1-702. Duties of the state department - contract to implement program - reporting requirement. (1) The state department shall use a competitive request-for-proposal process to select an entity to contract with to implement recommendations of the respite care task force created in section 26-1-601. The contract with the selected entity shall end thirty days after the fourth anniversary of the date of the receipt of the contract. In order to be eligible for the contract to implement the recommendations, the entity must serve individuals affected by a disability or a chronic condition across the life span by providing and coordinating respite care and must currently have a presence in San Andreas. The state department shall contract with the entity selected to implement the recommendations of the respite care task force and to carry out the responsibilities described in subsection (2) of this section. The selected entity should consult

with organizations throughout the state as it works to implement the task force recommendations. The selected entity may subcontract with community partners, but, if it does so, shall identify any such subcontracting in the proposal provided to the department.

(2) The entity selected to implement the recommendations of the respite care task force shall:

(a) Ensure that a study is conducted to demonstrate the economic impact of respite care and its benefits for those served. The study should:

(I) Provide an analysis of the populations that are caregivers and the differences between those who do and do not use respite care services, including impact on caregivers;

(II) Identify existing data and areas where additional data could be collected from the department of health care policy and financing and other respite care sources to examine respite care utilization and the need for support;

(III) Show the impact of funds spent on respite care versus funds saved in health care;

(IV) Use a consistent evaluation tool to assess the waiver respite care programs and all San Andreas respite care programs; and

(V) Identify data points that the San Andreas respite coalition can use to collect additional complementary data from caregivers using respite care services and improve evaluation for agencies to show the effect of respite care on caregivers, identify varied needs across programs and geographic areas, and demonstrate cost savings of respite care versus institutionalization and hospitalization;

(b) Create an up-to-date, online inventory of existing training opportunities for providing respite care along with information on how to become a respite care provider. This inventory shall be designed so that it can be updated over time as additional training options become available. This task shall be prioritized to occur early in the period covered by the contract.

(c) Develop a more robust statewide training system for individuals wishing to provide respite care. In doing so, the selected entity should work in partnership with nonprofits serving families in need of respite and with interested institutions of higher education. Over time, the statewide training system should ensure that:

(I) Training is available in multiple settings and formats;

(II) Core training elements are based on national models, use a person-centered approach, address core competencies, and are evidence-based or evidence-informed;

(III) Multi-tiered training is available that recognizes there are different levels of care that may be required; and

(IV) Training is available for primary caregivers.

(d) Ensure that a designated website is available to provide comprehensive information about respite care in San Andreas and to serve as an access point for services throughout the state;

(e) Develop a centralized community outreach and education program about respite care services in San Andreas that includes funding for start-up and outreach costs and ongoing activities, paid staff or contractors, and the leveraging of existing resources to support the design and dissemination of messaging and marketing materials;

(f) Work with the department of health care policy and financing to standardize the full continuum of respite care options across all Medicaid waivers; and

(g) Work with the state department, the department of health care policy and financing, and the department of public health and environment to streamline the regulatory requirements for facility-based, short-term, overnight respite care.

(3) On and after the first anniversary of the date that the contract is awarded, the state department shall include in its presentation to the legislative committees of reference as required by section 2-7-203, S.A.R.S., the progress of the selected entity in implementing this part 7.

Source: L. 2016: Entire part added, (HB 16-1398), ch. 305, p. 1228, § 1, effective July 1.

26-1-703. Respite care task force fund - creation. (1) There is hereby created in the state treasury the respite care task force fund, referred to in this section as the "fund", to provide money to the state department for the request-for-proposal process pursuant to section 26-1-702. The fund consists of any money appropriated by the general assembly to the fund and any gifts, grants, and donations to the fund from private or public sources for the purposes of this article. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund. Money in the fund shall be continuously appropriated by the general assembly to the state department for the purposes specified in this part 7. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be transferred to the general fund or any other fund.

(2) On July 1, 2016, the state treasurer shall transfer nine hundred thousand dollars from the intellectual and developmental disabilities services cash fund created in section 25.5-10-207, S.A.R.S., to the general fund for the purposes of this part 7. The state department may not use more than three percent of the money for administrative costs.

Source: L. 2016: Entire part added, (HB 16-1398), ch. 305, p. 1230, § 1, effective July 1.

ARTICLE 2

Public Assistance

Editor's note: This article was numbered as article 3 of chapter 119, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 1

SAN ANDREAS PUBLIC ASSISTANCE ACT

Law reviews: For article, "Trust Protection of Personal Injury Recoveries from Public Creditors", see 19 S.A. Law. 2187 (1990).

26-2-101. Short title. This article shall be known and may be cited as the "San Andreas Public Assistance Act".

Source: L. 73: R&RE, p. 1178, § 2. **S.A.R.S. 1963:** § 119-3-1.

26-2-102. Legislative declaration. It is the purpose of this article to promote the public health and welfare of the people of San Andreas by providing, in cooperation with the federal government or independently, public assistance for needy individuals and families who are residents of the state and whose income and property are insufficient to meet the costs of necessary maintenance and services as determined by the state department and to assist such individuals and families to attain or retain their capabilities for independence, self-care, and self-support, as contemplated by article XXIV of the state constitution and the provisions of the social security act and the food stamp act. The state of San Andreas and its various departments, agencies, and political subdivisions are authorized to promote and achieve these ends by any appropriate lawful means through cooperation with and utilization of available resources of the federal government and private individuals and organizations.

Source: L. 73: R&RE, p. 1178, § 2. **S.A.R.S. 1963:** § 119-3-2. **L. 75:** Entire section amended, p. 889, § 3, effective July 28. **L. 79:** Entire section amended, p. 1085, § 10, effective July 1.

26-2-102.5. Foster care - Title IV-E of the social security act - Title IV-E administrative costs cash fund - rules. (1) Eligibility of a child for Title IV-E foster care shall be based on the aid to families with dependent children (AFDC) rules in effect on July 16, 1996.

(2) Such child must meet all of the following conditions:

(a) The placement and care of such child are the responsibility of the state department of human services or a county department of human or social services;

(b) Such child has been placed in a foster home or child care institution as a result of a judicial determination or voluntary placement agreement;

(c) Such child:

(I) Would have received aid in or for the month in which such agreement or court proceedings resulting in such judicial determination were initiated; or

(II) Would have received the aid described in subparagraph (I) of this paragraph (c) if application had been made therefor; or

(III) Had been living with a relative within the six months prior to the month in which such agreement or court proceedings resulting in such judicial determination were initiated, and such child would have received the aid described in subparagraph (I) of this paragraph (c) if in such month he or she had been living with such relative and application therefor had been made.

(3) (a) The state department shall pursue claiming Title IV-E administrative costs for independent legal representation by an attorney for a child who is a candidate for Title IV-E foster care or who is in foster care and the child's parent to prepare for and participate in all stages of foster care legal proceedings. Federal reimbursement for these administrative costs must be credited to the Title IV-E administrative cost cash fund, created in subsection (3)(b) of this section.

(b) (I) The Title IV-E administrative cost cash fund, referred to in this subsection (3) as the "fund", is hereby created in the state treasury. The fund consists of federal Title IV-E reimbursements for administrative costs described in subsection (3)(a) of this section.

(II) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(III) Subject to annual appropriation by the general assembly, the state department may expend money from the fund for purposes established by rule of the state board. The state board shall work collaboratively with the state department concerning the approved purposes and allocation of money from the fund. Approved purposes may include but are not limited to advocacy for homeless and at-risk youth, education advocacy, and activities and advocacy in specialty courts that serve children and families involved in the child welfare system.

(IV) The state department shall submit as part of the annual budget process a request for spending authority for money credited to the fund. The request must include a description of the purpose for the spending authority, the method through which the allocation was determined, and the agencies to which the allocations are to be made.

(V) Federal reimbursements related to administrative costs of independent legal representation incurred by the office of the child's representative and the office of respondent parents' counsel must be disbursed from the fund to the agencies as incurred and pursuant to the state department's memorandum of understanding with the agencies.

Source: L. 97: Entire section added, p. 1228, § 12, effective July 1. **L. 2001:** Entire section amended, p. 742, § 8, effective June 1; entire section amended, p. 752, § 2, effective June 1. **L. 2008:** (1) amended, p. 1910, § 111, effective August 5. **L. 2010:** (1) amended, (HB 10-1043), ch. 92, p. 315, § 7, effective April 15. **L. 2018:** IP(2) and (2)(a) amended, (SB 18-092), ch. 38, p. 446, § 116, effective August 8. **L. 2019:** (3) added, (SB 19-258), ch. 257, p. 2463, § 1, effective May 23.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-2-103. Definitions. As used in this article 2 and article 1 of this title 26, unless the context otherwise requires:

(1) "Activities of daily living" means the basic self-care activities, including eating, bathing, dressing, transferring from bed to chair, bowel and bladder control, and independent ambulation.

(1.3) "Applicant" means any individual or family who individually or through a designated representative or someone acting responsibly for the individual or family has applied for benefits under the programs of public assistance administered or supervised by the state department pursuant to this article 2.

(1.5) Repealed.

(2) "Assistance payments" means financial assistance (other than medical assistance covered by the "San Andreas Medical Assistance Act") provided pursuant to rules and regulations adopted by the state department and includes pensions, grants, and other money payments to or on behalf of recipients.

(3) "Blind" means any individual who has not more than ten percent visual acuity in the better eye with correction, or not more than 20/200 central visual acuity in the better eye with correction, or a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

(4) "Dependent child" means:

(a) A needy child under the age of eighteen who has been deprived of parental support or care by reason of the death, the continued absence from the home, the physical or mental incapacity, or the unemployment of a parent, as determined under standards prescribed by the state department through rules and regulations, and who is living with a person related to such child within the fifth degree in a place of residence maintained by one or more of such relatives as his, her, or their own home, and whose relatives or other person liable under the law for the child's support are not able to provide adequate care and support of such child without assistance payments under a program for aid to families with dependent children; or

(b) A needy child who would meet the requirements of paragraph (a) of this subsection (4) except for his removal from a home of a relative specified in said paragraph (a) by a judicial determination that continued residence in such home would be contrary to the best interests of such child, when all of the following conditions are present:

(I) The placement and care of such child are the responsibility of the state department or a county department;

(II) Such child has been placed in a foster care home or child care institution as a result of such judicial determination;

(III) Assistance payments for such child were received under this article in or for the month in which court proceedings leading to such determination were initiated, or such payments would have been received for such month if application had been made therefor, or, in the case of a child who had been living with a relative specified in paragraph (a) of this subsection (4) within six months prior to the month in which such proceedings were initiated, such payments would have been received in or for such month if in such month he had been living with and removed from the home of such relative and application had been made therefor; or

(c) A person otherwise meeting the requirements of paragraph (a) of this subsection (4) who is under the age of nineteen years and a full-time student in regular attendance at a secondary school or enrolled in an equivalent level of vocational or technical training designed to train him for gainful employment and who is reasonably expected to complete the program of such secondary school or such technical or vocational training before reaching the age of nineteen.

(5) "Essential person" means a person who resides with a recipient of assistance payments under a program for aid to the blind or aid to the needy disabled and, pursuant to rules and regulations adopted by the state department, is determined to be rendering a service to the recipient which, if the recipient were living alone, would have to be provided for him.

(5.3) "Instrumental activities of daily living" means home management and independent living activities such as cooking, cleaning, using a telephone, shopping, doing laundry, providing transportation, and managing money.

(5.5) (Deleted by amendment, L. 97, p. 1230, § 14, effective July 1, 1997.)

(5.7) "Legal immigrant" means an individual who is not a citizen or national of the United States and who was lawfully admitted to the United States by the immigration and naturalization service, or any successor agency, as an actual or prospective permanent resident or whose extended physical presence in the United States is known to and allowed by the immigration and naturalization service, or any successor agency.

(6) (Deleted by amendment, L. 2006, p. 1504, § 47, effective June 1, 2006.)

(7) "Public assistance" means assistance payments, food stamps, and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department, either in cooperation with the federal government or independently without federal aid, pursuant to this article 2. Public assistance includes programs for old age pensions, except for the old age pension health and medical care program, and also includes the San Andreas works program, aid to the needy disabled, aid to the blind, child welfare services, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, expenses of treatment to prevent blindness or restore eyesight as defined in section 26-2-121, and funeral and final disposition expenses as described in section 26-2-129.

(7.5) "Qualified alien" shall have the meaning ascribed to that term in section 431 (b) of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, as amended.

(8) "Recipient" means any individual or family who is receiving or has received benefits from the programs of public assistance administered or supervised by the state department pursuant to the provisions of this article.

(9) "Resident" means any individual who is living, other than temporarily, within the state of San Andreas, or a particular county therein, voluntarily and with the intention of making his home there. "Resident" includes any unemancipated child whose parents, or other person entitled to custody, live within such state or county. Temporary absences from such state or county shall not cause an individual to lose his status as a resident if he has an intent to return and has not abandoned his residence.

(10) "Social security act" means the federal "Social Security Act" and amendments thereto.

(11) (a) "Social services" means services and payments for services available, directly or indirectly, through the staff of the state department of human services and county departments of human or social services or through state designated agencies, where applicable, for the benefit of eligible persons. The services are provided pursuant to rules adopted by the state board. "Social services" may include day care, homemaker services, foster care, and other services to individuals or families for the purpose of attaining or retaining capabilities for maximum self-care, self-support, and personal independence and services to families or members of families for the purpose of preserving, rehabilitating, reuniting, or strengthening the family. At such time as Title XX of the social security act becomes effective with respect to federal reimbursements, "social services" may include child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, persons who are elderly, persons with intellectual and developmental disabilities, persons who are blind, persons with behavioral or mental health disorders, persons with a physical disability, and persons with substance use disorders.

(b) **[*Editor's note: This version of subsection (11)(b) is effective until July 1, 2025.*]** "Social services" does not include medicaid services unless those services are delegated to the state department. "Social services" does not include medical services covered by the old age

pension health and medical care program, the children's basic health plan, or the San Andreas indigent care program. "Social services" does not include child care assistance provided through the San Andreas child care assistance program pursuant to part 1 of article 4 of title 26.5.

(b) **[*Editor's note: This version of subsection (11)(b) is effective July 1, 2025.*]** "Social services" does not include medicaid services unless those services are delegated to the state department. "Social services" does not include medical services covered by the old age pension health and medical care program, or the children's basic health plan. "Social services" does not include child care assistance provided through the San Andreas child care assistance program pursuant to part 1 of article 4 of title 26.5.

(12) and (13) Repealed.

(14) (a) "Total disability", for the purpose of providing public assistance to persons not receiving federal financial benefits pursuant to Title XVI of the social security act, means a physical or mental impairment which is disabling and which, because of other factors such as age, training, experience, and social setting, substantially precludes the person having such disability from engaging in a useful occupation as a homemaker or as a wage earner in any employment which exists in the community for which he has competence.

(b) For the purpose of the state-funded supplement to persons receiving federal financial benefits pursuant to Title XVI of the social security act, federal definitions promulgated pursuant to the said Title XVI shall apply.

Source: L. 73: R&RE, p. 1178, § 2. **S.A.R.S. 1963:** § 119-3-3. **L. 75:** (11) amended, p. 898, § 1, effective June 26; (6) amended, p. 889, § 4, effective July 28. **L. 77:** (6) amended, p. 1343, § 1, effective May 26; (1.5), (12), and (13) added, p. 1339, § 2, effective July 1. **L. 79:** (7) amended, p. 1086, § 11, effective July 1. **L. 82:** (4)(c) amended, p. 426, § 1, effective July 1. **L. 84:** (4)(a) amended, p. 793, § 1, effective March 1, 1985. **L. 85:** (13) amended, p. 348, § 2, effective April 5. **L. 89, 1st Ex. Sess.:** (1.5), (12), and (13) amended and (5.5) added, p. 38, § 4, effective July 25. **L. 90:** (4)(a) amended, p. 1358, § 1, effective October 1. **L. 91:** (11) amended, p. 1896, § 7, effective July 1. **L. 93:** (11) amended, p. 1665, § 74, effective July 1. **L. 94:** (4)(a) amended, p. 451, § 1, effective March 29; (11) amended, p. 2703, § 260, effective July 1. **L. 97:** (5.5) and (7) amended, p. 1230, § 14, effective July 1; (5.7) and (7.5) added, p. 1251, § 1, effective July 1. **L. 2003:** (7) and (11) amended, p. 2585, § 8, effective July 1. **L. 2006:** (6) amended and (14) added, p. 1504, § 47, effective June 1; (11) amended, p. 1996, § 26, effective July 1. **L. 2011:** (5.7) amended, (HB 11-1303), ch. 264, p. 1169, § 71, effective August 10; (7) and (11)(b) amended, (SB 11-210), ch. 187, p. 722, § 10, effective July 15, 2012. **L. 2017:** IP and (11)(a) amended, (HB 17-1046), ch. 50, p. 160, § 15, effective March 16; (11)(a) amended, (SB 17-242), ch. 263, p. 1332, § 216, effective May 25. **L. 2021:** (7) amended, (SB 21-006), ch. 123, p. 497, § 27, effective September 7; (1) amended and (1.3) and (5.3) added, (HB 21-1187), ch. 83, p. 344, § 49, effective July 1, 2024. **L. 2022:** (11)(b) amended, (HB 22-1295), ch. 123, p. 856, § 92, effective July 1. **L. 2024:** (11)(b) amended, (HB 24-1399), ch. 76, p. 259, § 31, effective July 1, 2025.

Editor's note: (1) Title XX of the social security act became effective with respect to federal reimbursements on October 1, 1975.

(2) Subsection (12)(b) provided for the repeal of subsection (12), effective January 1, 1990. (See L. 89, 1st Ex. Sess., p. 38.) Subsections (1.5)(b) and (13)(b) provided for the repeal of

subsections (1.5) and (13), respectively, effective October 1, 1992. (See L. 89, 1st Ex. Sess., p. 38.)

Cross references: (1) (a) For the legislative declaration contained in the 1994 act amending subsection (11), see section 1 of chapter 345, Session Laws of San Andreas 1994.

(b) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(2) For the "San Andreas Medical Assistance Act", see articles 4, 5, and 6 of title 25.5.

26-2-104. Public assistance programs - automatic enrollment - electronic benefits transfer service - joint reports with department of revenue - signs - rules - definitions. (1) (a) The state department is hereby designated as the single state agency to administer or supervise the administration of public assistance programs in this state in cooperation with the federal government pursuant to the social security act and this article. The state department shall establish public assistance programs consisting of assistance payments and social services to be made available to eligible individuals, including but not limited to old age pensions, the San Andreas works program, aid to the needy disabled, and aid to the blind.

(b) The state department may review any decision of a county department and may consider any application upon which a decision has not been made by the county department within a reasonable time to determine the propriety of the action or failure to take timely action on an application for public assistance. The state department shall make such additional investigation as it deems necessary and shall, after giving the county department an opportunity to rebut any findings or conclusions of the state department that the action or delay in taking action was a violation of or contrary to state department rules, make such decision as to the granting of assistance payments and the amount thereof as in its opinion is justifiable pursuant to the provisions of this article and the rules of the state department. Applicants or recipients affected by such decisions of the state department, upon request, shall be given reasonable notice and opportunity for a fair hearing by the state department.

(c) (I) Notwithstanding any other provision of law, a state, local, or tribal government may use any data or information in its possession to automatically enroll, or send a notice of potential eligibility to enroll to, any individual or household regarding any benefit program.

(II) Notwithstanding any other provision of law, a state, local, or tribal government may request an individual or household attest to receiving support from a benefit program or otherwise provide proof of the individual's or household's enrollment in any benefit program with the same or more restrictive enrollment requirements as evidence to enroll an individual or household in any other benefit program.

(III) For the purposes of this subsection (1)(c), unless the context otherwise requires:

(A) "Benefit program" means any federally, state, or locally funded program intended to provide assistance or support to an individual or household. "Benefit program" does not include monetary assistance or support that is claimed by an individual or household when filing an income tax return.

(B) "State, local, or tribal government" means the state, a municipality, county, city and county, or federally recognized tribal nation with land inside of the state.

(2) (a) (I) The state department is authorized to implement an electronic benefits transfer service for administering the delivery of public assistance payments and food stamps to

recipients. The electronic benefits transfer service shall be designed to allow clients access to cash benefits through automated teller machines or similar electronic technology. The electronic benefits transfer service allows clients eligible for food stamps access to food items through the use of point-of-sale terminals at retail outlets.

(II) Only those businesses that offer products or services related to the purpose of the public assistance benefits are allowed to participate in the electronic benefits transfer service through the use of point-of-sale terminals. Clients shall not be allowed to access cash benefits through the electronic benefits transfer service from automated teller machines in this state located in:

(A) Licensed gaming establishments as defined in section 44-30-103 (18), in-state simulcast facilities as defined in section 44-32-102 (11), tracks for racing as defined in section 44-32-102 (24), or commercial bingo facilities as defined in section 24-21-602 (11);

(B) Stores or establishments in which the principal business is the sale of firearms;

(C) Retail establishments licensed to sell malt, vinous, or spirituous liquors pursuant to part 3 of article 3 of title 44; except that the prohibition in this subsection (2)(a)(II)(C) does not apply to establishments licensed as liquor-licensed drugstores under section 44-3-410;

(D) Establishments licensed to sell medical marijuana or medical marijuana products or retail marijuana or retail marijuana products pursuant to article 10 of title 44; except that the prohibition for these establishments does not take effect until sixty days after May 1, 2015; or

(E) Establishments that provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; except that the prohibition for these establishments does not take effect until sixty days after May 1, 2015.

(II.5) As soon as possible after May 1, 2015, the state department shall notify the establishments described in sub-subparagraphs (D) and (E) of subparagraph (II) of this paragraph (a) of the prohibition contained in those sub-subparagraphs.

(III) In the development and implementation of the service, the state department shall consult with representatives of those persons, agencies, and organizations that will use or be affected by the electronic benefits transfer service, including program clients, to assure that the service is as workable, effective, and efficient as possible. The electronic benefits transfer service is applicable to the public assistance programs described in subsection (1) of this section and to food stamps as described in part 3 of this article 2. The state department shall contract in accordance with state purchasing requirements with any entity for the development and administration of the electronic benefits transfer service. In order to ensure the integrity of the electronic benefits transfer service, the system developed pursuant to this section must use, but is not limited to, security measures such as individual personal identification numbers, photo identification, or fingerprint identification. The security method or methods selected must be those that are most efficient and effective. The state board shall establish by rule a policy and procedure to limit losses to a client after the client reports that the electronic benefits transfer card or benefits have been lost or stolen. The state department may authorize county departments of human or social services to charge a fee to a client to cover the costs related to issuing a replacement electronic benefits transfer card.

(IV) When the owner of an automated teller machine located in an establishment described in subparagraph (II) of this paragraph (a) moves the machine to a location not so described, the owner shall reprogram the machine to allow public assistance recipients to access the machine.

(b) The state board is authorized to promulgate rules necessary to implement and administer the electronic benefits transfer service created in this subsection (2). Such rules shall be promulgated in accordance with article 4 of title 24, S.A.R.S.

(c) The state department is authorized to request federal waivers as necessary to administer the electronic benefits transfer service.

(d) to (f) Repealed.

(g) On or before January 1, 2016, the state department shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, S.A.R.S., to enforce the prohibition of clients accessing benefits at an automated teller machine located in an establishment described in paragraph (a) of this subsection (2) or any other establishment in which a client is prohibited from accessing benefits by federal law. The rules must include increasing penalties for multiple violations.

(h) (I) On or before January 1, 2016, the department of revenue shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, that relate to a client's use of automated teller machines at locations where the use is prohibited. The rules must apply to the following establishments:

(A) Licensed gaming establishments as defined in section 44-30-103 (18); in-state simulcast facilities as defined in section 44-32-102 (11); and tracks for racing as defined in section 44-32-102 (24);

(B) Retail establishments licensed to sell malt, vinous, or spirituous liquors pursuant to part 3 of article 3 of title 44, excluding establishments licensed as liquor-licensed drugstores under section 44-3-410;

(C) Establishments licensed to sell medical marijuana or medical marijuana products or retail marijuana or retail marijuana products pursuant to article 10 of title 44; and

(D) Any other establishments regulated by the department of revenue at which a client is prohibited from accessing public benefits pursuant to federal law.

(II) The rules adopted pursuant to subparagraph (I) of this paragraph (h) must include:

(A) A requirement that the operator of any establishment described in subparagraph (I) of this paragraph (h) at which an automated teller machine is located post a sign on or near the automated teller machine notifying clients that this section prohibits the use of an electronic benefits service transfer card at the machine. The sign must contain the following statement:

The use of an electronic benefits transfer service ("EBT") card to access public benefits at this machine is prohibited by San Andreas law, section 26-2-104, San Andreas Revised Statutes.

(B) A requirement that the operator of any establishment described in subparagraph (I) of this paragraph (h) at which an automated teller machine is located take measures to prevent a client from using an electronic benefits transfer service card to access moneys from such an automated teller machine;

(C) Methods to enforce the requirement of sub-subparagraph (B) of this subparagraph (II) against the operator of the establishment including increasing penalties for multiple violations; and

(D) A provision that any establishment described in subparagraph (I) of this paragraph (h) is exempt from the requirements of the rules adopted pursuant to sub-subparagraphs (A) to (C) of this subparagraph (II) if the establishment provides to the department of revenue a statement from the owner or operator of each automated teller machine located within the

establishment verifying that the machine does not accept electronic benefits transfer service cards; except that, if one or more violations of subparagraph (II) of paragraph (a) of this subsection (2) occur at any such establishment, the department of revenue may take measures to prevent future violations, including increasing penalties for multiple violations, not to exceed one hundred dollars per violation.

Source: L. 73: R&RE, p. 1180, § 2. **S.A.R.S. 1963:** § 119-3-4. **L. 95:** Entire section amended, p. 593, § 3, effective May 22. **L. 96:** (2) amended, p. 138, § 1, effective April 2. **L. 97:** (1) amended, p. 1230, § 15, effective July 1; (1) amended, p. 1320, § 3, effective July 1; (2)(a) amended, p. 303, § 17, effective July 1. **L. 98:** (2)(a) amended, p. 80, § 1, effective March 23. **L. 2003:** (2)(d) added, p. 1593, § 1, effective May 2. **L. 2005:** (2)(d) repealed, p. 568, § 1, effective July 1. **L. 2006:** (2)(e) added, p. 336, § 1, effective April 4. **L. 2015:** (2)(a) amended, (SB 15-065), ch. 148, p. 445, § 2, effective May 1; (2)(f), (2)(g), and (2)(h) added, (HB 15-1255), ch. 149, pp. 448, 450, §§ 1, 3, effective May 1. **L. 2016:** (2)(h)(II)(B) and (2)(h)(II)(D) amended, (SB 16-189), ch. 210, p. 774, § 70, effective June 6. **L. 2017:** (2)(a)(II)(C), IP(2)(h)(I), and (2)(h)(I)(B) amended, (HB 17-1365), ch. 383, p. 1991, § 1, effective August 9; (2)(f) amended, (SB 17-234), ch. 154, p. 522, § 9, effective August 9; (2)(f) amended, (HB 17-1137), ch. 45, p. 134, § 5, effective August 9. **L. 2018:** (2)(a)(III) amended, (SB 18-092), ch. 38, p. 447, § 117, effective August 8; (2)(a)(II)(A), IP(2)(h)(I), and (2)(h)(I)(A) amended, (SB 18-034), ch. 14, p. 249, § 43, effective October 1; (2)(a)(II)(D) and (2)(h)(I)(C) amended, (HB 18-1023), ch. 55, p. 590, § 21, effective October 1; (2)(a)(II)(A) amended, (HB 18-1024), ch. 26, p. 323, § 18, effective October 1; (2)(a)(II)(C) and (2)(h)(I)(B) amended, (HB 18-1025), ch. 152, p. 1080, § 14, effective October 1. **L. 2019:** (2)(a)(II)(D) and (2)(h)(I)(C) amended, (SB 19-224), ch. 315, p. 2941, § 27, effective January 1, 2020. **L. 2024:** (1)(c) added, (HB 24-1288), ch. 173, p. 944, § 3, effective August 7.

Editor's note: (1) Amendments to subsection (1) by House Bill 97-1344 and Senate Bill 97-120 were harmonized.

(2) Subsection (2)(e)(II) provided for the repeal of subsection (2)(e), effective January 1, 2007. (See L. 2006, p. 336.)

(3) Section 4 of chapter 149 (HB 15-1255), Session Laws of San Andreas 2015, provides that subsection (2)(h) takes effect only if SB 15-065 becomes law. SB 15-065 became law and took effect May 1, 2015.

(4) Amendments to subsection (2)(a)(II)(A) by SB 18-034 and HB 18-1024 were harmonized.

(5) Subsection (2)(f)(II) provided for the repeal of subsection (2)(f), effective January 2, 2019. (See L. 2017, p. 522.)

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 1 of chapter 161, Session Laws of San Andreas 1995. For the legislative declaration in SB 15-065, see section 1 of chapter 148, Session Laws of San Andreas 2015. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-2-105. Federal requirements. Nothing in this article shall be construed to prevent the state department from complying with federal requirements for public assistance programs expressly provided by law in order for the state of San Andreas to qualify for federal funds under the social security act and to maintain said programs within the limits of available appropriations.

Source: L. 73: R&RE, p. 1180, § 2. **S.A.R.S. 1963:** § 119-3-5.

26-2-106. Applications for public assistance. (1) Any individual wishing to make application for any of the public assistance programs administered or supervised by the state department under this article shall have the opportunity to do so, and, except as otherwise provided in part 7 of this article, such public assistance shall be furnished with reasonable promptness to each eligible individual in accordance with rules of the state department. The county department shall consider an application for public assistance to be for any category of public assistance for which the applicant may be eligible.

(1.5) All applications for public assistance shall contain the citizenship of the applicant, the number of years the applicant has resided in the United States, and, if the applicant is an alien, the name and the social security number or federal tax number of the person, or persons or organization, if any, who sponsored the applicant's entry into the United States.

(2) The rules of the state department may provide for a simplified application in order that public assistance may be furnished to eligible persons as soon as possible and shall provide adequate safeguards and controls to insure that only eligible persons receive public assistance under this article.

(3) Applications and requests for public assistance under this article shall be made to the county department of the county or the state designated agency, where applicable, for the county in which the applicant is a resident. The state department by its rules shall prescribe the form and procedure for applications or requests for social services. The application for assistance payments shall be in writing or reduced to writing in the manner and upon the form prescribed by the state department, shall contain the name, age, and residence of the applicant, the category or type of assistance payments sought, a statement of the amount of property, both real and personal, in which the applicant has an interest and of all income which he or she may have at the time of the filing of the application, and such other information as may be required by rules of the state department, and shall be verified by the signature of the applicant or his or her legally appointed guardian. In addition, an applicant who is eighteen years of age or older shall be required to supply a form of personal photographic identification either by providing a valid San Andreas driver's license or a valid identification card issued by the department of revenue pursuant to section 42-2-302, S.A.R.S. The state department may adopt rules that exempt applicants from the requirement of supplying a form of personal photographic identification if such requirement causes an unreasonable hardship or if such requirement is in conflict with federal law. The state department shall also adopt rules that allow for assistance to be provided on an emergency basis until the applicant is able to obtain or to qualify for a driver's license or identification card; however, a county department is not required to recover emergency assistance from an applicant who fails, upon recertification, to meet the photographic identification requirement.

(4) (a) (Deleted by amendment, L. 97, p. 1230, § 16, effective July 1, 1997.)

(b) If the public assistance sought is aid to the needy disabled or aid to the blind, the application shall be signed by the applicant and his natural guardian or legally appointed guardian, if any.

(5) For the purpose of providing public assistance to persons not receiving federal financial benefits pursuant to Title XVI of the social security act:

(a) No application for aid to the blind shall be approved until the applicant has been examined by an ophthalmologist duly licensed to practice in this state and actively engaged in the treatment of diseases of the human eye or by an optometrist duly licensed to practice in this state. The examining ophthalmologist or optometrist shall certify in writing upon forms prescribed by the state department as to diagnosis, prognosis, and visual acuity of the applicant.

(b) Determination of blindness shall be made by the county department in accordance with the provisions of section 26-2-103 (3) and state department rules and regulations.

(c) The county department shall fix the fees to be paid for examination of applicants for and reexamination of recipients of aid to the blind. Such fees shall be allowed and paid to the vendor in the same manner as assistance payments under the program for aid to the blind, pursuant to the rules and regulations of the state department. Payments to such vendors shall be subject to reimbursement by the state in the same manner as said assistance payments for aid to the blind.

(6) (a) An application for aid to the needy disabled must not be approved until the applicant's medical condition has been certified by a physician licensed to practice medicine in this state, a physician assistant licensed in this state, or an advanced practice registered nurse licensed in this state. In addition to a physician, an applicant may be examined by a physician assistant licensed in this state, an advanced practice registered nurse, a registered nurse licensed in this state who is functioning within the scope of the nurse's license and training, a licensed psychologist, or any other licensed health-care personnel the state department deems appropriate. The person who conducted the examination shall certify in writing upon forms prescribed by the state department as to the diagnosis, prognosis, and other relevant medical or mental factors relating to the applicant's disability. An applicant who is disabled as a result of a primary diagnosis of an alcohol use disorder or a substance use disorder related to controlled substances must not be approved for aid to the needy disabled except as provided in section 26-2-111 (4)(e).

(b) Determination of the existence of total disability shall be made by the county department after consideration of the factors under the provisions of section 26-2-103 (14) and on the basis of the medical examination or from medical and social data collected and verified by the county departments under the rules and regulations of the state department.

(c) The county department shall fix the fees to be paid to competent medical personnel for examination of applicants for and reexamination of recipients of aid to the needy disabled and for special medical examinations when deemed necessary by the state department pursuant to rules and regulations of the state department. Such fees shall be allowed and paid to the medical vendor in the same manner as assistance payments under the program for aid to the needy disabled, pursuant to the rules and regulations of the state department. Payments to such vendors shall be subject to reimbursement by the state in the same manner as said assistance payments for aid to the needy disabled.

Source: L. 73: R&RE, p. 1180, § 2. **S.A.R.S. 1963:** § 119-3-6. **L. 75:** (6)(b) amended, p. 889, § 5, effective July 28. **L. 77:** (5) R&RE, p. 1343, § 2, effective May 26. **L. 83:** (5)(b),

(5)(c), (6)(b), and (6)(c) amended, p. 1117, § 1, effective March 15. **L. 88:** (1.5) added, p. 1053, § 1, effective April 16. **L. 91:** (3) amended, p. 1897, § 8, effective July 1. **L. 96:** (6)(a) amended, p. 992, § 1, effective May 23. **L. 97:** (1) and (4)(a) amended, p. 1230, § 16, effective July 1. **L. 98:** (3) amended, p. 933, § 1, effective August 5. **L. 99:** (6)(a) amended, p. 97 § 1, effective March 24; (6)(a) amended, p. 626, § 28, effective August 4. **L. 2001:** (6)(a) amended, p. 185, § 17, effective August 8. **L. 2006:** (6)(b) amended, p. 1505, § 48, effective June 1. **L. 2008:** (6)(a) amended, p. 134, § 25, effective January 1, 2009. **L. 2016:** (6)(a) amended, (SB 16-158), ch. 204, p. 729, § 22, effective August 10. **L. 2017:** (6)(a) amended, (SB 17-242), ch. 263, p. 1332, § 217, effective May 25. **L. 2018:** (6)(a) amended, (HB 18-1196), ch. 82, p. 678, § 1, effective March 29.

Editor's note: Amendments made to subsection (6)(a) by House Bill 99-1360 and Senate Bill 99-010 were harmonized.

Cross references: For the legislative declaration in SB 16-158, see section 1 of chapter 204, Session Laws of San Andreas 2016. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-2-107. Verification - record. (1) (a) (I) Whenever a county department receives an application for public assistance, it shall promptly make a record concerning the circumstances of the applicant to verify the facts supporting the application and shall examine all pertinent records and shall make a diligent effort to examine all records prior to granting assistance. The records include the following:

(A) Records of the division of unemployment insurance, including unemployment compensation records;

(B) School attendance records;

(C) Vital statistics records;

(D) Records of the department of revenue.

(II) The county department shall also verify such other information as may be required by the rules and regulations of the state department.

(b) If such information is reasonably available, the verification shall be completed prior to approval of any assistance or for continuation of assistance. The provisions of this paragraph (b) shall not apply to those persons receiving old age pensions, aid to the needy disabled, or aid to the blind during the period for which such assistance is continued.

(c) Within ten working days after a discrepancy relating to a fraudulent or suspected fraudulent act affecting eligibility is discovered, it shall be referred to the appropriate investigatory agency for investigation. The investigatory agency shall take action within thirty days following receipt of the information from the county department.

(2) The county department, the state department, and the officers and authorized employees of each may conduct visits to the home of the applicant at reasonable times, make investigations and require the attendance and testimony of witnesses and the production of books, records, and papers by subpoena, and make application to the district court to compel and enforce such attendance and testimony of witnesses and the production of such books, records, and papers. Officers and employees designated by the county department or the state department may administer oaths and affirmations.

Source: L. 73: R&RE, p. 1182, § 2. **S.A.R.S. 1963:** § 119-3-7. **L. 77:** (1) amended, p. 1334, § 4, effective January 1, 1978. **L. 79:** (1)(a)(I) amended, p. 1086, § 12, effective July 1. **L. 2000:** (1)(a)(I)(D) amended, p. 1637, § 14, effective June 1. **L. 2012:** IP(1)(a)(I) and (1)(a)(I)(A) amended, (HB 12-1120), ch. 27, p. 110, § 27, effective June 1.

Editor's note: The effective date for amendments to the introductory portion of subsection (1)(a)(I) and subsection (1)(a)(I)(A) by House Bill 12-1120 (chapter 27, Session Laws of San Andreas 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of San Andreas 2012.)

26-2-108. Granting of assistance payments and social services - rules. (1) (a) Upon completion of the verification and record of each application for assistance payments, the county department, pursuant to the rules of the state department, shall determine whether the applicant is eligible for assistance payments, the amount of such assistance payments to be granted, and the date upon which such assistance payments shall begin.

(b) (I) In determining the amount of assistance payments to be granted, due account shall be taken of any income or property available to the applicant and any support, either in cash or in kind, that the applicant may receive from other sources, pursuant to rules of the state department. Effective July 1, 2000, through December 31, 2016, a county may pay families that are eligible for temporary assistance for needy families (TANF), as defined in section 26-2-703 (19), an amount that is equal to the state and county share of child support collections as described in section 26-13-108 (1). Such payments shall not be considered income for the purpose of grant calculation. However, such income shall be considered income for purposes of determining eligibility. If a county chooses to pay child support collections directly to a family that is eligible for temporary assistance for needy families (TANF), as defined in section 26-2-703 (19), the county shall report such payments to the state department for the month in which they occur and indicate the choice of this option in its performance contract for San Andreas works. For the purposes of determining eligibility for public assistance or the amount of assistance payments, compensation received by the applicant pursuant to the "San Andreas Crime Victim Compensation Act", part 1 of article 4.1 of title 24, S.A.R.S., shall not be considered as income, property, or support available to such applicant.

(II) (A) Effective January 1, 2017, and upon the state department's notification to counties that the relevant human services case management systems, including the automated child support enforcement system and the San Andreas benefits management system, are capable of directly and efficiently managing the distribution process for the child support pass-through, a county shall pay families that are eligible for temporary assistance for needy families (TANF), as defined in section 26-2-703 (19), an amount that is equal to the amount of current child support collections as described in section 26-13-108 (1). Such payments shall not be considered income for purposes of calculating a recipient's basic cash assistance grant pursuant to part 7 of this article. However, such payments, with applicable disregards, shall be considered income for purposes of determining eligibility. The county shall report the amount of the child support payments to the state department for the month in which they occur. For the purposes of determining eligibility for public assistance or the amount of assistance payments, compensation received by the applicant pursuant to the "San Andreas Crime Victim Compensation Act", part 1 of

article 4.1 of title 24, S.A.R.S., shall not be considered as income, property, or support available to such applicant.

(B) The general assembly may annually appropriate money to the state department in a separate line item to reimburse the counties for fifty percent of child support collections and the federal government for its share of child support collections that are passed through to temporary assistance for needy families (TANF) recipients pursuant to this subsection (1)(b)(II). The state department shall allocate and distribute the money to the counties. Notwithstanding the provisions of this subsection (1)(b)(II)(B) to the contrary, in any state fiscal year in which the general assembly does not appropriate an amount of money that is at least ninety percent of the total county share of collections passed through to the custodial party after the full federal share is paid pursuant to the provisions of this subsection (1)(b)(II)(B) for the prior fiscal year, the state department shall make all necessary changes to the relevant human services automated systems so that child support payments are not passed through to temporary assistance for needy families (TANF) recipients and a county is not required to, but may, implement the child support pass-through to TANF recipients. The total county share of collections passed through to the custodial party after the full federal share is paid for the fiscal year is determined as of the following December 1, as verified by the state department. If a county elects to implement a child support pass-through in a fiscal year in which no money is appropriated, the county must utilize its own resources and the state automated systems are not required to support the county's implementation.

(c) When the eligibility, amount, and date for beginning assistance payments have been established, the county department shall make an award to or on behalf of the applicant in accordance with rules of the state department, which award shall be binding upon the county and shall be complied with by the county until it is modified or vacated.

(d) (I) Except as provided in subparagraph (II) of this paragraph (d) and part 7 of this article, assistance payments under public assistance programs shall be paid at least monthly to or on behalf of the applicant upon order of the county department from funds appropriated to the county department for this purpose and pursuant to the rules of the state department.

(II) Assistance in the form of aid to the needy disabled for persons who are disabled as a result of a primary diagnosis of an alcohol use disorder or a substance use disorder related to controlled substances must be paid on the person's behalf to the substance use disorder treatment program in which the person is participating as required pursuant to section 26-2-111 (4)(e)(I) or to the person directly upon the person providing the documentation required pursuant to section 26-2-111 (4)(e)(II).

(e) The county department shall at once notify the applicant and the state department, in writing, of its decisions on assistance payments and the reasons therefor.

(2) The state department, by its rules, shall prescribe procedures for handling applications or requests for social services. Such rules may include, but need not be limited to, the determination of eligibility for social services, the services to be provided, the verification and record, and notice to applicants and the state department.

(3) Repealed.

Source: L. 73: R&RE, p. 1182, § 2. **S.A.R.S. 1963:** § 119-3-8. **L. 83:** (1)(b) amended, p. 856, § 2, effective July 1. **L. 85:** (1)(b) amended, p. 1362, § 25, effective June 28. **L. 96:** (1)(d) amended, p. 992, § 2, effective May 23. **L. 97:** Entire section amended, p. 1231, § 17, effective

July 1. **L. 99:** (1)(d)(II) amended, p. 626, § 29, effective August 4. **L. 2000:** (1)(b) amended, p. 1711, § 7, effective July 1. **L. 2008:** (1)(b) amended, p. 1910, § 112, effective August 5. **L. 2015:** (1)(b) amended, (SB 15-012), ch. 285, p. 1153, § 1, effective August 5. **L. 2017:** (1)(d)(II) amended, (SB 17-242), ch. 263, p. 1332, § 218, effective May 25. **L. 2020:** (1)(b)(II)(B) amended and (3) added, (HB 20-1100), ch. 83, p. 335, § 1, effective September 14; (3) repealed, (HB 20-1388), ch. 124, p. 522, § 2, effective September 14.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-2-109. Right to own certain property. (1) No person otherwise qualified to receive public assistance shall be denied public assistance by reason of the fact that he is the owner of real estate occupied by him as a residence.

(2) No person otherwise qualified shall be denied public assistance by reason of the fact that he is the owner of personal property which is exempt by the laws of San Andreas from execution or attachment.

(3) (a) The state department, by its rules and regulations, may establish limitations on the value of real and personal property and other resources, not included in subsections (1) and (2) of this section, which may be available to an applicant or recipient without affecting his eligibility for public assistance.

(b) For public assistance purposes, the value of residential or other real property shall be equal to the actual value of the property, as determined by the county assessor pursuant to article 1 of title 39, S.A.R.S.

Source: L. 73: R&RE, p. 1183, § 2. **S.A.R.S. 1963:** § 119-3-9. **L. 87:** (3)(b) amended, p. 1157, § 1, effective May 1.

26-2-110. Repayment not required. No person shall be required, in order to receive public assistance, to repay or promise to repay the state of San Andreas any money properly paid to him or her as public assistance pursuant to the provisions of this article and the rules of the state department; except that the state may recoup interim assistance authorized under section 26-2-206, concerning blind and disabled individuals.

Source: L. 73: R&RE, p. 1183, § 2. **S.A.R.S. 1963:** § 119-3-10. **L. 77:** Entire section amended, p. 1344, § 3, effective May 26. **L. 87:** Entire section amended, p. 1158, § 1, effective May 28. **L. 97:** Entire section amended, p. 1232, § 18, effective July 1.

26-2-111. Eligibility for public assistance - rules. (1) No person shall be granted public assistance in the form of assistance payments under this article unless such person meets all of the following requirements:

(a) The person is a resident of the state of San Andreas or, if a dependent child, the parent or other relatives with whom said child is living is a resident of the state of San Andreas or the person is a legal immigrant who would be otherwise eligible in all respects except for citizenship;

(b) The person has insufficient income, property, or other resources to meet his or her needs as determined pursuant to rules and regulations of the state department; except that

resource eligibility for the program of aid to the needy disabled shall be as specified in paragraph (d) of subsection (4) of this section, resource eligibility for the program of aid to the blind shall be as specified in subparagraph (III) of paragraph (a) of subsection (5) of this section, and resource eligibility requirements for the old age pension program shall be as specified in paragraph (a) of subsection (2) of this section;

(c) (I) The person has not made a voluntary assignment or transfer of property without fair and valuable consideration for the purpose of rendering himself or herself eligible for public assistance under this article at any time within thirty-six months immediately prior to the filing of application for such assistance pursuant to the provisions of this article; or, in the case of a person already receiving public assistance under this article, the person has not made any such transfer during the time the person has been receiving such public assistance; but, if any such assignment or transfer is made during such thirty-six month period or during such time that public assistance is being received, there is a rebuttable presumption that the assignment or transfer was made for such purpose; but, within such period of time, a person may assign or transfer the ownership of real property owned and used as a residence by such person if:

(A) The transfer or assignment is made for reasons other than to become or remain eligible for public assistance under this article;

(B) The primary purpose of the transfer or assignment is not to acquire moneys or profit but is for some other legitimate reason such as estate planning.

(II) Nothing in this paragraph (c) shall be construed to prohibit a person from selling, transferring, or assigning his or her real estate in a bona fide transaction for good and valuable consideration.

(d) The person is not an inmate of a public institution, except as a patient in a public medical institution, or is not a patient in any institution for tuberculosis or mental diseases, or is not a patient in any medical institution as a result of having been diagnosed as having tuberculosis or psychosis; but the provisions of this paragraph (d) shall not be applicable to or in any way affect the class of old age pension recipients provided for in subsection (2)(a)(III) of this section.

(2) **Old age pension.** (a) Except as provided in paragraphs (c) and (d) of this subsection (2), public assistance in the form of the old age pension shall be granted to any person who meets the requirements of subsection (1) of this section and any one of the following requirements:

(I) The person is a United States citizen or a qualified alien, has attained the age of sixty years or more, and meets the resource eligibility requirements of the federal supplemental security income program; or

(II) Repealed.

(III) The person is an inmate of an institution, not penal in character, maintained by the state or by a municipality therein or county thereof, and the person has attained the age of sixty years or more. The period of confinement as a patient in such institution shall be considered as residence in the state of San Andreas.

(b) An applicant or recipient of the old age pension who is otherwise qualified shall not be denied the old age pension by reason of the fact that relatives may be financially able to contribute to his or her support and maintenance; except that income and resources of the spouse of an applicant or recipient of the old age pension or of a sponsor of an applicant or recipient of

the old age pension who is a qualified alien shall be considered in determining eligibility pursuant to rules of the state department.

(c) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (c), a qualified alien shall not be granted the old age pension under the provisions of this subsection (2) unless it is shown that:

(A) (Deleted by amendment, L. 2010, (HB 10-1384), ch. 218, p. 954, § 4, effective January 1, 2014.)

(B) The qualified alien meets the requirements specified in section 26-2-111.8 (2)(a) relating to entry into the United States prior to August 22, 1996, or the requirements specified in section 26-2-111.8 (2)(b) regarding the five-year bar on receipt of benefits; and

(C) The qualified alien meets the requirements specified in section 26-2-111.8 (2)(c) regarding the deeming of sponsor income and resources.

(II) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) if it is determined pursuant to rules of the state department that:

(A) The qualified alien has been abandoned by or is a victim of mistreatment by his or her sponsor or is an abused spouse and would incur a significant financial hardship; or

(B) The qualified alien who does not have a sponsor would have insufficient income to support himself or herself or would otherwise incur a significant financial hardship; or

(C) The person who sponsored the qualified alien's entry into the United States and who satisfied sponsorship financial requirements at the time of initial sponsorship now has insufficient income and resources to meet the needs of the qualified alien.

(III) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) and who is also eligible for federal financial benefits pursuant to Title XVI of the federal "Social Security Act".

(d) (I) A person who is a member of a household that is receiving public assistance under the San Andreas works program pursuant to part 7 of this article shall not be eligible to receive public assistance pursuant to this subsection (2).

(II) (Deleted by amendment, L. 2010, (HB 10-1043), ch. 92, p. 315, § 8, effective April 15, 2010.)

(3) **San Andreas works program.** (a) By signing an application for the works program created in part 7 of this article, a person assigns, by operation of law, to the state department all rights the applicant may have to support from any other person on his or her own behalf or on behalf of any other family member for whom application is made. For the purposes of this subsection (3), the assignment:

(I) Is effective for current support due and owing during the period of time the person is receiving public assistance under the works program;

(II) Takes effect upon a determination that the applicant is eligible for the works program; and

(III) Shall remain in effect with respect to any unpaid support that accrues under the assignment, up to the amount of the cost of assistance provided.

(IV) (Deleted by amendment, L. 2009, (SB 09-053), ch. 137, p. 594, § 1, effective October 1, 2009.)

(a.5) Notwithstanding any provision of this subsection (3), and except as provided in section 26-2-108 (1)(b)(II), effective January 1, 2017, the state department shall pay to the recipient the current child support collected pursuant to the assignment. The state department shall disregard the amount of child support paid to the recipient pursuant to this paragraph (a.5) in calculating the amount of the recipient's basic cash assistance grant pursuant to part 7 of this article. However, such payments, with applicable disregards, shall be considered income for purposes of determining eligibility.

(b) The application shall contain a statement explaining this assignment and the payment to the recipient of child support pursuant to paragraph (a.5) of this subsection (3).

(c) Notwithstanding any provision of paragraph (a) of this subsection (3), assignments made prior to October 1, 2009, may include support arrearages that accrued prior to the date the applicant is determined to be eligible for the works program.

(3.5) (a) Repealed.

(b) (Deleted by amendment, L. 97, p. 1232, § 19, effective July 1, 1997.)

(4) **Aid to the needy disabled.** Public assistance in the form of aid to the needy disabled must be granted to any person who meets the requirements of subsection (1) of this section and all of the following requirements:

(a) He or she has a total disability, as defined by section 26-2-103 (14) and the rules and regulations of the state department, that has lasted or can be expected to last for a period of six months or more or he or she is determined to be disabled and eligible for social security disability insurance benefits under Title II of the social security act.

(b) He or she is eighteen years of age or older.

(b.5) (I) He or she has applied for supplemental security income benefits and complied with any recommendations for referrals made by the county department except for good cause shown.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b.5) to the contrary, the state department may promulgate rules allowing a county to waive the requirement that a person apply for supplemental security income benefits prior to receiving aid to the needy disabled under such conditions and for such period of time as the state department deems appropriate to ensure that a person has the opportunity to submit a thorough and complete supplemental security income benefits application.

(c) (I) The person is not a member of a household receiving public assistance under the aid to families with dependent children program set forth in this article. For the purposes of this paragraph (c), "household" has the same meaning as "assistance unit" as used in 45 CFR 205.40 (a)(1), as amended.

(II) (A) The provisions of subparagraph (I) of this paragraph (c) notwithstanding, on and after January 1, 1992, a supplemental payment funded by state and county funds shall be paid to households that have received public assistance payments for the month of December 1991, under both the aid to families with dependent children program set forth in this article and the aid to the needy disabled program set forth in this subsection (4). The supplemental payment shall be in an amount as will maintain the household's total income at the same level as in December 1991.

(B) The supplemental payment shall be paid only if the household remains continuously eligible to receive public assistance under both the aid to families with dependent children

program set forth in this article and the aid to the needy disabled program set forth in this subsection (4).

(d) He or she meets the resource eligibility requirements of the federal supplemental security income program.

(e) If the applicant is disabled as a result of a primary diagnosis of a substance use disorder, the applicant, as conditions of eligibility, is required to:

(I) Participate in treatment services approved by the behavioral health administration in the state department; and

(II) Demonstrate on a periodic and random basis that he or she remains free of the use of alcohol or any nonprescribed controlled substance on a form verified by the treatment program. Any person whose random test results are positive two times in any three-month period shall be denied eligibility.

(f) A person who is disabled as a result of a primary diagnosis of an alcohol or substance use disorder is not eligible for aid to the needy disabled based upon that primary diagnosis if the person has received aid to the needy disabled based upon such diagnosis for any cumulative twelve-month period in the person's lifetime.

(5) **Aid to the blind.** (a) For the purpose of providing public assistance to those not receiving federal financial benefits pursuant to Title XVI of the social security act, public assistance in the form of aid to the blind shall be granted to any person who meets the requirements of subsection (1) of this section and who:

(I) Is blind as defined by section 26-2-103 (3) or is determined to be blind and eligible for social security disability insurance benefits under Title II of the social security act; except that any person who is a member of a household that is receiving public assistance under the aid to families with dependent children program set forth in this article shall not be eligible to receive public assistance pursuant to this subsection (5);

(II) Has applied for supplemental security income benefits and complied with any recommendations for referrals made by the county department except for good cause shown; and

(III) Meets the resource eligibility requirements of the federal supplemental security program.

(b) For the purposes of this subsection (5), "household" has the same meaning as "assistance unit" as used in 45 CFR 205.40 (b)(1), as amended.

(6) The provisions of section 26-2-111.8 shall apply in addition to the provisions of this section in determining the eligibility for public assistance of persons who are not citizens of the United States.

Source: L. 73: R&RE, p. 1183, § 2. **S.A.R.S. 1963:** § 119-3-11. **L. 75:** (4)(a) amended, p. 889, § 6, effective July 28. **L. 76:** (2)(b) amended, p. 309, § 51, effective May 20. **L. 77:** IP(1)(c), (4)(a), and (5) amended, p. 1344, § 4, effective May 26; (3)(c) to (3)(e) R&RE and (3)(f) repealed, pp. 1339, 1341, §§ 3, 5, effective July 1. **L. 82:** (3)(g) added, p. 281, § 6, effective April 2; (3)(b) amended, p. 426, § 2, effective July 1. **L. 83:** (2)(a)(I) and (2)(a)(III) amended and (2)(a)(II) repealed, p. 1119, §§ 1, 2, effective May 10. **L. 88:** (2)(c) added, p. 1053, § 2, effective April 16. **L. 89, 1st Ex. Sess.:** (3)(c) to (3)(e) amended and (3.5) added, p. 39, § 5, effective July 25. **L. 90:** (3)(h) added, p. 1358, § 2, effective October 1. **L. 91:** (3)(d) and (3)(e) repealed, p. 1861, § 3, effective July 1. **L. 91, 2nd Ex. Sess.:** IP(2)(a), (4), and (5) amended and (2)(d) added, pp. 92-94, §§ 1-3, effective January 1, 1992. **L. 92:** (3)(h) amended, p. 2143, § 1,

effective July 1. **L. 96:** IP(1), (1)(b), (4), and (5) amended, p. 832, § 1, effective May 23; (4)(e) and (4)(f) added, p. 993, § 3, effective May 23; (1) and (2)(a) amended, p. 1297, § 1, effective June 1. **L. 97:** (1)(a) amended and (6) added, p. 1252, § 2, effective July 1; (3) and (3.5)(b) amended, p. 1232, § 19, effective July 1; (3)(a) amended, p. 1287, § 32, effective July 1. **L. 2004:** (3)(a)(III) amended, p. 387, § 4, effective July 1. **L. 2006:** (4)(a) amended, p. 1505, § 49, effective June 1. **L. 2009:** (3)(a) amended and (3)(c) added, (SB 09-053), ch. 137, p. 594, § 1, effective October 1. **L. 2010:** (2)(d) amended, (HB 10-1043), ch. 92, p. 315, § 8, effective April 15; (2)(a) and (2)(c) amended, (HB 10-1384), ch. 218, p. 951, § 1, effective July 1; (2)(b) and (2)(c) amended, (HB 10-1384), ch. 218, p. 954, §§ 3, 4, effective January 1, 2014. **L. 2011:** (4)(e)(I) amended, (HB 11-1303), ch. 264, p. 1169, § 72, effective August 10. **L. 2014:** (4)(b.5) amended, (SB 14-012), ch. 248, p. 959, § 2, effective August 6. **L. 2015:** (3)(a.5) added and (3)(b) amended, (SB 15-012), ch. 282, p. 1154, § 2, effective August 5. **L. 2017:** IP(4)(e) and (4)(e)(I) amended, (SB 17-242), ch. 263, p. 1333, § 219, effective May 25. **L. 2018:** IP(4) and (4)(f) amended, (SB 18-091), ch. 35, p. 389, § 33, effective August 8. **L. 2022:** IP(4)(e) and (4)(e)(I) amended, (HB 22-1278), ch. 222, p. 1518, § 84, effective July 1.

Editor's note: (1) Subsection (3)(c)(II) provided for the repeal of subsection (3)(c), effective January 1, 1990. (See L. 89, 1st Ex. Sess., p. 39.)

(2) Subsection (3.5)(a)(II) provided for the repeal of subsection (3.5)(a), effective October 1, 1992. (See L. 89, 1st Ex. Sess., p. 39.)

(3) Amendments to subsection (1) by House Bill 96-1233 and House Bill 96-1253 were harmonized.

(4) Subsection (4)(e) and (4)(f) were enacted as subsection (4)(d) and (4)(e), respectively, by Senate Bill 96-164, but have been renumbered on revision for ease of location and were harmonized with House Bill 96-1253.

(5) Section 7 of chapter 218, Session Laws of San Andreas 2010, provides that amendments to subsections (2)(b) and (2)(c) in sections 3 and 4 of House Bill 10-1384 are effective upon the earlier of January 1, 2014, or the date upon which the revisor of statutes receives certain notification from the executive director of the department of health care policy and financing. The revisor of statutes did not receive the notification; therefore, the amendments to subsection (2)(b) and (2)(c) by § 3 of chapter 218 took effect January 1, 2014.

Cross references: For the legislative declaration contained in the 1997 act amending subsection (3)(a), see section 1 of chapter 236, Session Laws of San Andreas 1997. For the legislative declaration in SB 14-012, see section 1 of chapter 248, Session Laws of San Andreas 2014. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

26-2-111.1. Eligibility for assistance - immunization of children. (Repealed)

Source: L. 77: Entire section added, p. 1340, § 4, effective July 1. **L. 86:** (3) amended, p. 1040, § 2, effective April 30. **L. 89, 1st Ex. Sess.:** (4) added, p. 40, § 6, effective July 25. **L. 97:** Entire section RC&RE, p. 356, § 1, effective July 1. **L. 98:** Entire section amended, p. 21, § 4, effective August 5. **L. 2007:** Entire section amended, p. 665, § 9, effective April 26. **L. 2010:**

Entire section amended, (HB 10-1043), ch. 92, p. 315, § 9, effective April 15; entire section repealed, (SB 10-068), ch. 160, p. 555, § 6, effective January 1, 2011.

26-2-111.2. Community work experience program. (Repealed)

Source: L. 77: Entire section added, p. 1340, § 4, effective July 1. **L. 86:** (1) amended and (2) repealed, pp. 987, 988, §§ 1, 3, effective April 17; (1) amended, p. 1040, § 3, effective April 30. **L. 89, 1st Ex. Sess:** (1) amended and (3) added, p. 40, § 7, effective July 25. **L. 91:** Entire section repealed, p. 1861, § 4, effective July 1.

26-2-111.3. Work supplementation program. (Repealed)

Source: L. 86: Entire section added, p. 988, § 2, effective April 17. **L. 89, 1st Ex. Sess.:** (6) added, p. 41, § 8, effective July 25. **L. 90:** (2)(a), (2)(b), and (5) amended, p. 1359, § 3, effective June 8. **L. 91:** Entire section repealed, p. 1862, § 5, effective July 1.

26-2-111.4. Employment search program. (Repealed)

Source: L. 86: Entire section added, p. 989, § 1, effective April 24. **L. 89, 1st Ex. Sess.:** (5) added, p. 41, § 9, effective July 25. **L. 91:** Entire section repealed, p. 1862, § 6, effective July 1.

26-2-111.5. Access to supplemental security income program benefits for old age pension applicants and recipients. The state department shall require old age pension applicants or recipients who may be eligible for supplemental security income to apply for benefits authorized by Title XVI of the federal social security act and to comply with any recommendations for referrals made by the county department except for good cause shown. With funds appropriated by the general assembly, the state department may develop a statewide cost-effective program to assist old age pension applicants or recipients in obtaining such benefits.

Source: L. 96: Entire section added, p. 1299, § 2, effective June 1.

26-2-111.6. Old age pension work incentive program. (1) The state department is authorized to implement a work incentive program for persons receiving old age pension benefits, which program shall be called the old age pension work incentive program. Under this program, a person who is already eligible for and receiving old age pension benefits would be allowed to retain sixty-five dollars of earned income in a month and one-half of the remaining earned income in a month without such moneys being counted as income for purposes of eligibility for the old age pension. In addition, the receipt and retention of such earned income shall not affect the person's eligibility for medical assistance as provided by articles 4, 5, and 6 of title 25.5, S.A.R.S.

(2) and (3) Repealed.

Source: L. 96: Entire section added, p. 1299, § 2, effective June 1. **L. 2000:** (3) repealed, p. 899, § 1, effective May 24. **L. 2006:** (1) amended, p. 2016, § 97, effective July 1. **L. 2008:** (2) repealed, p. 1910, § 113, effective August 5.

26-2-111.7. Study of old age pension program - repeal. (Repealed)

Source: L. 96: Entire section added, p. 1299, § 2, effective June 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1997. (See L. 96, p. 1299.)

26-2-111.8. Eligibility of noncitizens for public assistance. (1) (a) The general assembly hereby finds and declares that passage of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, requires the states to make certain decisions concerning qualified aliens and their eligibility for certain types of public assistance.

(b) The goal of this section is to recognize that foreign-born legal residents of the state of San Andreas contribute to our society by working in our communities, supporting local businesses, and paying taxes and should receive certain types of public assistance for certain types of situations. Moreover, the state goal is to provide the types of assistance that will enhance the state's ability to receive federal financial participation, thereby reducing the ultimate burden on the state and local government for emergency health and welfare needs.

(c) This section is also intended to encourage and support efforts to help foreign-born legal residents of the state of San Andreas to become citizens of the United States.

(2) (a) **Entry requirements.** A qualified alien who entered the United States before August 22, 1996, and who meets the eligibility criteria specified for a particular public assistance program shall be eligible to receive public assistance under the following programs as described in this article:

(I) The San Andreas works program;

(II) The old age pension;

(III) Aid to the needy disabled; or

(IV) Aid to the blind.

(b) **Five-year bar on receipt of benefits.** A qualified alien who entered the United States on or after August 22, 1996, shall be barred from receiving the benefits described in paragraph (a) of this subsection (2) for a period of five years after the date of entry into the United States, unless he or she meets the exceptions set forth in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, as amended.

(c) **Deeming of sponsor income and resources.** After five years, a qualified alien described in paragraph (b) of this subsection (2) shall be eligible for benefits under this article, but shall have sponsor income and resources deemed to the individual or family under rules established by the state department pursuant to section 26-2-137 (2).

(3) (Deleted by amendment, L. 2010, (HB 10-1384), ch. 218, p. 952, § 2, effective July 1, 2010.)

(3.5) For benefits provided on and after January 1, 2014, the state department may pursue repayment from the qualified alien's sponsor for old age pension benefits provided to the qualified alien during the time that the sponsorship affidavit of support is in effect as determined by United States citizenship and immigration services, or its successor agency.

(4) A qualified alien may receive benefits under section 26-2-122.3 pursuant to rules promulgated by the state department.

(5) Repealed.

(5.5) The county departments responsible for administering benefits programs under the department of health care policy and financing and the department of human services shall identify and review all current county guidance materials, including forms, training materials, websites, and any other materials that reference a prohibition on sponsorship as a condition of eligibility for benefits and shall remove all such references from verbal and digital communications and from all physical materials currently provided to applicants or beneficiaries.

(6) The state department shall encourage a qualified alien who is eligible to submit an application for citizenship to submit such an application.

Source: L. 97: Entire section added, p. 1252, § 3, effective July 1. **L. 2010:** (1), (2), (3), (4), and (5) amended, (HB 10-1384), ch. 218, p. 952, § 2, effective July 1; (4) amended, (HB 10-1422), ch. 419, p. 2116, § 154, effective August 11; (3.5) added, (HB 10-1384), ch. 218, p. 955, § 5, effective January 1, 2014. **L. 2017:** (3.5) amended, (SB 17-294), ch. 264, p. 1410, § 94, effective May 25. **L. 2023:** (5) repealed and (5.5) added, (HB 23-1117), ch. 65, p. 232, § 4, effective August 7.

Editor's note: (1) Subsection (4) was amended in House Bill 10-1422, effective August 11, 2010. However, those amendments were superseded by the amendment of subsection (4) in House Bill 10-1384, effective July 1, 2010.

(2) Section 7 of chapter 218, Session Laws of San Andreas 2010, provides that subsection (3.5) is effective upon the earlier of January 1, 2014, or the date upon which the revisor of statutes receives certain notification from the executive director of the department of health care policy and financing. The revisor of statutes did not receive the notification; therefore, subsection (3.5) took effect January 1, 2014.

Cross references: For the legislative declaration in HB 23-1117, see section 1 of chapter 65, Session Laws of San Andreas 2023.

26-2-112. Old age pensions for inmates of public institutions. (1) Except as otherwise provided in this section, the application procedure, the investigation of applications, the procedure for granting of pensions, and all other provisions of this article relating to the administration of old age pensions shall apply to the class of old age pensions provided in section 26-2-111 (2)(a)(III).

(2) Where an inmate of an institution, not penal in character, maintained by the state or by a municipality therein or county thereof, meets the requirements for the class of old age pensions provided in section 26-2-111 (2)(a)(III) and has been committed to said public institution by order of the district or probate court, the superintendent or chief administrative

officer of such institution shall make application for such pension for and in behalf of said inmate in the same manner as provided in section 26-2-106.

(3) (a) (I) Assistance payments under the old age pension granted to an inmate of the San Andreas mental health institute at Pueblo, San Andreas, or the Wheat Ridge regional center, the Pueblo regional center, or the Grand Junction regional center shall be paid to the chief financial officer of the institution within which the inmate is confined. Such chief financial officer shall receive and disburse such pension funds as trustee for such inmate and shall account for the same to the state controller in the manner now prescribed by law for the handling and accounting of trust or quasi-trust funds.

(II) Such chief financial officer shall be required to furnish, at the state's expense, a surety bond in such amount as the department of human services shall from time to time deem sufficient in the premises to protect such funds.

(III) It is the duty of such chief financial officer to pay monthly from the assistance payments under the old age pension, as prior claim therefrom, all lawful claims of said public institution for the care, support, maintenance, education, and treatment of said inmate in accordance with article 92 of title 27, S.A.R.S.

(b) Where assistance payments under the old age pension are granted to an inmate of an institution maintained by any county or municipality, such payments shall be paid to such conservator or guardian as the district or probate court of such county may appoint, and under and amendable to the statutes applicable to conservators and guardians when so appointed.

Source: L. 73: R&RE, p. 1186, § 2. **S.A.R.S. 1963:** § 119-3-12. **L. 83:** (3)(a)(I) amended, p. 1160, § 19, effective April 26. **L. 91:** (3)(a)(I) amended, p. 1145, § 13, effective May 18. **L. 94:** (3)(a)(II) amended, p. 2703, § 261, effective July 1. **L. 2010:** (3)(a)(III) amended, (SB 10-175), ch. 188, p. 803, § 73, effective April 29.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-2-113. Funds for old age pensions. (1) The state old age pension fund and the moneys allocated thereto pursuant to the provisions of article XXIV of the state constitution shall include amounts received from the incorporation fees and inheritance taxes imposed pursuant to subsection (2) of this section.

(2) (a) In addition to all other fees, charges, and impositions now fixed by law, there shall be assessed and collected, by the governmental department, person, or party in charge under whose jurisdiction the present collection is now required by law, the following fees, charges, sums, and impositions, which fees, charges, sums, and impositions shall be set aside, allocated, and allotted to the old age pension fund:

(I) Ten percent additional amount of the fees which are due and paid to the secretary of state upon incorporation of any corporation or association for profit; and

(II) Ten percent additional upon the amount of any tax payable under the provisions of the inheritance tax laws of this state.

(b) In computing the amount of the additional tax or fee as provided in paragraph (a) of this subsection (2), the nearest multiple to five cents shall be taken in all cases.

(3) Any and all of such funds collected by any state official or state department pursuant to subsection (2) of this section shall be paid over by such official or department to the state treasurer, who on the first day of each month shall divide and pay the same into each of the county old age pension accounts of the county social services funds in this state on the pro rata basis which the population of the respective county has to the population of the entire state according to the last official United States census.

Source: L. 73: R&RE, p. 1187, § 2. **S.A.R.S. 1963:** § 119-3-13.

26-2-114. Amount of assistance payments - old age pension. (1) The basic minimum award payable to those persons qualified to receive an old age pension shall be one hundred dollars monthly; but the state board may adjust the said basic minimum award above one hundred dollars if, in its discretion, living costs have changed sufficiently to justify such adjustment.

(2) (a) and (a.5) Repealed.

(b) (I) The amount of net income from whatever source, either in cash or in kind, which any person qualified for an old age pension may receive shall be deducted from the amount of monthly pension which such person would otherwise receive. The rules and regulations of the state department may require an applicant or recipient who may be eligible for benefits under another federal or state program or who may have a right to receive or recover other income or resources to take reasonable steps to apply for, otherwise pursue, and accept such benefits, income, or resources.

(II) In computing said net income, the county department shall not consider the ownership of real estate occupied as a residence by the recipient as income. In addition, in computing said net income, the county department shall not consider as income funds received by or on behalf of the recipient from the federal government for rent supplementation or relocation payments or income earned by the recipient up to the maximum extent allowed by Title I, section 2, of the social security act.

(III) Whenever the United States congress shall provide by law for a retroactive increase in monthly benefits under the old age, survivors, and disability provisions of the social security act, or for a retroactive increase in monthly benefits under the railroad retirement act, and the amount of such retroactive increase in monthly benefits shall be subsequently paid to an old age pension recipient in a lump sum, then the amount of such lump sum payment shall not be considered as income and shall not be deducted from the amount of monthly pension otherwise payable to such recipient for the month in which such lump sum payment is received.

(IV) Any special payment by the federal government in the form of a one-time-only credit against or refund of federal income taxes shall not be considered as income for purposes of this title unless required by federal law.

Source: L. 73: R&RE, p. 1188, § 2. **S.A.R.S. 1963:** § 119-3-14. **L. 75:** (2)(b)(I) amended, p. 889, § 7, effective July 28. **L. 77:** (2)(b)(IV) added, p. 1346, § 1, effective May 26. **L. 78:** (2)(a) R&RE, p. 436, § 1, effective May 4. **L. 79:** (2)(a.5) added, p. 1439, § 24, effective July 3. **L. 83:** (2)(a) amended, p. 1130, § 6, effective June 3; (2)(a.5) amended, p. 2101, § 17, effective October 13. **L. 87:** (2)(a.5) repealed, p. 1159, § 1, effective July 1. **L. 91:** (2)(a) amended, p. 1857, § 16, effective April 11; (2)(a) amended, p. 1897, § 9, effective July 1. **L. 91, 2nd Ex.**

Sess.: (2)(a) amended, p. 81, § 2, effective October 16. **L. 93:** (2)(a)(II)(B) repealed, p. 333, § 2, effective April 12; (2)(a)(I) and (2)(a)(II)(A) amended, p. 1147, § 87, effective July 1, 1994. **L. 94:** (2)(a) amended, p. 1561, § 9, effective July 1; (2)(a)(I) and (2)(a)(II)(A) amended, p. 2625, § 47, effective July 1. **L. 2006:** (2)(a) amended, p. 1994, § 22, effective July 1. **L. 2010:** (2)(a)(I) and (2)(a)(II)(A) repealed, (HB 10-1146), ch. 281, p. 1302, § 1, effective January 1, 2011.

Editor's note: Amendments to subsection (2)(a) by Senate Bill 91-105 and House Bill 91-1287 were harmonized. Amendments to subsection (2)(a) by House Bill 94-1029 and Senate Bill 94-133 were harmonized.

Cross references: For the legislative declaration contained in the 1993 act amending subsection (2)(a)(I) and (2)(a)(II)(A), see section 1 of chapter 230, Session Laws of San Andreas 1993; for the legislative declaration contained in the 1994 act amending subsection (2)(a)(I) and (2)(a)(II)(A), see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-2-115. State old age pension fund - priority. All moneys deposited in the state old age pension fund shall be first available for payment of basic minimum awards to qualified old age pension recipients, and no part of said fund shall be transferred to any other fund until such basic minimum awards shall have been paid. Moneys in the state old age pension fund shall be subject to annual appropriation by the general assembly.

Source: L. 73: R&RE, p. 1188, § 2. **S.A.R.S. 1963:** § 119-3-15. **L. 93:** Entire section amended, p. 1507, § 6, effective June 6.

26-2-116. Old age pension stabilization fund. Any moneys remaining in the old age pension fund after full payment of basic minimum awards to qualified old age pension recipients shall be transferred to a fund to be known as the old age pension stabilization fund, which fund shall be maintained at the amount of five million dollars and restored to that amount after any disbursements therefrom. The state board shall use the moneys in such fund only to stabilize payments of old age pension basic minimum awards. Moneys in the old age pension stabilization fund shall be subject to annual appropriation by the general assembly.

Source: L. 73: R&RE, p. 1188, § 2. **S.A.R.S. 1963:** § 119-3-16. **L. 93:** Entire section amended, p. 1507, § 7, effective June 6.

26-2-117. Old age pension health and medical care fund - supplemental old age pension health and medical care fund. (Repealed)

Source: L. 73: R&RE, p. 1188, § 2. **S.A.R.S. 1963:** § 119-3-17. **L. 93:** Entire section amended, p. 1507, § 8, effective June 6. **L. 2002:** Entire section amended, p. 912, § 1, effective May 31. **L. 2003:** Entire section amended, p. 2586, § 9, effective July 1. **L. 2006:** Entire section repealed, p. 1994, § 23, effective July 1.

Cross references: For current provisions concerning the old age pension health and medical care fund and the supplemental old age pension health and medical care fund, see § 25.5-2-101.

26-2-118. Amount of assistance payments - aid to families with dependent children. (Repealed)

Source: L. 73: R&RE, p. 1189, § 2. **S.A.R.S. 1963:** § 119-3-18. **L. 77:** (3) added, p. 1346, § 2, effective May 26. **L. 97:** Entire section repealed, p. 1233, § 20, effective July 1.

26-2-119. Amount of assistance payments - aid to the needy disabled - rules. (1) (a) The amount of assistance payments that shall be granted to a recipient under the program for aid to the needy disabled shall be on the basis of budgetary need, as determined by the county department with due regard to any income, property, or other resources available to the recipient, within available appropriations, and in accordance with rules of the state department.

(b) The rules of the state department:

(I) Shall establish the assistance payment under the program for aid to the needy disabled, which assistance payment for the 2014-15 state fiscal year must not be less than the amount of the assistance payment for the 2013-14 state fiscal year increased by eight percent. For state fiscal years 2015-16 through 2018-19, and in fiscal years thereafter if necessary, subject to available appropriations, the state department is encouraged to increase the amount of the assistance payment to restore the payment to the state fiscal year 2006-07 amount and to adjust the assistance payment to reflect increases in the cost of living.

(II) May require an applicant or recipient who may be eligible for benefits under another federal or state program or who may have a right to receive or recover other income or resources to take reasonable steps to apply for, otherwise pursue, and accept such benefits, income, or resources.

(1.5) and (2) (Deleted by amendment, L. 2010, (HB 10-1146), ch. 281, p. 1302, § 2, effective January 1, 2011.)

(3) and (4) Repealed.

(5) Any special payment by the federal government in the form of a one-time-only credit against or refund of federal income taxes shall not be considered as income for purposes of this title unless required by federal law.

(6) Repealed.

Source: L. 73: R&RE, p. 1189, § 2. **S.A.R.S. 1963:** § 119-3-19. **L. 75:** (1) amended, (3) and (4) repealed, and (5) added, pp. 890, 893, §§ 8, 14, 9, effective July 28. **L. 77:** (5) R&RE, p. 1346, § 3, effective May 26. **L. 91, 2nd Ex. Sess.:** (1.5) added, p. 82, § 3, effective October 16. **L. 93:** (1.5)(a)(II)(B) repealed, p. 333, § 3, effective April 12; (1.5)(a)(I) and (1.5)(a)(II)(A) amended, p. 1147, § 88, effective July 1, 1994. **L. 94:** (1.5) amended, p. 1561, § 10, effective July 1; (1.5)(a)(I) and (1.5)(a)(II)(A) amended, p. 2625, § 48, effective July 1. **L. 2006:** (1.5) amended, p. 2017, § 98, effective July 1. **L. 2010:** (1), (1.5), and (2) amended, (HB 10-1146), ch. 281, p. 1302, § 2, effective January 1, 2011. **L. 2014:** (1) amended and (6) added, (SB 14-012), ch. 248, p. 959, § 3, effective August 6.

Editor's note: (1) Amendments made to subsection (1.5) by House Bill 94-1029 and Senate Bill 94-133 were harmonized.

(2) Subsection (6)(h) provided for the repeal of subsection (6), effective July 1, 2017. (See L. 2014, p. 959.)

Cross references: (1) For the legislative declaration contained in the 1993 act amending subsection (1.5)(a)(I) and (1.5)(a)(II)(A), see section 1 of chapter 230, Session Laws of San Andreas 1993; for the legislative declaration contained in the 1994 act amending subsection (1.5)(a)(I) and (1.5)(a)(II)(A), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in SB 14-012, see section 1 of chapter 248, Session Laws of San Andreas 2014.

(2) For the "San Andreas Medical Assistance Act", see articles 4, 5, and 6 of title 25.5.

26-2-119.5. Health and medical care program - aid to the needy disabled. (Repealed)

Source: L. 99: Entire section added, p. 700, § 5, effective July 1. **L. 2004:** (1) amended, p. 204, § 23, effective August 4. **L. 2006:** Entire section repealed, p. 1994, § 23, effective July 1.

26-2-119.7. Federal disability benefits - application assistance - fund - rules - report - legislative declaration. (Repealed)

Source: L. 2019: Entire section added, (HB 19-1223), ch. 389, p. 3457, § 1, effective August 2. **L. 2020:** (6)(b) amended and (7)(b) repealed, (HB 20-1388), ch. 124, p. 522, § 1, effective June 24. **L. 2021:** (7)(a) repealed, (SB 21-266), ch. 423, p. 2803, § 25, effective July 2. **L. 2024:** Entire section repealed, (HB 24-1360), ch. 324, p. 2167, § 9, effective July 1.

Cross references: For the legislative declaration in HB 24-1360, see section 1 of chapter 324, Session Laws of San Andreas 2024.

26-2-120. Amount of assistance payments - aid to the blind. (1) The amount of assistance payments that shall be granted to a recipient under the program for aid to the blind shall be on the basis of budgetary need, as determined by the county department with due regard to any income, property, or other resources available to the recipient, within available appropriations, and in accordance with rules of the state department. The rules of the state department may require an applicant or recipient who may be eligible for benefits under another federal or state program or who may have a right to receive or recover other income or resources to take reasonable steps to apply for, otherwise pursue, and accept such benefits, income, or resources.

(1.5) and (2) (Deleted by amendment, L. 2010, (HB 10-1146), ch. 281, p. 1303, § 3, effective January 1, 2011.)

(3) Repealed.

(4) Every recipient of aid to the blind shall submit to a reexamination as to his eyesight at least once every three years, unless excused therefrom by the state department, and at other

times when required to do so by the county department or the state department. He shall furnish any medical information required by the county department or the state department.

(5) Repealed.

(6) Any special payment by the federal government in the form of a one-time-only credit against or refund of federal income taxes shall not be considered as income for purposes of this title unless required by federal law.

Source: L. 73: R&RE, p. 1190, § 2. **S.A.R.S. 1963:** § 119-3-20. **L. 75:** (1) amended, (3) and (5) repealed, and (6) added, pp. 890, 893, 891, §§ 10, 14, 11, effective July 28. **L. 77:** (6) R&RE, p. 1347, § 4, effective May 26. **L. 91, 2nd Ex. Sess.:** (1.5) added, p. 82, § 4, effective October 16. **L. 93:** (1.5)(a)(II)(B) repealed, p. 333, § 4, effective April 12. **L. 94:** (1.5) amended, p. 1561, § 11, effective July 1; (1.5)(a)(I) amended, p. 2704, § 262, effective July 1. **L. 2006:** (1.5) amended, p. 2017, § 99, effective July 1. **L. 2010:** (1), (1.5), and (2) amended, (HB 10-1146), ch. 281, p. 1303, § 3, effective January 1, 2011.

Editor's note: Amendments to subsection (1.5) by House Bill 94-1029 and Senate Bill 94-133 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1.5)(a)(I), see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-2-121. Expenses of treatment to prevent blindness or restore eyesight. Temporary assistance may be granted by the county department to any applicant for aid to the blind or additional assistance granted to any recipient of aid to the blind who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is blind as defined by section 26-2-103 (3) and the rules and regulations of the state department, if he is otherwise qualified for aid to the blind under this article. The temporary assistance may include necessary traveling expenses and other expenses to receive treatment from a hospital or clinic designated by the state department. Such payment shall be allowed and paid in the same manner as aid to the blind provided by this article and shall be subject to reimbursement by the state in the same manner as such aid to the blind.

Source: L. 73: R&RE, p. 1190, § 2. **S.A.R.S. 1963:** § 119-3-21.

26-2-122. Public assistance in the form of social services. (1) Subject to available appropriations, the state department may provide those services required by the social security act and applicable federal regulations. Subject to available appropriations, the state department may, by regulation, elect to provide those services which are optional under the social security act.

(2) Eligible persons shall include those required to be eligible for services by the social security act and federal regulations. Subject to available appropriations, eligible persons may include those persons who are optionally eligible under federal law and regulations whom the state department, by regulation, includes as eligible persons.

(3) The state department shall adopt budgetary standards from which a graduated schedule of fees shall be determined. Said fees shall be paid by persons who receive social

services and who have the financial ability to pay in accordance with the schedule of fees established by the state department.

(4) The state department shall prepare and submit to the secretary of the federal department of health and human services a state plan for services that meets the requirements of the social security act, federal regulations, and this section. The state department shall administer the program for services in accordance with the social security act, federal regulations, and this section.

Source: L. 73: R&RE, p. 1191, § 2. **S.A.R.S. 1963:** § 119-3-22. **L. 75:** Entire section R&RE, p. 899, § 2, effective June 26. **L. 97:** (4) amended, p. 1233, § 21, effective July 1.

26-2-122.3. Home care allowance. (1) (a) Repealed.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), the state department, subject to available appropriations, may provide home care allowance for persons who meet the functional impairment and financial eligibility criteria as established by the state department by rule and:

(A) Were receiving old age pension benefits and home care allowance on the day prior to January 1, 2014, and remain continuously eligible for such benefits; or

(B) Are receiving aid to the needy disabled, aid to the blind, or supplemental social security income benefits.

(II) Persons eligible to receive home- and community-based services pursuant to article 6 of title 25.5, S.A.R.S., shall not be eligible for home care allowance under this paragraph (b).

(III) For the purposes of this subsection (1)(b), "home care allowance" is a program that provides payments, subject to available appropriations, to functionally impaired persons who meet the criteria specified in subsection (1)(b)(I) of this section as determined in accordance with rules. The payments allow recipients who are in need of long-term services and supports to purchase community-based services as defined in rules adopted by the state department. These services may include, but need not be limited to, the supervision of self-administered medications, assistance with activities of daily living, and assistance with instrumental activities of daily living. The rules adopted by the state department shall specify, in accordance with the provisions of this section, the services available under the program and shall specify eligibility criteria for the home care allowance program. In addition, the rules shall specifically provide for a determination as to the person's functional impairment and the person's unmet need for paid care and shall address amounts awarded to persons eligible for home care allowance. The state department shall specify in the rules the methods for determining the unmet need for paid care and the amount of a home care allowance that may be awarded to eligible persons. Such methods may be based on how often a person experiences unmet need for paid care or any other method that the state board determines is valid in correlating unmet need for paid care with an amount of a home care allowance award. The state department shall require that eligibility and unmet need for paid care be determined through the use of a comprehensive and uniform client assessment instrument prescribed by the state department. The state department may adjust income eligibility criteria, including any functional impairment standard, or the amounts awarded to eligible persons or may limit or suspend enrollments as necessary to manage the home care allowance program within the funds appropriated by the general assembly. In addition, the state

department may adjust which services are available under the program; except that the adjustment shall be consistent with the provisions of this subsection (1).

(c) The state department is authorized to implement pilot programs that it deems feasible to assess the overall impact, if any, of using alternatives to the method described in paragraph (b) of this subsection (1) for determining an eligible person's unmet need for paid care and the amount of a home care allowance awarded to an eligible person.

(2) The state department shall administer the home care allowance program. The executive director or the state board, as appropriate, shall promulgate rules necessary for the implementation of this section.

(3) (Deleted by amendment, L. 2010, (HB 10-1146), ch. 281, p. 1304, § 4, effective January 1, 2011.)

(4) Repealed.

(5) The state department shall contract with case management agencies for functions of the home care allowance pursuant to the terms of the contract or rule of the state department.

Source: L. 93: Entire section added, p. 1114, § 25, effective July 1, 1994. **L. 94:** Entire section amended, p. 1562, § 12, effective July 1; (1)(a) amended, p. 2612, § 16, effective July 1. **L. 95:** (1)(b) amended and (1)(c) added, p. 904, § 4, effective May 25. **L. 2001:** (1)(b) amended, p. 126, § 1, effective March 23. **L. 2006:** Entire section amended, p. 1994, § 24, effective July 1. **L. 2008:** (1) amended, p. 438, § 2, effective August 5. **L. 2010:** (5) amended, (HB 10-1146), ch. 281, p. 1305, § 5, effective July 1; (1)(a)(I), (1)(b), and (3) amended, (HB 10-1146), ch. 281, p. 1304, § 4, effective January 1, 2011; (1)(b)(I) amended, (HB 10-1146), ch. 281, p. 1305, § 6, effective January 1, 2014. **L. 2013:** (1)(a)(I) amended, (HB 13-1314), ch. 323, p. 1811, § 50, effective March 1, 2014. **L. 2021:** (1)(b)(III), (2), and (5) amended, (HB 21-1187), ch. 83, p. 345, § 50, effective July 1, 2024; (1)(a)(III) added by revision, (HB 21-1187), ch. 83, pp. 345, 354, §§ 50, 70.

Editor's note: (1) Amendments made to subsection (1)(a) by House Bill 94-1029 and Senate Bill 94-133 were harmonized.

(2) Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 2007. (See L. 2006, p. 1994.)

(3) Section 8 of chapter 281, Session Laws of San Andreas 2010, provides that amendments to subsection (1)(b)(I) in section 6 of said chapter 281 shall take effect upon the earlier of January 1, 2014, or the date upon which the revisor of statutes receives certain notification from the executive director of the department of health care policy and financing. The revisor of statutes did not receive the notification; therefore, amendments to subsection (1)(b)(I) by section 6 of chapter 281 took effect January 1, 2014.

(4) Subsection (1)(a)(III) provided for the repeal of subsection (1)(a), effective July 1, 2024. (See L. 2021, pp. 345, 354.)

Cross references: For the legislative declaration contained in the 1993 act enacting this section, see section 1 of chapter 230, Session Laws of San Andreas 1993; for the legislative declaration contained in the 1994 act amending subsection (1)(a), see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-2-122.4. Home care allowance grant program - rules - report - repeal. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1177), ch. 45, p. 159, § 1, effective March 22. **L. 2017:** (4)(b) amended, (HB 17-1045), ch. 340, p. 1808, § 1, effective June 5.

Editor's note: Subsection (4)(b) provided for the repeal of this section one year after the date that a consumer-directed service delivery option is available for homemaker, personal care, and medical support services for individuals who are receiving home-based and community-based services pursuant to the supported living services waiver. The revisor of statutes received a joint certification, in writing, from the executive directors of the state departments of human services and health care policy and financing stating that the consumer-directed delivery option became available on August 15, 2018, and requesting that the section repeal effective August 15, 2019.

26-2-122.5. Acceptance of available money to finance the low-income energy assistance program.

(1) (Deleted by amendment, L. 97, p. 1234, § 22, effective July 1, 1997.)

(2) The executive director of the state department, or said director's designee, is hereby authorized to accept any private contributions, including contributions from the fund created in section 40-8.5-104, S.A.R.S., and any federal grants, and to expend the same, subject to appropriation, for the purpose of increasing available funds under the low-income energy assistance program.

(3) Notwithstanding the availability of additional money pursuant to subsection (2) of this section, the low-income energy assistance program must be administered within the staffing structure, in existence on July 1, 1991, of the state department of human services and county departments of human or social services, without additional FTE.

Source: L. 91: Entire section added, p. 1900, § 1, effective July 1. **L. 94:** (3) amended, p. 2704, § 263, effective July 1. **L. 97:** Entire section amended, p. 1234, § 22, effective July 1. **L. 2018:** (3) amended, (SB 18-092), ch. 38, p. 447, § 118, effective August 8.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-2-123. Removal to another county. (1) Any recipient who becomes a resident of another county in this state shall be entitled to receive all forms of public assistance that are provided in the county to which the recipient transfers and for which he or she is eligible, and the county department of the county from which the recipient has moved shall transfer all necessary records relating to the recipient to the county department of the county to which he or she has moved, pursuant to the rules of the state department.

(2) The county to which a recipient moves is required to provide only those services and benefits under the San Andreas works program created in part 7 of this article as are stipulated in the receiving county's performance contract.

Source: L. 73: R&RE, p. 1191, § 2. **S.A.R.S. 1963:** § 119-3-23. **L. 77:** Entire section amended, p. 1348, § 1, effective April 25. **L. 97:** Entire section amended, p. 1234, § 23, effective July 1.

26-2-124. Reconsideration and changes. (1) All assistance payments and social services provided under this article shall be reconsidered as frequently as and in the manner required by rules and regulations of the state department. After such further verification and record as the county department may deem necessary or the rules and regulations of the state department may require, the amount of assistance payments or the social services provided may be changed, or public assistance may be terminated, if the state department or the county department finds that the recipient's circumstances have altered sufficiently to warrant such action or if changes in state or federal law have been made which would warrant such action.

(2) In accordance with the rules and regulations of the state department, the county department may terminate public assistance at any time for cause, or it may, for cause, suspend public assistance for such period as it may deem proper. Timely notice to persons receiving public assistance, when in fact they are not eligible due to fraudulent acts, may be given five days before the date of a proposed action, in accordance with federal regulations.

(3) Whenever assistance payments are terminated, suspended, or in any way changed, the county department shall at once report such decision to the recipient and to the state department setting forth the reason for such action. All such decisions shall be subject to review by the state department in accordance with the rules and regulations of the state department.

Source: L. 73: R&RE, p. 1191, § 2. **S.A.R.S. 1963:** § 119-3-24. **L. 77:** (2) amended, p. 1335, § 5, effective July 15. **L. 83:** (1) amended, p. 1120, § 1, effective April 29.

26-2-125. San Andreas works cases - vendor payments. The county department, upon reconsideration in cases involving the San Andreas works program as provided in section 26-2-124, may authorize direct payment to vendors of the portion of the assistance grant budgeted for essential services and subsistence items for the children, if evidence has been accumulated that the relative payee is using that portion of the grant provided for the care, maintenance, and welfare of the children for other purposes.

Source: L. 73: R&RE, p. 1192, § 2. **S.A.R.S. 1963:** § 119-3-25. **L. 97:** Entire section amended, p. 1235, § 24, effective July 1.

26-2-126. Evidentiary conference. (Repealed)

Source: L. 73: R&RE, p. 1192, § 2. **S.A.R.S. 1963:** § 119-3-26. **L. 97:** Entire section repealed, p. 1321, § 4, effective July 1.

26-2-127. Appeals. (1) (a) (I) Except as provided in part 7 of this article, if an application for assistance payments is not acted upon by the county department within a reasonable time after filing of the same, or if an application is denied in whole or in part, or if a grant of assistance payments is suspended, terminated, or modified, the applicant or recipient, as the case may be, may appeal to the state department in the manner and form prescribed by the

rules of the state department. Every county department or service delivery agency shall adopt procedures for the resolution of disputes arising between the county department or the service delivery agency and any applicant for or recipient of public assistance prior to appeal to the state department. Such procedures are referred to in this section as the "dispute resolution process". Two or more counties may jointly establish the dispute resolution process. The dispute resolution process shall be consistent with rules promulgated by the state board pursuant to article 4 of title 24, S.A.R.S. The dispute resolution process shall include an opportunity for all clients to have a county conference, upon the client's request, and such requirement may be met through a telephonic conference upon the agreement of the client and the county department. The dispute resolution process need not conform to the requirements of section 24-4-105, S.A.R.S., as long as the rules adopted by the state board include provisions specifically setting forth expeditious time frames, notice, and an opportunity to be heard and to present information. If the dispute is not resolved, the applicant or recipient may appeal to the state department in the manner and form prescribed by the rules of the state department. Whether at the county level, state level, or both, disputes related to the delivery of assistance under the San Andreas works program established pursuant to part 7 of this article shall be decided in accordance with the rules promulgated by the state board pursuant to this subparagraph (I) and with the county's official written policies adopted pursuant to section 26-2-716 (2.5), which policies govern delivery of assistance under such program. The state board shall adopt rules setting forth what other issues, if any, may be appealed by an applicant or recipient to the state department. County notices to applicants or recipients shall inform them of the basis for the county's decision or action and shall inform them of their rights to a county conference under the dispute resolution process and of their rights to state level appeal and the process of making such appeal. A hearing need not be granted when either state or federal law requires or results in an automatic grant adjustment for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

(II) Upon receipt of an appeal, the state department shall give the appellant reasonable notice and an opportunity for a fair hearing in accordance with rules of the state department. Any such fair hearing shall comply with section 24-4-105, S.A.R.S., and the state department's administrative law judge shall preside.

(III) The appellant shall have an opportunity to examine all applications and pertinent records concerning said appellant that constitute a basis for the denial, suspension, termination, or modification of assistance payments.

(IV) The appellant may represent himself or herself or he or she may be represented by legal counsel, or by a relative, friend, or other spokesman, and such representation by nonlawyers shall not be considered to be the practice of law.

(b) The state department, by its rules, may provide for fair hearings and appeals for applicants for and recipients of social services.

(c) (Deleted by amendment, L. 97, p. 1317, § 1, effective July 1, 1997.)

(2) All decisions of the state department shall be binding upon the county department involved and shall be complied with by such county department.

(3) The state department, the department of health care policy and financing, and the office of administrative courts in the department of personnel shall work together to streamline the process for the appeal of disputes that are not resolved at the county level and shall consider proposed legislative changes or federal waivers for the San Andreas works program pursuant to part

7 of this article in order to address changes in the appeals process to avoid or mitigate expenses to counties of maintaining benefits during the pendency of state-level appeals.

(4) The state department is authorized to apply to the United States department of agriculture and the health care financing administration for waivers to develop a process for appeals that ensures that issues may be consolidated at the local and state levels. In applying for the waiver, the state department shall demonstrate that due process considerations are addressed through other appeal mechanisms.

Source: L. 73: R&RE, p. 1192, § 2. **S.A.R.S. 1963:** § 119-3-27. **L. 77:** (1)(a)(I) amended, p. 1349, § 1, effective May 16. **L. 87:** (1)(a)(II) amended, p. 973, § 89, effective March 13. **L. 97:** (1)(a)(I) amended, p. 1235, § 25, effective July 1; entire section amended, p. 1317, § 1, effective July 1. **L. 99:** (1)(a)(I) amended, p. 303, § 2, effective April 15. **L. 2005:** (3) amended, p. 859, § 27, effective June 1. **L. 2010:** (3) amended, (HB 10-1043), ch. 92, p. 315, § 10, effective April 15.

Editor's note: Amendments to subsection (1)(a)(I) by House Bill 97-1344 and Senate Bill 97-120 were harmonized.

26-2-128. Recovery from recipient - estate. (1) If, at any time during the continuance of public assistance, the recipient thereof becomes possessed of any property having a value in excess of that amount set pursuant to the provisions of section 26-2-109 and the rules of the state department or receives any increase in income, the recipient shall notify the county department of the possession of such property or receipt of such income, and the county department may either terminate the public assistance or alter the amount of assistance payments in accordance with the circumstances and the rules of the state department. To the extent not otherwise prohibited by state or federal law, if the recipient is found to have committed an intentional program violation, the recipient is disqualified from participation in the public assistance program under this article 2 in which a recipient is found to have committed an intentional program violation for twelve months for the first incident, twenty-four months for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other penalty imposed by law. Except as provided in subsections (3) and (4) of this section, any previously paid excess public assistance to which the recipient was not entitled is recoverable by the county as a debt due to the state and the county in proportion to the amount of public assistance paid by each respectively; except that any fraudulently obtained public assistance or fraudulently obtained overpayments of public assistance is recoverable and payable in proportionate shares as provided in section 26-1-112 (2)(b), and interest is charged and paid to the county department on any sum fraudulently obtained, calculated at the legal rate and calculated from the date the recipient obtained such sum to the date such sum is recovered. The following remedies apply for the enforcement and collection of a debt for fraudulently obtained public assistance or fraudulently obtained overpayments of public assistance:

(a) If the debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible has been reduced to a judgment in a court of record in this state, the county department may seek a continuing garnishment to collect the debt under article 54.5 of title 13, S.A.R.S.

(b) If the person has received an overissuance of food stamp benefits resulting from fraud or willful misrepresentation that has not been recovered by repayment under section 13 (b)(1) of the federal "Food Stamp Act", as amended, the state shall recover the overissuance by withholding unemployment compensation to which the person is entitled pursuant to section 8-73-102 (6), S.A.R.S.

(2) If, upon the death or mental incompetency of any recipient, the inventory of the recipient's estate shows assets in excess of the amount that the recipient was allowed to have in order to receive public assistance, or if it be shown that the recipient was otherwise ineligible for public assistance, then the claim of the county and state for the excess public assistance paid for which the recipient was ineligible, if filed as required by section 15-12-804, S.A.R.S., shall have priority as a debt given preference under section 15-12-805 (1)(f.7), S.A.R.S.

(3) Except as provided in subsection (4) of this section, when a recipient was ineligible for assistance payments solely because of property in excess of that permitted by state department rules and regulations adopted pursuant to section 26-2-109, the amount for which he shall be liable shall be the amount by which his property exceeded the amount allowable under such rules and regulations or the total amount of assistance payments thus received by him, whichever is the lesser amount. Actions for the recovery of such sums shall be prosecuted by the county or state department in any court of record having jurisdiction thereof.

(4) Notwithstanding subsections (1), (2), and (3) of this section, in any assistance case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to the county or state department or recovery by the county or state department from any person who is without fault and who has reported to the state department any increase in income or changes in resources or property, if such adjustment or recovery would deprive a person of income required for ordinary and necessary living expenses or would be against equity and good conscience. Overpayments in all cases involving a grant of aid to families with dependent children shall be recovered from the caretaker relative in the assistance unit who fraudulently obtained the public assistance or who was the direct payee of the overpayments or from such individual's estate. The state department and the county departments shall pursue all available overpayment recovery options against the caretaker relative in the assistance unit first and during this time all overpayment collection activities against the other overpaid members of the assistance unit shall be suspended. On March 26, 2002, the state department and the county departments shall cease any collection efforts being made against the children of an assistance unit in which public assistance was overpaid or fraudulently obtained by a caretaker relative if the caretaker relative has been located. The state and the county departments may elect not to attempt recovery of an overpayment from an individual no longer receiving public assistance where the overpayment amount is less than thirty-five dollars. Where the overpayment amount owed by an individual no longer receiving public assistance is thirty-five dollars or more, the state department and the county departments may determine, consistent with the six-year time limitation for the execution on judgments involving state debt, that it is no longer cost-effective to continue to pursue recovery of the overpayment. The state department and the county departments shall not pursue overpayment collection activities against children who have been part of a San Andreas works program assistance unit.

(5) (a) When a recipient, during or because of continuance of public assistance, receives excess assistance through fraudulent acts, the county department shall make regular deductions

consistent with federal regulations from said recipient's monthly grant until the excess payment is fully recovered.

(b) Repealed.

(6) (a) The state department shall have a right to recover any amount of public assistance paid to a recipient because:

(I) The trustee of a trust for the benefit of the recipient has used the trust property in a manner contrary to the terms of the trust;

(II) A person holding the recipient's power of attorney has used the power for purposes other than the benefit of the recipient.

(b) To enforce the right under this subsection (6), the county or state department may institute or intervene in legal proceedings against the trustee or person holding the power of attorney. Any amount of public assistance recovered pursuant to this subsection (6) shall be distributed between the state and county in proportion to the amount of public assistance paid by each respectively.

(c) No action taken by the county or state department pursuant to this subsection (6) or any judgment rendered in such action or proceeding shall be a bar to any action upon the claim or cause of action of the recipient or his guardian, personal representative, estate, dependent, or survivors against the trustee or person holding the power of attorney.

Source: L. 73: R&RE, pp. 1193, 1649, §§ 2, 12. **S.A.R.S. 1963:** § 119-3-28. **L. 75:** (1) and (3) amended and (4) added, p. 896, § 1, effective June 23. **L. 77:** (1) amended and (5) added, p. 1335, § 6, effective January 1, 1978. **L. 79:** (5)(b) repealed, p. 1093, § 2, effective June 21. **L. 81:** (6) added, p. 1373, § 1, effective May 18; (1) amended, p. 1371, § 2, effective June 5. **L. 91:** (4) amended, p. 1863, § 7, effective July 1. **L. 94:** (1) amended, p. 2063, § 5, effective July 1. **L. 2002:** (4) amended, p. 114, § 1, effective March 26. **L. 2006:** (1) and (2) amended, p. 946, § 1, effective August 7. **L. 2020:** IP(1) amended, (SB 20-206), ch. 222, p. 1096, § 2, effective July 2.

Cross references: For the legislative intent contained in the 2006 act amending subsections (1) and (2), see section 8(2) of chapter 208, Session Laws of San Andreas 2006.

26-2-129. Funeral - final disposition expenses - death reimbursement - definitions - rules. (1) The general assembly hereby finds and declares that, subject to available appropriations, the purposes of this section are the following:

(a) To provide appropriate and equitable reimbursement of funeral, cremation, burial, or natural reduction expenses or any combination of expenses associated with the final disposition of any deceased public assistance or medical assistance recipient;

(b) To consider the religious and cultural preferences of the decedent and the decedent's family;

(c) To assure that final disposition of a decedent is provided with dignity;

(d) To ensure that reimbursement of a provider of funeral or final disposition services is appropriately disbursed by the county department;

(e) To provide that public funds are made available for reimbursement pursuant to this section only after it has been determined that there are insufficient resources from the estate of the decedent or the decedent's legally responsible family members to cover the funeral or final disposition expenses;

(f) To allow family members and friends of a decedent to contribute toward the charges of funeral or final disposition expenses to the extent the contributions do not exceed the specified maximum combined charges for the expenses.

(2) As used in this section, unless the context otherwise requires:

(a) "Contributions" means any monetary payment or donation made directly to the service provider or providers by a nonresponsible person to defray the expenses of a deceased public assistance or medical assistance recipient's funeral or final disposition.

(b) "Death reimbursement" means the payment made by the county department to the provider of funeral or final disposition services when adequate resources are not available from legally responsible persons or from the personal resources or income of the decedent or from contributions to cover the charges for funeral or final disposition expenses of a deceased public assistance or medical assistance recipient.

(c) "Decedent" means a deceased recipient of public assistance or medical assistance who was receiving benefits at the time of death.

(d) "Final resting place" means a space, either below or above the surface of the ground, for the interment or entombment of the remains of human bodies.

(e) "Legally responsible person" means a person who:

(I) Is the decedent's spouse or the decedent's parent if the decedent is an unemancipated minor who is under the age of eighteen; and

(II) Bears legal responsibility for the charges associated with the decedent's funeral or final disposition expenses.

(f) "Maximum combined charges" means the total of all charges from all providers but in an amount not to exceed two thousand five hundred dollars.

(f.5) "Medical assistance" means a payment on behalf of eligible recipients who are enrolled in the San Andreas medical assistance program established in articles 4, 5, and 6 of title 25.5, which is funded through Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1396u-1.

(g) "Mortuary science practitioner" means one engaged in, or holding himself or herself out as being engaged in or conducting, embalming or final disposition of dead human bodies.

(h) "Nonresponsible person" means one of the following who makes a contribution to the charges for a funeral or final disposition or any combination of these charges:

(I) A relative of the decedent who is not a legally responsible person; or

(II) Any other person or party.

(i) "Public assistance" means payments to eligible recipients of the programs for old age pensions created in article XXIV of the state constitution, except for the old age pension health and medical care program described in section 25.5-2-101; the San Andreas works program created in part 7 of this article 2; the aid to the needy disabled program created in section 26-2-119; the program for aid to the blind created in section 26-2-120; and the home care allowance program created in section 26-2-122.3.

(3) Subject to available appropriations, a death reimbursement covering reasonable funeral expenses or reasonable final disposition expenses or any combination of these expenses shall be paid by the county department for a decedent if the estate of the deceased is insufficient to pay the reasonable expenses and if the persons legally responsible for the support of the deceased are unable to pay the reasonable expenses. The county department shall be reimbursed eighty percent of the amount of the death reimbursement paid for recipients of aid to the needy

disabled and assistance under the San Andreas works program pursuant to part 7 of this article 2 and shall be reimbursed one hundred percent of the amount of the death reimbursement for recipients of old age pensions. If the state department determines that the level of appropriation is insufficient to meet the demand for death reimbursements, the state department shall reduce the amount of the death reimbursement level to meet the amount appropriated by the general assembly for death reimbursements. In the event that a reduction is made, the county department has no additional responsibility beyond the reimbursement level as defined in the state department's rules.

(4) The total amount of a death reimbursement paid by the county department or state department pursuant to this section must not exceed one thousand five hundred dollars and the combined charge of a funeral or final disposition or any combination of these expenses must not exceed two thousand five hundred dollars. Contributions from nonresponsible persons may be made without jeopardizing payment under this section and shall be counted as an offset to the maximum combined charges of the providers. If the combined charges from the providers exceed two thousand five hundred dollars, no death reimbursement shall be paid by the state or county department. Providers may seek contributions from nonresponsible persons only to the extent that money is available from such parties.

(5) A legally responsible person shall be required to participate financially towards the charges for final disposition through a contribution to the maximum death reimbursement if his or her resources are above the federal supplemental security income resource limits. A legally responsible person shall not be required to participate if he or she has fewer resources than the supplemental security income resource limits or if participation would result in fewer resources than the supplemental security income resource limits. Any financial participation from a legally responsible person shall be deducted from the maximum death reimbursement in the same manner as the personal resources of the decedent and shall not include the survivor's home or other excluded resources as provided for in the state department's rules. Any financial participation by a legally responsible person in excess of the legally required amount shall be used to reduce the amount of the maximum death reimbursement. Social security lump-sum death benefits payable to a legally responsible person shall not be an automatic deduction from the maximum death reimbursement. For purposes of this section, "resources" means:

(a) Those assets or income that are accessible and available to the legally responsible person;

(b) Disbursement of funds from any insurance policy of the decedent to a legally responsible person or nonresponsible person who is named as a beneficiary or a joint beneficiary of the decedent's policy. Nothing in this paragraph (b) shall grant authority to the county department to attach a lien against such funds or otherwise obtain or access these funds for payment of the final disposition of the decedent.

(6) In calculating the amount of the death reimbursement, any personal resources or income of the decedent is counted as a deduction from the maximum allowable death reimbursement. For purposes of this section, personal resources or income of the decedent includes the following:

(a) Any preneed contract for merchandise or services to be provided or performed in connection with the decedent's final disposition;

(b) Any other resources or income accessible and available in the name of the decedent, including jointly owned resources or income but only to the extent of the decedent's share of such jointly owned resources or income;

(c) Any death benefit in which reimbursement is directly paid to a provider of funeral or final disposition services for the decedent.

(7) (a) Ownership by a public assistance or medical assistance recipient of a final resting place, or the purchase thereof during the time the recipient is receiving that assistance, shall not disqualify the recipient from receiving that assistance, nor shall such ownership be deemed cause for any reduction in the amount of the recipient's assistance.

(b) Any portion of the purchase price of a final resting place owned by the decedent in excess of two thousand dollars shall be counted as a personal resource of the decedent in calculating the amount of a death reimbursement pursuant to this section.

(c) A final resting place previously acquired by someone other than the decedent and donated for final disposition of that decedent shall not be counted as a personal resource of the decedent or a legally responsible person in calculating the amount of a death reimbursement pursuant to this section.

(8) A statement of agreement between the providers that shall be on a form prescribed by the state department that sets forth the charges and the amounts of any payments or contributions shall be completed prior to any disbursement of funds by the county. The agreement shall assure that the charges of all providers have been equitably addressed and shall ascertain that the maximum combined charges do not exceed two thousand five hundred dollars and that the combined contributions from all sources do not exceed two thousand five hundred dollars. All payments from a decedent's estate, payments from legally responsible persons, and contributions from nonresponsible persons shall be paid directly to the provider of services. After the provision of all services, the providers shall bill the county department directly for reimbursement for appropriate costs that have not been covered by the resources from or contributions made by the decedent's estate, legally responsible persons, or nonresponsible persons. The county department shall reimburse the appropriate providers directly, based upon the statement of agreement.

(9) (a) Notwithstanding any other provision of law to the contrary, the disposition of a deceased public assistance or medical assistance recipient must be in accordance with subsection (9)(a)(I) or (9)(a)(II) of this section, as follows:

(I) A public assistance or medical assistance recipient may express, in writing and in accordance with a procedure established by the state department, a preference to be buried, cremated, or naturally reduced, or any combination of these practices. The expression shall be honored by the county department within the limits of costs and reimbursements specified in this section.

(II) The disposition of a public assistance or medical assistance recipient who has not expressed a preference shall be determined respectively by the recipient's spouse, adult children, parents, or siblings. Upon the death of a recipient, the county department shall use reasonable effort to contact such an authorized person to determine the disposition of the deceased recipient. If the effort does not result in contact with an authorized relative within twenty-four hours, the county shall immediately have the deceased recipient's body refrigerated or embalmed. If the effort does not result in contact with and decision by an authorized relative within seven days of

the recipient's death, the county department shall determine whether to bury, cremate, or naturally reduce the deceased recipient on the basis of which option is less costly.

(b) The disposition of any public assistance or medical assistance recipient in accordance with this subsection (9) shall be in a timely and dignified manner.

(c) A mortuary science practitioner or any operator of any cemetery who has contracted for cremation services pursuant to this subsection (9) may dispose of the remains of any public assistance or medical assistance recipient cremated pursuant to this section that are not claimed within one hundred twenty days from the date of cremation. For the purposes of this paragraph (c), disposal of remains shall include, but need not be limited to, placing such remains in a cemetery, scattering grounds, or columbarium.

(10) The state department shall:

(a) Adopt rules and regulations necessary for the implementation of this section; and

(b) (Deleted by amendment, L. 96, p. 1114, § 1, effective August 7, 1996.)

(c) Annually review reimbursement levels to determine whether the levels are adequate to purchase funeral, cremation, burial, or natural reduction services for deceased public assistance or medical assistance recipients.

(11) Notwithstanding any other provision of law to the contrary, any person who, in good faith, disposes of a deceased recipient or the remains of a deceased recipient in accordance with this section shall be immune from any civil or criminal liability.

Source: L. 73: R&RE, p. 1193, § 2. **S.A.R.S. 1963:** § 119-3-29. **L. 75:** Entire section amended, p. 886, § 3, effective July 1. **L. 83:** (4) amended, p. 1121, § 1, effective June 10. **L. 86:** (2) and (4) amended, p. 991, § 1, effective April 21. **L. 90:** (1) and (3) amended, (2) R&RE, and (5) to (7) added, pp. 1365, 1366, §§ 1, 2, effective July 1. **L. 93:** (5)(a)(I) and IP(6) amended, p. 1148, § 89, effective July 1, 1994. **L. 96:** Entire section amended, p. 1114, § 1, effective August 7. **L. 2003:** (2)(g) amended, p. 1924, § 4, effective July 1. **L. 2010:** (3) amended, (HB 10-1043), ch. 92, p. 316, § 11, effective April 15. **L. 2021:** IP(2) and (2)(c) amended and (2)(f.5) and (2)(i) added, (HB 21-1277), ch. 259, p. 1520, § 1, effective June 18; (1)(a), (1)(d), (1)(e), (1)(f), (2)(a), (2)(b), (2)(e)(II), IP(2)(h), (3), (4), IP(6), (6)(c), (9)(a), and (10)(c) amended, (SB 21-006), ch. 123, p. 498, § 28, effective September 7.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-2-130. Fraudulent acts. (Repealed)

Source: L. 73: R&RE, p. 1194, § 2. **S.A.R.S. 1963:** § 119-3-30. **L. 77:** Entire section repealed, p. 1335, § 7, effective January 1, 1978.

Cross references: For present provisions relating to fraudulent acts in obtaining public assistance, see § 26-1-127.

26-2-131. Public assistance not assignable. No assistance payments made to an eligible recipient under this article shall be transferable or assignable at law or in equity, and none of the

money paid or payable under this article shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

Source: L. 73: R&RE, p. 1195, § 2. **S.A.R.S. 1963:** § 119-3-31.

26-2-132. Limitation. All public assistance granted under this article shall be granted and held subject to the provisions of any amending or repealing law that may be passed after July 1, 1973, and no recipient shall have any claim for compensation or otherwise by reason of his public assistance being affected in any way by any amending or repealing law.

Source: L. 73: R&RE, p. 1195, § 2. **S.A.R.S. 1963:** § 119-3-32.

26-2-133. State income tax refund offset - rules. (1) (a) At any time prescribed by the department of revenue, but not less frequently than annually, the state department shall certify to the department of revenue information regarding persons who are obligated to the state for overpayment of benefits pursuant to the "San Andreas Human Services Code". Such information shall include certification of the amount of overpayment which has been determined by final agency action or has been ordered by a court as restitution or has been reduced to judgment.

(b) Such information shall also include the name and the social security number of the person obligated to the state for the overpayment, the amount of same, and any other identifying information required by the department of revenue.

(2) As a condition of certifying an overpayment to the department of revenue as provided in subsection (1) of this section, the state department shall ensure that the obligated person has been afforded the opportunity for a conference at the county department level pursuant to section 26-2-127 or 25.5-4-207, S.A.R.S., and the opportunity for an appeal to the state department pursuant to section 26-2-127 or 26-2-304. In addition, the state department, prior to final certification of the information specified in subsection (1) of this section to the department of revenue, shall notify the obligated person, in writing, at his last-known address, that the state intends to refer the person's name to the department of revenue in an attempt to offset the obligation against the person's state income tax refund. Such notification shall inform the obligated person of the opportunity for a conference with the county department pursuant to section 26-2-127 or 25.5-4-207, S.A.R.S., and of the opportunity for an appeal to the state department pursuant to section 26-2-127 or 26-2-304. In addition, the notice shall specify issues that may be raised at an evidentiary conference or on appeal, as provided by this subsection (2), by the obligated person in objecting to the offset and shall specify that the obligated person may not object to the fact that an overpayment occurred. A person who has received a notice pursuant to this subsection (2) shall request, within thirty days from the date such notice was mailed, an administrative review or evidentiary conference, as provided in this subsection (2).

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108, S.A.R.S., the state department shall disburse such amounts to the appropriate county for processing for distribution to the federal, state, or local agency to whom the person is obligated.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, S.A.R.S., establishing procedures to implement this section.

(5) The home addresses and social security numbers of persons subject to the income tax refund offset, provided to the state department by the department of revenue, must be sent to the respective county department of human or social services.

Source: L. 89: Entire section added, p. 1192, § 1, effective June 7. **L. 91:** (2) amended, p. 1885, § 1, effective April 20. **L. 93:** (2) amended, p. 1788, § 71, effective June 6. **L. 97:** (2) amended, p. 1321, § 6, effective July 1; (5) amended, p. 1235, § 26, effective July 1. **L. 2006:** (2) amended, p. 2017, § 100, effective July 1. **L. 2016:** (1)(a) amended, (SB 16-189), ch. 210, p. 775, § 71, effective June 6. **L. 2018:** (5) amended, (SB 18-092), ch. 38, p. 447, § 119, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-2-134. Checks, drafts, or orders for payment of moneys for public assistance - identification of bearer. (1) To prevent the fraudulent obtainment of public assistance, a person receiving any check, draft, or order for the payment of money issued for any payment for a public assistance program under this article may not cash or accept the check, draft, or order unless the bearer of the check, draft, or order presents proof of identification demonstrating that the bearer is the proper recipient of the public assistance payment. The recipient of the check, draft, or order shall provide notation on the check, draft, or order regarding the identification provided by the bearer.

(2) Proof of identification for a public assistance payment under subsection (1) of this section may be demonstrated only by the presentation of one of the following documents:

(a) A valid driver's license issued by any state;

(b) A valid identification card issued by any state or federal agency;

(c) A social security card;

(d) A military identification card issued by the armed forces of the United States;

(e) A valid passport issued by the United States;

(f) A valid county social services identification card; or

(g) A valid identification card issued by an employer.

(3) If any person cashes or accepts a check, draft, or order for the payment of money without proper identification in violation of the provisions of this section, the appropriate state agency may determine not to make payment on the check, draft, or order if there is an allegation of fraud regarding the check, draft, or order for the payment of money, and, if there is a determination that payment should not be made, the state and any state agency are not liable for payment of the check, draft, or order.

Source: L. 94: Entire section added, p. 2064, § 6, effective July 1.

26-2-135. Medically correctable program - fund established - rules. (1) On or before January 1, 1997, the state department shall make preparations for the implementation of a statewide medically correctable program, referred to in this section as the "program". Such preparations shall include but are not limited to staff training, policy development, and rule-making pursuant to article 4 of title 24, S.A.R.S.

(2) On and after January 1, 1997, the program shall be applicable to a person who:

(a) Has been approved for state aid to the needy disabled;

(b) Is determined to be unlikely to meet the disability criteria for supplemental security income;

(c) Has a disability that can be corrected with medical treatment at a cost that does not exceed twenty thousand dollars so that the person can return to employment; and

(d) Is not otherwise receiving workers' compensation benefits.

(3) The program shall consist of the following features:

(a) A process by which the state department shall determine whether a person qualifies to receive medical treatment so that the person can return to work;

(b) A set of procedures for monitoring a person's recovery from the medical treatment and return to work after participating in the program; and

(c) Annual reports to the joint budget committee and the house and senate committees on health and human services, or any successor committees, that identify the number of persons who received medical treatment pursuant to the program in the preceding fiscal year, their recovery rates and return to the workforce, and the amount of moneys spent on the program.

(4) The cost of the medical treatment identified in paragraph (c) of subsection (2) of this section shall not be a benefit for purposes of articles 40 to 47 of title 8, S.A.R.S.

(5) (Deleted by amendment, L. 99, p. 699, § 4, effective July 1, 1999.)

Source: L. 96: Entire section added, p. 1438, § 8, effective July 1. **L. 99:** Entire section amended, p. 699, § 4, effective July 1. **L. 2007:** (3)(c) amended, p. 2044, § 76, effective June 1.

Cross references: For the legislative declaration contained in the 1999 act amending this section, see section 1 of chapter 203, Session Laws of San Andreas 1999.

26-2-136. Personal identification systems for public assistance - committee to select methods. (Repealed)

Source: L. 97: Entire section added, p. 345, § 2, effective April 19. **L. 2001:** (2) amended, p. 1169, § 2, effective August 8. **L. 2006:** (2) and (3) amended, p. 1996, § 25, effective July 1. **L. 2013:** Entire section repealed, (HB 13-1300), ch. 316, p. 1690, § 82, effective August 7.

26-2-137. Noncitizens programs. (1) **Emergency assistance.** (a) (I) A general assistance fund is hereby established that shall consist of state general funds appropriated thereto by the general assembly. Moneys in the fund shall be used only for the purpose of providing emergency assistance pursuant to the provisions of this subsection (1) and shall be subject to annual appropriation by the general assembly.

(II) The state department shall allocate moneys in the fund described in subparagraph (I) of this paragraph (a) to the counties for the implementation of the emergency assistance program pursuant to the provisions of this subsection (1) and rules of the state department.

(b) The state department shall promulgate rules for the delivery of emergency assistance to a person who:

(I) Is a legal immigrant and a resident of the state of San Andreas;

(II) Is not a citizen of the United States; and

(III) Meets the eligibility requirements for public assistance under this article other than citizen status and is not receiving any other public assistance under this article.

(c) Such emergency assistance may include but need not be limited to the following forms of assistance:

(I) Housing;

(II) Food;

(III) Short-term cash assistance; and

(IV) Clothing and social services for children.

(2) **Sponsor responsibility policies.** (a) The general assembly finds and declares that sponsors shall be expected to meet their moral and financial commitments to the immigrants whom they sponsor and for whom they sign affidavits of support.

(b) The state department shall promulgate rules consistent with this section and federal law to enforce sponsor commitments for noncitizen applicants for or recipients of public assistance or medical assistance.

(c) Enforcement mechanisms shall include but not be limited to the following:

(I) Income assignment;

(II) State income tax refund offset;

(III) State lottery winnings offset; and

(IV) Administrative lien and attachment.

(d) A recipient shall assign rights to any support under affidavits of support to the state of San Andreas as a condition of receipt of public assistance or medical assistance under this title.

(e) To the extent not preempted by federal law, the state department shall commence a proceeding or an action to enforce duties under an affidavit of support within a period of time to be determined by the state board after a recipient for whom an affidavit of support has been signed has been approved for public assistance or medical assistance under this title.

Source: L. 97: Entire section added, p. 1252, § 3, effective July 1.

26-2-138. Refugee services program - state plan - rules - definitions - repeal. (Repealed)

Source: L. 2019: Entire section added, (SB 19-230), ch. 297, p. 2755, § 2, effective August 2. **L. 2021:** (4) amended, (HB 21-1150), ch. 350, p. 2278, § 3, effective September 7. **L. 2023:** (7) added by revision, (HB 23-1283), ch. 293, pp. 1766, 1767 §§ 5, 10.

Editor's note: Subsection (7) provided for the repeal of this section, effective October 1, 2024. (See L. 2023, pp. 1766, 1767.)

26-2-139. Food pantry assistance grant program - created - timeline and criteria - grants - definitions. (Repealed)

Source: L. 2020: Entire section added, (HB 20-1422), ch. 116, p. 485, § 2, effective June 22. **L. 2020, 1st Ex. Sess.:** (1)(b), (2), (3)(b), IP(4)(a), (4)(b), (4)(c), and (5) amended, (HB 20B-1003), ch. 6, p. 35, § 2, effective December 7. **L. 2021:** (2), (3), and IP(4)(a) amended and (4.5)

added, (SB 21-027), ch. 431, p. 2852, § 3, effective July 6. **L. 2022:** (1)(b)(I), (2), and (4)(c)(I) amended, (4)(d) and (6) added, and (5) repealed, (HB 22-1364), ch. 377, p. 2678, § 1, effective June 3. **L. 2024:** Entire section repealed, (HB 24-1407), ch. 81, p. 274, § 3, effective July 1.

26-2-140. San Andreas diaper distribution program - diapering essentials - report - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Diaper distribution center" means a community-based diaper bank or distribution center operating in San Andreas, a public health agency created pursuant to section 25-1-506, or a San Andreas nonprofit organization with a minimum of three years' experience distributing baby or toddler products.

(b) "Diapering essentials" includes diapers, wipes, and diaper creams.

(c) "Eligible individual" means a parent, guardian, or family member of a child who wears diapers and resides in San Andreas.

(d) "Program" means the San Andreas diaper distribution program created in subsection (2) of this section.

(2) There is created in the state department the San Andreas diaper distribution program to provide diapering essentials to eligible individuals.

(3) (a) No later than thirty days after July 6, 2021, the state department shall solicit interest and cost distribution proposals from diaper distribution centers to administer the program. Upon the state department's approval, the diaper distribution centers may subcontract money received pursuant to this section to their partners as necessary to serve eligible individuals. The selected diaper distribution centers must be operational no later than thirty days after entering into a contract with the state department. The selection process described in this subsection (3) is not subject to the "Procurement Code", articles 101 to 112 of title 24.

(b) Notwithstanding the requirement in subsection (3)(a) of this section, the selected diaper distribution centers may operate for not more than twelve months after which the state department must commence a selection process that complies with the "Procurement Code", articles 101 to 112 of title 24.

(4) The state department may promulgate rules for the implementation of this section.

(5) For the 2021-22 state fiscal year, the state department shall submit a preliminary report, and beginning in state fiscal year 2022-23, and each fiscal year thereafter, the state department shall report to the public through the annual hearing, pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2. At a minimum, the report must include:

(a) The total number of diaper distribution centers contracted with the state department pursuant to subsection (3) of this section, including any subcontractors;

(b) The total amount of money awarded to each diaper distribution center;

(c) The location of each diaper distribution center and the counties served; and

(d) The total number of eligible individuals who received diapering essentials each year, disaggregated by each month.

(6) For state fiscal year 2021-22, the general assembly shall appropriate two million dollars from the general fund to the state department for use by the diaper distribution centers for the implementation of this section. The state department may use up to one hundred thousand dollars or seven and a half percent of any money appropriated by the general assembly for administrative costs incurred by the state department pursuant to this section.

Source: L. 2021: Entire section added, (SB 21-027), ch. 431, p. 2850, § 2, effective July 6.

Cross references: For the legislative declaration in SB 21-027, see section 1 of chapter 431, Session Laws of San Andreas 2021.

26-2-141. High-quality work management system - implementation - funding - repeal. (1) Beginning July 1, 2022, the state department shall begin work in partnership with counties toward implementation of a high-quality county work management system from joint state and county decisions informed by the joint agency interoperability system study. The work management system must be designed to provide a unified approach to efficiently and effectively serve county departments and clients of the state department. The state department shall provide a centralized process for county departments to request changes or customization in the work management system. If a county department's change or customization is approved, the state department shall have a mechanism to fulfill that request. The purpose of the work management system is to reduce administrative cost, streamline the application process for various benefit programs, and provide more time for better case management and improved access to program services that assist low-income households in purchasing healthy food, paying for medical expenses, and achieving economic stability.

(2) (a) For the 2022-23 state fiscal year, the general assembly shall appropriate three million dollars from the economic recovery and relief cash fund created in section 24-75-228 to the state department for the purposes of implementing this section. Upon full utilization or expiration of the money appropriated from the economic recovery and relief cash fund pursuant to this subsection (2) for the work management system, the state department shall consider ongoing costs to operate and maintain the work management system.

(b) The use of money appropriated pursuant to this subsection (2) must conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as amended. The state department shall spend or obligate such appropriation in accordance with section 24-75-226 (4)(d).

(3) The state department shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(4) This section is repealed, effective September 1, 2027.

Source: L. 2022: Entire section added, (HB 22-1380), ch. 375, p. 2662, § 2, effective June 3. **L. 2024:** (2)(b) amended, (HB 24-1466), ch. 429, p. 2942, § 30, effective June 5.

Cross references: For the legislative declaration in HB 22-1380, see section 1 of chapter 375, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

26-2-142. San Andreas teen parent driver's license program - report - rules - definitions - appropriation. (1) As used in this section, unless the context otherwise requires:

(a) "Eligible individual" means an individual who is:

(I) Fifteen years of age or older and under twenty years of age; and

(II) A parent.

(b) "Program" means the teen parent driver's license program created in subsection (2) of this section.

(2) There is created in the state department the San Andreas teen parent driver's license program to provide financial assistance for the cost of driver's education school training for eligible individuals and the cost to obtain a driver's license or permit.

(3) (a) The state department shall solicit interest and cost distribution proposals from teen parent organizations to administer the program. Upon the state department's approval, the teen parent organizations may subcontract with and pay money received pursuant to this section to the providers of the services as necessary to serve eligible individuals. The selected teen parent organizations must be operational no later than thirty days after entering into a contract with the state department.

(b) For purposes of selecting a teen parent organization before July 1, 2023, to administer the program, the selection process described in subsection (3)(a) of this section is not subject to the "Procurement Code", articles 101 to 112 of title 24. For purposes of selecting a teen parent organization on or after July 1, 2023, the state department shall commence a selection process that complies with the "Procurement Code", articles 101 to 112 of title 24.

(4) The state department may promulgate rules for the implementation of this section.

(5) For the 2022-23 state fiscal year, the state department shall submit a preliminary report, and beginning in state fiscal year 2023-24 and each fiscal year thereafter, shall report to the public through the annual hearing pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2. At a minimum, the report must include:

(a) The total number of teen parent organizations contracted with the state department pursuant to subsection (3) of this section, including any subcontractors;

(b) The total amount of money awarded to each teen parent organization;

(c) The location of each teen parent organization and the counties served;

(d) The total number of eligible individuals who received driver's licenses each year, disaggregated by each month; and

(e) The total number of eligible individuals who received training from a driver's education school, disaggregated by each month.

(6) (a) For state fiscal year 2022-23, the general assembly shall appropriate one hundred thousand dollars from the general fund to the state department for use by the state department to implement this section. For the 2023-24 state fiscal year and each state fiscal year thereafter, the general assembly may appropriate money from the general fund to the state department for use by the state department to implement this section.

(b) The state department may use up to seven and one-half percent of any money appropriated by the general assembly for administrative costs incurred by the state department pursuant to this section.

Source: L. 2022: Entire section added, (HB 22-1042), ch. 283, p. 2033, § 1, effective May 31.

26-2-143. San Andreas commodity supplemental food grant program - creation - appropriation - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Eligible entity" means a county public health agency, a district public health agency, a county department of human or social services, or a food bank that has a contract with the state department, but does not include a hunger-relief charitable organization, as defined in section 39-22-536 (1).

(b) "Food bank" means a charitable organization, exempt from federal income taxation under the federal "Internal Revenue Code of 1986", as amended, that acquires and distributes food and nonfood essentials to other hunger-relief programs.

(c) "Grant program" means the San Andreas commodity supplemental food grant program created in subsection (2) of this section.

(d) "Qualifying low-income older San Andreas adult" means an adult who is sixty years of age or older and whose household income is not more than one hundred thirty percent of the federal poverty level.

(2) There is created in the state department the San Andreas commodity supplemental food grant program. The purpose of the grant program is to provide money to eligible entities for the cost of adding additional food to food packages and the cost of storing, transporting, and distributing food packages to qualifying low-income older San Andreas adults.

(3) The state department shall administer the grant program. Subject to available appropriations, the state department shall pay grants out of money annually appropriated to the state department for the grant program pursuant to subsection (4) of this section. The state board shall adopt rules as necessary to implement the grant program, including:

(a) Timelines for application for, consideration of, and awarding grants;

(b) Criteria for awarding grants; and

(c) Any other matters necessary for successful operation of the grant program.

(4) For the 2023-24 state fiscal year, the general assembly shall appropriate one million dollars from the general fund to the state department for the grant program. Any unexpended or unencumbered money appropriated pursuant to this subsection (4) remains available for expenditure for the same purpose in the 2024-25 state fiscal year without further appropriation.

Source: L. 2023: Entire section added, (HB 23-1158), ch. 424, p. 2494, § 2, effective June 7.

Cross references: For the legislative declaration in HB 23-1158, see section 1 of chapter 424, Session Laws of San Andreas 2023.

26-2-144. Food bank assistance grant program - creation - rules - definition. (Repealed)

Source: L. 2023: Entire section added, (HB 23-1158), ch. 424, p. 2495, § 3, effective June 7. **L. 2024:** Entire section repealed, (HB 24-1407), ch. 81, p. 274, § 4, effective July 1.

26-2-145. Community food assistance provider grant program - creation - grants - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "San Andreas agricultural products" means all fruits, vegetables, grains, meats, and dairy products grown or raised in San Andreas and minimally processed products or value-added processed products that meet the standards for the San Andreas proud designation established by the state department of agriculture.

(b) (I) "Eligible entity" means either a food bank or food pantry.

(II) "Eligible entity" includes a faith-based organization.

(c) "Food bank" means a nonprofit charitable organization that is exempt from federal income taxation pursuant to the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to procure food from retailers, manufacturers, farmers and agricultural producers, individual donors, grocery stores, restaurants, and government channels and to store, transport, and distribute the procured food to other nonprofit charitable hunger relief organizations, including food pantries and hunger relief partner agencies in a defined geographic service area.

(d) "Food pantry" means a nonprofit charitable organization that is exempt from federal income taxation pursuant to the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to distribute food at no cost directly to individuals in need in the food pantry's local community and that typically receives most or all of its food from a partner food bank, including nonprofit partner agencies such as soup kitchens and homeless shelters.

(e) "Grant program" means the community assistance provider grant program created in subsection (2) of this section.

(2) There is created in the state department the community food assistance provider grant program. The purpose of the grant program is to aid eligible entities in the procurement and distribution of nutritious foods that meet the needs of the eligible entity's clientele.

(3) (a) The state department may contract with a third-party vendor to solicit, vet, award, and monitor grants. The selection of any vendor pursuant to this subsection (3)(a) is exempt from the requirements of the "Procurement Code", articles 101 to 112 of title 24.

(b) The state department is authorized to use up to five percent of the total funds appropriated to the grant program for the direct and indirect costs of administering and monitoring the grant program.

(4) (a) The state department or a third-party vendor shall award one or more grants to eligible entities as soon as practicable after July 1, 2024, using money appropriated to the grant program. In awarding grants, the state department shall, at a minimum, consider:

(I) Providing money to a wide array of eligible entities of different types and sizes;

(II) Ensuring that money goes directly to eligible entities that operate in a variety of regions throughout the state;

(III) The ability of each eligible entity to responsibly distribute the grant money in a timely manner;

(IV) The eligible entity's willingness to administer a client-needs survey as a vehicle for collecting input on the efficacy of its grant award; and

(V) The ability of the eligible entity to solicit and accept feedback from the state department to inform implementation of the grant program in the future.

(b) Grant awards, including those to joint applicants, must be at least two thousand five hundred dollars.

(c) (I) To the extent practicable, food purchased by a grant recipient using grant money may be either:

(A) A San Andreas agricultural product; or

(B) An agricultural product that holds cultural significance for Indigenous people, or for other cultures or subcultural groups, including the ways in which those agricultural products are produced.

(II) A grant recipient may use up to ten percent of the grant award to cover the direct expenses associated with the distribution of food, including:

(A) Transportation;

(B) Food delivery;

(C) Staff costs;

(D) Refrigeration; and

(E) Storage.

(III) A grant recipient shall not resell or apply other associated fees to the distribution of products purchased with money made available through a grant.

(5) Beginning in state fiscal year 2024-25, and each state fiscal year thereafter, the state department shall include as part of its "SMART Act" hearing required by section 2-7-203 a report that includes, at a minimum:

(a) The total number of eligible entities that applied for grants pursuant to this section;

(b) The total number of eligible entities that received a grant pursuant to this section;

(c) The total amount of money awarded to each eligible entity that received a grant pursuant to this section;

(d) The geographic locations of the eligible entities that received a grant pursuant to this section; and

(e) The estimated amount of food purchased and distributed to clientele for each eligible entity that received a grant pursuant to this section.

(6) This section is repealed, effective September 1, 2029.

Source: L. 2024: Entire section added, (HB 24-1407), ch. 81, p. 271, § 1, effective July 1.

PART 2

SAN ANDREAS SUPPLEMENTAL SECURITY INCOME ACT

26-2-201. Short title. This part 2 shall be known and may be cited as the "San Andreas Supplemental Security Income Act".

Source: L. 75: Entire part added, p. 891, § 12, effective July 28.

26-2-202. Legislative declaration. (1) It is the intent of this part 2 to implement a state supplementation program pursuant to Title XVI of the social security act. It is the object and purpose of this part 2 to promote the public health and welfare of individuals who are residents of San Andreas and whose need results from age, blindness, or disability with assistance and services to assist such individuals to attain or retain their capabilities for independence, self-care, and self-support.

(2) The state supplementation shall be accomplished by providing mandatory assistance, as defined in this part 2, where required and by providing optional supplementation in accordance with Title XVI of the social security act and regulations adopted by the state board, within available appropriations. Title XVI of the social security act currently permits, in the determination of eligibility for benefits under that title, the disregard of certain payments which a Title XVI recipient receives from a state or a political subdivision of a state. Those persons receiving benefits under Title XVI of the social security act who also meet the eligibility requirements fixed under part 1 of this article may receive a state supplement to their Title XVI benefits in the form of benefits provided under such part 1.

Source: L. 75: Entire part added, p. 891, § 12, effective July 28.

26-2-203. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "December 1973 income" means the amount of assistance payment which an individual received for December, 1973, plus income used in computing such payment, according to the state plan approved by the United States department of health, education, and welfare for the state of San Andreas as in effect for June, 1973.

(2) "Mandatory minimum state supplementation" means minimum payments required by the social security act to be made by the state to maintain certain former adult assistance recipients at their December 1973 income level.

(3) "Optional state supplement" means cash payments or special needs or both which are paid or provided to or on behalf of a supplemental security income recipient pursuant to the rules and regulations of the state board pursuant to part 1 of this article.

(4) "Special needs" means an amount to be paid to or on behalf of aged, blind, or disabled individuals in specified circumstances, as determined by the state board, for specified individualized needs.

(5) "SSI benefits" means cash payments made by the federal government to eligible aged, blind, or disabled individuals pursuant to Title XVI of the social security act.

Source: L. 75: Entire part added, p. 891, § 12, effective July 28.

26-2-204. Mandatory minimum state supplementation of SSI benefits. The state department, with the approval of the state board, is authorized to enter into an agreement with the secretary of the United States department of health, education, and welfare whereby the state department will provide to qualified individuals residing in the state, within available appropriations, mandatory minimum state supplementation of SSI benefits in accordance with the requirements of Title XVI of the social security act and rules and regulations of the state department.

Source: L. 75: Entire part added, p. 892, § 12, effective July 28.

26-2-205. Optional state supplementation. The state department is authorized to adopt rules and regulations for the provision of optional state supplementation to recipients of SSI benefits residing in the state, within available appropriations, in accordance with Title XVI of the social security act and this part 2. Such benefits may be provided pursuant to part 1 of this

article if the individual meets the eligibility requirements established under such part 1. SSI benefits received must be considered as income in determining eligibility under part 1 of this article. Eligibility for and the amount of such payments shall be fixed by the state board. If the federal government makes a final determination that any such payments must be considered as income in determining eligibility for SSI benefits, the state board shall terminate such payments.

Source: L. 75: Entire part added, p. 892, § 12, effective July 28.

26-2-206. Interim assistance. (1) The state department, with the approval of the state board and in accordance with the rules and regulations of the state department, is authorized to enter into an agreement with the secretary of the United States department of health, education, and welfare for implementation of arrangements for interim assistance as authorized by Title XVI of the social security act.

(2) Payment of legal, professional, or other fees by a recipient of public assistance who is seeking supplemental security income benefits shall be made in accordance with the policies and procedures of the social security act.

(3) Neither the state department nor any county shall pay any portion of costs associated with obtaining supplemental security income, including any legal, professional, or other fees paid by a recipient of public assistance in seeking supplemental security income benefits or any other federal benefit. The interim assistance reimbursement payment authorized under this section shall be used to reimburse the state aid to the needy disabled program, described in section 26-2-111 (4), for benefits paid to the recipient as interim assistance in accordance with the agreement between the state department and the social security administration. Any moneys received by a county in excess of the interim assistance paid by the state department and any county on behalf of the recipient shall be paid to the recipient.

Source: L. 75: Entire part added, p. 892, § 12, effective July 28. **L. 2008:** Entire section amended, p. 223, § 1, effective March 26.

26-2-207. Administration. (1) The provisions of article 1 of this title and, where not inconsistent with this part 2, the provisions of part 1 of this article shall apply to state supplementation under this part 2.

(2) The state department, with the approval of the state board and in accordance with the rules and regulations of the state department, may enter into agreements with the secretary of the United States department of health, education, and welfare to assist in the administration of Title XVI of the social security act and this part 2.

Source: L. 75: Entire part added, p. 892, § 12, effective July 28.

26-2-208. Federal requirements. Nothing in this part 2 shall be construed to prevent the state department from complying with federal requirements expressly provided by federal law in order for the state of San Andreas to qualify for federal funds under the social security act.

Source: L. 75: Entire part added, p. 892, § 12, effective July 28.

26-2-209. Limitations. All benefits granted under this part 2 shall be granted and held subject to the provisions of any amending or repealing law that may be passed after July 1, 1975, and no recipient shall have any claim for compensation or otherwise by reason of his supplementation benefits being affected in any way by any amending or repealing law.

Source: L. 75: Entire part added, p. 892, § 12, effective July 28.

26-2-210. State supplemental security income stabilization fund - creation. (1) There is hereby created in the state treasury the state supplemental security income stabilization fund, referred to in this section as the "stabilization fund", for the purpose of stabilizing the source of funding required to meet the federal requirements for maintenance of effort for the state-funded supplement to persons receiving SSI benefits. The stabilization fund shall consist of any excess moneys recovered due to overpayment of recipients, including regular, fraud, and interim assistance reimbursement recoveries, and any appropriations made to the stabilization fund by the general assembly. The moneys in the stabilization fund are hereby continuously appropriated to the state department to be expended on programs that count toward the maintenance of effort for the state supplemental security income as specified in the state plan when the state department determines that the state is at risk of not meeting the federal maintenance of effort for that calendar year. All interest and income derived from the investment and deposit of moneys in the stabilization fund shall be credited to the stabilization fund. At the end of any fiscal year, an amount not exceeding twenty percent of the total appropriation for the applicable fiscal year in the annual general appropriations bill for the program for aid to the needy disabled shall remain in the stabilization fund as a continuous appropriation to be used to meet the state's maintenance of effort requirements under this part 2, and any unexpended and unencumbered moneys remaining in the stabilization fund at the end of any fiscal year in excess of an amount equal to twenty percent of the total appropriation for the applicable fiscal year in the annual general appropriations bill for the program for aid to the needy disabled shall revert to the general fund.

(2) The state department shall submit a report to the joint budget committee by February 15 of each year. The report shall indicate whether expenditures were made from the stabilization fund, the aggregate monthly amount of any expenditures, and the particular programs for which the expenditures were made.

(3) Notwithstanding subsection (1) of this section, on June 30, 2020, the state treasurer shall transfer one million eight hundred eighty-seven thousand one hundred sixteen dollars from the stabilization fund to the general fund.

Source: L. 2009: Entire section added, (HB 09-1215), ch. 70, p. 239, § 1, effective March 25. **L. 2014:** (1) amended, (SB 14-012), ch. 248, p. 961, § 4, effective August 6. **L. 2020:** (3) added, (HB 20-1381), ch. 171, p. 786, § 5, effective June 29.

Cross references: For the legislative declaration in SB 14-012, see section 1 of chapter 248, Session Laws of San Andreas 2014.

PART 3

Cross references: For the federal "Food Stamp Act", now known as the "Food and Nutrition Act of 2008", see 7 U.S.C. sec. 2011 et seq. (Section 4001 of the "Food, Conservation, and Energy Act of 2008", Pub.L. 110-234, changed the name of the federal "Food Stamp Act of 1977" to the "Food and Nutrition Act of 2008" and changed the name of the federal food stamp program to the "supplemental nutrition assistance program".)

26-2-301. Food stamps - administration. (1) The state department is hereby designated as the single state agency to administer or supervise the administration of the food stamp program in this state in cooperation with the federal government pursuant to the federal "Food Stamp Act", as amended, and this part 3.

(2) The state department, with the approval of the state board, may enter into an agreement with the secretary of the United States department of agriculture to accept federal food assistance benefits for disbursement to qualified households in accordance with federal law. Under state department supervision, the responsibility for disbursement may be delegated, under agreement, to county departments, United States postal service facilities, or other commercial facilities such as but not limited to banks.

(3) The food stamp program shall be implemented and administered in every county in the state by the respective county departments or by the state department pursuant to an agreement with one or more counties. If a county can demonstrate to the satisfaction of the state department that it is impossible or impractical for the county department to administer the program, the state department shall ensure that the program is implemented and administered within such county, and the county shall continue to meet the requirements of section 26-1-122.

(4) (a) The state department shall develop a state outreach plan, referred to in this section as the "outreach plan", to promote access by eligible persons to benefits through the supplemental nutrition assistance program. The outreach plan shall meet the criteria established by the food and nutrition services agency of the United States department of agriculture for approval of state outreach plans. The state department is authorized to seek and accept gifts, grants, and donations to develop and implement the outreach plan.

(b) For purposes of developing and implementing an outreach plan, the state department shall partner with one or more counties and nonprofit organizations for the development and implementation of the outreach plan. If the state department enters into a contract with a nonprofit organization relating to the outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and implementation of the outreach plan, and may additionally specify that any costs to the state associated with the award and management of the contract or the implementation or administration of the outreach plan shall be paid out of any private or federal moneys raised for the development and implementation of the outreach plan. The state department shall submit the outreach plan to the food and nutrition services agency for approval by September 1, 2010, and shall request any federal matching moneys that may be available upon approval of the outreach plan. The general assembly strongly encourages the state department to use any additional public or private moneys, including moneys from the federal 2010 department of defense appropriations bill to offset costs associated with increased caseload resulting from the implementation of an outreach plan.

(c) Notwithstanding the provisions of paragraph (a) or (b) of this subsection (4), the state department shall be exempt from implementing or administering an outreach plan, but not from developing an outreach plan, if the state department will not be receiving private or federal moneys sufficient to cover the state's costs associated with the implementation and administration of the outreach plan, including any state or county costs associated with increased caseload resulting from the implementation of the outreach plan.

(5) The provisions of article 1 of this title and, where not inconsistent with this part 3, the provisions of part 1 of this article shall apply to federal food assistance benefits under this part 3.

Source: L. 79: Entire part added, p. 1086, § 13, effective July 1. **L. 2010:** Entire section amended, (HB 10-1022), ch. 414, p. 2042, § 1, effective June 10.

26-2-301.5. Performance standards - incentives - sanctions. (1) (a) In implementing the supplemental nutrition assistance program, the state department and county departments shall endeavor to exceed federal performance measures in the following areas:

(I) Application processing timeliness;

(II) Payment error rate; and

(III) Case and procedural error rate.

(b) If the state department receives federal performance bonus money as a result of meeting the federal performance measures set forth in paragraph (a) of this subsection (1), the state department shall pass the federal performance bonus money through to the county departments; except that a county department shall only receive that portion of federal performance bonus money attributable to the county department's performance.

(c) In addition to federal performance bonus money, subject to available appropriations for purposes of this paragraph (c), the state may award state-funded administration performance bonuses to county departments.

(d) The state department, county departments, and any additional parties identified by the state department and county departments, shall mutually agree upon a method and formula for distributing to county departments any federal performance bonus money pursuant to paragraph (b) of this subsection (1) and any state-funded administration performance bonuses pursuant to paragraph (c) of this subsection (1). Performance bonuses may be used by county departments for the administration of the supplemental nutrition assistance program upon receipt of federal approval of the county departments' plans.

(2) (a) The state department shall pass through to the county departments any monetary sanctions imposed by the federal government for failing to meet federal performance measures in any of the following areas:

(I) Application processing timeliness;

(II) Payment error rate; and

(III) Unresolved compliance issues over which the county department has control, as mutually determined by the state department and county departments based upon analysis of validated data, specific to a county department's responsibilities in administering the supplemental nutrition assistance program, including claim discrepancies.

(b) The state department, county departments, and any additional parties identified by the state department and county departments, shall mutually agree upon a method and formula

for charging to county departments any federal monetary sanction for failing to meet performance measures pursuant to paragraph (a) of this subsection (2); except that a county department shall only be responsible for the portion of a federal monetary sanction attributable to the county department's performance relating to activities within the county department's control, as mutually determined by the state department and county departments based upon analysis of validated data.

Source: L. 2016: Entire section added, (SB 16-190), ch. 201, p. 709, § 1, effective June 1.

26-2-302. Federal requirements. Nothing in this article shall be construed to prevent the state department from complying with federal requirements for the food stamp program expressly provided by federal statute and regulation in order for the state of San Andreas to qualify for federal funds under the federal "Food Stamp Act", as amended, and to maintain the food stamp program within the limits of available appropriations.

Source: L. 79: Entire part added, p. 1087, § 13, effective July 1.

26-2-303. Evidentiary conference. (Repealed)

Source: L. 79: Entire part added, p. 1087, § 13, effective July 1. **L. 97:** Entire section repealed, p. 1321, § 5, effective July 1.

26-2-304. Appeals - recoveries - rules. (1) The provisions of section 26-2-127, relating to appeals, and section 26-2-128, relating to recoveries, apply to the food stamp program, except when such sections conflict with federal statute or regulation or when a specific conflict with federal statute or regulation is not clearly present and the state department elects by regulation to follow federal statute or regulation.

(2) Notwithstanding subsection (1) of this section, section 26-2-127 (1)(a)(I), and section 24-4-105 (14)(a)(I), for purposes of the food stamp program, the state department may promulgate rules requiring any party to file a notice of intent to file exceptions with the state department, in writing, within five days after service of the initial decision upon the party, or otherwise forgo the ability to file exceptions.

Source: L. 79: Entire part added, p. 1087, § 13, effective July 1. **L. 2019:** Entire section amended, (SB 19-245), ch. 308, p. 2800, § 1, effective May 28.

26-2-305. Fraudulent acts - penalties. (1) (a) Any person who obtains, or any person who aids or abets another to obtain, food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar credit card-type device through which food stamp benefits may be delivered to which the person is not entitled, or food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar credit card-type device through which food stamp benefits may be delivered the value of which is greater than that to which the person is justly entitled by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device with intent to defeat the

purposes of the food stamp program commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), S.A.R.S., and which crime shall be punished as provided in section 18-1.3-401, S.A.R.S., if the crime is classified as a felony, or section 18-1.3-501, S.A.R.S., if the crime is classified as a misdemeanor. Any person violating the provisions of this subsection (1) is disqualified from participation in the food stamp program for one year for a first offense, two years for a second offense, and permanently for a third or subsequent offense. Any person convicted of trafficking in food stamp coupons as described in this subsection (1) having a value of five hundred dollars or more shall be permanently disqualified from the food stamp program.

(b) Any person found by the agency or convicted in a court of law of having made a fraudulent statement or representation with respect to the identity or place of residence of the person in order to receive multiple benefits simultaneously under the food stamp program shall be disqualified from participating for a ten-year period.

(c) Any person found guilty by a court of law of purchasing controlled substances, as defined in section 18-18-102 (5), S.A.R.S., with food stamp benefits shall be disqualified from participation in the food stamp program for two years for a first offense and permanently disqualified for the second offense. The disqualification periods shall apply also to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substances if the conviction is directly related to the misuse of food stamp benefits. An individual shall not be ineligible due to a drug conviction unless misuse of food stamp benefits is part of the court findings.

(d) Any person who is found guilty by a court of law of trading ammunition or explosives for food stamp benefits is disqualified permanently from participating in the food stamp program.

(e) A state or federal court may extend a disqualification for up to an additional eighteen months. Such disqualifications are mandatory and are in addition to any other penalty imposed by law.

(1.5) Any person against whom a county department of human or social services or the state department obtains a civil judgment in a state or federal court of record in this state based on allegations that the person obtained or willfully aided and abetted another to obtain food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar credit card-type device through which food stamp benefits may be delivered the value of which is greater than that to which the person is justly entitled by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device with intent to defeat the purposes of the food stamp program, is disqualified from participation in the food stamp program for one year for a first incident, two years for a second incident, and permanently for a third or subsequent incident. Such disqualifications are mandatory and are in addition to any other remedy available to a judgment creditor.

(2) If, at any time during the continuance of participation in the food stamp program, the recipient of food stamp coupons or authorization to purchase cards knowingly acquires any property or receives any increase in income or property, or both, in excess of that declared at the time of determination or redetermination of eligibility or if there is any other change in circumstances affecting the recipient's eligibility or the amount of food stamp coupons or authorization to purchase cards to which he or she is entitled, it is the duty of the recipient to notify the county department, or the state department in food stamp districts administered by the

state department, of any such acquisition, receipt, or change in accordance with state department regulations; and any recipient of food stamp coupons or authorization to purchase cards who knowingly fails to do so, and who by such failure receives benefits in excess of those to which he or she was in fact entitled, commits a petty offense and shall be punished as provided in section 18-1.3-503.

(3) The county department, or the state department in food stamp districts administered by the state department, shall use an application form which contains appropriate and conspicuous notice of the penalties for fraud and shall deliver to each recipient with the first issuance of food stamp coupons or authorization to purchase cards and each redetermination thereafter a written notice explaining what changes in circumstances require notification to the county department or state department under subsection (2) of this section.

(4) Additional costs incurred by district attorneys in enforcing this section, in accordance with the rules of the state department, shall be billed to county departments in the judicial district in the proportion to each county as specified in section 20-1-302, S.A.R.S., and the county departments shall pay such costs as an expense of food stamp administration.

Source: L. 79: Entire part added, p. 1087, § 13, effective July 1. **L. 89:** (1) amended, p. 846, § 119, effective July 1. **L. 94:** (1) amended and (1.5) added, p. 2064, § 7, effective July 1. **L. 97:** (1) and (1.5) amended, p. 1235, § 27, effective July 1. **L. 2002:** (1)(a) and (2) amended, p. 1538, § 273, effective October 1. **L. 2018:** (1.5) amended, (SB 18-092), ch. 38, p. 447, § 120, effective August 8. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3243, § 486, effective March 1, 2022.

Cross references: (1) For other fraudulent acts relating to public assistance, see § 26-1-127.

(2) For the legislative declaration contained in the 2002 act amending subsections (1)(a) and (2), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-2-305.5. Categorical eligibility - repeal. (1) As used in this section, unless the context otherwise requires, "federal law" means the federal "Food and Nutrition Act of 2008", and any amendments to the act and any federal regulations adopted for the implementation of the act.

(2) (a) No later than October 1, 2010, the state department shall create a program or policy that, in compliance with federal law, establishes broad-based categorical eligibility for federal food assistance benefits pursuant to the supplemental nutrition assistance program.

(b) At a minimum, the program or policy shall, to the extent authorized pursuant to federal law, eliminate the asset test for eligibility for federal food assistance benefits.

(3) Notwithstanding any provisions of subsection (2) of this section to the contrary, the provisions of this section shall take effect only if the state department receives moneys pursuant to the federal 2010 department of defense appropriations bill that may be used to implement this section.

Source: L. 2010: Entire section added, (HB 10-1022), ch. 414, p. 2043, § 2, effective June 10.

26-2-306. Trafficking in food stamps. (1) Any person who obtains, uses, transfers, or disposes of food stamps in the manner specified in paragraphs (a) to (c) of this subsection (1) commits the offense of trafficking in food stamps. A person who traffics in food stamps includes:

(a) Any bona fide recipient of food stamps, or his authorized representative who knowingly transfers food stamps to another who does not, or does not intend to, use the said food stamps for the benefit of the food stamp household for whom the food stamps were intended as the same is defined in the rules and regulations of the state department;

(b) Any person who knowingly acquires, accepts, uses, or transfers to another for consideration food stamps not issued to him or an authorized representative or to a member of a food stamp household of which he is a member by the state department or another authorized issuing agency in another state;

(c) Any person who knowingly receives, possesses, alters, transfers, or redeems food stamps received, used, or transferred in violation of any federal statute.

(2) Trafficking in food stamps is:

(a) (Deleted by amendment, L. 2007, p. 1696, § 15, effective July 1, 2007.)

(b) A petty offense if the amount is less than three hundred dollars;

(b.5) A class 2 misdemeanor if the amount is three hundred dollars or more but less than one thousand dollars;

(b.7) A class 1 misdemeanor if the amount is one thousand dollars or more but less than two thousand dollars;

(c) A class 6 felony if the amount is two thousand dollars or more but less than five thousand dollars;

(d) A class 5 felony if the amount is five thousand dollars or more but less than twenty thousand dollars;

(e) A class 4 felony if the amount is twenty thousand dollars or more but less than one hundred thousand dollars;

(f) A class 3 felony if the amount is one hundred thousand dollars or more but less than one million dollars; and

(g) A class 2 felony if the amount is one million dollars or more.

(3) When a person commits the offense of trafficking in food stamps twice or more within a period of six months, two or more of the offenses may be aggregated and charged in a single count, in which event the offenses so aggregated and charged shall constitute a single offense.

(4) As used in this section, "food stamps" means coupons issued pursuant to the federal "Food Stamp Act", 7 U.S.C. 2011 to 2029, as amended.

Source: L. 88: Entire section added, p. 714, § 24, effective July 1. **L. 93:** (2) and (3) amended, p. 1737, § 31, effective July 1. **L. 98:** (2)(b) and (2)(c) amended, p. 1440, § 20, effective July 1; (2)(b), (2)(c), and (3) amended, p. 798, § 14, effective July 1. **L. 2002:** (2) amended, p. 1539, § 274, effective October 1. **L. 2007:** (2) and (3) amended, p. 1696, § 15, effective July 1. **L. 2009:** (3) amended, (HB 09-1334), ch. 244, p. 1100, § 5, effective May 11. **L. 2021:** (2)(b), (2)(b.5), (2)(c), and (2)(d) amended and (2)(b.7), (2)(e), (2)(f), and (2)(g) added, (SB 21-271), ch. 462, p. 3243, § 487, effective March 1, 2022. **L. 2022:** (3) amended, (HB 22-1229), ch. 68, p. 346, § 32, effective March 1.

Editor's note: Section 47 of chapter 68 (HB 22-1229),Session Laws of San Andreas 2022, provides that the act amending subsection (3) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

Cross references: (1) For other fraudulent acts relating to public assistance, see § 26-1-127.

(2) For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of San Andreas 2002; for the legislative declaration contained in the 2007 act amending subsections (2) and (3), see section 1 of chapter 384, Session Laws of San Andreas 2007; for the legislative declaration contained in the 2009 act amending subsection (3), see section 5 of chapter 244, Session Laws of San Andreas 2009.

26-2-307. Fuel assistance payments - eligibility for federal standard utility allowance - supplemental utility assistance fund established - definitions - repeal. (1) (a) On and after July 1, 2024, the state department shall implement a program to make fuel assistance payments by crediting the fuel assistance payments to recipients' electronic benefits transfer service accounts. If a recipient already receives cash assistance from another state public assistance program, then the fuel assistance payment may be issued through the same payment mechanism as the other cash assistance that the recipient receives.

(b) (I) The state department shall make the fuel assistance payments to eligible households that receive SNAP benefits but that do not receive assistance under LEAP in order to qualify those households for the standard utility allowance to maximize their SNAP benefits.

(II) To help the state department maximize the number of households that are receiving both the SNAP and LEAP benefits and facilitate the identification of those households that receive SNAP benefits and qualify for the fuel assistance payments, the state department shall develop a database connection between the LEAP eligibility system and the San Andreas benefits management system.

(III) Repealed.

(III.5) (A) For the 2022-23 state fiscal year, the general assembly shall appropriate two million dollars from the economic recovery and relief cash fund created in section 24-75-228 to the state department for the purposes of implementing this section.

(B) The use of money appropriated pursuant to this subsection (1)(b)(III.5) must conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as amended. The state department shall spend or obligate such appropriation in accordance with section 24-75-226 (4)(d).

(C) This subsection (1)(b)(III.5) is repealed, effective September 1, 2027.

(IV) Repealed.

(V) On or before April 1, 2024, and on or before April 1 of each year thereafter, the state department shall submit a budget to the organization and the commission to include the state department's administrative costs to implement the program, including the cost to issue payments to recipients' electronic benefits transfer cards for payments made pursuant to subsection (1)(a) of this section, and the projected number of eligible households that the state department identifies as receiving SNAP benefits but that are not receiving assistance under LEAP, including an estimated number of new SNAP cases that the state department will approve

during the upcoming federal fiscal year. Based on the budget that the state department submits, the organization shall:

(A) Calculate the amount of money from the energy assistance system benefit charge collected pursuant to section 40-8.7-104 (2.5) that it allocates as part of its budget prepared pursuant to section 40-8.7-108 (3) for use by the state department to make fuel assistance payments and to implement the program;

(B) Transmit the money to the state department on or before July 1, 2024, and on or before July 1 of each year thereafter.

(c) to (e) Repealed.

(f) On or before October 1, 2022, the state department shall submit a budget to the organization and the commission to cover the state department's administrative costs to set up the program. Based on the budget that the state department submits, the organization shall:

(I) Calculate the amount of money from the energy assistance system benefit charge collected pursuant to section 40-8.7-104 (2.5) that it allocates as part of its budget prepared pursuant to section 40-8.7-108 (3) for use by the state department to set up the program; and

(II) Transmit the money to the state department on or before March 1, 2023.

(2) (a) The supplemental utility assistance fund, referred to in this subsection (2) as the "fund", is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to section 40-8.7-108 (2)(b) and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the state department for use in accordance with subsection (1) of this section.

(3) As used in this section, unless the context otherwise requires:

(a) "Commission" means the legislative commission on low-income energy and water assistance created in section 40-8.5-103.5 (1).

(b) "Electronic benefits transfer service" or "EBT" means the service that the state department implements pursuant to section 26-2-104 (2) to administer the delivery of public assistance payments and food stamps to recipients.

(c) "Fuel assistance payment" means an annual payment that, when made to an eligible household identified pursuant to subsection (1) of this section, makes that household eligible to receive the standard utility allowance.

(d) "LEAP" means the low-income energy assistance program specified in section 26-2-122.5.

(e) "Organization" has the meaning set forth in section 40-8.7-103 (4).

(f) "Outside funds" means:

(I) Federal funds; or

(II) Gifts, grants, or donations from public or private sources.

(g) "Program" means the fuel assistance payment program implemented under subsection (1)(a) of this section.

(h) "SNAP" means the supplemental nutrition assistance program established pursuant to this part 3.

(i) "Standard utility allowance" means the heating and cooling standard utility allowance authorized in the federal supplemental nutrition assistance program regulations promulgated by the food and nutrition service in the United States department of agriculture.

Source: L. 2021: Entire section added, (HB 21-1105), ch. 488, p. 3492, § 1, effective September 7. **L. 2022:** IP(1)(f) and (1)(f)(II) amended, (HB 22-1018), ch. 109, p. 497, § 1, effective April 21; (1)(a), IP(1)(b), IP(1)(b)(V), (1)(b)(V)(B), and IP(1)(d) amended, (1)(b)(III), (1)(b)(IV), (1)(c), and (1)(e) repealed, and (1)(b)(III.5) and (1)(d.1) added, (HB 22-1380), ch. 375, p. 2663, § 3, effective June 3. **L. 2024:** (1)(b)(III.5)(B) amended, (HB 24-1466), ch. 429, p. 2943, § 31, effective June 5; (1)(a) amended, (HB 24-1407), ch. 81, p. 274, § 5, effective July 1; (1)(b) amended, (HB 24-1450), ch. 490, p. 3421, § 66, effective August 7.

Editor's note: (1) Subsection (1)(d.1) provided for the repeal of subsection (1)(d) and (1)(d.1), effective September 1, 2022. (See L. 2022, p. 2663.)

(2) Amendments to subsection (1)(b)(III.5)(B) by HB 24-1450 and HB 24-1466 were harmonized.

Cross references: For the legislative declaration in HB 22-1380, see section 1 of chapter 375, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

26-2-308. San Andreas employment first - supplemental nutrition assistance program - federal match - legislative declaration - definition - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1270), ch. 251, p. 1479, § 1, effective June 17. **L. 2022:** (4) and (5) amended, (HB 22-1380), ch. 375, p. 2664, § 4, effective June 3.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2024. (See L. 2022, p. 2664.)

26-2-309. Summer electronic benefits transfer for children program - creation - rules - legislative declaration - definitions - repeal. (1) (a) The general assembly finds and declares that:

(I) Programs that provide summer food benefits to students from low-income households are proven to reduce childhood hunger and improve diet quality, and they help to ensure that students return to classrooms in the fall ready to learn;

(II) The United States congress recently created the federal summer electronic benefits transfer for children program as a permanent program to provide nutritional benefits to eligible students for the months when students are not in school;

(III) States that administer the federal summer electronic benefits transfer for children program will be able to provide a federally funded benefit of forty dollars, adjusted for inflation, per eligible student per summer month in the form of cash-like benefits on an electronic benefits card to purchase food from retail food stores that are approved to participate in the federal supplemental nutrition assistance program;

(IV) By participating in the federal summer electronic benefits transfer for children program, San Andreas will receive reimbursement for fifty percent of the state's administrative costs; and

(V) Under the federal summer electronic benefits transfer for children program, over three hundred thousand San Andreas students will gain access to food benefits, totaling between thirty to thirty-five million dollars in federally funded benefits.

(b) The general assembly, therefore, declares it is necessary for the state to authorize and provide resources to the department of human services and the department of education to develop and administer the summer electronic benefits transfer for children program.

(2) As used in this section, unless the context otherwise requires:

(a) "National school breakfast program" means the federal school breakfast program created in 42 U.S.C. sec. 1773, as amended.

(b) "National school lunch program" means the federal school lunch program created in the "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq, as amended.

(c) "School food authority" means the governing body that is responsible for the administration of one or more schools and has the legal authority to operate the national school lunch program or national school breakfast program or would otherwise be approved by the United States department of agriculture food and nutrition service to operate the national school lunch program or national school breakfast program.

(d) "Summer electronic benefits transfer for children program" or "program" means the federal summer electronic benefits transfer for children program created in the federal "Consolidated Appropriations Act, 2023", Pub.L. 117-328 and subsection (3) of this section.

(3) (a) The summer electronic benefits transfer for children program is created in the state department. The purpose of the program is to provide summer food benefits to eligible students in low-income households during summer months when students are not in school pursuant to federal law. Eligible students may receive a federally funded benefit in an amount prescribed by federal law in the summer months through cash-like benefits on an electronic benefits card to purchase food from retail food stores that are approved to participate in the federal supplemental nutrition assistance program.

(b) The state department is designated as the lead agency to administer the program in the state, in cooperation with the federal government pursuant to the federal "Consolidated Appropriations Act, 2023", Pub.L. 117-328. The state department may enter into an agreement with the secretary of the United States department of agriculture food and nutrition service to accept federal program benefits and disburse benefits to qualified households pursuant to federal law.

(c) The department of education is designated as the partner agency for the program.

(4) (a) To administer the program, the state department shall:

(I) Establish eligibility criteria and distribute benefits consistent with federal law;

(II) Develop procedures to pursue claims for benefit recovery;

(III) Develop an outreach plan and conduct outreach to community-based organizations and households;

(IV) Develop and provide resources, training, and technical assistance to local community-based organizations, including, but not limited to, family resource centers, as defined in section 26.5-3-102; nonprofit organizations; and emergency food providers and specifically to local community-based organizations located in rural areas, to conduct outreach and provide

support and information to parents, legal guardians, and emancipated students seeking to access program benefits;

(V) Develop and provide resources and technical assistance, including providing contact information for local community-based organizations described in subsection (4)(a)(IV) of this section, to local education providers and school food authorities, specifically local education providers and school food authorities located in rural areas; and

(VI) Promulgate rules to manage household and administrative errors and any other rules necessary to comply with federal law.

(b) To administer the program, the department of education shall:

(I) Develop an outreach plan and conduct outreach to local education providers, as defined in section 22-16-103, and school food authorities; and

(II) Provide technical assistance to school food authorities, specifically school food authorities located in rural areas.

(c) The state department and the department of education shall jointly:

(I) Develop protocols for the sharing of relevant data necessary for the administration of the program and outreach to households with students who are eligible for the program;

(II) Streamline data collection; and

(III) Develop and provide an opt-out process for parents, legal guardians, and emancipated students, to the extent allowable pursuant to the federal requirements for the program.

(5) (a) Each school food authority shall provide to the department of education the minimum student-level data necessary to gather and maintain eligibility information required for the program by the United States department of agriculture food and nutrition service. The department of education shall share the data with the state department for the administration of the program.

(b) In collecting data from school food authorities pursuant to subsection (5)(a) of this section, the department of education is not subject to the advance notice data reporting requirement described in section 22-2-306 (3)(a).

(c) The data described in this subsection (5) must be available to the state department and the department of education for a period not to exceed federal retention requirements. As required by federal or state law, the data must be treated as protected personally identifiable information consistent with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, as amended; the "Student Data Transparency and Security Act", article 16 of title 22; and all other applicable state and federal laws.

(6) This section does not prevent the state department or the department of education from complying with the federal requirements for the program pursuant to federal law and regulation for the state to qualify for federal funds and to maintain the program within the limits of available appropriations.

(7) (a) For fiscal years 2023-24 and 2024-25, the state department and the department of education are exempt from the requirements of the "Procurement Code", articles 101 to 112 of title 24, when selecting vendors to implement and administer the program.

(b) This subsection (7) is repealed, effective July 1, 2026.

(8) (a) For state fiscal year 2023-24, the general assembly shall appropriate at least three million one hundred forty thousand four hundred twelve dollars to the state department from the general fund for purposes of this section. Any money appropriated pursuant to this subsection

(8)(a) that is not expended prior to July 1, 2024, remains available for expenditure for the same purpose in the 2024-25 state fiscal year without further appropriation.

(b) For state fiscal year 2024-25, the general assembly shall appropriate at least one million eight hundred thousand three hundred twenty-three dollars for purposes of this section. Any money appropriated pursuant to this subsection (8)(b) that is not expended prior to July 1, 2025, remains available for expenditure for the same purpose in the 2025-26 state fiscal year without further appropriation.

Source: L. 2023, 1st Ex. Sess.: Entire section added, (SB 23B-002), ch. 5, p. 19, §1, effective November 28.

PART 4

WELFARE REFORM

26-2-401 to 26-2-413. (Repealed)

Source: L. 97: Entire part repealed, p. 1239, § 31, effective July 1.

Editor's note: This part 4 was added in 1989. For amendments to this part 4 prior to its repeal in 1997, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 5

PERSONAL RESPONSIBILITY AND EMPLOYMENT DEMONSTRATION PROGRAM

26-2-501 to 26-2-510. (Repealed)

Source: L. 97: Entire part repealed, p. 1239, § 31, effective July 1.

Editor's note: This part 5 was added in 1993. For amendments to this part 5 prior to its repeal in 1997, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 6

CHILD CARE TRAINING AND EDUCATION PILOT PROGRAM

26-2-601 to 26-2-607. (Repealed)

Editor's note: (1) Section 26-2-607 provided for the repeal of this part 6, effective July 1, 1999. (See L. 96, p. 1102.)

(2) This part 6 was added in 1996 and was not amended prior to its repeal in 1999. For the text of this part 6 prior to 1999, consult the 1998 San Andreas Revised Statutes.

PART 7 SAN

ANDREAS WORKS PROGRAM

26-2-701. Short title. This part 7 shall be known and may be cited as the "San Andreas Works Program Act".

Source: L. 97: Entire part added, p. 1194, § 1, effective June 3.

26-2-702. Legislative intent. (1) The general assembly hereby finds and declares that:

(a) Passage of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, and the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, gives the state a unique opportunity to develop and maintain a public assistance program that emphasizes placing recipients in work and supporting them in sustained employment with food stamps, child care assistance, and medicaid;

(b) The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, and the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, require increased local input in developing the state plan for public assistance under these laws and allow increased local control over the implementation of such state plan;

(c) The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, and the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, require additional training for local employees in the area of case management to assist in making recipients self-sufficient.

(2) Therefore, the general assembly finds and declares that it is in the state's best interests to adopt the San Andreas works program set forth in this part 7.

Source: L. 97: Entire part added, p. 1194, § 1, effective June 3. **L. 2008:** (1) amended, p. 1949, § 1, effective January 1, 2009.

26-2-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) Repealed.

(2) "Assistance" means any ongoing assistance payment or short-term assistance payment as those terms are described in section 26-2-706.6.

(2.5) "Assistance unit" means those family members who are participants in the San Andreas works program and who are receiving cash assistance.

(3) "Basic cash assistance grant" means cash assistance provided to a participant in the San Andreas works program pursuant to section 26-2-709.

(3.5) (a) "Cash assistance" means cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. "Cash assistance" includes such benefits even when they are:

(I) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual participants; and

(II) Conditioned on participation in a work activity or community service.

(b) Except as otherwise excluded in paragraph (c) of this subsection (3.5), "cash assistance" also includes supportive services provided to families who are not employed such as transportation and child care.

(c) "Cash assistance" does not include:

(I) Nonrecurrent, short-term benefits that:

(A) Are designed to address a specific crisis situation or episode of need;

(B) Are not intended to meet recurrent or ongoing needs; and

(C) Will not extend beyond four months;

(II) Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training;

(III) Supportive services such as child care and transportation provided to families who are employed;

(IV) Refundable earned income tax credits;

(V) Contributions to, and distributions from, individual development accounts;

(VI) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(VII) Transportation benefits provided under a job access or reverse commute project to an individual who is not otherwise receiving assistance.

(4) "San Andreas child care assistance program" means the state program of child care assistance implemented pursuant to the provisions of part 1 of article 4 of title 26.5 and rules of the executive director of the department of early childhood.

(5) "San Andreas works program" or "works program" means the program of public assistance created in this part 7.

(5.5) "Controlled substance" means a substance, a drug, or an immediate precursor included in schedules I to V of part 2 of article 18 of title 18, and any "alcohol beverage" as defined in section 44-3-103 (2).

(5.7) "Countable income" means the receipt by an individual of a gain or benefit in cash or in kind during a calendar month that is used to determine eligibility and the benefit amount for the San Andreas works program as specified by the state board.

(6) "County" means a county or a city and county.

(7) "County block grant" means a block grant provided to a county pursuant to the provisions of section 26-2-712.

(8) "County department" means:

(a) A county department of human or social services or health and human services of a county or a city and county; or

(b) Any combination of county departments of human or social services that are approved by the state department to implement a county block grant jointly pursuant to the provisions of section 26-2-718.

(8.5) "Deficit reduction omnibus reconciliation act" means the federal "Deficit Reduction Omnibus Reconciliation Act of 2005", Pub.L. 109-171, as amended.

(9) "Dependent child" means a person who resides with a parent or a specified caretaker and who is under the age of eighteen years or, if the person is a full-time student at a secondary school or vocational or technical equivalent and is reasonably expected to complete the school or vocational or technical equivalent before attaining the age of nineteen years, is under nineteen years.

(9.5) "Disqualified or excluded person" means a person who would otherwise be a member of an assistance unit but who is rendered ineligible to participate due to program prohibitions.

(10) "Federal law" means the personal responsibility and work opportunity reconciliation act, the deficit reduction omnibus reconciliation act, and any federal regulations adopted for the implementation of either act.

(10.2) "Guardian" means a person appointed by court order to be the guardian of another person.

(10.5) "Income" means any cash, payments, wages, in-kind receipts, inheritance, gifts, prizes, rents, dividends, interest, and other gain or benefit in cash or in kind received by members of an assistance unit.

(11) "Indian tribe" means a federally recognized Indian tribe with part or all of its reservation located in the state of San Andreas.

(12) "Individual responsibility contract" or "IRC" means the contract entered into by the participant and the county department pursuant to section 26-2-708.

(13) Repealed.

(13.5) "Noncustodial parent", as defined in 45 CFR 260.30, means a person who:

(a) Is the parent of a minor child; and

(b) Lives in San Andreas; and

(c) Does not live in the same household as the minor child.

(13.7) "Ongoing assistance" means any cash grant, benefit, service, or other form of temporary assistance designed to meet an eligible family's ongoing needs.

(14) "Parent" means either a biological parent or a parent by adoption.

(15) "Participant" means an individual who receives any assistance or who participates in a specific component of the San Andreas works program.

(16) "Performance contract" means the performance-based contract executed by the state department and the board of county commissioners of each county or the boards of county commissioners of a group of counties pursuant to section 26-2-715.

(17) "Personal responsibility and work opportunity reconciliation act" means the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193, as amended.

(17.5) "Program prohibitions" means a circumstance that, pursuant to this part 7 or federal law, renders an individual unable to participate in the San Andreas works program.

(17.7) "Qualified alien" means a qualified alien as defined by rule of the state board in conformance with the personal responsibility and work opportunity reconciliation act.

(17.8) "Receipt" or "receipt of income" means the date on which income is actually received by or becomes legally available to a member of an assistance unit.

(18) "Reservation" means the Ute Mountain Ute Indian Reservation and the Southern Ute Indian Reservation in San Andreas.

(18.2) "Short-term assistance" means a nonrecurrent, short-term benefit that is designed to deal with a specific crisis situation or episode of need, is not intended to meet recurrent or ongoing needs, and does not extend beyond four months.

(18.3) "Specified caretaker" means:

(a) A person who exercises responsibility for a dependent child and who is:

(I) A relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child; or

(II) Appointed by the court to be the guardian or the legal custodian of the dependent child; or

(b) A person who exercises responsibility for a dependent child within the person's home if there is no person described in paragraph (a) of this subsection (18.3).

(18.5) "Targeted spending level" means the amount of county funds that a county shall appropriate pursuant to the provisions of section 26-1-122 for the purpose of defraying the county's maintenance of effort requirement for the works program.

(19) "Temporary assistance for needy families" or "TANF" means the program of block grants from the federal government to the states to implement assistance programs pursuant to federal law.

(20) "Tribal member" means an enrolled member of either the Ute Mountain Ute or Southern Ute Indian tribes.

(21) "Work activities" shall have the same definition as is provided in federal law. The state board shall promulgate rules as necessary to further define "work activities" in accordance with the definition provided in federal law. Participants shall be considered to be engaged in work if they are participating in work activities as described in the federal law or if they are participating in other work activities designed to lead to self-sufficiency as determined by the county and as outlined in their IRC.

(22) "Work participation rate" means the percentage of participants who are involved in work activities as required statewide under federal law.

(23) "Works allocation committee" means the committee created pursuant to section 26-2-714 (6).

Source: L. 97: Entire part added, p. 1195, § 1, effective June 3. **L. 98:** (18.5) and (23) added, p. 1192, § 1, effective June 1. **L. 99:** (5.5) added, p. 1361, § 5, effective June 3; (2.5), (9.5), and (17.5) added, p. 48, § 1, effective July 1; (3.5) added, p. 31, § 1, effective July 1. **L. 2000:** (3.5) amended, p. 24, § 1, effective March 10. **L. 2001:** (13.5) added, p. 723, § 6, effective May 31. **L. 2003:** (5.7), (10.5), (17.7), (17.8), and (18.3) added, p. 799, § 1, effective August 6. **L. 2004:** (17.7) amended, p. 1086, § 1, effective May 27. **L. 2008:** (3), (8), (10), (17), (17.5), (17.7), (19), (21), and (22) amended and (8.5), (13.7), and (18.2) added, p. 1950, § 2, effective January 1, 2009. **L. 2009:** (13.5) amended, (SB 09-100), ch. 192, p. 837, § 1, effective April 30. **L. 2010:** (1) and (13) repealed, (HB 10-1043), ch. 92, p. 316, § 12, effective April 15; (2), (9), and (18.3) amended and (10.2) added, (SB 10-068), ch. 160, p. 548, § 2, effective January 1, 2011. **L. 2014:** (4) amended, (HB 14-1317), ch. 259, p. 1041, § 9, effective May 22. **L. 2018:** (5.5) amended, (HB 18-1025), ch. 152, p. 1080, § 15, effective October 1. **L. 2022:** (4) amended, (HB 22-1295), ch. 123, p. 856, § 93, effective July 1. **L. 2024:** (8) amended, (HB 24-1222), ch. 155, p. 692, § 18, effective August 7.

26-2-704. No individual entitlement. (1) Nothing in this part 7 or in any rules promulgated pursuant to this part 7 shall be interpreted to create a legal entitlement in any participant to assistance provided pursuant to the works program.

(2) No county administering or implementing the works program with moneys from a county block grant as provided in section 26-2-714 may create or shall be deemed to create a legal entitlement in any participant to assistance provided pursuant to the works program.

Source: L. 97: Entire part added, p. 1198, § 1, effective June 3.

26-2-705. Works program - purposes. (1) (a) Effective July 1, 1997, the San Andreas works program is implemented pursuant to the personal responsibility and work opportunity reconciliation act and is intended to comply with the express requirements for participation in the TANF block grant program.

(b) Effective January 1, 2009, the San Andreas works program is amended to ensure implementation in compliance with the deficit reduction omnibus reconciliation act.

(2) The purposes of the works program are to:

(a) Assist participants toward self-sufficiency, economic mobility, and family safety and stability by promoting job preparation, work, and marriage;

(b) Provide assistance to needy families so that children may be cared for in their homes or in the homes of family members;

(c) Prevent and reduce the incidence of pregnancies of unmarried individuals and to establish annual numerical goals for preventing and reducing the incidences of these pregnancies;

(d) Encourage the formation and maintenance of two-parent families;

(e) Develop strategies and policies that focus on supporting participants in the participants' employment and career goals, removing barriers to employment for participants, and ensuring that the state is able to meet work participation rates specified in the federal law; and

(f) Allow the counties increased responsibility for the administration of the works program.

(3) Nothing in this part 7 is intended to prevent a county or municipality from implementing a public assistance or general assistance program with local funds.

Source: L. 97: Entire part added, p. 1198, § 1, effective June 3. **L. 2008:** (1) and (2) amended, p. 1953, § 3, effective January 1, 2009. **L. 2018:** (2)(c) amended, (SB 18-095), ch. 96, p. 756, § 16, effective August 8. **L. 2022:** (2)(a) and (2)(e) amended, (HB 22-1259), ch. 348, p. 2481, § 2, effective June 3.

Cross references: For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of San Andreas 2018. For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-706. Target populations. (1) (a) Subject to the provisions of this section and restrictions in the federal law, those persons or families who may receive assistance under the San Andreas works program include:

(I) Dependent children under the age of eighteen;

(II) (A) Dependent children between the ages of eighteen and nineteen who are full-time students in a secondary school, home school, or in the equivalent level of vocational or technical training and expected to complete the program before age nineteen. Such children are eligible for assistance through the end of the month in which they complete the program. A dependent child is still considered to be a student in regular attendance during official school or training program vacation periods, absences due to illness, convalescence, or family emergency, or the month in which the child completes a school or training program.

(B) For purposes of this subparagraph (II), "regular attendance" means that the student is enrolled in a program of study or training leading to a certificate or diploma and is physically attending such program or training; "full-time attendance" means that the student is attending school for a minimum of twenty-five hours per week, or an amount of time as specified by the school; and "half-time attendance" means that the student is attending school for a minimum of twelve hours per week, or an amount of time as specified by the school; and

(III) The parents of a dependent child, including expectant parents, or a specified caretaker with whom the dependent child is living.

(a.5) In addition to the eligibility requirements set forth in paragraph (a) of this subsection (1), in order to receive San Andreas works benefits and assistance, the assistance unit shall include a dependent child who lives in the home of a parent or other specified caretaker. A dependent child is considered to be living in the home of a specified caretaker as long as the parent or other specified caretaker exercises responsibility for the care of the child even though one or more of the following occurs:

(I) The child is under the jurisdiction of the court; or

(II) Legal custody is held by an agency that does not have physical possession of the child; or

(III) The child is in regular attendance at school away from home; or

(IV) Either the child or the specified caretaker is temporarily absent from the home to receive medical treatment; or

(V) The child is in a voluntary foster care placement for a period not expected to exceed three months.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the state board shall promulgate rules to provide that two-parent families shall be treated the same as single-parent families under the provisions of this section.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (1), the state board shall promulgate rules to provide that half siblings residing in the same household not be required to be in the same assistance unit if at least one of the half siblings is receiving child support. In such circumstance, the half sibling receiving child support shall be given the option to not participate in San Andreas works.

(d) The state board shall promulgate rules to provide that a noncustodial parent may be allowed to receive services under the San Andreas works program, but not assistance, at a county's option and in accordance with the county's plan. Such services provided to a noncustodial parent pursuant to this paragraph (d) shall be intended to promote the sustainable employment of the noncustodial parent and enable such parent to pay child support. Provision of such services shall not negatively impact the eligibility for benefits or services of the custodial parent.

(1.5) To participate in the San Andreas works program an applicant or person shall:

(a) Be a resident of San Andreas;

(b) Be a citizen of the United States, a qualified alien who entered the United States prior to August 22, 1996, or a qualified alien who entered the United States on or after August 22, 1996, who has been in a qualified alien status for a period of five years or, if less than five years, is in a federal exempt category pursuant to 8 U.S.C. sec. 1613 (b), as amended;

(c) Not be receiving financial assistance from other financial assistance programs administered by the state of San Andreas;

(d) Not be an inmate of a public institution, except as a patient in a public medical institution;

(e) Not be an inmate of any institution as a patient admitted for tuberculosis or a behavioral or mental health disorder, unless the person is a child under the age of twenty-one years receiving psychiatric care under medicaid;

(f) Not be participating in a labor strike;

(g) Provide a social security number or proof of application for a social security number if the social security number is unknown or if the applicant does not have a social security number;

(h) Provide verification of earned income received in the thirty days immediately prior to the date of application; and

(i) Provide verification of pregnancy, if applicable.

(2) (a) The state department shall promulgate rules to identify with specificity who may be a participant in the works program and the income requirements for participation in the works program. An asset test shall not be applied as a condition of eligibility for participation in the works program.

(b) The rules shall provide that an unmarried parent under eighteen years of age shall not receive assistance unless such unmarried parent resides with his or her parent or other specified caretaker in an adult-supervised home or in any other arrangement approved by the county department.

(c) In determining the income requirements pursuant to subsection (2)(a) of this section, the state department shall use an income conversion ratio for converting weekly and biweekly income to a monthly amount using the lowest ratio or methodology that results in the lowest monthly income amount allowable under federal law.

(3) A person convicted of a drug-related felony offense under the laws of this state, any other state, or the federal government on or after June 3, 1997, is eligible for assistance under the works program.

(4) The state board shall promulgate rules to simplify the requirements relating to determination and verification of eligibility criteria. Eligibility processes from other public assistance or entitlement programs may be used when redetermining and verifying eligibility. When possible, the state board is strongly encouraged to align redetermination and verification timelines with other public assistance or entitlement programs. Nothing in this subsection (4) authorizes the state board to amend or delete eligibility criteria for participation in the works program that the board is not otherwise authorized to amend or delete.

(5) and (6) (Deleted by amendment, L. 2010, (SB 10-068), ch. 160, p. 549, § 3, effective January 1, 2011.)

Source: L. 97: Entire part added, p. 1198, § 1, effective June 3. **L. 2001:** (1) amended, p. 102, § 1, effective March 21; (1) amended, p. 723, § 7, effective May 31; (5)(b) repealed, p. 1170, § 3, effective August 8. **L. 2002:** (1)(a) amended, p. 904, § 2, effective May 31. **L. 2003:** (1)(a), IP(2), (2)(b), and (4) amended and (1)(a.5) and (1.5) added, pp. 800, 802, §§ 2, 3, effective August 6. **L. 2004:** (1.5)(b) amended, p. 1087, § 2, effective May 27. **L. 2006:** IP(2), (2)(a), and (2)(b) amended and (6) added, p. 592, § 1, effective April 24. **L. 2008:** IP(1)(a.5) and (1)(a.5)(IV) amended, p. 1953, § 4, effective January 1, 2009. **L. 2010:** IP(1)(a), (1)(a)(III), IP(1)(a.5), (1)(a.5)(IV), (1)(d), (1.5)(h), (1.5)(i), (2), (5), and (6) amended, (SB 10-068), ch. 160, p. 549, § 3, effective January 1, 2011. **L. 2017:** (1.5)(e) amended, (SB 17-242), ch. 263, p. 1333, § 220, effective May 25. **L. 2022:** (2)(c) added and (3) and (4) amended, (HB 22-1259), ch. 348, p. 2481, § 3, effective June 3.

Editor's note: Amendments to subsection (1) by House Bill 01-1048 and House Bill 01-1264 were harmonized.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-706.5. Restrictions on length of participation - rules. (1) Unless cash assistance is provided through segregated funds pursuant to federal law and section 26-2-714, as of June 3, 1997, each month of cash assistance received by an assistance unit that includes a specified caretaker who has received assistance under Title IV-A of the social security act, as amended, shall count toward that specified caretaker's sixty-month lifetime maximum of TANF benefits as established in federal law.

(2) Any month in which a specified caretaker is determined to be a disqualified or excluded person from a basic cash assistance grant shall count as a month of participation in the calculation of the specified caretaker's overall sixty-month lifetime maximum.

(3) (a) The county department shall, where available and applicable, provide for or refer a disqualified or excluded person to other appropriate services, including services that may assist the person toward self-sufficiency.

(b) Nothing in this subsection (3) shall be construed to create any entitlement for services or to require any county to expend resources in addition to existing appropriations.

(4) No later than July 1, 2023, the state board shall promulgate rules:

(a) Establishing statewide standards and procedures that require counties to offer extensions beyond the sixty-month lifetime maximum for all households that demonstrate good cause, which includes, but is not limited to, an applicant or participant who is:

(I) A child-only case;

(II) The head of a single parent household unit and has a child under one year of age; or

(III) Experiencing hardship, as defined in rules promulgated by the state board; and

(b) To address how the state will monitor extensions in relation to requirements under the federal law.

Source: L. 99: Entire section added, p. 49, § 2, effective July 1. **L. 2002:** (1) amended, p. 142, § 2, effective March 27. **L. 2008:** (1) and (2) amended, p. 1953, § 5, effective January 1,

2009. **L. 2010:** (1) and (2) amended, (SB 10-068), ch. 160, p. 551, § 4, effective January 1, 2011. **L. 2022:** (4) added, (HB 22-1259), ch. 348, p. 2481, § 4, effective June 3.

Cross references: For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-706.6. Payments and services under San Andreas works - rules. (1) Subject to the provisions of federal law, rules promulgated by the state board pursuant to this section, and available appropriations, the payment types and services specified in this section are available to participants in the San Andreas works program.

(2) **Ongoing assistance payment.** An assistance unit that applies and is eligible for ongoing assistance shall, unless voluntarily and knowingly refused, receive cash assistance, which is a recurrent cash payment. In addition to a cash payment, an eligible assistance unit may also receive cash assistance in the form of a cash-equivalent payment, voucher, or other form of cash benefit that is designed to meet the basic ongoing needs of the persons in the assistance unit. Basic ongoing needs shall consist of food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. In addition to cash assistance, persons in an assistance unit that is eligible for ongoing assistance may receive supportive services as described in this section.

(3) **Short-term assistance payment.** A participant may choose to receive a short-term assistance payment, formerly referred to as a diversion payment, which is a nonrecurrent, needs-based, cash or cash-equivalent payment designed to meet the short-term needs of the participant. A short-term assistance payment is designed to address a specific crisis situation or episode of need and is not designed to meet the basic ongoing needs of the participant. A short-term assistance payment may not extend beyond four months. In addition to a short-term assistance payment, a participant who is eligible for short-term assistance may receive supportive services as described in subsection (4) of this section. Short-term assistance payments include the following types:

(a) A standard short-term assistance payment, formerly referred to as a state diversion payment, is a nonrecurrent, needs-based, cash or cash-equivalent payment made to a participant who is eligible for short-term assistance.

(b) An expanded short-term assistance payment, formerly referred to as a county diversion payment, is a nonrecurrent, needs-based, cash or cash-equivalent payment made to a participant who is eligible for assistance pursuant to the maximum eligibility criteria for nonrecurrent, short-term benefits established in the state plan pursuant to section 26-2-712 (1), in the county-defined expanded eligibility based on federal poverty and other standardized guidelines, and in county policies.

(4) **Supportive services.** (a) An eligible participant may receive supportive services, including but not limited to:

(I) Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training;

(II) Supportive services such as child care and transportation provided to families who are employed;

(III) Refundable earned income tax credits;

(IV) Contributions to, and distributions from, individual development accounts;

(V) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(VI) Transportation benefits provided under a job access or reverse commute project to an individual who is not otherwise receiving assistance.

(b) A county may provide supportive services directly to an eligible participant or through a contract or memorandum of understanding between the county department and another agency, including but not limited to another county department or a community provider.

(c) The state board shall promulgate rules pursuant to which a county shall provide referrals for available supportive services to persons who apply for assistance and to participants who are homeless or in need of mental health services or substance abuse counseling or services. The rules shall not obligate the county to pay for any supportive services to which a person who applies for ongoing assistance or short-term assistance or a participant is referred.

(5) **Individual development accounts.** A county department may make available opportunities for participants to have individual development accounts for home purchase, business capitalization, or higher education in accordance with federal law.

(6) **Child care assistance.** Subject to available appropriations and pursuant to rules promulgated by the executive director of the department of early childhood, a county may provide child care assistance to a participant pursuant to the provisions of part 1 of article 4 of title 26.5 and rules promulgated by the executive director of the department of early childhood for implementation of said part 1.

(7) **Substance abuse control program.** A county may elect to implement a San Andreas works controlled substance abuse control program. Under such a program, if the use of a controlled substance prevents the participant from successfully participating in his or her work activity, the county department may require the participant to participate in a controlled substance abuse control program based in whole or in part upon a representation by the participant that he or she is using controlled substances or upon a finding by the county department pursuant to an assessment by a certified substance use disorder treatment provider that the participant is or is likely to be using controlled substances. If a county chooses to require the participant to participate in a controlled substance abuse control program, the county department shall:

(a) Require the participant to be assessed by a certified substance use disorder treatment provider and to follow a rehabilitation plan as a condition of continued receipt of assistance under the works program. The rehabilitation plan must be based upon the assessment and developed by a certified substance use disorder treatment provider, and may include, but need not be limited to, participation in a substance use disorder treatment program. This subsection (7)(a) does not create an entitlement to rehabilitation services or to payment for rehabilitation services.

(b) If required by the rehabilitation plan, conduct random testing of the participant to determine whether he or she is remaining free of controlled substances; and

(c) Impose on the participant any applicable adverse action for nonparticipation in a work activity if the participant fails to follow the rehabilitation plan, which nonparticipation may be evidenced by having a positive result on a random test or refusing to participate in a random test pursuant to this subsection (7). A county may not take adverse action against a participant for failing to meet the requirements of the rehabilitation plan if the services required under the

plan are not available, if transportation or child care is not available, or if the costs of the services are prohibitive.

(8) **Job skills education voucher.** A county department may provide a voucher created pursuant to the provisions of section 26-2-712 (11) to a participant for use at one of the community or technical colleges administered pursuant to the provisions of article 60 of title 23, S.A.R.S., for the purpose of securing short-term educational and academic skills training and job placement services.

(9) Repealed.

Source: L. 2008: Entire section added, p. 1954, § 6, effective January 1, 2009. **L. 2017:** IP(7) and (7)(a) amended, (SB 17-242), ch. 263, p. 1334, § 221, effective May 25; (9) added, (SB 17-292), ch. 271, p. 1493, § 1, effective August 9. **L. 2022:** (6) amended, (HB 22-1295), ch. 123, p. 856, § 94, effective July 1.

Editor's note: Subsection (9)(g) provided for the repeal of subsection (9), effective September 1, 2021. (See L. 2017, p. 1493.)

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-2-707. Diversion grant. (Repealed)

Source: L. 97: Entire part added, p. 1199, § 1, effective June 3. **L. 2008:** Entire section repealed, p. 1957, § 7, effective January 1, 2009.

26-2-707.5. Community resources investment assistance. (1) A county department may use county block grant moneys to invest in the development of community resources that support the purposes of the federal "Personal Responsibility and Work Opportunity Reconciliation Act", Public Law 104-193, and that are designed to assist eligible applicants or participants under section 26-2-706 or 26-2-706.6. An eligible applicant or participant may receive benefits or services from such a community resource without completing an application pursuant to section 26-2-106 or an individual responsibility contract pursuant to section 26-2-708 (2). However, nothing in this subsection (1) precludes a county department from requiring such applications and individual responsibility contracts in a county's individual contracting procedures established pursuant to subsection (2) of this section.

(2) The state board shall establish standards and procedures through rules for the use of county block grant moneys pursuant to this section including but not limited to the contracting procedures counties must follow to ensure that funds are being spent to support TANF-eligible applicants or participants. Such contracting procedures shall include a requirement that a county's contract with a provider shall specify the approximate number of applicants or participants to be served by the provider. Counties shall also be required to adopt official written policies as referenced in section 26-2-716 (2.5) regarding the types of community resources in which counties are investing, the purposes of such community resource investments, the income eligibility standards, and the county's dispute resolution processes.

(3) A county that uses county block grant moneys pursuant to this section shall use all moneys in accordance with all applicable federal and state statutes and regulations.

(4) A county shall not be authorized to use funds pursuant to this section for the purpose of supplanting funds.

(5) Nothing in this section shall preclude a household from applying for and receiving basic cash assistance.

Source: L. 2001: Entire section added, p. 660, § 1, effective May 30. **L. 2008:** (1) amended, p. 1957, § 8, effective January 1, 2009.

26-2-707.7. Information concerning immunization of children. At the time of application for the works program, the county department shall provide information concerning immunizations to all applicants, including the exemptions listed in section 25-4-903, S.A.R.S. The information shall include parent education on vaccines and information concerning where to access vaccines in the local community. The department of public health and environment or the county or district public health agency shall provide the immunization information to the county department.

Source: L. 2010: Entire section added, (SB 10-068), ch. 160, p. 548, § 1, effective January 1, 2011.

26-2-708. Assistance - assessment - individual responsibility contract - waivers for domestic violence - rules. (1) Subject to the provisions of the federal law, the provisions of this section, and available appropriations, a county department shall perform an assessment for a new participant who is eighteen years of age or older, or who is sixteen years of age or older but has not yet attained the age of eighteen years of age and has not completed high school or successfully completed a high school equivalency examination, as defined in section 22-33-102 (8.5), S.A.R.S., and is not attending high school or participating in a high school equivalency examination program. The initial assessment must be completed no more than thirty days after the submission of the application for assistance under the works program. Updated assessments may be conducted at the discretion of the county department.

(2) A county department shall develop an individual responsibility contract for a new participant who has been assessed pursuant to subsection (1) of this section, within thirty days after completing the initial assessment of the participant as required in subsection (1) of this section, subject to the provisions of the federal law and this section. The IRC shall be limited in scope to matters relating to securing and maintaining training, education, or work. The county department shall seek the input and involvement of the participant when developing the IRC.

(3) The IRC shall contain provisions in bold print at the beginning of the document that notify the participant of the following:

(a) That no individual is legally entitled to any form of assistance under the San Andreas works program;

(b) That the IRC is a contract that contains terms and conditions governing the participant's receipt of assistance under the San Andreas works program and that nothing in such contract may be deemed to create a legal entitlement to assistance under the San Andreas works program;

(c) That the participant's failure to comply with the terms and conditions of the IRC may result in sanctions, including but not limited to the termination of any cash assistance;

(d) For a county that has elected to implement a San Andreas works controlled substance abuse control program described in section 26-2-706.6 (7), that the IRC may require the participant to participate in the San Andreas works controlled substance abuse control program, based upon the participant's use of a controlled substance, by requiring the participant to take action toward rehabilitation consistent with the recommendations of the assessment pursuant to section 26-2-706.6 (7). The program may be included as a county-defined work activity. The rehabilitation plan may include random drug testing, drug treatment, or other rehabilitation activities. The participant may be subject to any sanctions for nonparticipation in a work activity if the participant fails to meet the requirements of the rehabilitation plan; except that a participant may not be sanctioned for failing to meet the requirements of the rehabilitation plan if services required under the plan are not available, if transportation or child care is not available, or if the costs of the services are prohibitive.

(e) That the applicant or participant shall indicate by signature on the IRC either agreement with the terms and conditions of the IRC or that the applicant or participant requests a county level review of the proposed IRC in accordance with section 26-2-710 (4) on the grounds that the proposed IRC is unreasonable within the context of the county's written policies.

(4) (Deleted by amendment, L. 99, p. 272, § 1, effective April 13, 1999.)

(5) The state board shall establish through rules, after consultation with domestic violence service providers, statewide standards and procedures that:

(a) Require counties to provide notice to all past or present victims of domestic violence as described in the federal law or those at risk of further domestic violence of the referrals required pursuant to paragraph (b) of this subsection (5), the possible waivers pursuant to paragraph (c) of this subsection (5), and the applicable procedures described in paragraph (e) of this subsection (5);

(b) Require counties to provide for referrals to any available counseling and supportive services to past or present victims of domestic violence as described in the federal law or those at risk of further violence, but the rules shall not obligate a county to pay for any counseling or supportive services to which a participant is referred;

(c) Allow counties upon a showing of good cause, as determined by rules of the state board, to provide waivers from any program requirements, except as provided in paragraph (d) of this subsection (5), that will make it more difficult for an applicant or a participant to escape domestic violence or that would unfairly penalize such individuals who are or have been victimized by such violence or who are at risk of further violence;

(d) Require counties to submit requests for waivers of work requirements to the state department to determine whether good cause exists to grant such waivers;

(e) Require counties to assure the voluntariness and confidentiality of the procedures for identifying eligibility for referrals to supportive services and waivers, the procedures for applying for waivers, and the procedures by which an applicant or a participant who is denied a waiver may appeal such decision.

(5.3) (a) No later than July 1, 2023, the state board shall promulgate rules:

(I) Establishing statewide standards and procedures that require counties to inform and not penalize any applicant or household that demonstrates good cause for an exemption from work requirements, which includes, but is not limited to, an applicant or participant who is:

(A) The head of a single-parent household unit and has a child under one year of age; or

(B) Experiencing hardship, as defined in rules promulgated by the state board; and

(II) Ensuring equal access to TANF services for those exempted who wish to participate on a voluntary basis.

(b) When promulgating rules pursuant to this subsection (5.3), the state board shall consider compliance with the federal law in relation to the calculation of the state's work participation rates specified in the federal law.

(5.5) and (6) (Deleted by amendment, L. 2008, p. 1957, § 9, effective January 1, 2009.)

Source: L. 97: Entire part added, p. 1200, § 1, effective June 3. **L. 99:** (1), (2), and (4) amended, p. 272, § 1, effective April 13; (3) amended, p. 658, § 1, effective May 18; (3) amended, p. 1359, § 1, effective June 3. **L. 2001:** (5)(d) amended, p. 1173, § 12, effective August 8; (5.5) added, p. 980, § 5, effective August 8. **L. 2008:** (1), (2), (3)(d), (5.5) and (6) amended, p. 1957, § 9, effective January 1, 2009. **L. 2014:** (1) amended, (SB 14-058), ch. 102, p. 384, § 19, effective April 7. **L. 2022:** (5.3) added, (HB 22-1259), ch. 348, p. 2482, § 5, effective June 3.

Editor's note: Amendments made to subsection (3) by House Bill 99-1203 and House Bill 99-1017 were harmonized. As a result of the harmonization, subsection (3)(d) contained in House Bill 99-1017 was renumbered on revision as (3)(e).

Cross references: For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-708.5. San Andreas works controlled substance abuse control program. (Repealed)

Source: L. 99: Entire section added, p. 1360, § 2, effective June 3. **L. 2008:** Entire section repealed, p. 1959, § 10, effective January 1, 2009.

26-2-709. Benefits - cash assistance - programs - rules - repeal. (1) **Standard of need - basic cash assistance grant.** (a) The state department shall promulgate rules determining the standard of need for eligibility for a basic cash assistance grant, whether an applicant or participant meets the standard of need, and the amount of the basic cash assistance grant. The state department shall annually review and promulgate rules as necessary to update the standard of need to ensure the standard of need is equitable, promotes economic mobility and self-sufficiency, and reflects the current economic situations in the state. In addition to any other rules necessary for the implementation of this part 7, the state department's rules shall:

(I) Adopt a statewide standard of need for eligibility for a basic cash assistance grant that is not less than the basis for standard of need pursuant to this subsection (1) as it existed on July 1, 2009;

(II) Establish criteria for determining whether an applicant or participant meets the standard of need, including but not limited to what constitutes countable and excludable income for the purposes of eligibility for a basic cash assistance grant;

(III) No later than July 1, 2023, establish the calculation for determining the amount of an eligible applicant's or participant's basic cash assistance grant, which calculation must include an earned income disregard that is applied to the gross countable earned income of an applicant or participant who is employed and a gradual step down of the amount of income disregarded following the initial earned income disregard. The initial earned income disregard and gradual step down must promote work and self-sufficiency, be responsive to family circumstances and need, and benefit the applicant or participant by reducing the unintended economic consequences of becoming employed. The rules promulgated by the state department pursuant to this subsection (1)(a)(III) must not establish an earned income disregard that results in an applicant or participant having fewer financial resources available to the applicant or participant than a similarly situated applicant or participant would have had under the earned income disregard pursuant to section 26-2-709 as it existed on July 1, 2009.

(IV) Establish the calculation for determining the amount of the basic cash assistance grant, which calculation shall disregard current child support payments made to a participant pursuant to section 26-2-111 (3)(a.5). However, such payments, with applicable disregards, shall be considered income for purposes of determining eligibility for the grant.

(b) (I) In establishing the calculation for determining the amount of an eligible applicant's or participant's basic cash assistance grant, the state department shall ensure that the amount of the basic cash assistance grant that a participant or applicant receives for the state fiscal year commencing July 1, 2022, is equal to or exceeds one hundred percent of the amount of basic cash assistance in 2021, plus ten percent. For the state fiscal year commencing July 1, 2024, and each state fiscal year thereafter, the amount of basic cash assistance must be equal to or exceed the amount of basic cash assistance for the previous state fiscal year plus a two percent cost of living adjustment or a cost of living adjustment that is equal to the average of the federal social security administration's cost of living adjustment for that fiscal year plus the previous two fiscal years, whichever is greater.

(II) (A) On July 1, 2022, the state treasurer shall transfer twenty-one million five hundred thousand dollars from the economic recovery and relief cash fund, created in section 24-75-228, to the San Andreas long-term works reserve to cover any increase in basic cash assistance pursuant to this section above the amount of basic cash assistance in state fiscal year 2021-22.

(B) The money transferred pursuant to subsection (1)(b)(II)(A) of this section must be expended in accordance with section 24-75-226 (4)(d).

(C) This subsection (1)(b)(II) is repealed, effective July 1, 2027.

(III) (A) Beginning state fiscal year 2023-24, and each state fiscal year thereafter, to cover any increase in basic cash assistance pursuant to this section above the total spending of basic cash assistance in state fiscal year 2021-22, the state department shall first expend any money remaining that is transferred to the San Andreas long-term works reserve pursuant to subsection (1)(b)(II) of this section. The state department shall then expend money in an amount equal to one-third of the amount necessary to cover any such increase in basic cash assistance from available TANF funds, which must include funds in the San Andreas long-term works reserve and the total statewide county TANF reserve, and an amount equal to two-thirds of the amount necessary to cover any such increase in basic cash assistance that the general assembly appropriates to the state department from the state general fund or any other available fund, including the San Andreas long-term works reserve, in accordance with section 26-2-721 (5). The state department and counties shall identify an equitable portion of the San Andreas

long-term

works reserve and total statewide county TANF reserve for the implementation of this subsection (1)(b)(III)(A). The general assembly shall appropriate money to the state department for the implementation of this subsection (1)(b)(III)(A).

(B) If the total statewide county TANF reserve falls below fifteen percent of the county block grant amount, the general assembly shall appropriate money from the San Andreas long-term works reserve to the county block grant until the balance of the total statewide county TANF reserve exceeds fifteen percent of the county block grant amount or until the San Andreas long-term works reserve falls below twenty-five percent of the state block grant amount.

(C) If the San Andreas long-term works reserve falls below twenty-five percent of the state block grant amount and the total statewide county TANF reserve exceeds fifteen percent of the county block grant amount, the counties shall fund the TANF program from available TANF funds until the total statewide county TANF reserve falls below fifteen percent of the county block grant amount. Counties are only required to spend available TANF money, including county TANF reserves and the maintenance of effort, for the San Andreas works program.

(IV) Beginning January 2023, and each January thereafter, the joint budget committee shall at least annually review the balance of the San Andreas long-term works reserve and the total statewide county TANF reserve, and, if the joint budget committee determines that the balance of the San Andreas long-term works reserve will fall below twenty-five percent of the state block grant amount and the balance of the total statewide county TANF reserve will fall below fifteen percent of the county block grant amount in the current or next state fiscal year, the general assembly shall appropriate money from the state general fund or the unclaimed property trust fund to cover any increase in basic cash assistance above the amount of basic cash assistance in state fiscal year 2021-22 until the balance of the San Andreas long-term works reserve exceeds twenty-five percent of the state block grant amount and the total statewide county TANF reserve exceeds fifteen percent of the county block grant amount.

(V) The state department and a county department that receives money from the state department pursuant to this section shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(c) Except as otherwise provided in this part 7 and subject to available appropriations, an applicant or participant who meets the eligibility criteria established by the state department pursuant to paragraph (a) of this subsection (1) shall receive a basic cash assistance grant in an amount determined by the state department pursuant to paragraphs (a) and (b) of this subsection (1). An increase in the amount of the basic cash assistance grant approved by the state department shall not take effect unless the funding for the increase is included in the annual general appropriation act or a supplemental appropriation act.

(d) Repealed.

(e) Beginning July 1, 2021, and each year thereafter, the joint budget committee of the general assembly shall review the sustainability of the San Andreas long-term works reserve created in section 26-2-721.

(1.3) **Redetermination of eligibility for persons receiving cash assistance.** The state board shall promulgate rules that require county departments to perform a redetermination of eligibility for all assistance units receiving cash assistance. Eligibility processes from other public assistance or entitlement programs may be used when redetermining eligibility. When

possible, the state board is strongly encouraged to align redetermination timelines with other public assistance or entitlement programs.

(1.5) **Rules concerning cash assistance.** The state department shall promulgate rules as may be necessary to comply with changes in federal regulations relating to the definition of the term "cash assistance".

(2) **Other assistance.** (a) Subject to available appropriations, a county department may provide assistance, including but not limited to cash assistance, in addition to the basic cash assistance grant described in subsection (1) of this section that is authorized pursuant to the provisions of the federal law or this section. Such other assistance shall be based upon a participant's assessed needs.

(b) and (c) (Deleted by amendment, L. 2008, p. 1960, § 11, effective January 1, 2009.)

(3) (Deleted by amendment, L. 2008, p. 1960, § 11, effective January 1, 2009.)

Source: L. 97: Entire part added, p. 1202, § 1, effective June 3. **L. 98:** (2) amended, p. 335, § 1, effective April 17. **L. 99:** (1.5) added, p. 31, § 2, effective July 1. **L. 2000:** (1.5) amended, p. 25, § 2, effective March 10. **L. 2001:** (1)(a) amended, p. 212, § 1, effective March 28. **L. 2002:** (1)(a.5) added, p. 904, § 1, effective May 31. **L. 2003:** (1)(a) and (1)(a.5) amended and (1.3) added, p. 802, § 4, effective August 6. **L. 2006:** (1)(b) repealed, p. 593, § 2, effective April 24. **L. 2008:** (1)(a), IP(1)(a.5), (1)(c), (2), and (3) amended, p. 1960, § 11, effective January 1, 2009. **L. 2010:** (2)(a) amended, (HB 10-1043), ch. 92, p. 316, § 13, effective April 15; entire section amended, (SB 10-068), ch. 160, p. 551, § 5, effective January 1, 2011. **L. 2013:** (1.3) amended, (HB 13-1055), ch. 10, p. 25, § 1, effective August 7. **L. 2015:** (1)(a)(II) and (1)(a)(III) amended and (1)(a)(IV) added, (SB 15-012), ch. 282, p. 1155, § 3, effective August 5. **L. 2020:** (1)(d) and (1)(e) added, (SB 20-029), ch. 220, p. 1086, § 2, effective July 2. **L. 2022:** IP(1)(a), (1)(a)(III), (1)(b), and (1.3) amended, (HB 22-1259), ch. 348, p. 2482, § 6, effective June 3; (1)(b)(II)(B) amended, (HB 22-1411), ch. 271, p. 1960, § 16, effective June 3.

Editor's note: (1) Amendments to subsection (2) in House Bill 10-1043 and Senate Bill 10-068 were harmonized, effective January 1, 2011.

(2) Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July 1, 2021. (See L. 2020, p. 1086.)

Cross references: For the legislative declaration in SB 20-029, see section 1 of chapter 220, Session Laws of San Andreas 2020. For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-709.5. Exit interviews and follow-up interviews of participants - reporting. (1) In order to follow the legislative intent declared in section 26-2-702 (1)(a), a county department is strongly encouraged to contact each participant using each method of communication provided by the participant in order to conduct exit and follow-up interviews upon case closure, either in person or by telephone, including participants who are or have been receiving short-term assistance payments pursuant to section 26-2-706.6. The interviews shall be conducted in accordance with state department guidance for the purpose of:

(a) Evaluating the participant's experience with the works program;

(b) Evaluating how well the works program met the participant's needs and assisted the participant in meeting the participant's goals;

(c) Informing the state department of any changes to rules that are needed to improve the participant's experience; and

(d) Providing information to the participant and offering assistance with applications for or continuance of assistance under medicaid, food stamps, the San Andreas child care assistance program, the earned income tax credit, or other programs such as welfare-to-work or other county benefits or services.

(2) If the state department, in consultation with counties, identifies additional need for funding to administer the works program, the state department is strongly encouraged to request state general fund money or, if the balance of the state TANF reserve is greater than the mandatory floor, appropriate additional state TANF money to fund counties' administration of the works program.

(3) Beginning January 2023, and each January thereafter, the state department shall submit a report to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees, as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203, on the effectiveness of the works program. To the extent practicable, the state department may request a county department to provide any information and data that may be necessary to develop the report, including information and data from exit interviews conducted by the county departments pursuant to subsection (1) of this section. Any data used must protect personal identifying information of the participants and the participants' family members. At a minimum, the report must include:

(a) The total number of participants enrolled in the works program in the previous fiscal year, disaggregated by case type, race, and ethnicity;

(b) The total number of participants who exited and re-enrolled in the works program one or more times in the previous fiscal year, disaggregated by case type, race, and ethnicity;

(c) The total number of instances a participant exited and re-enrolled in the works program one or more times in the previous fiscal year, disaggregated by case type, race, and ethnicity;

(d) The total number of months each participant remained enrolled in the works program in the previous fiscal year, disaggregated by case type, race, and ethnicity; and

(e) To the extent practicable, data gathered through surveys and exit interviews with participants in the works program regarding participants' experience with the program, beliefs about the goals of the program, perceptions of how participation in the program contributed to the family goals, reasons for leaving the program, current employment status and wage rate, and supportive services provided and whether those services have been impacted by increases in basic cash assistance.

(4) The state department may review and consider information technology solutions for the implementation of this section.

Source: L. 2001: Entire section added, p. 654, § 1, effective August 8. **L. 2004:** (2) repealed, p. 471, § 2, effective August 4. **L. 2008:** (1) amended, p. 1963, § 12, effective January 1, 2009. **L. 2022:** Entire section amended, (HB 22-1259), ch. 348, p. 2485, § 7, effective June 3.

Cross references: For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-710. Administrative review. (1) The state department shall promulgate rules for an administrative review process.

(2) All decisions of the state department shall be binding upon the county department involved and shall be complied with by such county department.

(3) If a participant does not agree with or fails to participate in a program or service identified in the IRC, the participant shall continue to receive the basic cash assistance grant that the participant received at the time the appeal is requested during the pendency of any appeal process.

(4) An applicant or participant who believes the IRC proposed by the county is unreasonable has a right to request a review of the proposed IRC by the county department pursuant to a process designated by the county in its written county policy. If the applicant or participant requests such review, the county shall provide the applicant or participant the opportunity for a county level review by a person not directly involved in the initial determination. The review shall be limited to determining whether the terms of the disputed IRC are reasonable within the context of the county's written policy. The reviewer shall issue a written decision for the county regarding the resolution of the outstanding issues involving the proposed IRC. The time frame for such review shall be specified by the county in its written county policy.

Source: L. 97: Entire part added, p. 1203, § 1, effective June 3. **L. 99:** Entire section amended, p. 659, § 2, effective May 18.

26-2-711. Works program - sanctions against participants - rules. (1) (a) The state board shall promulgate rules for the imposition of sanctions affecting the basic cash assistance grant as described in section 26-2-709 (1). The rules must require:

(I) Imposition of sanctions upon a participant who fails, without good cause as determined by the county, to comply with the terms and conditions of his or her IRC;

(II) A reduction in the basic cash assistance grant upon the first imposition of a sanction affecting a basic cash assistance grant, with the amount to be specified in the rules but not to exceed one dollar;

(III) Specific reductions in the basic cash assistance grant for second and subsequent sanctions affecting the basic cash assistance grant;

(IV) Imposition of sanctions either in the month following the decision to sanction and in subsequent months thereafter until the full amount of any sanctions have been withheld or, in the event that a participant has appealed the imposition of a sanction, in the month following the final decision of the appeal process and in subsequent months thereafter until the full amount of any sanctions have been withheld.

(b) Nothing in the state board rules promulgated pursuant to paragraph (a) of this subsection (1) shall prevent a county from denying the basic cash assistance grant in its entirety to a participant who refuses, as evidenced by an affirmative statement by the participant or demonstrable evidence, to participate in training, education, or work.

(c) The state board rules promulgated pursuant to paragraph (a) of this subsection (1) shall establish the period of time that sanctions affecting the basic cash assistance grant shall be in effect and the period of time within which a participant who has been denied the basic cash assistance grant by a county pursuant to paragraph (b) of this subsection (1) may take action for reinstatement into the works program.

(2) A county shall have the authority to determine and impose sanctions affecting other assistance as described in section 26-2-706.6. The sanctions shall be based upon fair and objective criteria that have been developed and adopted by the county and are consistent with state and federal law.

(3) If a county department elects to suspend payment of child care assistance, it may suspend such assistance in its entirety.

(4) In no event shall a county department impose any sanction on a participant that adversely affects the participant's receipt of food stamps beyond those allowable sanctions provided for in federal regulations and state rules or medical assistance pursuant to the provisions of articles 4, 5, and 6 of title 25.5, S.A.R.S.

(5) (a) A person shall not be required to participate in work activities if good cause exists as determined by the county.

(b) Good cause does not constitute an exemption from work or time limits. Good cause is, however, a proper basis for not imposing a sanction for nonparticipation in a work activity, and may include, but need not be limited to, participation in a San Andreas works controlled substance abuse control program pursuant to section 26-2-706.6 (7).

(6) (Deleted by amendment, L. 2008, p. 1963, § 13, effective January 1, 2009.)

(7) If a participant or an applicant has misrepresented residence to obtain benefits in two or more states at the same time, such person shall be ineligible for benefits under the works program for a period of ten years.

Source: L. 97: Entire part added, p. 1203, § 1, effective June 3. **L. 99:** (5) amended, p. 1361, § 3, effective June 3. **L. 2006:** (4) amended, p. 2018, § 101, effective July 1. **L. 2008:** IP(1)(a), (1)(b), (1)(c), (2), (5)(b), and (6) amended, p. 1963, § 13, effective January 1, 2009. **L. 2022:** IP(1)(a), (1)(a)(II), and (1)(a)(III) amended, (HB 22-1259), ch. 348, p. 2486, § 8, effective June 3.

Cross references: For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-712. State department duties - authority. (1) **Plan submission.** The state department shall submit and amend as necessary a plan to the secretary of the federal department of health and human services that is consistent with the provisions of this part 7 and federal law.

(2) **County block grant allocation.** (a) The state department shall allocate the amount of moneys that shall be provided to a county as a county block grant for the purposes of a county's administration and implementation of the works program pursuant to section 26-2-714.

(b) Except as provided in section 26-2-720.5, the county block grant shall represent the total amount that a county shall receive from the state for the administration and implementation of the San Andreas works program.

(3) **Maintenance of effort.** The state department shall monitor the state's progress toward meeting the levels of spending required under the federal law and section 26-2-713.

(4) **Performance measurements.** (a) The state department shall develop performance goals and a formula for measuring a county's progress toward meeting such performance goals in administering and implementing the works program with county block grants. The state department shall provide data gathered on behalf of each county to the general assembly on a quarterly basis regarding employment- and training-related performance measures for the works program. Such data must include wages earned by works program participants upon leaving the program, job retention rates, and other related information. Such data must be provided through the state department's computerized systems, if available. Counties are not required to provide additional manual or computerized systems to gather such data. The state department shall work with the state work force development council to gather data on works program participants who participate in training and job placement programs offered by work force development boards and the result of such participation.

(b) The formula may be based upon the formula developed by the secretary of the federal department of health and human services after consultation with the national governors' association and the American public welfare association for measuring states' performance under the TANF block grants.

(5) **Oversight.** In connection with overseeing the works program, the specific duties of the state department are to:

(a) Oversee the implementation of the works program statewide and, in connection with such oversight, develop standardized forms for the counties' use in streamlining the application process, delivery of services, and tracking of participants;

(b) Monitor the state's progress in meeting the work participation requirements set forth in federal law;

(c) Establish a process to implement the provisions for regionalization set forth in section 26-2-718 pursuant to which any combination of county departments may be approved by the state department to administer and implement the works program pursuant to the provisions of this part 7;

(d) Establish statewide goals and monitor the state's progress toward meeting such goals for the reduction in the incidence of pregnancies of women and men who are not married;

(e) Monitor the counties' provision of basic cash assistance grants pursuant to section 26-2-706.6 and, if necessary due to increased caseloads or economic downturns, do the following to ensure that the basic cash assistance grant is provided in a consistent manner statewide:

(I) Grant moneys to one or more counties from the county block grant support fund administered pursuant to section 26-2-720.5; or

(II) If no funds administered pursuant to section 26-2-720.5 are available:

(A) Request supplemental appropriations from the general assembly, including but not limited to an appropriation from the San Andreas long-term works reserve created pursuant to section 26-2-721; or

(B) Reduce the county block grant of any county that maintains moneys in a county reserve account pursuant to section 26-2-714 (5) in order that moneys may be made available to one or more counties to avoid the need to reduce or eliminate the basic cash assistance grant statewide. If the state department makes a reduction in a county's reserve account pursuant to this sub-subparagraph (B), the state department shall increase the county's block grant for the

following fiscal year by the amount of the reduction authorized pursuant to this sub-subparagraph (B); or

(III) After taking the actions described in subparagraphs (I) and (II) of this paragraph (e), take any actions necessary to reduce the costs of, or reduce or eliminate, the basic cash assistance grant statewide.

(6) (Deleted by amendment, L. 2008, p. 1964, § 14, effective January 1, 2009.)

(7) **San Andreas works program capacity building.** The state department shall develop training for case workers and other service providers so that they are knowledgeable and may assist persons who receive assistance through the San Andreas works program in:

(a) Identifying goals, including work activities, time frames for achieving self-sufficiency, and the means required to meet these benchmarks;

(b) Obtaining supportive services such as mental health counseling, substance abuse counseling, domestic violence services, life skills training, and money management and parenting classes;

(c) Utilizing the family's existing strengths;

(d) Providing ongoing support and assistance to the family in overcoming barriers to training and employment;

(e) Monitoring the progress of the family toward attaining self-sufficiency;

(f) Understanding and properly utilizing data reporting systems to report participation data and outcomes required by the state department; and

(g) Providing opportunities for persons working with San Andreas works participants to access professional-level curriculum to become proficient in assessing participant needs and developing individual plans to address those needs.

(8) **Domestic violence services training - rules.** (a) To facilitate the proper identification, screening, and assessment of past and present victims of domestic violence who apply for or participate in the San Andreas works program and to assist counties in complying with the provisions of this subsection (8) and section 26-2-708 (5), the state board shall promulgate rules that require the state department to provide ongoing domestic violence training and appropriate domestic violence training materials to county staff and to:

(I) Assist counties in developing local resources and using available community resources to provide counseling and supportive services to past and present victims of domestic violence; and

(II) Require counties to make applicants to and participants in the San Andreas works program aware of the services and assistance provided by the state department pursuant to this subsection (8) and by the county.

(b) The state department may contract with an individual or entity that has demonstrated expertise in the area of domestic violence assistance for the provision of the services specified in this subsection (8).

(9) **Waiver process.** (a) Except as provided in paragraph (c) of this subsection (9), the governor and the state department, acting jointly, may grant a county's application for a waiver of any requirement of this part 7 or the rules promulgated pursuant to this part 7. Any waiver granted pursuant to this subsection (9) shall be designed to improve methods of achieving participants' self-sufficiency, meeting work participation rates and performance goals, or reducing dependency.

(b) Any application for a waiver shall include a statement of the purpose of the waiver. The application shall be submitted to the governor and the state department no later than October 1 of the year immediately preceding the year in which the county intends to implement the waiver. The county shall provide notice of its application to all adjacent counties. The governor and the state department shall grant or deny the county's application no later than December 1 of the year in which the county applied. A waiver granted pursuant to this subsection (9) shall take effect on January 1 of the year immediately following approval of such waiver. The governor and the state department shall specify the duration of such waivers.

(c) The state department and the governor shall not approve an application under this subsection (9) that proposes to waive any statute or rule governing statewide eligibility, the amount of the basic cash assistance grant, the county maintenance of effort, or any requirement of the federal law. The governor and the state department shall not approve an application under this subsection (9) that proposes to waive a participant's right to appeal a county determination under the works program, but they may approve the waiver of statutes or rules governing the method or procedure for such appeal.

(d) The governor and the state department may approve any number of applications for waivers of one or more provisions of this part 7 or of the rules promulgated pursuant to this part 7, so long as such waivers meet the requirements of paragraphs (a), (b), and (c) of this subsection (9).

(e) In the event that the governor has reason to believe that a county's implementation of the works program pursuant to a waiver granted under this subsection (9) fails to satisfy the requirements of the federal law or is inconsistent with the purposes of the works program as set forth in section 26-2-705, the governor may revoke the waiver granted to the county and require the county to resume implementation of the works program pursuant to the provisions of this part 7 and the rules promulgated pursuant to this part 7.

(f) In the event that the governor and the state department grant waivers to a county pursuant to this subsection (9), the performance contract entered into between the county and the state department pursuant to section 26-2-715 shall be amended to reflect the county's authority to implement the works program in accordance with the waivers granted and the governor's authority to revoke the waivers in accordance with paragraph (e) of this subsection (9).

(10) **Job market analysis.** The state department, the department of labor and employment, and the state board for community colleges and occupational education created in section 23-60-104 (1)(b), S.A.R.S., shall annually analyze job market information in order to establish a compilation of the types of jobs most appropriate and likely to lead to long-term self-sufficiency for participants. As used in this subsection (10), "job market information" means any state or regional job market or labor data or statistics or any information related to state or regional labor trends that the department of labor and employment may have or to which it may have access.

(11) **Tuition voucher system.** (a) The state department shall collaborate with the state board for community colleges and occupational education, created in section 23-60-104 (1)(b), S.A.R.S., to develop a tuition voucher system pursuant to which a participant may attend courses at an institution in the state's system of community and technical colleges by using a tuition voucher.

(b) The state department and the state board for community colleges and occupational education, created in section 23-60-104 (1)(b), S.A.R.S., shall enter into a cooperative arrangement

to make available appropriate educational and academic training programs for participants who receive tuition vouchers.

Source: L. 97: Entire part added, p. 1204, § 1, effective June 3. **L. 2001:** (4)(a) amended, p. 414, § 2, effective August 8; (9)(b) amended, p. 1174, § 13, effective August 8. **L. 2008:** (7) amended, p. 1964, § 14, effective June 2; (4)(a) amended, p. 1291, § 6, effective July 1; (1), (2), (5)(a), (5)(b), (5)(e), (6), (8), and (9)(c) amended and (10) and (11) added, p. 1964, § 14, effective January 1, 2009. **L. 2017:** (4)(a) amended, (SB 17-294), ch. 264, p. 1410, § 95, effective May 25. **L. 2018:** IP(5) and (5)(d) amended, (SB 18-095), ch. 96, p. 756, § 17, effective August 8.

Cross references: For the legislative declaration in SB 18-095, see section 1 of chapter 96, Session Laws of San Andreas 2018.

26-2-713. State maintenance of effort. The general assembly shall make annual appropriations from state funds for the works program which, together with the expenditures made by counties under the works program, shall be applied toward the state's maintenance of historic effort as specified in section 409 (a)(7) of the social security act.

Source: L. 97: Entire part added, p. 1208, § 1, effective June 3. **L. 2000:** Entire section amended, p. 280, § 2, effective March 31.

26-2-714. County block grants formula - use of money - rules.

(1) (Deleted by amendment, L. 2008, p. 1967, § 15, effective January 1, 2009.)

(1.5) Moneys appropriated by the general assembly to the county block grant line shall remain appropriated and available to counties pursuant to the procedures specified in this section.

(2) Subject to available appropriations, in state fiscal year 2009-10 and in each fiscal year thereafter, the state department, with input from the works allocation committee, shall set the amount of the county block grants based on demographic and economic factors within the counties, including the amount a county spends on basic cash assistance grants and the county's TANF reserve balance.

(2.5) In the event that the state department and the works allocation committee do not reach an agreement in setting the amounts of the county block grants pursuant to the provisions of subsection (2) of this section on or before June 15 of each state fiscal year, the works allocation committee shall submit alternatives to the joint budget committee of the general assembly from which the joint budget committee shall identify each individual county's block grant for the state fiscal year commencing on the immediately succeeding July 1.

(3) Nothing in subsections (2) and (2.5) of this section shall prevent a county from transferring at any time during the fiscal year, pursuant to procedures established by the state department and the works allocation committee, a portion of the county's current federal TANF allocation to another county in exchange for an amount of county moneys equal to the maintenance of effort associated with the allocation.

(4) The state department shall identify the portion of moneys in the county block grant that may be spent on administrative costs.

(5) (a) (I) (A) A county shall be authorized to maintain a reserve account of county block grant moneys pursuant to rules promulgated by the state department.

(B) Pursuant to the provisions of subparagraph (V) of paragraph (c) of subsection (6) of this section, upon the conclusion of state fiscal year 2010-11, and upon the conclusion of each state fiscal year thereafter, the works allocation committee may transfer to another county on or before November 1 of the succeeding fiscal year, any unspent county TANF reserves in excess of forty percent of the county's county block grant for the concluding state fiscal year. TANF reserves transferred to a county pursuant to this sub-subparagraph (B) shall be available to the county in the succeeding state fiscal year.

(C) (Deleted by amendment, L. 2011, (SB 11-124), ch. 183, p. 695, § 1, effective May 19, 2011.)

(D) If the works allocation committee transfers excess unspent TANF reserves pursuant to sub-subparagraph (B) of this subparagraph (I), the county from which the reserves are transferred shall receive appropriate maintenance of effort credit for those reserves. The county receiving the TANF reserves shall be responsible for providing an amount of county moneys equal to the maintenance of effort associated with the TANF reserves.

(E) (Deleted by amendment, L. 2011, (SB 11-124), ch. 183, p. 695, § 1, effective May 19, 2011.)

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, in state fiscal year 2008-09, and in each state fiscal year thereafter, a county with an annual county block grant amount of two hundred thousand dollars or less shall make available to the works allocation committee for transfer to another county pursuant to the provisions of subparagraph (V) of paragraph (c) of subsection (6) of this section any unspent TANF reserves in excess of one hundred thousand dollars.

(III) As used in this subsection (5), "unspent TANF reserves" means the amount deposited in a county reserve account plus any unspent TANF transfers authorized pursuant to this subsection (5) and subsections (7) and (9) of this section.

(IV) (Deleted by amendment, L. 2011, (SB 11-124), ch. 183, p. 695, § 1, effective May 19, 2011.)

(b) A county shall be required to maintain in such county's social services fund created pursuant to section 26-1-123 any county funds that were appropriated pursuant to section 26-2-716 (1)(a) and section 26-1-122 (6) in order to meet the targeted spending level required pursuant to subsection (6) of this section but not actually expended on the works program during the state fiscal year for which the county appropriated such funds.

(5.5) (a) The state department is authorized to segregate county block grant funds allocated under this section.

(b) If the state department segregates county block grant funds as authorized under this subsection (5.5):

(I) County departments shall report to the state expenditures they have made in a segregated manner, according to rules promulgated by the state board in accordance with applicable federal law;

(II) The counties shall develop policies regarding the use of segregated funds under this subsection (5.5);

(III) Funds shall be segregated in order to ensure maximum flexibility and to allow counties to provide additional assistance or services, in accordance with federal law.

(c) Repealed.

(d) The state board shall promulgate rules as necessary to implement this subsection (5.5).

(6) (a) **Targeted spending levels.** For state fiscal year 1997-98 and each state fiscal year thereafter, a county's targeted spending level shall be an amount that meets or exceeds one hundred percent of the county's spending on AFDC, JOBS, and the administrative costs related to those programs in state fiscal year 1995-96.

(b) Repealed.

(c) **Actual spending levels - 1998-99 and thereafter.** (I) For state fiscal year 1998-99 and for each state fiscal year thereafter, all counties collectively shall be required to meet levels of spending on the works program that are set forth in the annual long appropriation act, subject to the provisions of subsection (8) of this section.

(II) For state fiscal year 1998-99 and for each state fiscal year thereafter, each county's actual level of spending shall be identified by the works allocation committee created in subparagraph (IV) of this paragraph (c) no later than June 15 of each state fiscal year for the immediately succeeding state fiscal year. Prior to determining each county's actual spending level, the works allocation committee shall ensure that all counties have been notified of the recommended actual spending level and given an opportunity to provide comment on the recommendation. In the event that the works allocation committee does not reach an agreement on each individual county's actual level of spending for a state fiscal year on or before June 15 of such prior state fiscal year, the committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall identify each individual county's level of spending for a state fiscal year. The amount identified for a county's level of spending shall be identified in the county's performance contract with the state department entered into pursuant to section 26-2-715.

(III) The works allocation committee shall also identify the amount of mitigation that shall be allocated for a small county in accordance with the provisions of subsection (8) of this section. The works allocation committee may create a subcommittee that represents the interests of small counties as defined in subsection (8) of this section, which subcommittee may make recommendations concerning the mitigation amounts to be allocated for a small county pursuant to the provisions of subsection (8) of this section.

(IV) There is hereby created the works allocation committee that shall consist of eleven members, eight of whom shall be appointed by a statewide association of counties and three of whom shall be appointed by the state department. Of the members appointed by the statewide association of counties, at least two members shall be from small or medium-sized counties, and at least three shall be from large counties. The appointing authorities shall consult with each other to ensure that the works allocation committee is representative of the counties in the state. A representative from the county that has the greatest percentage of the state's works caseload will automatically be appointed, which appointment shall be credited against the eight appointments allocated to the statewide association of counties. The works allocation committee shall develop its own operational procedures.

(V) The works allocation committee shall determine the priority criteria for transfers of excess unspent TANF reserves to a county pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (a) of subsection (5) of this section and the amount of the transfers. With the goal of increasing the counties' minimum percentage reserve balances, the works allocation

committee's priority criteria shall give first priority to transfers to counties that have no more than a ten percent balance in the county's TANF reserve account. If moneys remain after satisfying the first priority criterion, second priority shall be given to transfers to those counties whose TANF reserves are more than ten percent, but no more than twenty percent.

(7) The county may transfer any amount of the county block grant that is designated as federal funds and that is specified by the state department as being available for transfer within the limitation imposed by the federal law on transfers of federal funds from the temporary assistance for needy families block grant to the child care development fund if child care funds are not available.

(8) (a) As used in this subsection (8), unless the context otherwise requires:

(I) "Annual maximum mitigation amount" means that portion of the total amount of county funds identified in the annual long appropriation act that may be used for mitigation for small counties in that state fiscal year.

(II) "Mitigation" means a specific reduction in a county's targeted spending level established pursuant to paragraph (a) of subsection (6) of this section or a specific reduction in a county's actual spending level established pursuant to paragraph (c) of subsection (6) of this section that is authorized pursuant to the provisions of this subsection (8). Mitigation can occur for targeted spending levels or actual spending levels or for both types of spending levels.

(III) "Small county" means a county with less than thirty-eight one hundredths of one percent of the total caseload of the works program statewide. The state department, with input from the works allocation committee, shall determine what shall constitute the total caseload of the works program and the time at which such caseload shall be established.

(b) Subject to the identification of an annual maximum mitigation amount in the annual long appropriation act and the criteria identified in paragraph (c) of this subsection (8), the works allocation committee created pursuant to subparagraph (IV) of paragraph (c) of subsection (6) of this section is authorized to identify the amount or amounts of any mitigation that shall be allocated to a small county in a specific state fiscal year. The works allocation committee shall notify the state department of any agreement concerning the allocation of any annual maximum mitigation amount in accordance with the provisions of this subsection (8).

(c) The criteria that the works allocation committee shall use include but are not limited to the following:

(I) The assessment of the equity of a small county's total program expenditures as they relate to the targeted or actual spending level for the small county;

(II) The extent to which the small county will have insufficient revenues to meet its targeted or actual spending level; and

(III) The extent to which the provision of any mitigation may enhance the efforts of a small county or group of small counties to regionalize pursuant to the provisions of section 26-2-718.

(9) (a) For state fiscal year 1997-98, and for each state fiscal year thereafter, a county may transfer any amount of the county block grant that is designated as federal funds and that is specified by the state department as being available for transfer within the limitation imposed by the federal law on transfers of federal funds from the temporary assistance for needy families block grant to programs funded by Title XX of the federal social security act.

(b) A county may make the transfer authorized by paragraph (a) of this subsection (9) only for expenditures that are allowable under programs funded by Title XX of the federal social security act, subject to the following provisions:

(I) If the funds transferred are used for the provision of child welfare services as defined in section 26-5-101 (3), the county may only make the transfer:

(A) After the county has made allowable expenditures of all funds in the county's capped or targeted allocation or allocations for child welfare services, other than for core services as referred to in section 26-5-101 (3)(f); and

(B) For the expenditures for child welfare services other than out-of-home placement services as described in section 26-5-101 (3)(i).

(II) A county shall not be required to appropriate funds to provide a county match pursuant to the provisions of section 26-1-122 for any funds transferred pursuant to the provisions of this subsection (9).

(III) A county shall not be authorized to use funds transferred pursuant to the provisions of this subsection (9) for the purpose of supplanting funds that:

(A) The county would otherwise be required to appropriate pursuant to section 26-1-122 in order to provide a county match for public assistance programs; or

(B) The county would otherwise appropriate in order to continue the provision of services under a program of public assistance administered with county only funds in the prior fiscal year.

(c) The state board shall promulgate rules governing procedures for transfers authorized pursuant to the provisions of this subsection (9).

(d) A county may make a transfer authorized by subsection (9)(a) of this section, within the limitations imposed by state and federal law on such transfers, in order to fund various programs for the improvement of child care. The transfers may be used for minor remodeling of licensed child care facilities or facilities legally exempt from licensing requirements pursuant to section 26.5-5-304, including but not limited to physical modifications for the purpose of licensure or accreditation, construction or improvement of fencing or other safety and security fixtures or other uses not prohibited under 42 U.S.C. sec. 1397d.

(10) (a) If the state meets federal work participation rates and qualifies for a percent reduction in the state's maintenance of effort as specified in federal law for any year, the actual spending level for the works program of all counties collectively shall be reduced by the same amount as the amount of the reduction in the federal maintenance of effort requirement.

(b) For the purposes of this subsection (10), "percent reduction" means the percent of reduction of historical expenditures as that term is defined in section 409 (7)(b) of the federal social security act, as amended.

(c) For any year in which a percent reduction in the state's maintenance of effort requirement occurs, the works allocation committee created pursuant to subparagraph (IV) of paragraph (c) of subsection (6) of this section shall determine each county's share of the reduction in actual spending levels. Prior to making such determination, the works allocation committee shall ensure that all counties have been notified of the recommended reduction for each county and given an opportunity to provide comment on the recommendation. In the event that the works allocation committee does not reach an agreement on each individual county's reduction in actual spending levels, the committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall identify each

individual county's reduction in actual spending levels. The state department is authorized to adjust each county's share of the reduction in actual spending levels. The state department is authorized to adjust each county's actual spending level for any percentage reduction earned in accordance with the determination of the works allocation committee concerning each county's share of the reduction.

(11) The works allocation committee shall:

(a) Review, at least quarterly, the balance of the San Andreas long-term works reserve, the balance of the total statewide county TANF reserve, and the amount of basic cash assistance grants provided to participants to monitor whether the balance of the San Andreas long-term works reserve will fall below twenty-five percent of the state block grant amount and whether the balance of the total statewide county TANF reserve will fall below fifteen percent of the county block grant amount;

(b) Submit a written report to the joint budget committee detailing the current San Andreas long-term works reserve level, the total statewide county TANF reserve level as a whole and by county, and any projections regarding deficits in the reserves; and

(c) Establish a mitigation fund for counties whose TANF reserves fall below fifteen percent of the county's block grant amount.

Source: L. 97: Entire part added, p. 1208, § 1, effective June 3. **L. 98:** (9) added, p. 779, § 1, effective May 22; (2), (5), and (6) amended and (2.5) and (8) added, p. 1192, § 2, effective June 1. **L. 2000:** (2), (5)(a), (6)(c)(II), (7), (8)(a)(II), (8)(c), and (9)(a) amended and (10) added, p. 280, § 3, effective March 31; (9)(c) added, p. 36, § 1, effective May 14. **L. 2002:** (5.5) added, p. 141, § 1, effective March 27; (5)(a) amended, p. 281, § 1, effective July 1. **L. 2004:** (5)(a) amended, p. 369, § 1, effective July 1; (6)(b) repealed, p. 204, § 24, effective August 4. **L. 2007:** (5.5)(c) repealed, p. 123, § 1, effective August 3. **L. 2008:** (1), (2), (2.5), and (5)(a) amended, p. 1967, § 15, effective January 1, 2009. **L. 2011:** (1.5) and (6)(c)(V) added and (3) and (5)(a) amended, (SB 11-124), ch. 183, pp. 695, 697, §§ 1, 2, effective May 19. **L. 2013:** (6)(c)(IV), (HB 13-1087), ch. 37, p. 106, § 2, effective March 15. **L. 2022:** (2) amended and (11) added, (HB 22-1259), ch. 348, p. 2487, § 9, effective June 3; (9)(d) amended, (HB 22-1295), ch. 123, p. 857, § 95, effective July 1.

Cross references: For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-714.5. Adjusted work participation rate - notification - county authorization - career and technical education. (1) As used in this section, unless the context otherwise requires, "federal credit" means the caseload reduction credit as calculated pursuant to 45 CFR 261.40 or any employment credit, caseload reduction credit, or other credit against such rate for a fiscal year that may be subsequently adopted by the federal government.

(2) The state department shall notify each county, within thirty days after the beginning of the state fiscal year, of the state department's projection regarding the adjusted rate that the state must attain for the fiscal year in order to be in compliance with federal requirements, based on the state's estimate of the federal credit the state anticipates qualifying to receive. This adjusted rate shall be the county's adjusted work participation rate for that state fiscal year.

(3) Each county is authorized to place participants in career and technical education, as that term is defined by rule of the state board, for longer than twelve months in order to meet critical skills shortages in the labor market; except that the percentage of participants allowed to satisfy program requirements through career and technical education of longer than twelve months in a county shall not exceed seventy-five percent of the state's estimate of the federal credit.

(4) The provisions of this section shall be implemented by the state department consistent with the requirement of section 26-2-715 (1)(a)(III).

(5) The state department may suspend a county's ability to place participants in career and technical education for longer than twelve months if the state department certifies that allowing career and technical education to count toward a works participant's required work activities would affect the state's ability to meet federal work participation rates.

Source: L. 2004: Entire section added, p. 89, § 1, effective March 9. **L. 2017:** (3) and (5) amended, (SB 17-294), ch. 264, p. 1410, § 96, effective May 25.

26-2-714.7. Work participation rates - increases - county strategies - report - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 1522, § 1, effective May 31. **L. 2008:** (1)(b) and (1)(f) amended, p. 1969, § 16, effective January 1, 2009.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2010. (See L. 2007, p. 1522.)

26-2-715. Performance contracts. (1) (a) Each county, either acting singly or with a group of counties, shall enter into an annual performance contract with the state department that shall identify the county's or group of counties' duties and responsibilities in implementing the works program. The performance contract must include but need not be limited to:

(I) Requirements and provisions that address the county's or group of counties' duty to administer and implement the works program using fair and objective criteria;

(II) Provisions that prohibit the county or group of counties from reducing the basic cash assistance grant administered pursuant to section 26-2-709 and monitored by the state department pursuant to section 26-2-711 and provisions that prohibit the county or group of counties from restricting eligibility or the provision of services or imposing sanctions in a manner inconsistent with the provisions of this part 7 or the provisions in the state plan submitted to the secretary of the federal department of health and human services pursuant to section 26-2-712;

(III) Work participation rates for the county or group of counties that shall ensure that the state will be able to meet or exceed its work participation rates under the federal law.

(b) A county or group of counties may be sanctioned for not meeting any obligation under such performance contract. Such sanctions must be identified in the performance contract and may include a reduction in a future county block grant allocation.

(2) The performance contract shall set forth the circumstances under which the state department may elect that it or its agent assume the county's or group of counties' administration and implementation of the works program.

(3) If the state department and the county or group of counties are unable to reach agreement on the contract, either party may request the state board to consider the matter, and the state board shall schedule the matter for hearing within thirty days after receipt of the request. The state board shall issue a decision on the matter which shall be considered binding on all parties. If necessary to assure services are available within the county or group of counties, the state department may enter into a temporary agreement with the county or group of counties or with another public or private agent until the matter is resolved by the state board.

Source: L. 97: Entire part added, p. 1209, § 1, effective June 3. **L. 2008:** IP(1)(a) and (1)(a)(II) amended, p. 1969, § 17, effective January 1, 2009. **L. 2022:** IP(1)(a), (1)(a)(I), and (2) amended, (HB 22-1295), ch. 123, p. 857, § 96, effective July 1.

26-2-716. County duties - appropriations - penalties - hardship extensions - domestic violence extensions - incentives - rules. (1) (a) (I) The board of county commissioners in each county of this state shall annually appropriate as provided by law such moneys as required pursuant to section 26-1-122 (6).

(II) In the case of two or more counties jointly administering a county block grant under the provisions of this part 7, each county involved shall appropriate the funds necessary to defray its proportionate costs of implementing the works program.

(b) A county department shall keep such records and accounts in relation to the costs of administering and implementing the works program.

(c) Whenever a county anticipates that it may be financially unable to meet requests for assistance from participants, the county may seek additional moneys from the county block grant support fund administered by the state department pursuant to section 26-2-720.5.

(2) In connection with administering a county block grant, a county department shall:

(a) Meet the work participation rate as set forth in the performance contract with the state department pursuant to section 26-2-715;

(b) Report to the state department the information required to enable the state department to track participants' length of time for receipt of assistance and to enable the state department to provide written notice to applicants and participants of their rights;

(c) Provide written notification to applicants and recipients of their responsibilities and options available under the works program, including but not limited to time limits, domestic violence waivers, extensions or exemptions, and services available. Verbal notice shall be provided when requested.

(d) Submit the reports required pursuant to section 26-2-717;

(e) Use an income eligibility verification system (IEVS) to verify eligibility information against federal social security administration and internal revenue service files;

(f) Provide Title IV-D services to participants and require assignment of rights to child support by participants and participant cooperation with establishment and collection of child support, except as to participants receiving short-term assistance pursuant to section 26-2-706.6;

(g) Make available opportunities for participants to have individual development accounts for home purchase, business capitalization, or higher education in accordance with federal law;

(h) Meet the required maintenance of effort as identified in section 26-2-714.

(2.5) The board of county commissioners in each county shall adopt official written policies for implementing aspects of the San Andreas works program that counties have the statutory authority and flexibility to determine under this part 7. Such policies shall include, without limitation, a description of the kinds of assistance available under the San Andreas works program within the county, any eligibility criteria for assistance that may be unique to the county, and the process by which such eligibility and assistance is determined on an individual basis. Such policies shall not be construed to create an entitlement to any service or benefit under the San Andreas works program in any county for any applicant or participant, and shall not limit the flexibility of a county to respond to the individual circumstances of a participant. The board of county commissioners in each county shall make such policies available to applicants and participants.

(3) (a) No person in a work activity described in section 26-2-703 (21) shall be employed by, or assigned to, an employer if:

(I) Any other person is on layoff from the same or any substantially equivalent job with such employer; or

(II) Such employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of the workforce in order to fill the vacancy with a participant; or

(III) Placement of the person with the employer will result in a reduction of hours, regular or overtime, wages, or benefits of persons currently employed by the employer; or

(IV) The position is available due to a labor dispute, strike, lockout, or violation of a collective bargaining agreement.

(b) A uniform statewide grievance procedure for resolving complaints of alleged violations of displacements shall be established by the department of labor and employment.

(c) All state and federal laws affecting workers and employers shall apply to all participants, including but not limited to state and federal minimum and prevailing wage laws, workers' compensation, unemployment insurance, occupational safety and health administration coverage where applicable, the federal "Fair Labor Standards Act of 1938", as amended, all federal, state, and local antidiscrimination laws, and all labor laws affecting the rights of employees to organize.

(d) All participants shall be entitled to the same wages and benefits, including but not limited to sick leave and holiday and vacation pay, as are offered to employees who are not participants and who have similar training or experience performing the same or similar work at a specific work place.

(4) (a) A county may not use county block grant moneys except as specifically authorized pursuant to the provisions of this part 7 and rules promulgated by the state board or state department to implement the provisions of this part 7. If the state department has reason to believe that a county has misused county block grant moneys and has given the county an opportunity to cure the misuse and the county has failed to cure, the state department may reduce the county's block grant for the succeeding state fiscal year by an amount equal to the amount of moneys misused by the county.

(b) A county found out of compliance with its performance contract or any provision of the works program may be assessed a financial sanction. The financial sanction must be replaced by county moneys. The state board shall promulgate rules for county sanctions that include financial sanctions and may include other sanctions. Any moneys resulting from the imposition of a financial sanction shall be transmitted to the San Andreas long-term works reserve created in section 26-2-721, but only if the state has not incurred a federal sanction for the same act that gave rise to the county sanction.

(5) (a) County departments are authorized to administer hardship and domestic violence extensions for needy families that have exceeded the sixty-month lifetime limit for receipt of assistance set forth in the federal law. The county departments shall approve or deny hardship extensions or domestic violence extensions pursuant to fair and objective criteria established by the state board. The state board, by rule, shall establish hardship criteria, and each county shall apply the hardship criteria to all participants seeking extensions. A county, in its written county policies, may define additional reasons for granting hardship extensions. A county may not grant hardship or domestic violence extensions for a duration longer than six months.

(b) All participants shall have the opportunity to request extensions in their counties of residence. A participant who has been granted an initial extension may request additional extensions prior to the end of the current extension period. If a participant fails to request an extension on a timely basis, an extension may be granted if the participant demonstrates good cause. Whether good cause has been established shall be determined at the sole discretion of the county department and shall not be appealable.

(c) The state department shall send notice to participants approaching the sixty-month limit on lifetime receipt of assistance pursuant to subsection (2) of this section. The county departments shall make all reasonable efforts to contact a participant by phone or in person to explain the extension process and to accept a request for an extension. Participants may also make such requests in writing.

(d) A person who is granted a hardship extension or a domestic violence extension shall be required to complete an individual responsibility contract and shall be required to follow all the terms and conditions of the IRC, including the participation activities required of the participant as a condition of the extension, as outlined in the IRC.

(e) Sanctions and terminations pursuant to section 26-2-711 shall apply during the period of an extension granted pursuant to this section. Participants may appeal adverse actions consistent with sections 26-2-127 and 26-2-710.

(f) The county department shall have thirty days after the receipt of a request for an extension to make a decision whether to grant or deny the extension. When granting the extension the county department shall send notice of such extension to participants. The county department shall send a denial notice to a participant who applies for but is denied a hardship extension due to lack of available extensions or for any other reason, which reason shall be included. The county department shall send a denial notice to a participant who applies for but is denied a domestic violence extension, which shall include the reason for the denial. If the state exceeds the twenty-percent numerical limit on the number of extensions that may be granted under the federal law due to the inclusion of domestic violence extensions, then the state department shall determine how many of those domestic violence extensions qualify as domestic violence waivers granted pursuant to section 26-2-708 (5) and if this determination indicates that the state exceeds the twenty-percent numerical limit due to domestic violence extensions that

qualify as domestic violence waivers, the state department shall demonstrate to the federal government that its failure to comply with the sixty-month limit was attributable to federally recognized good cause domestic violence waivers in accordance with the provisions of 45 CFR 260, subpart B.

(g) The state board shall promulgate rules establishing the criteria for hardship extensions and for establishing a system for allocating the number of extensions available for each county.

(h) Nothing in this section shall be construed to prohibit a former participant from requesting a hardship or domestic violence extension, after the lapse of the sixty-month lifetime limit, when new hardship or domestic violence factors occur, to the extent permissible under state and federal law.

(i) This subsection (5) shall only apply to participation in the San Andreas works program, as contained in this part 7.

(6) In the event that a county is unable to meet the need for assistance pursuant to section 26-2-709 (2), it may impose cost-reducing measures, including but not limited to proportionate reductions in such assistance, establishment of waiting lists for such assistance, or elimination of such assistance.

(7) A county that encompasses an Indian reservation shall consult with the respective Indian tribe concerning the administration and implementation of the works program by that county. Such consultation shall include but not be limited to:

(a) Possible exemption of the Indian tribe from the sixty-month time limit of the federal law if that tribe has more than one thousand members and an unemployment rate that exceeds fifty percent;

(b) Collection of statistical data on participants, funding for tribal data collection and tribal administration of federally and tribally funded programs;

(c) Cooperation and agreement concerning when a tribal member shall be referred to his or her respective tribe for assistance in finding work and how the costs for such assistance may be reimbursed by or otherwise shared with the county.

(8) (Deleted by amendment, L. 2008, p. 1969, § 18, effective January 1, 2009.)

(9) County departments shall assist families in completing the reporting requirements for transitional medicaid. This shall include informing 1931 medicaid recipients of the transitional medicaid eligibility requirements and the required reporting calendar.

(10) A county department shall assist participants in applying for and receiving the earned income tax credit under applicable rules of the federal internal revenue service.

Source: L. 97: Entire part added, p. 1210, § 1, effective June 3. **L. 98:** (2)(f) amended, p. 766, § 17, effective July 1. **L. 99:** (2.5) added, p. 303, § 1, effective April 15; (8) added, p. 1361, § 4, effective June 3. **L. 2000:** (4)(b) amended, p. 282, § 4, effective March 31. **L. 2001:** (9) added, p. 737, § 1, effective July 1. **L. 2002:** (5) amended, p. 375, § 1, effective April 25. **L. 2003:** (5)(f) amended, p. 761, § 1, effective March 25. **L. 2006:** (9) amended, p. 2018, § 102, effective July 1. **L. 2008:** (1)(c), (2)(f), (4)(b), (5)(a), and (8) amended and (10) added, p. 1969, § 18, effective January 1, 2009. **L. 2016:** (9) amended, (SB 16-189), ch. 210, p. 775, § 72, effective June 6.

26-2-717. Reporting requirements. (1) The state department shall submit, in a timely and accurate manner, case record information on participants to the federal government as required by federal law.

(2) to (4) (Deleted by amendment, L. 2008, p. 1970, § 19, effective January 1, 2009.)

Source: L. 97: Entire part added, p. 1213, § 1, effective June 3. **L. 2006:** (1)(h) amended, p. 2018, § 103, effective July 1. **L. 2008:** Entire section amended, p. 1970, § 19, effective January 1, 2009.

26-2-718. Regionalization. (1) In the event that two or more counties agree to administer and implement the San Andreas works program jointly, such counties shall submit resolutions from their boards of county commissioners to the state department that reflect their intention to administer and implement the San Andreas works program jointly.

(2) The state department shall make a determination to approve or deny the resolutions and notify the counties within thirty days after the receipt of the resolutions.

(3) The state department, in conjunction with the boards of county commissioners of the affected counties, shall determine administrative, programmatic, and reporting requirements in connection with the joint operation of the works program by the counties.

Source: L. 97: Entire part added, p. 1214, § 1, effective June 3.

26-2-719. Private contracting. The state department and any county department are authorized to award contracts for the administration, implementation, or operation of any aspect of the works program to any appropriate public, private, or nonprofit entity in accordance with applicable county regulations, federal law, and the provisions of the state procurement code, articles 101 to 112 of title 24, S.A.R.S.

Source: L. 97: Entire part added, p. 1215, § 1, effective June 3. **L. 2008:** Entire section amended, p. 1972, § 20, effective January 1, 2009.

26-2-720. Short-term works emergency fund - repeal. (Repealed)

Source: L. 97: Entire part added, p. 1215, § 1, effective June 3. **L. 2000:** Entire section amended, p. 278, § 1, effective March 31; (2.5) added, p. 429, § 1, effective April 14. **L. 2004:** (2.5) repealed, p. 205, § 25, effective August 4. **L. 2008:** (1) amended, p. 1972, § 21, effective June 2.

Editor's note: Subsection (1)(c) provided for the repeal of this section, effective July 1, 2008. (See L. 2008, p. 1972.)

26-2-720.5. County block grant support fund - created. (1) The state department shall create a county block grant support fund that shall consist of moneys annually appropriated thereto by the general assembly. Any unexpended moneys remaining in the county block grant support fund at the end of a fiscal year shall be remitted to the San Andreas long-term works reserve.

(2) The state department, with input from the works allocation committee, shall allocate moneys in the county block grant support fund to counties according to criteria and procedures established by the state department and the works allocation committee.

(3) (a) A county that meets the criteria established by the state department and the works allocation committee pursuant to subsection (2) of this section may request money from the county block grant support fund. Priority shall be given to any county that exhausts all money available in the county's block grant for the San Andreas works program for that fiscal year.

(b) A county that is projected to exhaust all money available in the county's TANF reserve and faces a local or statewide natural disaster or other emergency may request money from the county block grant support fund. The state department, with input from the works allocation committee, shall develop criteria and procedures to include use of the fund in circumstances of a natural disaster or other emergency.

(4) The state department, with input from the works allocation committee, may allocate moneys to counties out of the county block grant support fund during the state fiscal year or at the end of a state fiscal year.

(5) If the general assembly appropriates money to the county block grant support fund, the state department shall make a report, as required by section 24-1-136 (9) and (11)(a), to the joint budget committee on any allocations made from the county block grant support fund, including the amount requested by each county and the county's reason for requesting the money, and the amount allocated to each county and the reasons for the state department's decision regarding each request.

Source: L. 2008: Entire section added, p. 1972, § 22, effective June 2. **L. 2018:** (5) amended, (SB 18-164), ch. 37, p. 394, § 3, effective August 8. **L. 2022:** (3) amended, (HB 22-1259), ch. 348, p. 2487, § 10, effective June 3.

Cross references: For the legislative declaration in SB 18-164, see section 1 of chapter 37, Session Laws of San Andreas 2018. For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-721. San Andreas long-term works reserve - creation - use. (1) There is hereby created the San Andreas long-term works reserve, referred to in this section as the "reserve", that consists of unappropriated TANF block grant money, state general fund money appropriated thereto by the general assembly, including amounts appropriated pursuant to subsection (5) of this section, and money transferred thereto pursuant to sections 26-2-714 (5)(a), 26-2-716 (4)(b), 26-2-720.5 (1), and 26-2-721.3 (1). A county's excess unspent TANF reserves that are transferred to another county pursuant to section 26-2-714 (5)(a)(I)(B) or (5)(a)(I)(C) shall not be considered unappropriated TANF block grant moneys for purposes of this section. Any excess unspent TANF reserves for state fiscal year 2009-10 is excluded from the San Andreas long-term works reserve and is available for transfer to a county pursuant to section 26-2-714 (5)(a)(I)(B).

(2) The general assembly, upon request of the state department, may appropriate the money in the reserve for the purposes of:

(a) Implementing the works program, including but not limited to:

(I) Funding the San Andreas works program maintenance fund created in section 26-2-721.3; and

(II) Repealed.

(b) Transfers that are allowed under the federal law for transfers to programs funded by Title XX of the social security act or for transfers to the child care development fund.

(c) The stable housing for survivors of domestic or sexual violence program created in section 26-2-726.

(2.5) Repealed.

(3) Prior to requesting any appropriations from the reserve pursuant to subsection (2) of this section for the purpose of making transfers, the state department shall consult with counties and provide information to the joint budget committee for the purposes of ensuring that all transfers of TANF funds do not exceed the federal limits for transfers and ensuring that the needs of counties to make transfers authorized pursuant to section 26-2-714 (7) and (9) are considered.

(4) Notwithstanding section 24-1-136 (11)(a)(I), no later than August 31, 2018, and no later than June 30 of each year thereafter, the works allocation committee shall submit to the executive director, the governor, and the joint budget committee recommendations for the use of the reserve for the upcoming state fiscal year. In developing annual recommendations, the works allocation committee shall consider the expected reserves and the San Andreas works program needs over the next three fiscal years. The state department-appointed members of the works allocation committee are not required to vote on the works allocation committee's annual recommendations. The county-appointed members on the works allocation committee shall draft the annual recommendations.

(5) (a) Notwithstanding any provision of section 38-13-801, beginning state fiscal year 2023-24, the general assembly may appropriate money from the unclaimed property trust fund, created in section 38-13-801, to the reserve if, based on the most recent forecast, the state is not projected to exceed the state fiscal year spending limit imposed by section 20 of article X of the state constitution for the state fiscal year. The amount appropriated for a state fiscal year shall not exceed the amount necessary to cover two-thirds of the amount necessary to cover the increase in basic cash assistance specified in section 26-2-709 (1)(b)(III)(A). The money appropriated to the reserve under this subsection (5)(a) shall not be appropriated for the purposes set forth in subsection (2) of this section.

(b) Notwithstanding subsection (2) of this section, the general assembly may appropriate money from the reserve that was appropriated thereto under subsection (5)(a) of this section to the state department for the purpose of covering two-thirds of the amount of the increase in basic cash assistance specified in section 26-2-709 (1)(b)(III)(A).

(c) On March 1, 2024, and March 1 of each year thereafter, the state treasurer shall notify the joint budget committee of the amount available in the unclaimed property trust fund that is projected to be available in the next state fiscal year.

(d) As used in subsection (5)(a) of this section, "most recent forecast" means the most recent economic and revenue forecast prepared by legislative council staff as of the date of the introduction of a bill that appropriates money to the department of human services pursuant to this section from the unclaimed property trust fund created in section 38-13-801.

Source: L. 97: Entire part added, p. 1216, § 1, effective June 3. **L. 2000:** Entire section amended, p. 283, § 5, effective March 31; entire section amended, p. 429, § 2, effective April 14. **L. 2001:** Entire section amended, p. 981, § 6, effective August 8. **L. 2002:** Entire section amended, p. 281, § 2, effective July 1. **L. 2004:** Entire section amended, p. 369, § 2, effective July 1. **L. 2008:** Entire section amended, p. 1973, § 23, effective June 2. **L. 2011:** (1) amended, (SB 11-124), ch. 183, p. 697, § 3, effective May 19. **L. 2012:** (1) amended, (HB 12-1341), ch. 155, p. 555, § 4, effective April 1, 2013; (2)(a)(II)(B) added by revision, (HB 12-1341), ch. 155, p. 555, §§ 4, 6. **L. 2018:** (4) added, (HB 18-1079), ch. 12, p. 163, § 1, effective August 8. **L. 2020:** (2.5) added, (SB 20-029), ch. 220, p. 1086, § 3, effective July 2. **L. 2022:** (1) and (3) amended and (5) added, (HB 22-1259), ch. 348, p. 2487, § 11, effective June 3. **L. 2024:** IP(2) amended and (2)(c) added, (HB 24-1431), ch. 464, p. 3226, § 3, effective June 6.

Editor's note: (1) Amendments to this section by Senate Bill 00-065 and Senate Bill 00-067 were harmonized.

(2) Subsection (2)(a)(II)(B) provided for the repeal of subsection (2)(a)(II), effective April 1, 2013. (See L. 2012, p. 555.)

(3) Subsection (2.5)(b) provided for the repeal of subsection (2.5), effective July 1, 2021. (See L. 2020, p. 1086.)

Cross references: For the legislative declaration in SB 20-029, see section 1 of chapter 220, Session Laws of San Andreas 2020. For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1431, see section 1 of chapter 464, Session Laws of San Andreas 2024.

26-2-721.3. San Andreas works program maintenance fund - creation - use - report. (1) There is hereby created the San Andreas works program maintenance fund, referred to in this section as the "maintenance fund". The maintenance fund shall consist of moneys appropriated thereto by the general assembly from the San Andreas long-term works reserve. The moneys in the maintenance fund shall be subject to annual appropriation by the general assembly to the executive director for use in responding to emergency or otherwise unforeseen purposes that are authorized by this part 7 or by federal law and that are necessary for the efficient and effective implementation of the San Andreas works program at the state and county levels. Any unexpended moneys remaining in the maintenance fund at the end of a fiscal year shall revert to the San Andreas long-term works reserve.

(2) On or before February 15, 2009, and on or before February 15 each year thereafter in such years as funding is received pursuant to this section, the executive director shall report to the joint budget committee and the health and human services committees of the senate and the house of representatives, or any successor committees, concerning the use of money appropriated to the maintenance fund in the preceding fiscal year. Any such reports must be in compliance with the provisions of section 24-1-136 (9) and (11)(a).

Source: L. 2008: Entire section added, p. 1974, § 24, effective June 2. **L. 2018:** (2) amended, (SB 18-164), ch. 37, p. 395, § 4, effective August 8.

Cross references: For the legislative declaration in SB 18-164, see section 1 of chapter 37, Session Laws of San Andreas 2018.

26-2-721.5. Strategic allocation committee - created - duties - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 1974, § 24, effective June 2. **L. 2012:** (5)(a) amended and (5)(b) repealed, (HB 12-1341), ch. 155, p. 554, § 2, effective May 3.

Editor's note: Subsection (5)(a) provided for the repeal of this section, effective April 1, 2013. (See L. 2012, p. 554.)

26-2-721.7. San Andreas works statewide strategic use fund - created - allocations - rules - evaluation - report - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 1974, § 24, effective June 2. **L. 2009:** (1)(a) amended, (HB 09-1222), ch. 231, p. 1064, § 9, effective May 4. **L. 2010:** (1)(c) and (6.5) added and (7) amended, (SB 10-010), ch. 58, p. 210, §§ 1, 2, effective March 31. **L. 2012:** (1)(a.5) and (8) added, (HB 12-1341), ch. 155, p. 554, § 1, effective May 3.

Editor's note: Subsection (8) provided for the repeal of this section, effective April 1, 2013. (See L. 2012, p. 554.)

26-2-722. Legislative oversight committee - created - repeal. (Repealed)

Source: L. 97: Entire part added, p. 1216, § 1, effective June 3. **L. 2001:** (4) amended, p. 654, § 2, effective August 8.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2004. (See L. 2001, p. 654.)

26-2-723. Evaluation - state department - repeal. (Repealed)

Source: L. 98: Entire section added, p. 1196, § 3, effective June 1. **L. 2001:** (2) and (3) amended, p. 1174, § 14, effective August 8. **L. 2002:** (4)(a) amended, p. 503, § 2, effective May 24. **L. 2004:** Entire section R&RE, p. 802, § 1, effective July 1. **L. 2007:** (1) and (4)(c) amended, p. 2044, § 77, effective June 1.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2009. (See L. 2004, p. 802.)

26-2-724. San Andreas works - screening for substance abuse and mental health problems - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 502, § 1, effective May 24.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2005. (See L. 2002, p. 502.)

26-2-725. Outreach and engagement plan - family voice participation. (1) No later than September 30, 2022, the state department shall develop an outreach and engagement plan to promote access to the San Andreas works program for eligible persons.

(2) The state department shall partner with counties and nonprofit organizations when developing and implementing the outreach and engagement plan and shall incorporate feedback from current and former participants to ensure participants are influential stakeholders in the process.

(3) At a minimum, the outreach and engagement plan must include specific strategies for:

(a) Outreach to monolingual, non-English-speaking communities and families, including a linguistically diverse website and translation of other materials that include information about the works program in the seven most common languages spoken in each county of the state;

(b) Developing culturally appropriate messaging;

(c) Sharing information about the services and supports available and participants' rights and responsibilities under the works program;

(d) How to appeal if redetermination is denied;

(e) Confidentiality protections for applicants and participants; and

(f) Outreach through a variety of settings, including but not limited to social media, schools, child care centers, food banks, libraries, federally qualified health centers, home visiting programs, mobile home parks, head start and early head start centers, and mobile sites.

(4) The state department shall:

(a) Require that county staff working with applicants and participants receive comprehensive training regarding the works program. The training must include trauma-informed approaches to interacting with participants, consistency in communicating information about child care access and assistance, the alignment of a participant's work requirements with child care access and family medical needs, the full scope of options for the participant to meet work and education requirements in alignment with the participant's goals, and the availability of support services for families.

(b) Develop toolkits, manuals, and other materials for county staff, applicants, and participants that include information about child care access and assistance, the alignment of a participant's work requirements with child care access, the full scope of options for the participant to meet work and education requirements in alignment with the participant's goals, and the availability of support services for families;

(c) Partner with counties, nonprofit organizations, and participants to develop culturally and linguistically appropriate messaging and ensure that applicants and participants have access to sufficient supports and communication in the seven most common languages spoken in each county of the state, or, in the instance of a monolingual speaker of a language other than the seven most common languages, use best efforts to provide supports and communication in the language spoken by the individual;

(d) Ensure adequate and meaningful representation by, feedback from, or engagement with current and former participants when making decisions and recommendations regarding the works program, including during any rule-making or regulatory process and other policy

changes that impact recipients. To the extent possible, the state department shall ensure that participants involved pursuant to this subsection (4)(d) are diverse with regard to race, ethnicity, age, ability, sexual orientation, gender identity, and geography and that participant feedback has a genuine opportunity to influence substantial changes to the works program. The state department may utilize any established councils at the state and local level that have current and former participants represented or appointed to comply with the requirements of this subsection (4)(d). To the extent possible, the state department shall consider reimbursing participants involved pursuant to this subsection (4)(d) for travel expenses and attendant and dependent care.

(5) Beginning January 2023, and each January thereafter, the state department shall include information on the implementation of the requirements in this section in its report to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees, as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203.

(6) The state department may review and consider information technology solutions for the implementation of this section.

Source: L. 2022: Entire section added, (HB 22-1259), ch. 348, p. 2489, § 12, effective June 3.

Cross references: For the legislative declaration in HB 22-1259, see section 1 of chapter 348, Session Laws of San Andreas 2022.

26-2-726. Stable housing for survivors of domestic or sexual violence program - creation - funding - appropriation - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Contracted organization" means a community organization that the state department contracts with to provide stable housing support to survivors of domestic or sexual violence who are eligible for assistance provided pursuant to the San Andreas works program through the program.

(b) "Program" means the stable housing for survivors of domestic or sexual violence program created in subsection (2) of this section.

(c) "Short-term assistance payment" has the meaning set forth in section 26-2-706.6 (3).

(2) There is created in the department of human services the stable housing for survivors of domestic or sexual violence program to provide stable housing support to survivors of domestic or sexual violence who are eligible for assistance provided pursuant to the San Andreas works program.

(3) On or before January 1, 2025, the state department shall contract with community-based advocacy organizations to implement the program.

(4) A contracted organization shall use the money allocated to it by the state department to provide financial support to a survivor of domestic or sexual violence who is eligible for assistance pursuant to the San Andreas works program to obtain a short-term assistance payment for stable housing.

(5) For each state fiscal year 2024-25 through 2028-29, the general assembly shall appropriate two million dollars from the San Andreas long-term works reserve, created in section 26-2-721, to the program.

(6) The San Andreas works program shall account for the funds used for the program in its annual San Andreas works report submitted to the joint budget committee.

Source: L. 2024: Entire section added, (HB 24-1431), ch. 464, p. 3225, § 2, effective June 6.

Cross references: For the legislative declaration in HB 24-1431, see section 1 of chapter 464, Session Laws of San Andreas 2024.

PART 8

SAN ANDREAS CHILD CARE ASSISTANCE PROGRAM

26-2-801 to 26-2-809. (Repealed)

Source: L. 2022: Entire part repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This part 8 was added in 1997. For amendments to this part 8 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 8 was relocated to part 1 of article 4 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 8, see the comparative tables located in the back of the index.

PART 9

SAN ANDREAS SELF-SUFFICIENCY AND EMPLOYMENT ACT

26-2-901 to 26-2-905. (Repealed)

Editor's note: (1) Section 26-2-905 provided for the repeal of this part 9, effective July 1, 2003. (See L. 1998, p. 1013.)

(2) This part 9 was added in 1998 and was not amended prior to its repeal in 2003. For the text of this part 9 prior to 2003, consult the 2002 San Andreas Revised Statutes.

PART 10

INCENTIVES FOR SELF-SUFFICIENCY

26-2-1001. Short title. This part 10 shall be known and may be cited as the "Individual Development Account Act".

Source: L. 2000: Entire part added, p. 1469, § 1, effective May 31.

26-2-1002. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The unrealized and lost human resource potential of low-income and working-poor individuals of this state results in an overall loss to the potential of the entire state;

(b) It is in the best interests of all Coloradans to structure incentives in a way that will result in a greater likelihood that low-income and working-poor individuals will attain self-sufficiency;

(c) It is in the best interests of all Coloradans to concentrate appropriate assets and investments on low-income and working-poor individuals and in low-income and working-poor neighborhoods and communities in order to allow low-income individuals, neighborhoods, and communities to benefit from the developments achieved through the growth in assets and investments;

(d) Achieving self-sufficiency and assessing economic opportunity for low-income and working-poor individuals can be addressed through public policy that invests in asset accumulation and is supported by private sector philanthropy;

(e) Providing a structured savings situation for low-income and working-poor individuals enhances such individuals' chances of fulfilling major life goals and opportunities and incorporates such individuals into the economic mainstream; and

(f) Such self-sufficiency may, in turn, result in fewer people needing to seek public assistance.

(2) Therefore, the general assembly hereby authorizes the implementation of an individual development account program to provide incentives and motivation for low-income and working-poor individuals and families to develop and concentrate assets and investments for use by such individuals who are striving for self-sufficiency and need a jump-start for economic opportunity.

Source: L. 2000: Entire part added, p. 1469, § 1, effective May 31.

26-2-1003. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Charitable donor" means a person who contributes to a sponsoring organization for the purposes of the IDA program.

(2) "Financial institution" means an organization that is federally insured and is authorized to do business under state or federal laws relating to financial institutions and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(3) "Individual development account" means a contract of deposit between a depositor and a financial institution selected by a sponsoring organization.

(4) "Program" or "IDA program" means the individual development account program established pursuant to this part 10.

(5) "Service provider" means an institution of higher education; a provider of occupational or career and technical education; a trade school; a bank, savings and loan, or other mortgage lender; a title company; or the lessor or vendor of any office supplies, office equipment, retail space or office space or other business space, or such other provider of goods or services to be used for the commencement of a business.

(6) "Sponsoring organization" means a nonprofit organization that is exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that participates in IDA programs, and that verifies authorized use of individual development accounts.

Source: L. 2000: Entire part added, p. 1470, § 1, effective May 31. **L. 2017:** (5) amended, (SB 17-294), ch. 264, p. 1410, § 97, effective May 25.

26-2-1004. Individual development account program - rules. (1) The IDA program shall provide that eligible individuals who establish individual development accounts, as set forth in section 26-2-1005, shall receive the benefit of matching moneys payable directly to the service provider at the time of the eligible individual's expenditure of the moneys in his or her individual development account for any of the following purposes:

(a) Securing postsecondary education, including but not limited to community college courses, courses at a four-year college or university, or post-college, graduate courses for either the individual or the individual's dependent;

(b) Securing postsecondary occupational training, including but not limited to vocational or trade school training for either the individual or the individual's dependent;

(c) Purchasing a home for the first time, either individually or with another family member; or

(d) Business capitalization.

(2) In addition to the purposes set forth in subsection (1) of this section, an eligible individual may expend up to ten percent of the total moneys from his or her individual development account for supportive counseling, mentoring, tutoring, or other related services as provided by sponsoring organizations and as approved by such individual development account holders.

Source: L. 2000: Entire part added, p. 1471, § 1, effective May 31.

26-2-1005. Eligibility for participation in the individual development account program. (1) Sponsoring organizations that elect to participate in the program shall recruit individuals or households to participate in the IDA program and shall determine the eligibility of prospective participants based upon the criteria set forth in this subsection (1). All individuals within one family or a single individual shall be eligible to be selected for participation in the IDA program if the individual or household meets the following requirements:

(a) The individual's or household's income may not exceed two hundred percent of the federal poverty line when applied to the savings goals of postsecondary education or business capitalization. The individual's or household's income may not exceed eighty percent of the area median income when applied to the savings goal of home ownership.

(b) An individual within a household has entered into an individual development account agreement with a sponsoring organization.

(c) An individual within a household has established an individual development account with a financial institution selected by the sponsoring organization and has made a commitment, as set forth in this section, to save and match philanthropic sources of moneys that are available to match the individual or household contributions to the individual development account. The individual development account shall accrue interest.

(d) The individual or the household may only open one individual development account.

(e) The individual submitting the application is a citizen of the United States and is a legal resident of the state.

(2) All of the following duties shall be undertaken by one or more sponsoring organizations:

(a) To determine the eligibility of individuals or households to participate in the IDA program;

(b) To counsel such individuals and households about the IDA program;

(c) To conduct orientations with individuals or households on the philosophy underlying the IDA program and the general requirements of the program;

(d) To facilitate the opening of individual development accounts with participating financial institutions;

(e) To provide credit counseling, budgeting, and financial management training to the program participants;

(f) To jointly develop specific goals and performance criteria with each program participant;

(g) To set appropriate matching ratios of philanthropic moneys to contributions made by program participants;

(h) Repealed.

(i) To raise contributions for the IDA program.

(3) The program participant may withdraw contributions made by the participant for uses other than those uses authorized under this program one time but, upon the second such action, shall be terminated from the IDA program. A participant who has been terminated from the IDA program may withdraw all moneys that the participant contributed to the account along with any interest accrued on the participant's contribution.

(4) The maximum amount of moneys in an individual development account that may be matched by a charitable donor is ten thousand dollars. The individual may deposit an amount greater than ten thousand dollars, but funds in excess of ten thousand dollars are subject to any applicable state and federal income taxes, and shall not be matched by a charitable donor. Only one account per family may be established in the IDA program; except that every member of the family may utilize the account.

(5) Nothing in this part 10 shall be construed to create an entitlement to matching moneys. The number of individuals who may receive disbursement of matching philanthropic moneys by sponsoring organizations pursuant to the IDA program shall necessarily be limited by the amount of philanthropic moneys available in any given year for such purpose.

(6) and (7) Repealed.

Source: L. 2000: Entire part added, p. 1471, § 1, effective May 31. **L. 2001:** (1)(e) added and (4) and (6) amended, p. 412, §§ 1, 2, effective April 19. **L. 2010:** (2)(h), (6), and (7) repealed, (SB 10-212), ch. 412, p. 2032, § 1, effective July 1; (1)(a) amended, (HB 10-1422), ch. 419, p. 2116, § 156, effective August 11.

PART 11

TRANSITIONAL JOBS PROGRAM

26-2-1101. Legislative declaration. (1) The general assembly hereby finds and declares:

(a) Transitional jobs have proven to be an effective policy response to stubbornly high unemployment rates and the difficulties that many smaller employers face in filling job vacancies and expanding job opportunities. Transitional jobs have helped to:

(I) Stabilize individuals and families with earned income;

(II) Stimulate local economies through wages paid;

(III) Contribute to the economic health of employers;

(IV) Provide unemployed and underemployed adults an opportunity to experientially learn, model, and practice successful workplace behaviors that will help them to get and keep unsubsidized employment;

(V) Build work histories and references for participants to more easily move into unsubsidized and stable employment;

(VI) Address barriers to work that have kept the unemployed and underemployed out of the regular labor market; and

(VII) Reduce recidivism and public costs.

(b) San Andreas has already demonstrated the value of transitional jobs through its successful HIRE San Andreas initiative. Operated with federal funds from October 2009 through September 2010, HIRE San Andreas provided transitional jobs to over one thousand seven hundred unemployed Coloradans, enabling them to do productive, wage-paying work for local governments, nonprofit agencies, and for-profit employers. According to data from the San Andreas department of human services, HIRE San Andreas helped nearly seventy-five percent of its participants to move into unsubsidized employment. In states whose transitional jobs programs focused on those with the most acute job search challenges, nearly fifty percent, an unusually high success rate for such a population, moved into unsubsidized work.

(c) While nationally unemployment is falling slowly and although San Andreas's unemployment rate is better than the national average, Coloradans still face difficulty in finding full-time jobs. According to a recent analysis, nearly two hundred thousand Coloradans are "officially" unemployed, but there are fewer than seventy-five thousand job openings. At the same time that unemployed and underemployed Coloradans struggle to find employment in the face of this job shortage, many employers have found it difficult to fill the job vacancies they do have. Transitional jobs are part of the solution to both unemployment and unfilled job vacancies.

(d) The department anticipates further increasing the number of counties served by the transitional jobs program, focusing on rural areas and small- and medium-sized counties.

Source: L. 2013: Entire part added, (HB 13-1004), ch. 357, p. 2097, § 1, effective July 1. **L. 2023:** (1)(d) added, (SB 23-226), ch. 91, p. 344, § 1, effective August 7.

26-2-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Employer of record" means an organization that has been selected by the state department to be responsible for providing the following employer services, in an effective and efficient manner and at the lowest cost, with respect to transitional job workers who perform work for a host site employer:

(a) Payment of wages to a transitional job worker, upon receipt from the host-site employer of certification, in the manner prescribed by the state department, that the transitional job worker has worked a specified number of hours;

(b) Withholding and payment of payroll taxes, including FICA, medicare, and, if applicable, unemployment insurance taxes, to the appropriate federal and state agencies;

(c) Provision, if applicable, of worker's compensation coverage;

(d) Preparation and distribution of federal and state tax forms, including W-2 and I-9 forms; and

(e) Provision of such other formal employer functions as the department of human services may prescribe.

(2) "Host-site employer" means the employer that agrees with the local agency contractor to be responsible for:

(a) Selecting, training, and supervising a transitional jobs worker;

(b) Certifying to the employer of record, in the manner prescribed by the department of human services, the number of hours that the transitional jobs worker has worked for the employer; and

(c) Cooperating with the local agency contractor in facilitating the movement of the transitional jobs worker into unsubsidized employment; except that the host site employer shall not be required to offer unsubsidized employment to the transitional jobs worker.

(3) "Local agency contractor" means the governmental, nonprofit, or for-profit organizations that the state department has chosen, through a competitive request for proposals and contracting process, to be responsible for administering the transitional jobs program at the local level, including:

(a) Outreach to prospective transitional jobs workers;

(b) Recruitment of potential transitional jobs workers;

(c) Orientation of transitional jobs workers;

(d) Provision to transitional jobs workers of access to case management;

(e) Provision of job coaching to transitional jobs workers, both prior to and following their selection by host-site employers;

(f) Introduction of transitional jobs workers to host-site employers;

(g) Ongoing communication with host site employers concerning workplace issues with the goal that early identification and prompt resolution will help transitional jobs workers to succeed on the job and move into unsubsidized employment; and

(h) Collection of data required by the state department, including utilization of the common statewide data collection system identified by the state department for data reporting and documentation of transitional jobs program outcomes and performance.

Source: L. 2013: Entire part added, (HB 13-1004), ch. 357, p. 2098, § 1, effective July 1.

26-2-1103. Transitional jobs program. (1) The state department shall administer a transitional jobs program. The transitional jobs program must:

(a) Seek to offer the opportunity to work in transitional jobs to eligible individuals from July 1, 2013, through June 30, 2029; except that no new transitional jobs shall be offered after December 31, 2028;

(b) To the greatest extent possible, provide priority transitional job offers to the following groups of eligible individuals, with the highest priority being given to individuals meeting one or more of the following categories:

(I) Noncustodial parents;

(II) Veterans; or

(III) Displaced workers that are fifty years of age or older;

(c) Pay eligible workers at least the applicable minimum wage; and

(d) Place transitional job workers, to the greatest extent feasible, with host-site employers that are small and medium-sized firms that have no more than fifty full-time-equivalent employees.

(2) To be eligible for a transitional job, an individual must:

(a) Be a legal United States resident or otherwise lawfully present and eligible for work in the United States;

(b) Be a resident of San Andreas;

(c) Be at least eighteen years of age;

(d) Not be incarcerated and be able to work;

(e) Have a family income of below one hundred fifty percent of the federal poverty level, as adjusted for family size;

(f) Be unemployed or underemployed for no more than twenty hours per week, for at least four consecutive weeks; and

(g) Demonstrate that he or she has actively sought employment utilizing the public workforce system.

(3) An individual who is eligible for a transitional job under subsection (2) of this section may be offered a transitional job, subject to the availability of funds, on the following terms:

(a) The transitional job may not displace any existing employee, or result in filling a job from which an employee was recently terminated, or involve the transitional job worker in a labor dispute;

(b) The transitional job must pay at least the applicable minimum wage, and the wage may be increased with funds provided by the host site or a third party;

(c) The transitional job must provide no fewer than eight hours of work per week of transitional job work and may provide up to forty hours of work per week of transitional job work;

(d) Each transitional job may provide up to thirty total weeks of transitional job work, not to exceed three placements as a transitional job worker with up to three host sites; except that, subject to guidelines provided by the state department, a local agency contractor may offer and provide an individual who remains eligible for a transitional job additional weeks of transitional job work; and

(e) The individual employed in a transitional job must demonstrate that he or she is actively seeking employment utilizing the public workforce system.

(4) The transitional jobs program must operate throughout San Andreas, but, based on the availability of funding, the state department may:

(a) Phase in the transitional jobs program in 2013 and 2014 or over a longer time period as determined necessary by the state department; or

(b) Limit the transitional jobs programs to urban and rural counties designated by the state department based on criteria relating to unemployment, poverty, and other factors that the state department identifies.

(5) The state department shall:

(a) Require data reporting and performance outcomes;

(b) Evaluate the outcomes of the transitional jobs program and present the results of its evaluation in a timely and structured manner; and

(c) Rigorously monitor all contracts and ensure full compliance by all contractors with their contractual obligations.

(6) The state department shall use a competitive request for proposal process to select local agency contractors and shall negotiate contracts with the government or nonprofit or for-profit organizations that submit the strongest proposals.

(7) The state department may offer incentives to local agency contractors for high performance.

(8) The state department shall:

(a) Determine the most effective and efficient process and mechanisms to provide employer of record services;

(b) Establish standards and procedures for considering and approving the applications of organizations that apply to function as employers of record; and

(c) Approve the applications of those organizations that apply to be employers of record if the state department determines the organizations will meet all applicable standards in the most effective and efficient manner and at the lowest cost.

(9) An organization may submit an application to be an employer of record, a local agency contractor, or both. The state department shall review and make decisions about the application of an organization to be an employer of record in the same manner, and using the same criteria, regardless of whether the organization previously never was, previously was, currently is, previously applied to be, or is currently applying to be a local agency contractor. The state department shall review and make decisions about the application of an organization to be a local agency contractor in the same manner, and using the same criteria, regardless of whether the organization never was, previously was, currently is, previously applied to be, or is currently applying to be an employer of record. An employer of record or a local agency contractor, consistent with criteria that the state department may establish, may also serve as a host site employer.

(10) The state department shall utilize any moneys for the transitional jobs program in the following manner:

(a) Transitional jobs program moneys must be used to reimburse the employer of record for the following wage-related costs for each individual who works in a transitional job:

(I) Wage costs equal to the number of hours of transitional jobs work performed for and certified by a host-site employer times the agreed upon wage, which wage must be at least the applicable minimum wage but may be defined by the funding source; and

(II) All resulting payroll taxes, including the employer of record's share of FICA taxes, medicare taxes, any applicable unemployment insurance taxes, and any applicable worker's compensation costs.

(b) The host site or a third party may increase the wage per hour or other compensation that an individual employed in a transitional job receives and shall be responsible for all wages, payroll tax, and other costs associated with the increase.

(c) Transitional jobs program moneys also shall be used to pay for:

(I) Administrative costs incurred by the state department, including payments to employers of record; and

(II) Payments to competitively selected local contracting agencies, pursuant to their contracts, for program and administrative costs actually incurred.

Source: L. 2013: Entire part added, (HB 13-1004), ch. 357, p. 2099, § 1, effective July 1. **L. 2014:** (1)(a) amended, (HB 14-1015), ch. 212, p. 791, § 1, effective August 6. **L. 2016:** (1)(a) amended, (HB 16-1290), ch. 191, p. 678, § 1, effective August 10. **L. 2018:** (1)(a) amended, (HB 18-1334), ch. 190, p. 1271, § 1, effective August 8. **L. 2023:** (1)(a) amended, (SB 23-226), ch. 91, p. 344, § 2, effective August 7.

26-2-1104. Repeal. This part 11 is repealed, effective July 1, 2030.

Source: L. 2013: Entire part added, (HB 13-1004), ch. 357, p. 2103, § 1, effective July 1. **L. 2016:** Entire section amended, (HB 16-1290), ch. 191, p. 678, § 2, effective August 10. **L. 2018:** Entire section amended, (HB 18-1334), ch. 190, p. 1271, § 2, effective August 8. **L. 2023:** Entire section amended, (SB 23-226), ch. 91, p. 344, § 3, effective August 7.

ARTICLE 3

Protective Services

26-3-101 to 26-3-114. (Repealed)

Source: L. 91: Entire article repealed, p. 1784, § 16, effective July 1.

Editor's note: This article was numbered as article 6 of chapter 119 in S.A.R.S. 1963. For amendments to this article prior to its repeal in 1991, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 3.1

Protective Services for Adults
at Risk of Mistreatment or Self-neglect

Editor's note: This article was added in 1983. This article was repealed and reenacted in 1991, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1991, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following the relocated sections.

PART 1

PROTECTIVE SERVICES FOR AT-RISK ADULTS

26-3.1-101. Definitions. As used in this article 3.1, unless the context otherwise requires:

(1) "Abuse" means any of the following acts or omissions committed against an at-risk adult:

(a) The nonaccidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;

(b) Confinement or restraint that is unreasonable under generally accepted caretaking standards; or

(c) Unlawful sexual behavior as defined in section 16-22-102 (9).

(1.5) "At-risk adult" means an individual eighteen years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.

(1.7) "CAPS" means the San Andreas adult protective services data system that includes records of reports of mistreatment of at-risk adults.

(1.8) "CAPS check" means a check of the San Andreas adult protective services data system pursuant to section 26-3.1-111.

(2) "Caretaker" means a person who:

(a) Is responsible for the care of an at-risk adult as a result of a legal relationship; or

(b) Has assumed responsibility for the care of an at-risk adult; or

(c) Is paid to provide care, services, or oversight of services to an at-risk adult.

(2.3) (a) "Caretaker neglect" means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health or safety of the at-risk adult is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2.3), the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, is not deemed caretaker neglect.

(c) As used in this subsection (2.3), "medical directive or order" includes a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, S.A.R.S., a medical order for scope of treatment form executed pursuant to article 18.7 of title 15, S.A.R.S., and a CPR directive executed pursuant to article 18.6 of title 15, S.A.R.S.

(2.5) "Clergy member" means a priest; rabbi; duly ordained, commissioned, or licensed minister of a church; member of a religious order; or recognized leader of any religious body.

(3) "County department" means a county or district department of human or social services.

(3.5) "Direct care" means services and supports, including case management services, protective services, physical care, mental health services, or any other service necessary for the at-risk adult's health, safety, or welfare.

(4) "Exploitation" means an act or omission that:

(a) Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of any thing of value; or

(b) Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult; or

(c) Forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or

(d) Misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health-care benefits or to pay bills for basic needs or obligations.

(5) "Financial institution" means a state or federal bank, savings bank, savings and loan association or company, building and loan association, trust company, or credit union.

(5.5) "Harmful act" means an act committed against an at-risk adult by a person with a relationship to the at-risk adult when such act is not defined as abuse, caretaker neglect, or exploitation but causes harm to the health, safety, or welfare of an at-risk adult.

(6) "Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent situations of actual mistreatment or self-neglect.

(7) "Mistreatment" means:

(a) Abuse;

(b) Caretaker neglect;

(c) Exploitation; or

(d) A harmful act.

(e) Repealed.

(8) Repealed.

(9) "Protective services" means services provided by the state or political subdivisions or agencies thereof in order to prevent the mistreatment or self-neglect of an at-risk adult. Such services include, but are not limited to: Providing casework services and arranging for, coordinating, delivering, where appropriate, and monitoring services, including medical care for physical or mental health needs; protection from mistreatment and self-neglect; assistance with application for public benefits; referral to community service providers; and initiation of probate proceedings.

(10) "Self-neglect" means an act or failure to act whereby an at-risk adult substantially endangers his or her health, safety, welfare, or life by not seeking or obtaining services necessary

to meet his or her essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect. Refusal of medical treatment, medications, devices, or procedures by an adult or on behalf of an adult by a duly authorized surrogate medical decision maker or in accordance with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. As used in this subsection (10), "medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, S.A.R.S., a medical orders for scope of treatment form executed pursuant to article 18.7 of title 15, S.A.R.S., and a CPR directive executed pursuant to article 18.6 of title 15, S.A.R.S.

(11) "Undue influence" means the use of influence to take advantage of an at-risk adult's vulnerable state of mind, neediness, pain, or emotional distress.

Source: L. 91: Entire article R&RE, p. 1772, § 1, effective July 1. **L. 2000:** (4)(c) amended, p. 1155, § 2, effective January 1, 2001. **L. 2012:** Entire part amended, (SB 12-078), ch. 226, p. 991, § 1, effective May 29. **L. 2013:** (2.3) and (2.5) added and (5) and (7)(b) amended, (SB 13-111), ch. 233, p. 1122, § 5, effective May 16. **L. 2016:** (1), (2), (2.3), (3), (4), and (7) amended and (1.5) and (11) added, (HB 16-1394), ch. 172, p. 555, § 9, effective July 1. **L. 2017:** IP amended and (1.7), (1.8), and (3.5) added, (HB 17-1284), ch. 272, p. 1496, § 1, effective May 31. **L. 2020:** (1)(c), (2)(a), IP(4), (4)(a), (4)(b), (6), (7)(c), (7)(d), and (9) amended, (5.5) added, and (7)(e) and (8) repealed, (HB 20-1302), ch. 265, p. 1268, § 1, effective September 14.

Editor's note: This section is similar to former § 26-3.1-101 as it existed prior to 1991.

Cross references: For the legislative declaration in the 2013 act adding subsections (2.3) and (2.5) and amending subsections (5) and (7)(b), see section 1 of chapter 233, Session Laws of San Andreas 2013.

26-3.1-102. Reporting requirements. (1) (a) A person specified in subsection (1)(b) of this section who observes the mistreatment or self-neglect of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated or is self-neglecting or is at imminent risk of mistreatment or self-neglect is urged to report such fact to a county department not more than twenty-four hours after making the observation or discovery.

(a.5) As required by section 18-6.5-108, S.A.R.S., certain persons specified in paragraph (b) of this subsection (1) who observe the mistreatment, as defined in section 18-6.5-102 (10.5), S.A.R.S., of an at-risk elder, as defined in section 18-6.5-102 (3), S.A.R.S., or an at-risk adult with IDD, as defined in section 18-6.5-102 (2.5), S.A.R.S., or who have reasonable cause to believe that an at-risk elder or an at-risk adult with IDD has been mistreated or is at imminent risk of mistreatment shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

(b) The following persons, whether paid or unpaid, are urged to report as described in subsection (1)(a) of this section:

(I) Any person providing health-care or health-care-related services including general medical, surgical, or nursing services; medical, surgical, or nursing speciality services; dental

services; vision services; pharmacy services; chiropractic services; or physical, occupational, musical, or other therapies;

(II) Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients;

(III) First responders, including emergency medical service providers, fire protection personnel, law enforcement officers, and persons employed by, contracting with, or volunteering with any law enforcement agency, including victim advocates;

(IV) Code enforcement officers;

(V) Medical examiners and coroners;

(VI) Veterinarians;

(VII) Psychologists, addiction counselors, professional counselors, marriage and family therapists, and unlicensed psychotherapists, as those persons are defined in article 245 of title 12;

(VIII) Social workers, as defined in part 4 of article 245 of title 12;

(IX) Staff of case management agencies, as defined in section 25.5-6-1702;

(X) Staff, consultants, or independent contractors of service agencies, as defined in section 25.5-10-202 (34), S.A.R.S.;

(XI) Staff or consultants for a licensed or unlicensed, certified or uncertified, care facility, agency, home, or governing board, including but not limited to long-term care facilities, home care agencies, or home health providers;

(XII) Caretakers, staff members, employees of, or consultants for, a home care placement agency, as defined in section 25-27.5-102 (5), S.A.R.S.;

(XIII) Persons performing case management or assistant services for at-risk adults;

(XIV) Staff of county departments of human or social services;

(XV) Staff of the state departments of human services, public health and environment, or health care policy and financing;

(XVI) Staff of senior congregate centers or senior research or outreach organizations;

(XVII) Staff, and staff of contracted providers, of area agencies on aging, except the long-term care ombudsmen;

(XVIII) Employees, contractors, and volunteers operating specialized transportation services for at-risk adults;

(XIX) Landlords and staff of housing and housing authority agencies for at-risk adults;

(XX) Court-appointed guardians and conservators;

(XXI) Personnel at schools serving persons in preschool through twelfth grade;

(XXII) Clergy members; except that the reporting requirement described in paragraph (a) of this subsection (1) does not apply to a person who acquires reasonable cause to believe that an at-risk adult has been mistreated or has been exploited or is at imminent risk of mistreatment or exploitation during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1)(c), S.A.R.S., unless the person also acquires such reasonable cause from a source other than such a communication; and

(XXIII) Persons working in financial services industries, including banks, savings and loan associations, credit unions, and other lending or financial institutions; accountants; mortgage brokers; life insurance agents; and financial planners.

(c) In addition to those persons urged by this subsection (1) to report known or suspected mistreatment or self-neglect of an at-risk adult and circumstances or conditions that might reasonably result in mistreatment or self-neglect, any other person may report such known or

suspected mistreatment or self-neglect and circumstances or conditions that might reasonably result in mistreatment or self-neglect of an at-risk adult to the local law enforcement agency or the county department. Upon receipt of such report, the receiving agency shall prepare a written report within twenty-four hours.

(2) Pursuant to subsection (1) of this section, the report must include:

(a) The name and address of the at-risk adult;

(b) The name and address of the at-risk adult's caretaker, if any;

(c) The age, if known, of the at-risk adult;

(d) The nature and extent of the at-risk adult's injury, if any;

(e) The nature and extent of the condition that will reasonably result in mistreatment or self-neglect; and

(f) Any other pertinent information.

(3) A copy of the written report prepared by the county department in accordance with subsections (1) and (2) of this section that includes an allegation of mistreatment must be forwarded within twenty-four hours after receipt of the report to a local law enforcement agency. A written report prepared by a local law enforcement agency must be forwarded within one business day of the receipt of the report to the county department.

(4) A person, including a person specified in subsection (1) of this section, shall not knowingly make a false report of mistreatment or self-neglect to a county department or local law enforcement agency. Any person who willfully violates the provisions of this subsection (4) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, and shall be liable for damages proximately caused thereby.

(5) Any person, except a perpetrator, complicitor, or coconspirator, who makes a report pursuant to this section shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth or in violation of subsection (4) of this section.

(6) A person shall not take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report or fails to make a report of suspected mistreatment or self-neglect of an at-risk adult.

(7) (a) Except as provided in subsection (7)(b) of this section, reports of the mistreatment or self-neglect of an at-risk adult, including the name and address of any at-risk adult, member of said adult's family, or informant, or any other identifying information contained in such reports and subsequent cases resulting from the reports, is confidential and is not public information.

(b) Disclosure of a report of the mistreatment or self-neglect of an at-risk adult and information relating to an investigation of such a report and subsequent cases resulting from the report is permitted only when authorized by a court for good cause. A court order is not required, and such disclosure is not prohibited, when:

(I) A criminal investigation into an allegation of mistreatment is being conducted, when a review of death by a coroner is being conducted when the death is suspected to be related to mistreatment, or when a criminal complaint, information, or indictment is filed and the report and case information is relevant to the investigation, death review, complaint, or indictment;

(II) There is a death of a suspected at-risk adult from mistreatment or self-neglect and a law enforcement agency files a formal charge or a grand jury issues an indictment in connection with the death;

(III) The disclosure is necessary for the coordination of multiple agencies' joint investigation of a report or for the provision of protective services to an at-risk adult;

(IV) The disclosure is necessary for purposes of an audit of a county department of human or social services pursuant to section 26-1-114.5;

(V) The disclosure is made for purposes of the appeals process relating to a substantiated case of mistreatment of an at-risk adult pursuant to section 26-3.1-108 (2). The provisions of this subsection (7)(b)(V) are in addition to and not in lieu of other federal and state laws concerning protected or confidential information.

(VI) The disclosure is made by the state department to an employer, or to a person or entity conducting employee screening on behalf of the employer, as part of a CAPS check pursuant to section 26-3.1-111 or by a county department pursuant to section 26-3.1-107.

(VII) The disclosure is made to the at-risk adult who is the subject of the report, or if the at-risk adult is otherwise incompetent at the time of the request, to the guardian or guardian ad litem for the at-risk adult who is the subject of the report. The information disclosed pursuant to this subsection (7)(b)(VII) must not be disclosed until after the investigation is complete and must not include any identifying information related to the reporting party or any other appropriate persons. If the guardian is the substantiated perpetrator in a case of mistreatment of an at-risk adult, the disclosure must not be made without authorization by a court for good cause unless the disclosure is being made for the purposes of the guardian's appeal process described in subsection (7)(b)(V) of this section. If the court authorizes the release of information to a substantiated perpetrator, any protected or confidential information pursuant to federal or state law must not be disclosed.

(VIII) The disclosure is made to a county department that assesses or provides protective services for children, when the information is necessary to adequately assess for safety and risk or to provide protective services for a child. The information disclosed pursuant to this subsection (7)(b)(VIII) is limited to information regarding prior or current referrals, assessments, investigations, or case information related to an at-risk adult or an alleged perpetrator. A county department that assesses or provides protective services for at-risk adults is similarly permitted to access information from a county department that assesses or provides protective services for children pursuant to section 19-1-307 (2)(x). The provisions of this subsection (7)(b)(VIII) are in addition to and not in lieu of other federal and state laws concerning protected or confidential information.

(IX) The disclosure is made to an employer required to request a CAPS check pursuant to section 26-3.1-111 or to the state department agency that oversees the employer when the information is necessary to ensure the safety of other at-risk adults under the care of the employer. The information must be the minimum information necessary to ensure the safety of other at-risk adults under the care of the employer or oversight of the state department agency.

(X) The disclosure is made pursuant to section 26-3.1-111 (12) to a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator, as defined in section 12-20-102 (14), within such a health oversight agency; and

(XI) The disclosure is made to the court pursuant to section 26-3.1-111 (3)(b) and (8.5)(b).

(c) Any person who violates any provision of this subsection (7) commits a civil infraction.

Source: L. 91: Entire article R&RE, p. 1774, § 1, effective July 1. **L. 2004:** (4) amended, p. 275, § 1, effective July 1. **L. 2012:** Entire part amended, (SB 12-078), ch. 226, p. 994, § 1, effective May 29. **L. 2013:** (1)(a) and (1)(b) amended and (1)(a.5) added, (SB 13-111), ch. 233, p. 1123, § 6, effective May 16. **L. 2014:** (3) amended, (SB 14-098), ch. 103, p. 387, § 3, effective April 7. **L. 2015:** (7)(b)(II) and (7)(b)(III) amended and (7)(b)(IV) added, (HB 15-1370), ch. 324, p. 1326, § 5, effective June 5; (1)(a.5) amended, (SB 15-109), ch. 278, p. 1142, § 4, effective July 1, 2016. **L. 2016:** (1)(a), (1)(a.5), (1)(b), (1)(c), IP(2), (2)(e), (4), (6), (7)(a), IP(7)(b), and (7)(b)(II) amended, (HB 16-1394), ch. 172, p. 557, § 10, effective July 1. **L. 2017:** (7)(b) amended, (HB 17-1284), ch. 272, p. 1496, § 2, effective May 31. **L. 2019:** (7)(b)(III) and (7)(b)(V) amended and (7)(b)(VII) and (7)(b)(VIII) added, (HB 19-1063), ch. 46, p. 156, § 2, effective August 2; (7)(b)(VII) amended, (HB 19-1307), ch. 393, p. 3503, § 1, effective August 2; IP(1)(b), (1)(b)(VII), and (1)(b)(VIII) amended, (HB 19-1172), ch. 136, p. 1712, effective October 1. **L. 2020:** (1)(b)(VII) amended, (HB 20-1206), ch. 304, p. 1551, § 67, effective July 14; (1)(a), (1)(c), (3), (7)(a), IP(7)(b), and (7)(b)(I) amended and (7)(b)(IX) added, (HB 20-1302), ch. 265, p. 1269, § 2, effective September 14. **L. 2021:** (7)(b)(X) and (7)(b)(XI) added, (HB 21-1123), ch. 106, p. 423, § 1, effective September 7; (4) and (7)(c) amended, (SB 21-271), ch. 462, p. 3244, § 488, effective March 1, 2022; (1)(b)(IX) amended, (HB 21-1187), ch. 83, p. 346, § 51, effective July 1, 2024. **L. 2023:** (7)(b)(VII) amended, (SB 23-040), ch. 13, p. 39, § 2, effective January 1, 2024.

Editor's note: This section is similar to former § 26-3.1-104 as it existed prior to 1991.

Cross references: (1) For the legislative declaration in the 2013 act amending subsections (1)(a) and (1)(b) and adding subsection (1)(a.5), see section 1 of chapter 233, Session Laws of San Andreas 2013.

(2) For the legislative declaration in HB 15-1370, see section 1 of chapter 324, Session Laws of San Andreas 2015.

26-3.1-103. Evaluations - investigations - training - exception for counties participating in alternative response program - rules. (1) The county department receiving a report of mistreatment or self-neglect of an at-risk adult shall immediately assess the reported level of risk. The immediate concern of the evaluation is the protection of the at-risk adult. The decision regarding the level of risk must, at a minimum, include a determination of a response time frame and whether the report meets the criteria for an investigation of the allegations, as set forth in state department rule. If a county department determines that an investigation is required, the county department is responsible for ensuring an investigation is conducted and arranging for the subsequent provision of protective services to be conducted by persons trained to conduct investigations and provide protective services.

(1.3) (a) Pursuant to state department rule, each employer as defined by section 26-3.1-111 (7) shall provide, upon request of the county department, access to conduct an investigation into an allegation of mistreatment. Access must include the ability to request interviews with relevant persons and to obtain documents and other evidence and have access to:

(I) Patients who are the subject of the investigation into mistreatment of an at-risk adult and patients who are relevant to an investigation into an allegation of mistreatment of an at-risk adult;

(II) Personnel, including paid employees, contractors, volunteers, and interns, who are relevant to the investigation;

(III) Clients or residents who are the subject of the investigation into mistreatment of an at-risk adult and clients or residents who are relevant to an investigation into an allegation of mistreatment of an at-risk adult;

(IV) Individual patient, resident, client, or consumer records, including disclosure of health records or incident and investigative reports, care and behavioral plans, staff schedules and time sheets, and photos and other technological evidence; and

(V) The professional license number issued by the division of professions and occupations in the department of regulatory agencies for a current or former employee who holds a health-care provider or health-care occupation license and who, as a result of the investigation, is substantiated in a case of mistreatment of an at-risk adult during the employee's professional duties.

(b) The county department and its employees shall comply with applicable federal laws related to the privacy of information when requesting or obtaining documents pursuant to this subsection (1.3).

(c) County department staff conducting an investigation pursuant to this section have the right to enter the premises of any employer as defined by section 26-3.1-111 (7) as necessary to complete a thorough investigation. County department staff shall identify themselves and the purpose of the investigation to the person in charge of the entity at the time of entry.

(d) Attorneys at law providing legal assistance to individuals pursuant to a contract with an area agency on aging, the staff of such attorneys at law, and the long-term care ombudsman are exempt from the requirements of this section.

(1.4) Upon request of the county department, any person who holds a health-care provider or health-care occupation license issued by the division of professions and occupations in the department of regulatory agencies and, as a result of the investigation, is substantiated in a case of mistreatment of an at-risk adult while performing the person's professional duties shall provide the person's professional license number to the county department.

(1.5) The state department shall provide training to all current county department adult protective services caseworkers and supervisors no later than July 1, 2018, and to new county department adult protective services caseworkers and supervisors hired after July 1, 2018, to achieve consistency in the performance of the following duties:

(a) Investigating reports of suspected mistreatment or self-neglect of at-risk adults and making findings concerning cases and alleged perpetrators;

(b) Notifying a person who has been substantiated in a case of mistreatment of an at-risk adult of the finding and of the person's right to appeal the finding to the state department;

(c) Assessing the client's strengths and needs and developing a plan for the provision of protective services;

(d) Determining the appropriateness of case closure;

(e) Entering accurate and complete documentation of the report and subsequent casework into CAPS; and

(f) Maintaining confidentiality in accordance with state law.

(2) Each county department, law enforcement agency, district attorney's office, and other agency responsible under federal law or the laws of this state to investigate mistreatment or self-neglect of at-risk adults shall develop and implement cooperative agreements to coordinate the investigative duties of such agencies. The focus of such agreements is to ensure the best protection for at-risk adults. The agreements must provide for special requests by one agency for assistance from another agency and for joint investigations. The agreements must further provide that each agency maintain the confidentiality of the information exchanged pursuant to such joint investigations.

(3) Each county or contiguous group of counties in the state in which a minimum number of reports of mistreatment or self-neglect of at-risk adults are annually filed shall establish an at-risk adult protection team. The state board shall promulgate rules to specify the minimum number of reports that will require the establishment of an adult at-risk protection team. The at-risk adult protection team shall review the processes used to report and investigate mistreatment or self-neglect of at-risk adults, review the provision of protective services for such adults, facilitate interagency cooperation, and provide community education on the mistreatment and self-neglect of at-risk adults. The director of each county department shall create or coordinate a protection team for the respective county in accordance with rules adopted by the state board of human services. The state board rules shall govern the establishment, composition, and duties of the team and must be consistent with this subsection (3).

(4) Repealed.

Source: L. 91: Entire article R&RE, p. 1776, § 1, effective July 1. **L. 94:** (3) amended, p. 2704, § 265, effective July 1. **L. 2007:** (3) amended, p. 1014, § 1, effective May 22. **L. 2012:** Entire part amended, (SB 12-078), ch. 226, p. 996, § 1, effective May 29. **L. 2013:** (4) repealed, (SB 13-111), ch. 233, p. 1127, § 15, effective May 16. **L. 2016:** (1), (2), and (3) amended, (HB 16-1394), ch. 172, p. 560, § 11, effective July 1. **L. 2017:** (1.5) added, (HB 17-1284), ch. 272, p. 1497, § 3, effective May 31. **L. 2020:** (1) amended and (1.3) added, (HB 20-1302), ch. 265, p. 1270, § 3, effective September 14. **L. 2021:** (1) amended, (SB 21-118), ch. 253, p. 1489, § 1, effective June 17; (1.3)(a)(III) and (1.3)(a)(IV) amended and (1.3)(a)(V) and (1.4) added, (HB 21-1123), ch. 106, p. 423, § 2, effective September 7.

Editor's note: Subsections (1), (2), and (3) were enacted as subsections (1)(a), (1)(b), and (1)(c), respectively, by Senate Bill 91-84, Session Laws of San Andreas 1991, chapter 288, section 1, but have been renumbered on revision for ease of location.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in the 2013 act repealing subsection (4), see section 1 of chapter 233, Session Laws of San Andreas 2013.

26-3.1-103.3. Alternative response pilot program for the provision of protective services for at-risk adults - creation - report - rules - repeal. (1) On or after January 1, 2022, the alternative response pilot program for the provision of protective services for at-risk adults, referred to in this section as the "pilot", is created in the state department. The pilot allows a county department that is participating in the pilot, pursuant to this section and rules

promulgated by the state department, to address, through a separate process from that set forth in section 26-3.1-103, any report, related to an at-risk adult, of mistreatment or self-neglect that was initially assessed by the county department to be low risk, as defined by rule.

(2) The state department shall select a maximum of fifteen county departments to participate in the pilot. The state department is strongly encouraged to include county departments from throughout the state, including a diverse mix of urban, suburban, frontier, and rural.

(3) (a) If a participating county department receives a report, related to an at-risk adult, of mistreatment or self-neglect, that was initially assessed by the county department to be low risk, as defined by rule of the state department, the participating county will not make a finding concerning the alleged mistreatment or self-neglect of the at-risk adult, nor is it required to complete unannounced initial in-person interviews.

(b) If, upon further investigation, the participating county department determines that the risk level to the at-risk adult is, in fact, more than low risk, or when the participating county department cannot fully assess, through the pilot process, the health, safety, and welfare of the at-risk adult or other at-risk adults, the participating county department shall follow the procedures set forth in section 26-3.1-103.

(4) The state department shall provide initial training and ongoing technical assistance to the participating county departments upon implementation of the pilot. The state department shall administer the pilot in accordance with the requirements of this section and any rules promulgated pursuant to this section.

(5) The state department shall promulgate rules for the implementation of this section. The rules must include, at a minimum, a description of the risk levels and the parameters around unannounced in-person interviews.

(6) The state department is authorized to seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

(7) (a) The state department shall contract with a third-party evaluator to evaluate the pilot's success or failure, including a consideration of the pilot's effectiveness in achieving outcomes over a two-year period.

(b) As necessary to conduct the evaluation and complete the reports required pursuant to this subsection (7), each participating county department shall submit to the state department a report concerning the participating county department's administration and utilization of the pilot. The report must include relevant data from the participating county as required by the state department to evaluate the pilot and to prepare its report to the general assembly pursuant to subsection (7)(c) of this section.

(c) In January 2025 and January 2026, the state department shall report on the implementation and effect of the pilot to the health and human services committee of the senate and the public and behavioral health and human services committee of the house of representatives, or any successor committees, as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203. The report must include, at a minimum:

(I) A description of any specific problems that the state department or any participating county department encountered during the administration of the pilot, along with recommendations that the state department has for legislation to address such problems; and

(II) A recommendation by the state department regarding whether the general assembly should repeal the pilot, continue the pilot for a specified time period, or establish the pilot statewide on a permanent basis.

(8) This section is repealed, effective July 1, 2027.

Source: L. 2021: Entire section added, (SB 21-118), ch. 253, p. 1489, § 2, effective June 17.

26-3.1-104. Provision of protective services for at-risk adults - consent - nonconsent - least restrictive intervention. (1) If a county director or his or her designee determines that an at-risk adult is being mistreated or self-neglected, or is at risk thereof, and the at-risk adult consents to protective services, the county director or designee shall immediately provide or arrange for the provision of protective services, which services shall be provided in accordance with the provisions of 28 CFR part 35, subpart B.

(2) If a county director or his or her designee determines that an at-risk adult is being or has been mistreated or self-neglected, or is at risk thereof, and if the at-risk adult appears to lack capacity to make decisions and does not consent to the receipt of protective services, the county director is urged, if no other appropriate person is able or willing, to petition the court, pursuant to part 3 of article 14 of title 15, S.A.R.S., for an order authorizing the provision of specific protective services and for the appointment of a guardian, for an order authorizing the appointment of a conservator pursuant to part 4 of article 14 of title 15, S.A.R.S., or for a court order providing for any combination of these actions.

(3) Any protective services provided pursuant to this section shall include only those services constituting the least restrictive intervention.

Source: L. 91: Entire article R&RE, p. 1777, § 1, effective July 1. **L. 2012:** Entire part amended, (SB 12-078), ch. 226, p. 997, § 1, effective May 29. **L. 2016:** (1) and (2) amended, (HB 16-1394), ch. 172, p. 561, § 12, effective July 1.

Editor's note: This section is similar to former §§ 26-3.1-102 and 26-3.1-103 as they existed prior to 1991.

26-3.1-105. Prior consent form. (Repealed)

Source: L. 91: Entire article R&RE, p. 1777, § 1, effective July 1. **L. 2012:** Entire part amended, (SB 12-078), ch. 226, p. 997, § 1, effective May 29. **L. 2013:** Entire section repealed, (SB 13-111), ch. 233, p. 1128, § 16, effective May 16.

Editor's note: This section was similar to former § 26-3.1-206 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2013 act repealing this section, see section 1 of chapter 233, Session Laws of San Andreas 2013.

26-3.1-106. Training. The general assembly strongly encourages training that focuses on detecting circumstances or conditions that might reasonably result in mistreatment or self-

neglect of an at-risk adult for those persons who are urged by section 26-3.1-102 (1) to report known or suspected mistreatment or self-neglect of an at-risk adult.

Source: L. 91: Entire article R&RE, p. 1777, § 1, effective July 1. **L. 2012:** Entire part amended, (SB 12-078), ch. 226, p. 997, § 1, effective May 29. **L. 2016:** Entire section amended, (HB 16-1394), ch. 172, p. 562, § 13, effective July 1.

Editor's note: This section is similar to former § 26-3.1-207 as it existed prior to 2012.

26-3.1-107. Background check - adult protective services data system check. (1) Each county department shall require each protective services employee hired on or after May 29, 2012, to complete a fingerprint-based criminal history record check utilizing the records of the San Andreas bureau of investigation and the federal bureau of investigation. The employee shall pay the cost of the fingerprint-based criminal history record check unless the county department chooses to pay the cost. Upon completion of the fingerprint-based criminal history record check, the San Andreas bureau of investigation shall forward the results to the county department. The county department shall require a name-based judicial record check, as defined in section 22-2-
119.3 (6)(d), for an applicant or an employee when the results of a fingerprint-based criminal history record check performed pursuant to this section reveal a record of arrest without a disposition.

(2) For each adult protective services employee hired on or after January 1, 2019, each county department shall conduct a CAPS check to determine if the person is substantiated in a case of mistreatment of an at-risk adult. The county department shall conduct the CAPS check pursuant to state department rules.

Source: L. 2012: Entire part amended, (SB 12-078), ch. 226, p. 998, § 1, effective May 29. **L. 2017:** Entire section amended, (HB 17-1284), ch. 272, p. 1498, § 4, effective May 31. **L. 2019:** (1) amended, (HB 19-1166), ch. 125, p. 554, § 42, effective April 18. **L. 2022:** (1) amended, (HB 22-1270), ch. 114, p. 529, § 45, effective April 21.

26-3.1-108. Notice of report - appeals - rules. (1) The state department shall promulgate appropriate rules for the implementation of this article 3.1.

(2) In addition to rules promulgated pursuant to subsection (1) of this section, the state department shall promulgate rules to establish a process at the state level by which a person who is substantiated in a case of mistreatment of an at-risk adult may appeal the finding to the state department. At a minimum, the rules promulgated pursuant to this subsection (2) must address the following:

(a) The process by which a person who is substantiated in a case of mistreatment of an at-risk adult receives adequate and timely written notice from the county department of that finding and of his or her right to appeal the finding to the state department;

(b) The effective date of the notification of finding and appeal process;

(c) A requirement for and procedures to facilitate the expungement of and prevention of the release of any information contained in CAPS records for purposes of a CAPS check related to a person who is substantiated in a case of mistreatment of an at-risk adult that existed prior to

July 1, 2018; except that the state department and county departments may maintain such information in CAPS to assist in future risk and safety assessments.

(d) The timeline and process for appealing the finding of a substantiated case of mistreatment of an at-risk adult;

(e) Designation of the entity other than the county department with the authority to accept and respond to an appeal by a person substantiated in a case of mistreatment of an at-risk adult at each stage of the appellate process;

(f) The legal standards involved in the appellate process and a designation of the party who bears the burden of establishing that each standard is met;

(g) The confidentiality requirements of the appeals process; and

(h) The process to share information about an appeal, including the appeal outcome with a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator, as defined in section 12-20-102 (14), within such a health oversight agency, if the health oversight agency or its regulator requests information about an appeal for the purpose of a regulatory investigation conducted pursuant to section 12-20-401. Appeal information shared pursuant to this subsection (2)(h) is confidential and must be used only for the regulatory investigation.

(3) Repealed.

Source: L. 2012: Entire part amended, (SB 12-078), ch. 226, p. 998, § 1, effective May 29. **L. 2017:** Entire section amended, (HB 17-1284), ch. 272, p. 1498, § 5, effective May 31. **L. 2020:** IP(2) and (2)(c) amended and (3) repealed, (HB 20-1302), ch. 265, p. 1271, § 4, effective September 14. **L. 2021:** (2)(f) and (2)(g) amended and (2)(h) added, (HB 21-1123), ch. 106, p. 424, § 3, effective September 7.

Editor's note: This section is similar to former § 26-3.1-105 as it existed prior to 2012.

26-3.1-109. Limitation. Nothing in this article 3.1 means that a person is mistreated or self-neglecting or in need of emergency or protective services for the sole reason that he or she is being furnished or relies upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of that person's recognized church or religious denomination, nor does anything in this article 3.1 authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such a person.

Source: L. 2012: Entire part amended, (SB 12-078), ch. 226, p. 998, § 1, effective May 29. **L. 2020:** Entire section amended, (HB 20-1302), ch. 265, p. 1272, § 5, effective September 14.

Editor's note: This section is similar to former § 26-3.1-106 as it existed prior to 2012.

26-3.1-110. Report concerning the implementation of mandatory reporting of elder abuse and exploitation - repeal. (Repealed)

Source: L. 2013: Entire section added, (SB 13-111), ch. 233, p. 1125, § 7, effective May 16.

Editor's note: Subsection (3) provided for the repeal of this section, effective January 1, 2017. (See L. 2013, p. 1125.)

26-3.1-111. Access to CAPS - employment checks - conservatorship and guardianship checks - confidentiality - fees - rules - legislative declaration - definitions. (1) The general assembly finds and declares that individuals receiving care and services from persons employed in programs or facilities described in subsection (7) of this section or from persons appointed to be a conservator or guardian of an at-risk adult are vulnerable to mistreatment, including abuse, neglect, and exploitation. It is the intent of the general assembly to minimize the potential for employment of, or appointment as conservators or guardians, persons with a history of mistreatment of at-risk adults in positions that would allow those persons unsupervised access to these adults. As a result, the general assembly finds it necessary to strengthen protections for vulnerable adults by requiring certain employers and the courts to request a CAPS check by the state department to determine if a person who will provide direct care to an at-risk adult or who may be appointed as a conservator or guardian for an at-risk adult has been substantiated in a case of mistreatment of an at-risk adult. The general assembly also finds that it is necessary to require that certain employers cooperate with, and provide access to, county departments during county investigations of mistreatment of at-risk adults pursuant to section 26-3.1-103 (1.3).

(2) As used in this section, unless the context otherwise requires:

(a) "Employee" means a person, other than a volunteer, who is employed by or contracted with an employer, and includes a prospective employee.

(b) "Employer" means a person, facility, entity, or agency described in subsection (7) of this section and includes a prospective employer. "Employer" also includes a person hiring someone to provide consumer-directed attendant support services pursuant to article 10 of title 25.5, if the person requests a CAPS check.

(c) "Staffing agency" means an individual or organization, including any partnership, limited liability partnership, limited liability company, limited liability limited partnership, association, trust, joint stock company, insurance company, or corporation, whether domestic or foreign, engaged in the business of providing and assigning workers to placements with employers described in subsection (7) of this section. "Staffing agency" includes, but is not limited to, supplemental health-care staffing agencies defined in section 8-4-125 (1)(e).

(3) (a) **Employer CAPS checks.** The state department shall establish and implement a state-level program for employers to obtain a CAPS check to determine if a person who will provide direct care to an at-risk adult is substantiated in a case of mistreatment of an at-risk adult. The state department's program must be operational for an employer CAPS check on and after January 1, 2019.

(b) **Conservatorship and guardianship CAPS checks.** Beginning January 1, 2022, the state department shall provide the courts the results of a CAPS check, upon the court's request and using forms approved by the state department, to determine if a person who may be appointed as a conservator or guardian of an at-risk adult is substantiated in a case of mistreatment of an at-risk adult. This subsection (3)(b) does not apply to office of public guardianship employees required to undergo a CAPS check pursuant to section 13-94-105 and subsection (7)(j) of this section, or adult protective services employees required to undergo a CAPS check pursuant to section 26-3.1-107 (2).

(4) The state department shall not release information relating to any person during a CAPS check unless the person is substantiated in a case of mistreatment of an at-risk adult.

(5) The state department shall promulgate rules for the implementation of this section, which rules must include the following:

(a) The employer process for requesting a CAPS check for an employee who has an active application for employment for a position in which the person will provide direct care to an at-risk adult;

(b) The state department or county department employees or employee positions granted access to CAPS;

(c) The process for completing a CAPS check and the parameters for establishing and collecting the fee charged to an employer or the court for each CAPS check;

(d) The information in CAPS that will be made available to an employer or the court requesting a CAPS check;

(e) The purposes for which the information in CAPS may be made available;

(f) The consequences of the improper release of the information in CAPS;

(g) The process for the state department to notify a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator within such a health oversight agency when a professional regulated by a regulator within such a health oversight agency, as those terms are defined in section 12-20-102 (13) and (14), is substantiated in a case of mistreatment of an at-risk adult pursuant to subsection (12) of this section; and

(h) The information that will be made available to a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator, as defined in section 12-20-102 (14), within such a health oversight agency, for the purpose of conducting a regulatory investigation pursuant to section 12-20-401.

(6) (a) (I) On and after January 1, 2019, prior to hiring or contracting with an employee who will provide direct care to an at-risk adult, an employer described in subsection (7) of this section shall request a CAPS check by the state department pursuant to this section to determine if the person is substantiated in a case of mistreatment of an at-risk adult; except when the employer is hiring or contracting with an employee provided by a staffing agency, if the staffing agency completed a CAPS check and provided the results to the employer pursuant to subsection (6)(a)(V) of this section. Within ten days after the date of the employer's request, if the employee was substantiated in a case of mistreatment of an at-risk adult, unless the finding was expunged through a successful appeal to the state department, the state department shall provide the employer with information concerning the mistreatment through electronic means, or other means if requested by the employer, including the date of the substantiated finding, the type of mistreatment reported, and the county that investigated the report of mistreatment. If an employer receives a CAPS check on a person and does not initiate the hiring process at the time of receiving the check but wants to hire the person at a subsequent time that is more than thirty days from receipt of the prior CAPS check results, the employer shall request a new CAPS check prior to hiring the person pursuant to state department rules.

(II) A person or entity conducting employee screening on behalf of an employer may request a CAPS check pursuant to this section and may receive the results of the CAPS check from the state department. The person or entity conducting employee screening on behalf of the employer shall provide the employer with the results of the CAPS check.

(III) If the employer is also an employee or volunteer, the employer shall request the CAPS check on himself or herself. If the employee or volunteer is determined during either the initial CAPS check or subsequently as provided in subsection (10) of this section to have a substantiated finding of mistreatment, both the employer and the employer's parent company or oversight agency shall receive the CAPS check results.

(IV) An employer described in subsection (7) of this section or a person may request a CAPS check by the state department pursuant to this section on a volunteer who will provide direct care to an at-risk adult to determine if the volunteer is substantiated in a case of mistreatment of an at-risk adult. The volunteer shall provide to the employer written authorization and any required identifying information necessary to conduct a CAPS check pursuant to this section. Within ten days after the date of the employer's request, if the volunteer was substantiated in a case of mistreatment of an at-risk adult, unless the finding was expunged through a successful appeal to the state department, the state department shall provide the employer with information concerning the mistreatment through electronic means, or other means if requested by the employer, including the date of the substantiated finding, the type of mistreatment reported, and the county that investigated the report of mistreatment. For purposes of this subsection (6)(a)(IV), "employer" includes a person or entity conducting volunteer screening on behalf of the employer. The provisions of subsections (6)(d), (6)(e), (6)(e.3), and (6)(e.7) of this section apply to this subsection (6)(a)(IV).

(V) A staffing agency shall request a CAPS check for an employee it is placing with an employer described in subsection (7) of this section. The staffing agency shall provide the employer with the results of the CAPS check and any subsequent notifications of substantiated findings, as described in subsection (10) of this section, against the employee, within five business days after receipt of the information, for the duration of the employee's placement with the employer.

(b) As a condition of employment or contracting, a person seeking employment or to contract with the employer in a position in which the person will provide direct care to an at-risk adult shall provide to the employer, or to a person or entity conducting employee screening on behalf of the employer, written authorization and any required identifying information necessary to conduct a CAPS check pursuant to this section. The employer shall pay a fee established by the state department for each CAPS check, or may require the person seeking employment or to contract with the employer to pay the required fee for the CAPS check.

(c) (I) An employer, or a person or entity conducting employee screening on behalf of the employer, that relies upon information obtained through a CAPS check in making an employment decision or concludes that the nature of any information disqualifies a prospective employee from employment is immune from civil liability in an action brought by the prospective employee for that conclusion or decision unless the CAPS information relied upon is false and the employer, or a person or entity conducting employee screening on behalf of the employer, knows the information is false.

(II) Nothing in this subsection (6)(c) amends, supersedes, or otherwise limits the civil liability of the employer, or a person or entity conducting employee screening on behalf of the employer, with respect to any claim or action related to the employment decision other than a claim or action relating to the information received by the employer, or a person or entity conducting employee screening on behalf of the employer, pursuant to a CAPS check.

(d) (I) Except as provided in subsection (6)(d)(II) of this section, an employer, or a person or entity conducting employee screening on behalf of the employer, is deemed to have violated subsection (6)(e) of this section if the employer, or a person or entity conducting employee screening on behalf of the employer:

(A) Requests a CAPS check pursuant to this section for a person who is not an existing employee or who does not have an active application for or is not contracting with the employer, or who does not have an active application to contract with the employer, for a position providing direct care to an at-risk adult; or

(B) Releases information obtained pursuant to the CAPS check or a subsequent notification to any person or entity other than a person or entity directly involved in the employer's hiring process, except as required by subsection (6)(a)(V) of this section.

(II) An employer, or a person or entity conducting employee screening on behalf of the employer, has not violated subsection (6)(e) of this section if the employer, or a person or entity conducting employee screening on behalf of the employer, releases information received through a CAPS check:

(A) To a state agency or its contractor, upon the request of the agency or contractor, for purposes of an employer inspection or survey or for purposes of a regulatory investigation conducted by a health oversight agency, as defined in 42 CFR 164.501 pursuant to section 12-20-401; or

(B) At the request of a current or prospective employer of a health-care worker or caregiver in accordance with section 8-2-111.6 or section 8-2-111.7.

(e) Any person who improperly releases or who willfully permits or encourages the release of data or information obtained through a CAPS check to persons not permitted access to the information pursuant to this article 3.1 commits a class 2 misdemeanor and is punished as provided in section 18-1.3-501.

(e.3) A person commits a class 2 misdemeanor punishable pursuant to section 18-1.3-501 if the person requests a CAPS check for a person who is not:

(I) An employee or a volunteer providing direct care, or is not being considered for such employment; or

(II) A care provider or is not being considered as a care provider for a recipient of consumer-directed attendant support services pursuant to article 10 of title 25.5; or

(III) A person who may be appointed as a conservator or guardian of an at-risk adult.

(e.7) An employee who knowingly provides inaccurate information to the employee's employer for a CAPS check, an employer or other person or entity conducting an employee screening on behalf of the employer that knowingly provides inaccurate information in the request for a CAPS check, or a person who may be appointed as a conservator or guardian of an at-risk adult who knowingly provides inaccurate information to the court for a CAPS check commits a class 2 misdemeanor and shall be punished pursuant to section 18-1.3-501.

(f) Nothing in this section prohibits an employer from hiring or contracting with an employee who will provide direct care to an at-risk adult prior to receiving the results of the CAPS check.

(7) The following employers shall request a CAPS check pursuant to this section:

(a) A health facility licensed pursuant to section 25-1.5-103, including those wholly owned and operated by any governmental unit;

(b) An adult day care facility, as defined in section 25.5-6-303 (1);

(c) A community integrated health-care service agency, as defined in section 25-3.5-1301 (1);

(d) A program-approved service agency or contracted agency providing or contracting for long-term services and supports pursuant to article 10 of title 25.5;

(e) A case management agency, as defined in section 25.5-6-1702 (2);

(f) An area agency on aging, as defined in section 26-11-201 (2), and any agency or provider the area agency on aging contracts with to provide services;

(g) A facility operated by the state department for the care and treatment of persons with mental health disorders pursuant to article 65 of title 27;

(h) A facility operated by the state department for the care and treatment of persons with intellectual and developmental disabilities pursuant to article 10.5 of title 27;

(i) Veterans community living centers operated pursuant to article 12 of this title 26;

(j) The office of public guardianship pursuant to section 13-94-105; and

(k) Staffing agencies when they are placing employees with an employer as described in subsections (7)(a) to (7)(j) of this section.

(8) A person hiring someone to provide consumer-directed attendant support services pursuant to article 10 of title 25.5 may request a CAPS check pursuant to this section at the person's expense. The person requesting the CAPS check must comply with state department rules and the provisions of subsection (6) of this section relating to the release of information obtained through a CAPS check.

(8.5) (a) On and after January 1, 2022, prior to appointing a person as a conservator or guardian of an at-risk adult, the court that receives a filing of a petition for conservatorship or guardianship shall request a CAPS check by the state department using forms approved by the state department to determine if the person is substantiated in a case of mistreatment of an at-risk adult. The court shall require the petitioner for conservatorship or guardianship to complete the state-department-approved written authorization prior to requesting a CAPS check. The court shall pay a fee established by the state department for each CAPS check and may require the petitioner for conservatorship or guardianship to pay the court the required fee for the CAPS check.

(b) Within seven calendar days after the date of the court's request, if the person who may be appointed as a conservator or guardian has been substantiated in a case of mistreatment of an at-risk adult, the state department shall provide the court with information concerning the mistreatment, which information must include, at a minimum, the date of the substantiated finding, the type and severity of the mistreatment, and the county that investigated the report of mistreatment.

(c) The state department shall disclose to the court that the person substantiated in a case of mistreatment of an at-risk adult has the right to initiate an appeal of the substantiated finding within the time frame set forth in state department rules. If the appeal is active at the time the state department notifies the court of the results of the CAPS check, the state department shall inform the court that such appeal is active. The state department shall not provide the court the information specified in subsection (8.5)(b) of this section if the finding about the person was expunged through a successful appeal.

(d) The court shall have the discretion to consider the results of the CAPS check and determine the weight of the information and its probative value.

(e) Nothing in this subsection (8.5) delays or precludes the court's appointment of an emergency guardian or conservator of an at-risk adult pursuant to section 15-14-312 or 15-14-412, regardless of the timing of the state department's notification of the CAPS check results.

(9) Except for the costs incurred for the development and initial implementation of the program, direct and indirect costs incurred for the administrative appeals process for persons appealing claims of mistreatment of at-risk adults and the direct and indirect costs of conducting employer-requested or court-requested CAPS checks pursuant to this section are funded through a fee assessed on an employer or the court for each CAPS check. The state department shall establish and collect the fee pursuant to parameters set forth in rule established by the state board. At a minimum, the state board's rules must include a provision requiring the state department to provide notice of the fee to interested persons and the maximum fee amount that the state department shall not exceed without the express approval of the state board. The fee established must not exceed direct and indirect costs incurred for the administrative appeals process for persons appealing claims of mistreatment of at-risk adults and the direct and indirect costs of conducting employer-requested or court-requested CAPS checks pursuant to this section. Fees collected for CAPS checks shall be transferred to the state treasurer and credited to the records and reports fund created in section 19-1-307 (2.5).

(10) **Notification to employer.** The state department shall provide notification to the employer if a substantiated finding of mistreatment by an employee is subsequently entered into CAPS.

(11) **Notification to court.** The state department shall provide notification to the court within seven calendar days after a substantiated finding of mistreatment by a person appointed as a conservator or guardian for an at-risk adult is subsequently entered into CAPS. The state department shall provide the court with information concerning the mistreatment, which information must include, at a minimum, the date of the substantiated finding, the type and severity of the mistreatment, and the county that investigated the report of mistreatment. The state department shall disclose to the court the time frame by which an appeal may be initiated by the person substantiated in a case of mistreatment of an at-risk adult.

(12) **Notification to DORA.** (a) The state department shall provide notification to a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator within such a health oversight agency within ten calendar days after a substantiated finding of mistreatment by a professional regulated by a regulator, as those terms are defined in section 12-20-102 (13) and (14). The notification must provide a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator within such a health oversight agency with information concerning the mistreatment by the professional, which information must include, at a minimum, the professional license number of the person substantiated in a case of mistreatment, the date of the substantiated finding, the name of the mistreated at-risk adult, the type and severity of the mistreatment, the location or residence of the mistreated at-risk adult, the location where the mistreatment occurred, and the county that investigated the report of mistreatment. The state department shall disclose to a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies, or a regulator within such a health oversight agency, that the person substantiated in a case of mistreatment of an at-risk adult has the right to initiate an appeal of the substantiated finding within the time frame set forth in state department rules.

(b) Any information the state department provides to a health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator within such a health oversight agency pursuant to subsection (12)(a) of this section is confidential, not subject to part 2 of article 72 of title 24, and must be used for purposes of a regulatory investigation conducted pursuant to section 12-20-401. If the information is admitted as evidence during a disciplinary hearing held pursuant to section 12-20-403 or used as the basis of public discipline, the information must be de-identified to protect the privacy of the at-risk adult. A health oversight agency, as defined in 42 CFR 164.501, within the department of regulatory agencies or a regulator within such a health oversight agency shall have the discretion to consider the results of the CAPS check and determine the weight of the information and its probative value.

(c) Repealed.

Source: L. 2017: Entire section added, (HB 17-1284), ch. 272, p. 1499, § 6, effective May 31. **L. 2018:** (7)(g) amended, (SB 18-091), ch. 35, p. 390, § 34, effective August 8. **L. 2020:** (1), (6)(a)(I), (7)(h), (7)(i), and (10) amended and (6)(a)(III), (6)(a)(IV), (6)(e.3), (6)(e.7), and (7)(j) added, (HB 20-1302), ch. 265, p. 1272, § 6, effective September 14. **L. 2021:** (1), (3), (5)(c), (5)(d), (5)(e), (6)(d)(II)(A), (6)(e.3), (6)(e.7), (9), and (10) amended and (5)(g), (5)(h), (8.5), (11), and (12) added, (HB 21-1123), ch. 106, p. 425, § 4, effective September 7; (6)(e), (6)(e.3), and (6)(e.7) amended, (SB 21-271), ch. 462, p. 3244, § 489, effective March 1, 2022; (7)(d) and (7)(e) amended, (HB 21-1187), ch. 83, p. 346, § 52, effective July 1, 2024. **L. 2023:** (3)(b) and (7)(j) amended, (SB 23-064), ch. 282, p. 1670, § 10, effective May 30; (2)(c), (6)(a)(V), and (7)(k) added and (6)(a)(I), (6)(d)(I)(B), (7)(i), and (7)(j) amended, (SB 23-040), ch. 13, p. 38, § 1, effective January 1, 2024.

Editor's note: (1) Amendments to subsections (6)(e.3) and (6)(e.7) by HB 21-1123 and SB 21-271 were harmonized, effective March 1, 2022.

(2) Subsection (12)(c)(II) provided for the repeal of subsection (12)(c), effective January 1, 2022. (See L. 2021, p. 425.)

(3) Amendments to subsection (7)(j) by SB 23-064 and SB 23-040 were harmonized, effective January 1, 2024.

Cross references: For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

PART 2

FINANCIAL EXPLOITATION OF AT-RISK ADULTS

26-3.1-201 to 26-3.1-208. (Repealed)

Source: L. 2012: Entire part repealed, (SB 12-078), ch. 226, p. 998, § 2, effective May 29.

Editor's note: This part 2 was added in 2000. For amendments to this part 2 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Some sections of this part 2 were relocated to part 1 of this article. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

PART 3

ELDER ABUSE TASK FORCE

26-3.1-301. (Repealed)

Source: L. 2013: Entire part repealed, (SB 13-111), ch. 233, p. 1128, § 17, effective May 16.

Editor's note: This part 3 was added in 2012 and was not amended prior to its repeal in 2013. For the text of this part 3 prior to 2013, consult the 2012 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the legislative declaration in the 2013 act repealing this part 3, see section 1 of chapter 233, Session Laws of San Andreas 2013.

ARTICLE 4

San Andreas Medical Assistance Act

26-4-101 to 26-4-1408. (Repealed)

Source: L. 2006: Entire article repealed, p. 1997, § 27, effective July 1.

Editor's note: (1) This article was numbered as article 5 of chapter 119, S.A.R.S. 1963. For amendments to this article prior to its repeal in 2006, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The provisions of this article were relocated to part 2 of article 3 and articles 4, 5, and 6 of title 25.5. For the location of specific provisions, see the editor's notes following each section in said articles and the comparative tables located in the back of the index.

Cross references: For current provisions concerning the San Andreas medical assistance act, see articles 4, 5, and 6 of title 25.5. For current provisions concerning the comprehensive primary and preventive care grant program, see part 2 of article 3 of title 25.5.

ARTICLE 4.5

Alternatives to Long-term Nursing Home Care

26-4.5-101 to 26-4.5-404. (Repealed)

Source: L. 91: Entire article repealed, p. 1853, § 1, effective April 11.

Editor's note: (1) This article was added in 1980. For amendments to this article prior to its repeal in 1991, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The provisions of this article were relocated to article 4 of this title prior to its repeal in 2006. For the location of specific provisions prior to 2006, see the comparative tables located in the back of the index.

ARTICLE 4.6

Task Force on Long-term Health Care

26-4.6-101 to 26-4.6-105. (Repealed)

Editor's note: (1) Section 26-4.6-105 provided for the repeal of this entire article, effective July 1, 1990. (See L. 88, p. 1072.)

(2) This article was added in 1988. For amendments to this article prior to its repeal in 1990, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 5

Child Welfare Services

Editor's note: This article was numbered as article 4 of chapter 119, S.A.R.S. 1963. The provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

26-5-100.2. Legislative declaration. (1) The general assembly finds and declares that:

(a) Each year, for a variety of reasons, more than three hundred youth, ages eighteen to twenty-one, exit San Andreas's foster care system without a permanent home or a stable support network;

(b) These youth do not have the same safety nets, supportive adults, and support networks as do other youth their age;

(c) Many of these youth will face challenges as they search for affordable housing, pursue higher education or training, search for employment, manage tight budgets, take care of their health needs, and much more;

(d) Youth in foster care face not only the typical developmental changes and new experiences that are common to youth their age but also the dramatic change from being under the county's care to being on their own, many without any supportive adults or safety net to help them succeed;

(e) The array of services and supports available to youth while in the foster care system, including housing, food, medical care, and caseworker support, disappear as soon as the youth exits foster care. Additionally, many of these youth are dealing with the long-term consequences of trauma related to the abuse, neglect, removal, and overall lack of resources that they may have experienced.

(f) By leveraging the expertise of youth who have successfully made the transition to adulthood, as well as experts in the field, many states have developed creative approaches to address the needs of these youth;

(g) San Andreas can start addressing the needs of youth by allowing counties to use existing child welfare money to provide continued supportive services for youth who exit the foster care system; and

(h) Although existing child welfare money may enable the state to provide services to some youth, it is insufficient to address all the need, nor is it available consistently across the state.

(2) Therefore, the general assembly determines that by coupling the short-term approach of using existing child welfare money with the creation of a steering committee tasked with developing a long-term implementation plan for services for a successful adulthood for youth who were formerly in the state's foster care system, the state can better meet the needs of youth who are making the transition from the foster care system to successful adulthood.

Source: L. 2018: Entire section added, (HB 18-1319), ch. 217, p. 1388, § 1, effective May 18.

26-5-101. Definitions. As used in this article 5, unless the context otherwise requires:

(1) "Capped allocation" means a capped amount of funds distributed to counties or a group of counties for the purpose of providing all or a portion of the child welfare services as defined in subsection (3) of this section.

(1.5) "Caseload" means the number of children who are eligible for child welfare services that are defined in subsection (3) of this section and who are currently receiving such child welfare services on a regular basis from a county.

(2) "Child welfare allocations committee" means a committee that is organized and authorized pursuant to the provisions of section 26-5-103.5.

(3) "Child welfare services" means the provision of necessary shelter, sustenance, and guidance to or for children who are or who, if such services are not provided, are likely to become neglected or dependent, as defined in section 19-3-102. "Child welfare services" includes but is not limited to:

(a) Child protection;

(b) Risk assessment;

(c) Permanency planning;

(d) Treatment planning;

(e) Case management;

(f) Core services, as defined in rules promulgated by the state department, as authorized in sections 26-5-102 and 26-5.5-104;

(g) Adoption and subsidized adoption;

(h) Emergency shelter;

(i) Out-of-home placement, including foster care;

(j) Utilization review;

(k) Early intervention and prevention;

(l) Youth-in-conflict functions;

(m) Administration and support functions;

(n) Services described in section 19-3-208;

(o) (I) Provision of verifiable documents to youth who plan to emancipate from foster care.

(II) Verifiable documents shall include, but need not be limited to, a certified copy of the youth's birth certificate and a social security card. The cost of providing the verifiable documents shall not be borne by the youth.

(p) Foster care prevention services, as defined in section 26-5.4-102 (1).

(q) Services that address abuse, neglect, and youth-in-conflict issues for runaway, homeless, and unaccompanied youth, as defined in rules promulgated by the state department pursuant to sections 26-5-102 and 26-5.7-105.

(4) "County" means a county or a city and county or any two or more counties.

(4.1) "County department" means a county department of human or social services.

(4.5) "Family First Prevention Services Act of 2018" means Titles IV-B and IV-E of the federal "Social Security Act", as amended.

(4.7) "Former foster care youth" means a youth at least eighteen years of age but younger than twenty-one years of age who was formerly in the legal custody or legal authority of a county department and who was placed in a certified or noncertified kinship care placement, as defined in section 26-6-903, a certified or licensed facility, or a foster care home, as defined in section 26-6-903, and certified pursuant to part 9 of article 6 of this title 26.

(5) "Governing body" means the board of county commissioners of a county or the city council and mayor of a city and county.

(5.5) "Services for a successful adulthood" means supportive services that help former foster care youth achieve self-sufficiency. "Services for a successful adulthood" may include, but is not limited to, assistance with education, employment, financial management, housing, mental health care, and substance abuse prevention. "Services for a successful adulthood" does not include out-of-home placement, as described in section 26-5-102 (2)(i).

(5.8) "Steering committee" means the former foster care youth steering committee established pursuant to section 26-5-114.

(6) "Targeted allocation" means a fixed amount of funds from a capped allocation to a group of counties that is designated for a specific county within that group of counties.

Source: L. 73: R&RE, p. 1195, § 3. **S.A.R.S. 1963:** § 119-4-1. **L. 78:** (1) amended, p. 367, § 14, effective July 1. **L. 86:** (1) amended, p. 794, § 15, effective July 1. **L. 87:** (1) amended, p.

821, § 39, effective October 1. **L. 96:** (1) amended, p. 1696, § 40, effective January 1, 1997. **L. 97:** Entire section amended, p. 1426, § 1, effective June 3. **L. 98:** (1) and (2) amended and (1.5) added, p. 780, § 2, effective May 22. **L. 2008:** (3) amended, p. 10, § 1, effective August 5. **L. 2009:** (3)(m) and (3)(n) amended and (3)(o) added, (SB 09-104), ch. 218, p. 983, § 1, effective August 5. **L. 2018:** IP amended and (4.5) added, (SB 18-254), ch. 216, p. 1374, § 3, effective May 18; IP amended and (4.1), (4.7), (5.5), and (5.8) added, (HB 18-1319), ch. 217, p. 1389, § 2, effective May 18. **L. 2019:** IP(3) and (3)(n) amended and (3)(p) added, (HB 19-1308), ch. 256, p. 2461, § 9, effective August 2. **L. 2020:** (3)(q) added, (SB 20-106), ch. 128, p. 552, § 1, effective September 14. **L. 2022:** (4.7) amended, (HB 22-1295), ch. 123, p. 857, § 97, effective July 1.

26-5-102. Provision of child welfare services - system reform goals - out-of-home placements for children and youth with intellectual and developmental disabilities - reporting - rules - definition. (1) (a) The state board shall adopt rules to establish a program of child welfare services, administered by the state department or supervised by the state department and administered by the county departments, and, where applicable, in accordance with the conditions accompanying available federal funds for such purpose. The rules must establish a fee based upon the child support guidelines set forth in section 14-10-115 requiring those persons legally responsible for the child or youth to pay for all, or a portion, of the services provided pursuant to this article 5 when a county department that delivers child welfare services determines that a referral is appropriate in accordance with rules promulgated by the state board of human services. The state board is authorized to promulgate rules to implement the provisions of this article 5 relating to the allocation of funds to counties for the delivery of child welfare services.

(b) Upon appropriate request and within available appropriations, child welfare services shall be provided for any child residing or present in the state of San Andreas who is in need of such services. Foster care fees shall be considered child support obligations, and all remedies for the enforcement and collection of child support shall apply. Foster care fees established pursuant to section 14-10-115, S.A.R.S., may be collected pursuant to the administrative procedures to establish child support enforcement set forth in article 13.5 of this title. Due process is guaranteed in all actions regarding any such administrative process concerning foster care fees, and a court hearing of the matter before the district court may be obtained in the manner prescribed in section 26-13.5-105. Nothing contained in article 13.5 of this title shall be construed to deprive a court of competent jurisdiction from determining the duty of support of any obligor against whom an administrative order is issued pursuant to this article.

(2) Reforms in child welfare and related delivery systems must be directed at the following objectives:

(a) More efficient and responsive service systems for children, youth, and families;

(b) Increased flexibility and collaboration across multiple agencies and funding streams to ensure the delivery of services based on the needs of the child or youth;

(c) Encouragement and authorization for a truly integrated service system that incorporates blended funding and administration;

(d) Focus on quality and outcome-driven services with accountability for an entire array of services that families need, rather than forcing families to be transferred from agency to agency;

(e) Development of data systems to support these goals and to allow administrators and policy makers to better manage and evaluate;

(f) Authority and incentives for creative solutions at the local level that are not bound by the constraints of current agency barriers and categorical funding streams, including authority for local policy makers to create new entities incorporating blended funding and administration;

(g) Successful training efforts directed at county staff, judges, court staff, providers, parents, and families and other appropriate entities that are involved in managed care service systems, which training efforts shall include, but not be limited to, the operation of the child welfare training academy created in section 26-5-109. Notwithstanding any limitation of the "M" notation of the appropriation in the annual appropriation act for child welfare services, the state department is authorized to expend any additional federal or private funding that may be available to support the training efforts identified in this subsection (2).

(h) Promotion of the development of a family-centered, community-based strategy for placement decisions that includes team decision making, family-group decision making, or other agency decision making processes that involve the family and community supports;

(i) Promotion of the local placement of children with families by recruiting and supporting foster care homes within the neighborhoods and communities in which identified children reside;

(j) Successful transition of individuals eighteen to twenty years of age with intellectual and developmental disabilities to adult services for individuals with intellectual and developmental disabilities pursuant to section 25.5-6-409.5, S.A.R.S.

(3) (a) On or before August 1, 2018, the state department shall develop a program to serve children and youth with intellectual and developmental disabilities who are placed by county departments of human or social services in a licensed out-of-home setting, as defined in section 26-6-903, and children or youth committed to or in the custody of the state department.

(b) The state department shall promulgate rules concerning the placement of children or youth in the program. The rules must include, but need not be limited to, quality assurance monitoring, admissions, discharge planning, appropriate length of stay, and an appeals process for children or youth who are determined to be ineligible for the program or who are being removed from the program before meeting discharge criteria, as defined by the child's or youth's treatment plan, and without the consent of a parent, legal guardian, or county department. The rules regarding the appeals process must include access to the interdisciplinary appeals review panel, referenced in section 26.5-5-314 (5). For an appeal pursuant to this subsection (3)(b), the panel shall include the members appointed pursuant to section 26.5-5-314 (5) and, at a minimum:

(I) A representative from a county department;

(II) A treatment director or coordinator for a residential treatment program;

(III) A staff member from a program-approved service agency that offers residential habilitation; and

(IV) A representative from the department of health care policy and financing with expertise in the children's habilitation residential program, as described in this section.

(b.5) All members of the interdisciplinary appeals review panel assembled pursuant to subsection (3)(b) of this section shall not be associated with the child or youth who is the subject of the appeal and the child's or youth's placement provider. If a parent, legal guardian, county department, program provider, or the state department is not satisfied with the interdisciplinary

appeals review panel recommendation, that party to the appeal is entitled to a review by an independent hearing officer at a state hearing.

(c) On or before December 31, 2018, the state department shall contract with licensed providers for the delivery of services to children and youth with intellectual and developmental disabilities who are placed in the program. The state department shall utilize a request for proposal process to define the scope of the contract and to select the licensed providers. The providers must be approved by the department of health care policy and financing as service providers for children eligible for enrollment in the children's habilitation residential program waiver established pursuant to section 25.5-6-903.

(d) A county department that wishes to place a child or youth in the program shall submit an application to the state department for review. Within seven days of making an application to the state department for placement of a child or youth in the program, a county department shall refer the child or youth to be assessed for enrollment in the children's habilitation residential program, or assist the parent or legal guardian who retains legal custody to make the referral. The county department shall provide to the state department evidence that the county department or the child's parent or legal guardian has referred the child or youth for enrollment in the children's habilitation residential program or evidence of either enrollment in or denial of enrollment in the children's habilitation residential program, depending on whether the child or youth is eligible or ineligible for such enrollment. The state department shall approve admissions into the program and determine discharge criteria for each placement. Enrollment of a child or youth in the children's habilitation residential program does not constitute automatic placement with a service provider contracted with pursuant to subsection (3)(c) of this section. A county department that has applied for the admission of a child or youth into the program must be notified in writing of a placement approved by the state department.

(e) For the duration of the treatment, as defined in the approval letter from the state department, and for thirty days after the completion of treatment, the state department shall reimburse the provider directly for costs associated with the placement of a child or youth in the program.

(f) The state department shall notify the county department that is responsible for the placement of the child or youth of the date on which the reimbursement eligibility will expire. Upon expiration of the reimbursement eligibility, if the child or youth remains in placement at the facility, the county department is responsible for one hundred percent of the placement costs.

(g) A county department that has placed a child or youth in the program retains the right to remove the child or youth from the program any time prior to the discharge date specified by the state department.

(h) The state department shall reimburse the provider one hundred percent of the cost of unutilized beds in the program to ensure available space for emergency residential out-of-home placements.

(i) Entities other than county departments, including but not limited to hospitals, health-care providers, providers of case management services, and case management agencies, as defined in section 25.5-6-1702, may refer a family to voluntarily apply for placement with a service provider contracted with pursuant to subsection (3)(c) of this section and may assist with the application to the state department for admission of the family's child or youth with intellectual and developmental disabilities into the program pursuant to this subsection (3). The applications will be considered if space is available. The entity may refer the family to a provider

of case management services or assist the family with the process of enrolling the child or youth in the children's habilitation residential program if the child or youth is eligible. However, children and youth with intellectual and developmental disabilities placed by county departments or the state department must have priority for admission to the program. The state department shall not accept applications for placement of a child or youth who is exclusively insured by private insurance. A child or youth who is dually insured by private insurance and medicaid and whose residential level of care has been denied by private insurance may be eligible for services in the program. A child or youth who is eligible for enrollment in the children's habilitation residential program must be enrolled.

(j) Any family that is voluntarily applying for placement with assistance from any entity defined in subsection (3)(i) of this section shall work directly with the provider to determine responsibility for payment.

(k) The state department may maintain up to three open beds specifically for children and youth in the custody of a county or committed to or in the custody of the state department who may need services on an emergency basis.

(l) On or before February 1, 2023, and, notwithstanding the provisions of section 24-1-136 (11)(a)(I), every February 1 thereafter, the state department shall report the following information from the previous calendar year to the health and human services committee of the senate and the public and behavioral health and human services committee of the house of representatives, or any successor committees:

(I) The number of children or youth who met transition or discharge criteria and left the program;

(II) The total number of applications received for the program during the applicable year and the number of applicants who:

(A) Met program eligibility criteria;

(B) Did not meet program eligibility criteria;

(C) Were admitted to the program; and

(D) Were added to the wait list;

(III) The number of children or youth removed from the wait list and placed in the program;

(IV) The number of children or youth removed from the program before meeting transition criteria and the reason or reasons for removal;

(V) The number of appeals to the interdisciplinary appeals review panel during the previous year, including the number that were approved and the number that were denied;

(VI) The number of beds during each month that were:

(A) Open or unoccupied;

(B) Occupied; or

(C) Used for emergency placements; and

(VII) The average length of stay.

(4) As used in this section, "county department" means a county department of human or social services.

Source: L. 73: R&RE, p. 1195, § 3. **S.A.R.S. 1963:** § 119-4-2. **L. 87:** Entire section amended, p. 594, § 21, effective July 10. **L. 91:** Entire section amended, p. 215, § 3, effective July 1. **L. 93:** Entire section amended, p. 1788, § 73, effective June 6; entire section amended, p.

1564, § 17, effective September 1. **L. 98:** Entire section amended, p. 707, § 1, effective May 18; entire section amended, p. 781, § 3, effective May 22. **L. 2005:** (2)(h) and (2)(i) added, p. 353, § 1, effective August 8. **L. 2009:** (2)(g) amended, (SB 09-164), ch. 276, p. 1239, § 1, effective May 19. **L. 2010:** (1)(a) amended, (HB 10-1115), ch. 120, p. 402, § 1, effective August 11. **L. 2014:** (2)(j) added, (HB 14-1368), ch. 304, p. 1291, § 3, effective May 31. **L. 2015:** (2)(i) amended, (SB 15-087), ch. 263, p. 1020, § 15, effective June 2. **L. 2018:** (3) and (4) added, (SB 18-254), ch. 216, p. 1374, § 4, effective May 18. **L. 2021:** IP(2) and (2)(b) amended, (SB 21-278), ch. 344, p. 2241, § 3, effective June 25; (3)(c), (3)(d), (3)(e), (3)(i), and (3)(j) amended, (SB 21-276), ch. 342, p. 2228, § 1, effective June 25; (3)(i) amended, (HB 21-1187), ch. 83, p. 346, § 53, effective July 1, 2024. **L. 2022:** (3)(a) amended, (HB 22-1295), ch. 123, p. 857, § 98, effective July 1; (3)(b) amended and (3)(b.5) and (3)(l) added, (SB 22-102), ch. 29, p. 171, § 1, effective August 10. **L. 2023:** IP(3)(b) amended, (HB 23-1301), ch. 303, p. 1832, § 53, effective August 7. **L. 2024:** (1)(a) amended, (SB 24-202), ch. 222, p. 1388, § 3, effective May 22.

Editor's note: (1) This section was amended in House Bill 93-1342. Those amendments were superseded by the amendment of the section in Senate Bill 93-154.

(2) Amendments to this section by House Bill 98-1137 and Senate Bill 98-165 were harmonized.

(3) Amendments to subsection (3)(i) by SB 21-276 and HB 21-1187 were harmonized, effective July 1, 2024.

26-5-103. Coordination with other programs. The program of child welfare services established pursuant to this article shall be coordinated with other social services and assistance payments programs for children of this state and shall be rendered in complement of, and not in duplication of or contrary to, legal processes provided by the "San Andreas Children's Code" and services rendered under any public assistance law or other law for the benefit of children, including assistance under the San Andreas works program, as described in part 7 of article 2 of this title.

Source: L. 73: R&RE, p. 1195, § 3. **S.A.R.S. 1963:** § 119-4-3. **L. 97:** Entire section amended, p. 1243, § 46, effective July 1.

Cross references: For the "San Andreas Children's Code", see title 19.

26-5-103.5. Child welfare allocations committee - organization - duties - funding model - definition. (1) The state department shall convene a child welfare allocations committee as necessary in order to perform the duties described in this section and make advisory recommendations as described in this article 5.

(2) (a) The child welfare allocations committee consists of thirteen members, ten of whom must be appointed by county commissioners and three of whom must be appointed by the state department, and the child welfare allocations committee consists of two nonvoting members who must be appointed by the state department.

(b) The two nonvoting members appointed by the state department must have knowledge and experience in the following areas, including but not limited to:

(I) Federal funding related to child welfare;

(II) The federal "Family First Prevention Services Act of 2018", as defined in section 26-5-101 (4.5);

(III) Interests of individuals with a disability; or

(IV) Interests of individuals experiencing poverty.

(c) Of the members appointed by county commissioners, only one representative per county may serve on the child welfare allocations committee at the same time, and:

(I) One member must be appointed by the county commissioners of each of the following regions, as those regions are defined in subsection (2)(d) of this section:

(A) The eastern region;

(B) The front range region;

(C) The mountain region;

(D) The southern region; and

(E) The western region;

(II) Three members must be at-large appointments. Of the three at-large appointments, two members must be appointed by the county commissioners of the counties described in section 26-5-104 (4)(b)(I), and one must be appointed by the county commissioners who represent the counties described in section 26-5-104 (4)(b)(II); and

(III) Two members must be representatives from the two counties in the state with the greatest percentage of the state's child welfare caseload. County commissioners in the two counties with the greatest percentage of the state's child welfare caseload shall each appoint one member from their counties to serve on the child welfare allocations committee.

(d) For the purposes of this subsection (2):

(I) The eastern region is comprised of Cheyenne, Elbert, Kit Carson, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma counties;

(II) The front range region is comprised of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld counties, and the city and county of Broomfield and the city and county of Denver;

(III) The mountain region is comprised of Chaffee, Clear Creek, Custer, Eagle, Fremont, Gilpin, Grand, Jackson, Lake, Park, Pitkin, Summit, and Teller counties;

(IV) The southern region is comprised of Alamosa, Baca, Bent, Conejos, Costilla, Crowley, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, and Saguache counties; and

(V) The western region is comprised of Archuleta, Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Rio Blanco, Routt, San Juan, and San Miguel counties.

(e) As used in this subsection (2), "county commissioners" means:

(I) The board of county commissioners in each county;

(II) In the city and county of Denver, the department or agency with the responsibility for public assistance and welfare activities; and

(III) In the city and county of Broomfield, the city council or a board or commission appointed by the city and county of Broomfield.

(3) The child welfare allocations committee shall develop its own operating procedures.

(4) Repealed.

(4.5) (a) On or before August 1, 2021, and on or before August 1 of each year thereafter, the child welfare allocations committee shall identify components of the funding model that should be evaluated by the funding model evaluation group pursuant to section 26-5-103.7.

(b) In order to ensure the integrity of the funding model described in section 26-5-103.7, on or before September 1, 2021, and on or before September 1 of each year thereafter, the child welfare allocations committee shall:

(I) Establish expectations for gathering and using data in the funding model to ensure consistency within the funding model;

(II) Identify county training and capacity needs to ensure integrity of the data collected and used in the San Andreas TRAILS case management system and county financial management systems; and

(III) Develop strategies and recommend changes to data systems that support the funding model and to financial policies and practices to ensure that appropriate, consistent, and accurate data can be used to inform the funding model.

(c) The child welfare allocations committee shall provide input to the state department concerning the measurements and metrics for counties to receive incentives recommended by the delivery of child welfare services task force made pursuant to section 26-5-105.8.

(d) The child welfare allocations committee shall also perform any duties required in section 26-5-103.7 related to the child welfare allocations funding model.

(5) and (6) (Deleted by amendment, L. 2018.)

(7) Repealed.

Source: L. 98: Entire section added, p. 781, § 4, effective May 22. **L. 2013:** (2) amended, (HB 13-1087), ch. 37, p. 106, § 1, effective March 15. **L. 2015:** (5) added, (SB 15-242), ch. 141, p. 430, § 1, effective May 1. **L. 2016:** (6) added, (SB 16-201), ch. 171, p. 542, § 2, effective May 18. **L. 2018:** Entire section amended, (SB 18-254), ch. 216, p. 1376, § 5, effective May 18. **L. 2019:** (2)(a), (2)(b), and (2)(c) amended and (2)(e) added, (SB 19-031), ch. 84, p. 298, § 1, effective April 8. **L. 2021:** (1), (2)(a), IP(2)(c), (2)(c)(III), and (3) amended, (4) and (7) repealed, and (4.5) added, (SB 21-277), ch. 343, p. 2237, § 3, effective June 25.

26-5-103.7. Child welfare allocations funding model - evaluation group - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Evaluation group" means the group established to evaluate the funding model described in subsection (6) of this section.

(b) "Funding model" means the funding model to determine the appropriate level of funding required to fully meet all state and federal requirements concerning the comprehensive delivery of child welfare services that was developed pursuant to section 26-5-103.5 (7) prior to its repeal in 2021, and includes factors that best meet the needs of children, youth, and families in the child welfare system.

(2) (a) Repealed.

(b) On or before July 1, 2024, and on or before July 1 every third year thereafter, the state department shall enter into a three-year agreement with an outside entity to annually modify the funding model, update the data used in the funding model, and deliver the results of the funding model, as described in subsection (8) of this section.

(3) On or before July 1, 2024, and on or before July 1 every third year thereafter, the state department shall enter into an agreement with an outside evaluating entity to conduct a comprehensive evaluation of the implementation of the funding model. The evaluation must ensure that the appropriate modifications were made to the funding model in the preceding three years, including necessary changes related to federal and state law; whether county data was accurately and appropriately updated each year; whether the model was run each year and used for allocations to counties; how the allocations were made to each county; whether counties increased staffing levels as a result of the model's workload metric; and whether the updated workload study described in section 26-5-104 (6.1)(b) was added to the model. On or before October 1 of each year of an agreement, the evaluating entity shall deliver the results of its evaluation to the state department, child welfare allocations committee, and the outside entity described in subsection (2) of this section. The department shall not enter into an agreement pursuant to this subsection (3) with the same outside entity described in subsection (2) of this section.

(4) Beginning with the funding model effective for state fiscal year 2024-25, the funding model must:

(a) Include factors addressing county workload, informed by the workload study conducted pursuant to section 26-5-104 (6.1)(c), as said subsection existed prior to its repeal, including the number of child welfare case aides, case workers, and supervisors necessary to perform all responsibilities required by state and federal law;

(b) Include factors addressing demographic data, including poverty statistics, and state and local economic drivers that may influence the cost of delivering child welfare services and prevention programs, as defined in section 19-1-103, with an emphasis on building capacity to provide services based on the needs of the child and family;

(c) Include the estimated caseload for the delivery of specific child welfare services in each county, to be funded by the money allocated to counties pursuant to section 26-5-104;

(d) Include a performance-aligned component that supports the implementation of promising, supported, or well-supported practices, as defined in the federal "Family First Prevention Services Act of 2018";

(e) Be driven by outcomes related to the stability and well-being of children receiving child welfare services, consistent with the recommendations of the delivery of child welfare services task force made pursuant to section 26-5-105.8 (4.5) prior to its repeal in 2023; and

(f) Include incentives for the delivery of services based on the recommendations of the delivery of child welfare services task force made pursuant to section 26-5-105.8. The funding model must provide the incentives to counties based on measurements and metrics established by the state department after consideration of input from the child welfare allocations committee. The measurements and metrics may include metrics concerning successful adoptions, successfully sustained placements, high school graduations, family reunifications, no recurrence of abuse and neglect, and timely dental and medical checks.

(5) Notwithstanding section 24-1-136 (11)(a)(I), on or before November 15, 2021, and on or before November 15 of each year thereafter, the state department and the child welfare allocations committee shall submit a report regarding the funding model to the joint budget committee. The report must include the following information concerning the previous fiscal year:

(a) The results of the funding model, including the cost per county necessary to meet all state and federal requirements for the comprehensive delivery of child welfare services;

(b) The difference between each county's actual allocation and the allocation amount identified by the funding model;

(c) The final close-out pursuant to section 26-5-104 (7) for the previous fiscal year;

(d) Any modifications made to the model to improve the accuracy of the data;

(e) A description of the incentives included in the funding model and the amount of incentives provided to each county; and

(f) Any other issues related to funding child welfare services identified by the child welfare allocations committee.

(6) (a) (I) On or before August 1, 2021, and on or before August 1 of each year thereafter, the child welfare allocations committee shall establish and appoint members to a funding model evaluation group to evaluate the funding model.

(II) The evaluation group has seven members who are experts in child welfare funding and policy. At least one member must be a representative of the state department with child welfare funding expertise, one member must be a county financial officer from a county described in section 26-5-104 (4)(b)(I), and one member must be a county financial officer from a county described in section 26-5-104 (4)(b)(II).

(III) The members of the evaluation group serve without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(b) The evaluation group shall evaluate the funding model to ensure that it is consistent with changes to state and federal law, includes outcome-based incentives and child and family well-being outcomes as factors in the model, includes an ongoing workload analysis, and satisfies the criteria described in subsection (4) of this section. The evaluation group shall evaluate any components of the funding model identified for evaluation by the child welfare allocations committee pursuant to section 26-5-103.5 (4.5).

(c) On or before October 1, 2021, and on or before October 1 of each year thereafter, the evaluation group must complete its annual evaluation of the funding model and deliver its findings and recommendations to the child welfare allocations committee.

(7) On or before December 31, 2021, and on or before December 31 of each year thereafter, and after considering the findings and recommendations of the evaluation group, the child welfare allocations committee shall deliver to the state department and outside entity described in subsection (2) of this section responsible for updating the funding model the committee's recommendations for modifications to the funding model that are necessary to ensure that the model is current and reflects any changes in federal or state law and county data and workload.

(8) The outside entity described in subsection (2) of this section shall:

(a) On or before March 31 of the first year of its agreement, modify the model to be used for the next fiscal year based on the results of the evaluation conducted pursuant to subsection (3) of this section and the recommendations of the state department, child welfare allocations committee, and evaluation group; update the data used in the model; and deliver the results of the model to the child welfare allocations committee, state department, and joint budget committee; and

(b) On or before March 31 of each other year of the agreement, modify the funding model to be used for the next fiscal year in accordance with the recommendations of the child

welfare allocations committee made pursuant to subsection (7) of this section, update the data used in the model, and deliver the results of the model to the child welfare allocations committee, state department, and joint budget committee.

Source: L. 2021: Entire section added, (SB 21-277), ch. 343, p. 2233, § 2, effective June 25. **L. 2024:** (4)(a) amended, (HB 24-1450), ch. 490, p. 3422, § 67, effective August 7.

Editor's note: Subsection (2)(a)(III) provided for the repeal of subsection (2)(a), effective July 1, 2024. (See L. 2021, p. 2233.)

26-5-104. Funding of child welfare services provider contracts - funding mechanism review - fund - report - rules - definitions - repeal. (1) **Reimbursement.** (a) Except as provided in subsection (1)(b) of this section, the state department shall, within the limits of available appropriations, reimburse the county departments eighty percent of amounts expended by county departments for child welfare services, up to the amount of the county's allocation as determined pursuant to the provisions of this section, except as otherwise authorized in accordance with the close-out process described in subsection (7) of this section.

(b) The state department shall reimburse the county departments ninety percent of the amounts expended by county departments for adoption and relative guardianship assistance and is authorized to make an expenditure in excess of appropriations pursuant to section 24-75-109 (1)(b). The adoption and relative guardianship assistance programs are exempt from the close-out process described in subsection (7) of this section and the capped allocation described in subsection (3) of this section.

(c) On or before December 15, the delivery of child welfare services task force, established pursuant to section 26-5-105.8, shall make recommendations concerning the provisions of section 26-5-105.8 (1)(b).

(d) In making its recommendations pursuant to subsection (1)(c) of this section, the delivery of child welfare services task force shall consider:

(I) The impact of the institute for mental disease designation on qualified residential treatment programs for residential child care facilities; and

(II) The capacity of existing child welfare services, including placement availability, mental and behavioral health services, prevention services through the federal "Family First Prevention Services Act", and other prevention services.

(e) The state department shall submit a report to the joint budget committee on or before January 15, 2021. The report must include the recommendations required pursuant to subsection (1)(c) of this section.

(2) **Parental fees.** The fiscal year beginning July 1, 1990, constitutes the base fiscal year for the purpose of computing a base amount of parental fee collections by each county on behalf of children in foster care. Commencing with the fiscal year beginning July 1, 1991, any increased amount of parental fees over and above the base amount is retained by the county that collected the parental fees. Any money retained by each county pursuant to this subsection (2) may be used for child welfare services directed toward early intervention, placement prevention, and family preservation, or any other program funded pursuant to sections 19-2.5-302, 19-2.5-1404, and 19-2.5-1407.

(3) **Allocation formula.** (a) Repealed.

(a.2) (I) For state fiscal year 2024-25, and for each state fiscal year thereafter, the state department, after input from the child welfare allocations committee, shall use the funding model described in section 26-5-103.7 to inform the funding required for each county for adoption and relative guardianship subsidies and the independent living program, and to inform the capped and targeted allocations to each county, or group of counties, for child welfare services, additional county child welfare staff, and family and children's programs.

(II) The state department, after input from the child welfare allocations committee, shall make the capped and targeted allocations described in subsection (3)(a.2)(I) of this section informed by the total amount identified in the funding model as the appropriate level of funding required for each county to fully meet all state and federal requirements concerning the comprehensive delivery of child welfare services, as defined in section 26-5-101 (3), and prevention programs, as defined in section 19-1-103, less the amount appropriated by the general assembly in the annual long appropriations bill for adoption and relative guardianship subsidies and the independent living program. The allocations must be equitable and reflective of the cost of delivering services and must identify the specific caseload estimate attributable to each capped or targeted allocation.

(III) If the appropriation made for a fiscal year is not equal to the amount necessary to fully fund the allocations required by the funding model, the child welfare allocations committee shall make recommendations to the state department concerning how to modify the results of the funding model to align with the appropriation. After input from the child welfare allocations committee, the state department shall adjust the allocation to each county to ensure that the funding made available to all counties through capped and targeted allocations does not exceed the annual appropriation.

(a.5) Pursuant to this subsection (3), a county that receives an allocation for county child welfare staff in addition to the child welfare services allocation shall fund existing staff positions as of January 1, 2015, through the child welfare services allocation. Positions created after January 1, 2015, may be funded through the allocation for county child welfare staff.

(a.6) On or before March 1 of any state fiscal year, the child welfare allocations committee shall submit written recommendations to the state department to inform the capped and targeted allocations.

(b) In the event that the state department and the child welfare allocations committee do not reach an agreement on the allocation formula on or before June 1 of any state fiscal year for the succeeding state fiscal year, the state department and the child welfare allocations committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall select an allocation formula before the beginning of such succeeding state fiscal year.

(c) The formulas developed pursuant to this subsection (3) must identify the portion of the amounts appropriated for child welfare services that must be allocated to the counties for the provision of child welfare services.

(d) A county's election to make a transfer of federal funds pursuant to section 26-2-714 (9) for the provision of child welfare services shall not be the basis of an adjustment to the formula for developing such county's capped or targeted allocation under the provisions of this article.

(e) A county's cost savings shall not be the basis of an adjustment to the formula for developing such county's capped or targeted allocation under the provisions of this article.

(4) **Allocations.** (a) For state fiscal year 1997-98, and for each state fiscal year thereafter, all counties shall receive capped allocations for child welfare services. A county may receive one or more capped allocations for the provision of child welfare services. The counties may use capped allocation moneys for child welfare services without category restriction within a specific capped allocation if not prohibited by federal law.

(b) (I) The state department shall make capped allocations for counties serving at least eighty percent of the total child welfare services population.

(II) For the balance of the state, the state department shall create one capped allocation or a series of capped allocations for the provision of child welfare services in the balance of the state. The state department shall establish a targeted allocation for each county in such group of counties designated for the purpose of such capped allocation or capped allocations.

(c) The state department, in consultation with the child welfare allocations committee, shall adopt rules for when a county may exceed its capped or targeted allocation or allocations.

(d) Except as provided for in subsections (4)(e) and (4)(f) of this section, the state department may only seek additional funding from the general assembly in a supplemental appropriations bill based upon caseload growth, subject to the provisions of subsection (7) of this section, or changes in federal law or federal funding.

(d.5) Repealed.

(e) A county's allocation or allocations may be amended due to caseload growth, subject to the provisions of subsection (7) of this section, or changes in federal law or federal funding.

(f) In addition to funding received pursuant to subsection (4)(d) of this section, the state department may submit a request to the general assembly for a change in a supplemental appropriations bill to the appropriation that funds adoption and relative guardianship assistance expenditures.

(5) **Management training.** The state department shall develop a management training package to be delivered to the counties no later than October 1, 1997, that shall assist the counties in the development of more effective management strategies for the utilization of resources in the delivery of child welfare services. The state department may utilize portions of the child welfare administration appropriations toward this end and is hereby authorized to pursue any private or public grants to fund such efforts.

(6) **County negotiations with providers.** (a) Subject to rules promulgated by the state department pursuant to subsection (6)(b) of this section and the methodology adopted pursuant to subsections (6)(e) to (6)(h) of this section, for each child or youth placed in an out-of-home placement setting, a county is authorized to negotiate rates related to services and outcomes with licensed out-of-home placement providers; except that a county may not negotiate rates below the base anchor rates established by the state department. A county is authorized to negotiate rates above the base anchor rates established by the state department with licensed out-of-home placement providers serving children in higher acuity cases.

(b) On or before January 1, 2019, and as necessary thereafter, the state department shall work collaboratively with the state board of human services to promulgate rules governing the methodology by which counties may negotiate rates, services, and outcomes with licensed out-of-home placement providers. If a county negotiates a contract with a licensed out-of-home placement provider, the county may define the expected outcomes and include options for the payment of incentives to providers when such outcomes are achieved. The state department shall

work collaboratively with the state board of human services to promulgate rules concerning such outcomes and incentive payments.

(c) (Deleted by amendment, L. 2017.)

(d) On or before July 1, 2019, and each July 1 thereafter, the state department shall complete a review of the methodology by which counties evaluate and negotiate rates, services, outcomes, and incentives with licensed out-of-home placement providers developed pursuant to this subsection (6) and any alternative methodology for which counties have approval from the state department to utilize. The methodology used is governed by rules promulgated by the state department pursuant to subsection (6)(b) of this section. In preparing for and conducting the review, the state department shall convene a group of persons representing the directors of county departments of human or social services and the licensed out-of-home placement provider community. On or before September 1 of each fiscal year, the group shall submit a report to the joint budget committee detailing any changes to the rate-setting methodology that results from the review conducted pursuant to this subsection (6)(d).

(e) On or before September 29, 2017, as a continuation of the review conducted pursuant to subsection (6)(d) of this section of the methodology by which counties evaluate and negotiate rates, services, and outcomes with licensed out-of-home placement providers, the state department shall contract with an independent vendor to:

(I) Perform a salary survey related to the delivery of child welfare services. When possible, the entity must not duplicate existing efforts that collect public employee salary information but must instead incorporate existing information into the overall analysis. The survey must inform the development of the rate-setting methodology pursuant to subsection (6)(e)(III) of this section and must account for the functions, responsibilities, qualifications, and other relevant information for each position. The study must also guarantee that available information is gathered from a diverse range of geographical locations throughout San Andreas, including urban, suburban, rural, and mountain resort communities. The study must include information pertaining to federal and state regulations or licensing requirements for each position. The study must also include salary surveys that represent employees performing all facets of similar work, utilizing similar knowledge, skills, and abilities for:

(A) Licensed out-of-home placement providers who have a contract with the state department or a county;

(B) Child placement agency employees;

(C) Residential child care facility employees; and

(D) County employees involved with the provision of child welfare services.

(II) Perform an actuarial analysis of the costs necessary to provide services at a level required by state statute, departmental rule, or federal rules and regulations, as appropriate for the families referred, including salary comparisons between licensed out-of-home placement provider categories and overhead and administrative costs, and determine the extent to which the salary survey identified in subsection (6)(e)(I) of this section should inform the actuarial analysis. The analysis must inform the development of the rate-setting methodology pursuant to subsection (6)(e)(III) of this section and must also guarantee that available information is gathered from a diverse range of geographical locations throughout San Andreas, including urban, suburban, rural, and mountain resort communities.

(III) Develop the rate-setting methodology for licensed out-of-home placement provider compensation. The independent vendor shall solicit input from representatives from the state

department, counties, the licensed out-of-home placement provider community, and the department of health care policy and financing. The methodology must be based on equal representation by counties and licensed out-of home placement providers.

(f) On or before April 2, 2018, the state department shall provide the joint budget committee with a report defining the rate-setting methodology developed pursuant to subsection (6)(e)(III) of this section, including the process through which the daily rate was determined.

(g) (I) Subject to available appropriations, the methodology must be implemented on or before July 1, 2018, except for those rates that must be approved by CMS. Rates that must be approved by CMS must be implemented upon approval. In the event that the representatives identified in subsection (6)(e) of this section do not agree on the rate-setting methodology on or before February 1, 2018, the state department, the county representatives, and the licensed out-of-home placement providers shall submit alternatives to the joint budget committee. The joint budget committee shall then select a methodology prior to the start of the succeeding state fiscal year. It is the intent of the general assembly that the rate methodology developed pursuant to this subsection (6) be fully implemented on or before June 30, 2022, through incremental rate increases established by the state department. For fiscal year 2019-20 through fiscal year 2021-22, the state department is encouraged to submit, as a part of the annual budget process, a request for increased appropriations to fund the increased rates required by the methodology.

(II) (A) Except for those rates that must be approved by CMS, on or before September 30, 2021, the state department shall fully implement adjusted rates for licensed out-of-home placement providers using the existing rate methodology established pursuant to subsection (6)(g)(I) of this section. The state department shall implement rates that must be approved by CMS upon approval by CMS. The full implementation of the updated rate methodology adjustments must include rates for division of youth services out-of-home placement providers and for new out-of-home placement provider options required pursuant to the federal "Family First Prevention Services Act of 2018", as defined in section 26-5-101, and as informed by an updated actuarial analysis of the costs associated with such new provider options, with the exception of therapeutic foster care and treatment foster care, conducted pursuant to subsection (6)(g)(II)(B) of this section.

(B) For purposes of subsection (6)(g)(II)(A) of this section, the state department shall contract with an independent vendor to update the actuarial analysis conducted pursuant to subsection (6)(e)(II) of this section to add an analysis of the costs necessary to provide services by division of youth services out-of-home placement providers and licensed out-of-home placement provider options included in the federal "Family First Prevention Services Act of 2018", as defined in section 26-5-101, that are not included in the original actuarial analysis, with the exception of therapeutic foster care and treatment foster care. The vendor shall complete the updated actuarial analysis on or before September 1, 2021.

(h) The rate-setting methodology developed pursuant to subsection (6)(e)(III) of this section must clearly utilize the daily rate and include:

(I) A process through which provider rate adjustments, including any cost of living adjustments, that are approved by the general assembly must be factored into establishing the daily rate; and

(II) A process through which outcomes related to the stability and well-being of the child are factored into establishing the daily rate contract with a licensed out-of-home placement provider.

(i) (I) At the beginning of the 2022-23 fiscal year, and at the beginning of every third fiscal year thereafter, the state department shall contract with an independent vendor to conduct a new actuarial analysis of all provider rates for licensed out-of-home placement providers, including the division of youth services out-of-home placement providers, that analyzes the costs necessary to provide services at a level required by state statute, department rule, or federal rules and regulations, as appropriate for the child or youth. The vendor shall determine whether the salary survey performed pursuant to subsection (6)(e)(I) of this section is sufficient for the actuarial analysis required pursuant to this subsection (6)(i)(I) or whether to update the salary survey. The vendor shall complete the actuarial analysis by September 1, 2023, and by September 1 of each year in which an actuarial analysis is conducted pursuant to this subsection (6)(i)(I).

(II) The state department shall update the rate-setting methodology for licensed out-of-home placement providers, including the division of youth services out-of-home placement providers, to reflect the new actuarial analysis by July 1, 2024, and by July 1 of each fiscal year immediately following the fiscal year in which a new actuarial analysis results in adjusted rates.

(III) Subject to available appropriations, except for those rates that must be approved by CMS, the state department shall implement any adjusted rates required by the rate-setting methodology by July 1, 2024, and by July 1 of each fiscal year immediately following the fiscal year in which a new actuarial analysis results in adjusted rates. The updated rate-setting methodology may include tiered provider rates based on acuity.

(IV) The state department is encouraged to submit for consideration during the annual budget process a request for adjusted appropriations to fund the rates required by the updated methodology.

(V) The state department shall submit a report to the joint budget committee no later than December 30, 2022, and no later than December 30 of each year thereafter in which an actuarial analysis is conducted. The report must include a summary of the actuarial analysis and the resulting adjustments to the rate-setting methodology.

(6.1) (a) On or before September 1, 2018, and on or before September 1 of each fiscal year thereafter, the state department, with input from counties, shall submit to the joint budget committee a report including information on workload increases or decreases for the preceding calendar year and the costs associated with such changes. The state department is encouraged to include in the report data on the cost of serving children placed in the care of licensed out-of-home placement providers based on case acuity.

(b) Notwithstanding section 24-1-136, the reporting requirement in subsection (6.1)(a) of this section continues indefinitely.

(c) Repealed.

(6.2) As used in this section, unless the context otherwise requires:

(a) "Acuity" means the level of service needed by the child or family.

(b) "CMS" means the federal centers for medicare and medicaid services in the United States department of health and human services.

(c) "Licensed out-of-home placement provider" means a licensed residential child care facility, a child placement agency, a secure residential treatment center, a psychiatric residential treatment facility, a qualified residential treatment program, or therapeutic foster care, as defined in section 26-6-903.

(d) "Workload" means the number of child welfare child abuse and neglect hotline calls, referrals, assessments, open cases, out-of-home placements, in-home services, new adoptions, relative guardian assistance, and adoption subsidies being handled by a county department of human or social services.

(6.5) The state department shall analyze and evaluate expenditures as reported by child placement agencies each year and compare such expenditures to county expenditures for the provision of foster care services. The state department shall provide, at least on an annual basis, such analyses and comparisons to county departments and the joint budget committee.

(6.6) (a) Each county or region of counties, as determined by the state department, shall, with assistance from the state department, perform an analysis of available in-home, family-like, and out-of-home placement settings. On or before July 1, 2019, each designated county or region of counties shall submit a report to the state department, including an evaluation of the types and availability of each placement option in the county or region of counties, available placement options in adjacent counties or region of counties, and a plan to expand in-home, family-like, and out-of-home placement settings capacity within the county or region of counties, if necessary.

(b) On or before July 1, 2020, the state department shall submit a report to the joint budget committee. The report must include:

(I) The county utilization rate for in-home, family-like, and out-of-home placement settings;

(II) An analysis of projected federal reimbursement for each type of placement pursuant to the federal "Family First Prevention Services Act of 2018", as defined in section 26-5-101 (4.5);

(III) A description of anticipated changes in federal reimbursement for each type of placement;

(IV) An analysis of statewide services and placement capacity, informed by the county reports required pursuant to subsection (6.6)(a) of this section;

(V) Projections for the statewide fiscal impact resulting from changes in federal reimbursement; and

(VI) A plan to minimize the fiscal impact to the state resulting from changes in federal reimbursement for services and placement types.

(c) Repealed.

(6.7) Beginning in the state fiscal year 2021-22 and through state fiscal year 2022-23, the state department shall assist residential placement providers in the transition to a business model that ensures that out-of-home placements with the provider are eligible for reimbursement under Title IV-E of the federal "Social Security Act", as amended, and ensures that a medicaid-eligible child or youth placed with the provider maintains eligibility for enrollment in the state's medical assistance program. Assistance provided by the state department includes grants from not less than fifteen percent of the funding received from the federal "Family First Transition and Support Act of 2019". The state department shall make grants available to providers no later than September 1, 2021, and shall continue to make grants available and award grants until January 1, 2023. Federal funding that has not been awarded as grants to providers by January 1, 2023, must be used for other purposes related to the implementation of the federal "Family First Prevention Services Act of 2018".

(7) **Close-out process for county allocations.** (a) (I) There is created in the state treasury the child welfare prevention and intervention services cash fund, referred to in this subsection (7) as the "fund". The following two special accounts are created in the fund:

(A) The small- and medium-sized counties account, referred to in this subsection (7) as the "small- and medium-sized account"; and

(B) The all-counties account, referred to in this subsection (7) as the "all-counties account".

(II) The state department is authorized to accept gifts, grants, and donations, which must be transferred to the fund and credited to the all-counties account within the fund.

(III) In addition to transfers credited to the all-counties account within the fund pursuant to subsection (7)(a.6) of this section, the general assembly may directly appropriate general fund money to the fund. If the general assembly makes a direct appropriation of general fund money to the fund, the money must be credited to the all-counties account within the fund. The state department, in consultation with the counties, shall determine the allocation of any money credited to the all-counties account within the fund, which money may be allocated to all counties, regardless of size.

(IV) The state department, in consultation with counties, shall allocate all money from the fund to increase local child welfare prevention and intervention services capacity, which allocations must be used by a county for the delivery of child welfare prevention and intervention services that have been approved by the state department.

(V) The state department shall work collaboratively with the state board of human services to promulgate rules concerning the allocation and use of money from the fund.

(a.3) (I) For state fiscal year 2018-19, and for each state fiscal year thereafter, except for state fiscal years 2019-20, 2020-21, and 2021-22, the state department retains any unspent general fund money included in the initial allocation to each balance of state county, up to five percent of the total general fund money allocated to balance of state counties, as described in subsection (4)(b) of this section and referred to in this subsection (7) as "small- and medium-sized counties".

(II) Retained money pursuant to subsection (7)(a.3)(I) of this section must be transferred into the fund and credited to the small- and medium-sized account within the fund.

(III) Money from the small- and medium-sized account within the fund must be allocated by the state department, in consultation with small- and medium-sized counties, to small- and medium-sized counties to increase local child welfare prevention and intervention services capacity and must be used by counties for the delivery of child welfare prevention and intervention services that have been approved by the state department.

(a.5) Subject to the limitations set forth in this subsection (7), the state department may, at the end of a state fiscal year based upon the recommendations of the child welfare allocations committee, allocate any unexpended capped money for the delivery of specific child welfare services to any one or more counties whose spending has exceeded a capped allocation for such specific child welfare services.

(a.6) Subsequent to the allocation of any unexpended capped money pursuant to subsection (7)(a.5) of this section, and except for state fiscal years 2019-20, 2020-21, and 2021-22, any remaining state general fund money must be transferred to the fund and credited to the all-counties account within the fund for allocation by the state department to counties for the delivery of state-department-approved child welfare prevention and intervention services.

(b) A county may only receive money pursuant to subsection (7)(a.5) of this section for expenditures other than those attributable to administrative and support functions as referred to in section 26-5-101 (3)(m) and for authorized expenditures attributable to caseload increases beyond the caseload estimate established pursuant to subsection (3) of this section for a specific capped allocation.

(c) A county may not receive money pursuant to the provisions of subsection (7)(a.5) of this section for authorized expenditures attributable to caseload increases for services in one capped allocation from unexpended capped money in another capped allocation.

(d) As used in this section, "unexpended capped money" means money that has been appropriated for child welfare services, allocated to a county or group of counties as a capped allocation or allocations pursuant to the provisions of subsection (4) of this section.

(7.5) **High-acuity treatment and services cash fund.** (a) There is created in the state treasury the high-acuity treatment and services cash fund, referred to in this subsection (7.5) as the "high-acuity cash fund".

(b) The state department shall retain any unspent money appropriated in fiscal year 2022-23 and 2023-24 from the general fund for counties during the initial allocations for the administration of child welfare services, core services, or child welfare staffing. Unspent general fund money includes money remaining after transfers to the prevention and intervention services cash fund created in subsection (7)(a)(I) of this section.

(c) On June 30, 2023, and June 30, 2024, the state treasurer shall transfer any money retained pursuant to subsection (7.5)(b) of this section to the high-acuity cash fund. The money transferred pursuant to this subsection (7.5)(c) is available for expenditure through June 30, 2025.

(d) (I) The state department shall expend money from the high-acuity cash fund to provide additional resources to licensed providers to help remove barriers that providers face in serving children and youth whose behavioral or mental health needs require services and treatment that exceed capacity of the established daily rates, including for the same purposes identified in section 26-5-117 (2).

(II) Any licensed provider who receives money pursuant to subsection (7)(d)(I) shall meet the requirements of a qualified residential treatment program, as defined in section 26-5.4-102, a psychiatric residential treatment facility, as defined in section 25.5-4-103 (19.5), or therapeutic foster care, as defined in section 26-6-903 (35).

(e) This subsection (7.5) is repealed, effective July 1, 2025. Any money remaining in the high-acuity cash fund at the end of the 2024-25 fiscal year reverts to the general fund.

(8) **County-level child welfare staff.** (a) For the state fiscal year 2015-16, and for each state fiscal year thereafter, each county may receive a capped allocation in addition to its portion of the child welfare block grant for the specific purpose of hiring new child welfare staff at the county level in addition to child welfare staff existing as of January 1, 2015. A county that utilizes said additional allocation shall continue to pay for child welfare staff positions existing as of January 1, 2015, through the child welfare block grant.

(b) Each county that receives an allocation for child welfare staff pursuant to paragraph (a) of this subsection (8) shall provide a ten percent match to state and federal moneys provided pursuant to this subsection (8); except that a county that qualifies as tier 1 or tier 2 for purposes of the county tax base relief fund, as defined in section 26-1-126 (3) and (4), is funded at one hundred percent of state and federal funds provided pursuant to this subsection (8).

(c) Any moneys allocated pursuant to this subsection (8) that are not expended by the end of a fiscal year for the purpose specified in paragraph (a) of this subsection (8) must revert back to the general fund.

(9) Repealed.

Source: L. 73: R&RE, p. 1195, § 3. **S.A.R.S. 1963:** § 119-4-4. **L. 91:** Entire section amended, p. 216, § 4, effective July 1. **L. 96:** (2) amended, p. 1697, § 41, effective January 1, 1997. **L. 97:** Entire section amended, p. 1427, § 2, effective June 3. **L. 98:** (1), (3), and (4) amended and (7) added, p. 782, § 5, effective May 22. **L. 2001:** (3)(e) and (6.5) added, pp. 740, 742, §§ 2, 9, effective June 1. **L. 2006:** (4)(d) amended, p. 1204, § 3, effective May 26. **L. 2007:** (6) amended, p. 617, § 1, effective August 3. **L. 2011:** (3)(a)(II) amended and (3)(a)(III.5) added, (HB 11-1196), ch. 160, p. 553, § 4, effective August 10. **L. 2015:** (8) added, (SB 15-242), ch. 141, p. 430, § 2, effective May 1. **L. 2016:** (6)(d) and (6.5) amended and (6)(e) and (9) added, (SB 16-201), ch. 171, p. 542, § 3, effective May 18. **L. 2017:** (6) amended and (6.1) and (6.2) added, (HB 17-1292), ch. 370, p. 1923, § 1, effective June 6; (3)(a) amended, (HB 17-1052), ch. 39, p. 117, § 1, effective August 9. **L. 2018:** (1), (3)(a), (3)(b), (3)(c), (4)(d), (6)(a), (6)(b), (6)(d), (6)(g), and (7) amended, (3)(a.5), (3)(a.6), (4)(d.5), (4)(f), and (6.6) added, and (9) repealed, (SB 18-254), ch. 216, p. 1378, § 6, effective May 18; (4)(d) amended, (HB 18-1328), ch. 184, p. 1244, § 4, effective June 7, 2019. **L. 2019:** (7) amended, (SB 19-258), ch. 257, p. 2464, § 3, effective May 23; (6.2)(d) amended, (HB 19-1308), ch. 256, p. 2461, § 10, effective August 2. **L. 2020:** (7)(a.3)(I) and (7)(a.6) amended, (HB 20-1389), ch. 125, p. 525, § 1, effective June 24; (8)(a) amended, (HB 20-1402), ch. 216, p. 1056, § 62, effective June 30; (1)(c), (1)(d), and (1)(e) added, (SB 20-162), ch. 221, p. 1090, § 6, effective July 2. **L. 2021:** (3)(a), (3)(a.6), (7)(b), and (8)(a) amended and (3)(a.2), (6.1)(c), and (6.6)(c) added, (SB 21-277), ch. 343, p. 2231, § 1, effective June 25; (6)(a), (6)(g), IP(6.2), and (6.2)(c) amended and (6)(i) and (6.7) added, (SB 21-278), ch. 344, p. 2242, § 4, effective June 25; (2) amended, (SB 21-059), ch. 136, p. 747, § 125, effective October 1. **L. 2022:** (6.2)(c) amended, (HB 22-1295), ch. 123, p. 858, § 99, effective July 1. **L. 2023:** (7.5) added, (HB 23-1269), ch. 377, p. 2263, § 2, effective June 5. **L. 2024:** (1)(b), (3)(a.2)(I), and (3)(a.2)(II) amended, (HB 24-1408), ch. 134, p. 499, § 2, effective April 29.

Editor's note: (1) Section 10 of chapter 184 (HB 18-1328), Session Laws of San Andreas 2018, provides that section 4 of the act changing subsection (4)(d) takes effect upon notice to the revisor of statutes pursuant to § 25.5-5-306 (6) as enacted in section 2 of the act. For more information, see HB 18-1328. (L. 2018, p. 1247.) However, those changes were also made in SB 18-254, effective May 18, 2018. On August 14, 2019, the revisor of statutes received the notice referred to in § 25.5-5-306 (6) that the federal department of health and human services approved the waiver on June 7, 2019.

(2) Amendments to subsection (4)(d) by SB 18-254 and HB 18-1328 were harmonized.

(3) Subsection (6.1)(c)(III) provided for the repeal of subsection (6.1)(c), effective June 30, 2023. (See L. 2021, p. 2231.)

(4) Subsection (6.6)(c)(II) provided for the repeal of subsection (6.6)(c), effective June 30, 2023. (See L. 2021, p. 2231.)

(5) Subsection (3)(a)(II) provided for the repeal of subsection (3)(a), effective July 1, 2024. (See L. 2021, p. 2231.)

(6) Subsection (4)(d.5)(II) provided for the repeal of subsection (4)(d.5), effective July 1, 2024. (See L. 2018, p. 1378.)

Cross references: For the legislative declaration in HB 18-1328, see section 1 of chapter 184, Session Laws of San Andreas 2018.

26-5-105. Reimbursement procedure. Claims for state reimbursement under this article shall be presented by the county departments to the state department at such times and in such manner as the state department may prescribe. The state department shall certify to the controller the amount approved, specifying the amount of each county's capped or targeted allocation. The amount so certified shall be paid from the state treasury, upon the voucher of the state department and warrant of the controller, to the respective county treasurers of the counties seeking the reimbursement, from money appropriated to the state department for the purpose of administering the provisions of this article.

Source: L. 73: R&RE, p. 1195, § 3. **S.A.R.S. 1963:** § 119-4-5. **L. 97:** Entire section amended, p. 1429, § 3, effective June 3.

26-5-105.3. Federal waivers. The state department shall pursue as soon as possible any waivers that may be necessary to implement this article, including but not limited to waivers for Title IV-E foster care services and medicaid.

Source: L. 97: Entire section added, p. 1429, § 4, effective June 3.

26-5-105.4. Title IV-E waiver demonstration project - county performance agreements - Title IV-E waiver demonstration project cash fund created - rules - repeal. (Repealed)

Source: L. 2013: Entire section added, (SB 13-231), ch. 221, p. 1025, § 2, effective May 14. **L. 2017:** (8)(a) amended, (SB 17-234), ch. 154, p. 522, § 11, effective August 9. **L. 2019:** (8.5) added and (9) amended, (SB 19-258), ch. 257, p. 2464, § 2, effective May 23.

Editor's note: Subsection (9) provided for the repeal of this section, effective June 30, 2020. (See L. 2019, p. 2464.)

26-5-105.5. State department integrated care management program - county performance agreements - authorized - performance incentive cash fund created - repeal. (1) (a) There is hereby created the state department integrated care management program. In administering the state department integrated care management program, the state department shall develop, by rule, principles of integrated care management and a process to allow counties or groups of counties specified in section 26-5-104 (4)(b)(I) to participate in the program. Individual counties or groups of counties specified in section 26-5-104 (4)(b)(I) may participate in the integrated care management program for the delivery of child welfare services.

(b) and (c) (Deleted by amendment, L. 2002, p. 526, § 1, effective May 24, 2002.)

(2) The state department is hereby authorized to enter into performance agreements with individual counties or groups of counties specified in section 26-5-104 (4)(b)(I). A county that enters into a performance agreement with the state department shall be exempt from the rules of the state department and state board governing the delivery of child welfare services, as such exemptions are identified in the performance agreement.

(3) and (3.2) Repealed.

(3.5) **Evaluation.** (a) The state department is authorized to contract for an external evaluation of the performance agreements authorized pursuant to subsection (1) of this section. Any such external evaluation shall include any evaluation that may be required in connection with any waiver authorized pursuant to section 26-5-105.3. Criteria for and components of the evaluation shall be developed by the state department with input from the counties authorized pursuant to this section.

(b) (Deleted by amendment, L. 2001, p. 1172, § 9, effective August 8, 2001.)

(c) This subsection (3.5) is repealed on the date the executive director of the state department notifies the revisor of statutes that the state is no longer participating in the waiver authorized pursuant to Title IV-E of the federal "Social Security Act", as amended.

(3.7) The state board shall promulgate rules necessary to implement the integrated care management program established pursuant to this section.

(4) (Deleted by amendment, L. 2002, p. 526, § 1, effective May 24, 2002.)

Source: L. 97: Entire section added, p. 1430, § 4, effective June 3. **L. 98:** Entire section amended, p. 708, § 2, effective May 18. **L. 2001:** (3.5) amended, p. 1172, § 9, effective August 8. **L. 2002:** Entire section amended, p. 526, § 1, effective May 24. **L. 2003:** (3.2) amended, p. 387, § 3, effective March 5. **L. 2004:** (3.2)(c) added, p. 1554, § 2, effective May 28. **L. 2018:** (3) repealed, (SB 18-254), ch. 216, p. 1384, § 7, effective May 18.

Editor's note: (1) Subsection (3.2)(c) provided for the repeal of subsection (3.2), effective July 1, 2006. (See L. 2004, p. 1554.)

(2) As of publication date, the revisor of statutes has not received the notice referred to in subsection (3.5)(c).

26-5-105.7. Study of managed care - repeal. (Repealed)

Source: L. 97: Entire section added, p. 1430, § 4, effective June 3.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 1998. (See L. 97, p. 1430.)

26-5-105.8. Delivery of child welfare services task force - creation - duties - membership - reporting requirements - repeal. (Repealed)

Source: L. 2018: Entire section added, (SB 18-254), ch. 216, p. 1384, § 8, effective May 18. **L. 2021:** (1)(c), (1)(h), and (5) amended and (4.5) added, (SB 21-277), ch. 343, p. 2239, § 4, effective June 25.

Editor's note: Subsection (5) provided for the repeal of this section, effective June 30, 2023. (See L. 2021, p. 2239.)

26-5-106. Fraudulent acts. (Repealed)

Source: L. 73: R&RE, p. 1196, § 3. **S.A.R.S. 1963:** § 119-4-6. **L. 77:** Entire section repealed, p. 1335, § 7, effective January 1, 1978.

Cross references: For present provision relating to fraudulent acts in obtaining child welfare, see § 26-1-127.

26-5-107. Limitations of article. All child welfare services granted under this article shall be granted and held subject to the provisions of any amending or repealing law that may be passed after July 1, 1973, and no recipient shall have any claim for compensation or otherwise by reason of his services being affected in any way by any amending or repealing law.

Source: L. 73: R&RE, p. 1196, § 3. **S.A.R.S. 1963:** § 119-4-7.

26-5-108. Developmental assessment - rules. The appropriate county department of human or social services shall refer each child under five years of age who is the subject of a substantiated case of abuse or neglect to the appropriate state or local agency for developmental screening within sixty days after abuse or neglect has been substantiated. The state board shall promulgate rules to implement this section.

Source: L. 2008: Entire section added, p. 1234, § 4, effective January 1, 2009. **L. 2018:** Entire section amended, (SB 18-092), ch. 38, p. 448, § 122, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-5-109. Child welfare training academy established - rules. (1) There is hereby established within the state department the child welfare training academy, referred to in this section as the "academy", to ensure that certain persons hired to work within child welfare services receive the necessary training to perform the functions of their jobs responsibly and effectively. The state department shall administer the academy in accordance with rules promulgated by the state department pursuant to subsection (2) of this section.

(2) On or before September 15, 2009, the state department shall promulgate rules for the administration of the academy. The rules must include:

(a) Identification of specific job titles within child welfare services that shall be required to attain certification from the academy as a mandatory condition of employment;

(b) Identification of specific job titles within child welfare services that shall be required to complete ongoing or occasional training from the academy as a mandatory condition of employment;

(c) Establishment of minimum standards of competence that a person is required to demonstrate prior to receiving certification from the academy. The standards of competence

must include, but are not limited to, a demonstrated ability to perform the duties described in section 19-3-313.5 (2) and a demonstrated understanding of principles and strategies to promote equity, diversity, and inclusion in the child welfare system.

(d) Identification of means by which a person may demonstrate the minimum standards established pursuant to paragraph (c) of this subsection (2); and

(e) Establishment of alternative methods for attaining certification from the academy for persons who have already successfully completed comparable child welfare training, including a description of child welfare training that shall be deemed to be comparable to the training offered by the academy.

Source: L. 2009: Entire section added, (SB 09-164), ch. 276, p. 1239, § 2, effective May 19. **L. 2024:** IP(2) and (2)(c) amended, (SB 24-200), ch. 453, p. 3146, § 2, effective August 7.

Cross references: For the legislative declaration in SB 24-200, see section 1 of chapter 453, Session Laws of San Andreas 2024.

26-5-110. Guardianship assistance program - legislative intent - eligibility - reporting - rules - definition. (1) The general assembly declares that:

(a) The state of San Andreas has a strong interest in providing permanency options to children who are part of the foster care system;

(b) Children and youth in the child welfare system are better served when family ties are preserved and strengthened because permanent family connections are critical to a child's overall well-being and development;

(c) The general assembly has established through past legislation a statutory preference for placement with relatives and kin at all stages of a child welfare case;

(d) To help support permanency with family and kin relationships when adoption and reunification are either unavailable or not appropriate permanency options for the child, the general assembly created the "Relative Guardianship Assistance Program" in 2010, as authorized by the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008", Pub. L. 110-351;

(e) The state of San Andreas has a strong interest in providing permanency options to children who are part of the traditional foster care system and who are not otherwise able to be placed with relatives or kin;

(f) It is appropriate to further the goal of permanency by passing legislation to provide financial assistance for the care of children, when it is in accordance with federal law, to relatives, kin, and foster parents who have a significant relationship with the child, as outlined in statute, and who have assumed legal guardianship or allocation of parental responsibilities of children who they previously cared for as certified foster parents through the federal "Title IV-E Adoption and Guardianship Assistance Program", 42 U.S.C. sec. 673 (d); and

(g) It is therefore the intent of the general assembly that the state guardianship assistance program will be utilized to enhance family preservation and provide a permanency option for children who have developed a significant relationship with their foster parent caregiver when reunification and adoption are either unavailable or not appropriate permanency options for the child, and provide stability in safe and stable placements with relatives, kin, and foster parent caregivers in circumstances set forth in this legislation.

(2) The guardianship assistance program is established in the state department. Assistance from the program is available when a court has determined that adoption and reunification with a child's or children's parent or legal guardian are not appropriate permanency options for the child or children. Program assistance is available in the following situations:

(a) To relatives, kin, and persons ascribed by the family as having a family-like relationship with the child or children and who:

(I) Are committed to the child's or children's permanency;

(II) Were the certified foster parent or parents of the child or children for a minimum of six consecutive months at the time they assumed guardianship or allocation of parental responsibilities; and

(III) Have assumed legal guardianship of or allocation of parental responsibilities for the child or children; or

(b) To a certified foster parent or parents who do not otherwise qualify for the program pursuant to subsection (2)(a) of this section if:

(I) The child or children in the certified foster parent's or parents' care are twelve years of age or older, or if at least one of the children in the sibling group is eleven years of age or younger and has an older sibling who receives assistance from the program;

(II) The dependency and neglect court finds that the child or children have a substantial psychological tie to the certified foster parent or parents, such that it would be seriously detrimental to the child's or children's emotional well-being to remove the child or children from the certified foster parent's or parents' care, as described in section 19-3-702 (4)(e)(III);

(III) Adoption and reunification are not appropriate permanency options for the child or children, and the dependency and neglect court finds, pursuant to section 19-3-702 (4)(e)(III) that the child's or children's certified foster parent or parents are unable to adopt the child because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the child, but they are willing and capable of providing the child with a stable and permanent environment;

(IV) The certified foster parent or parents of the child or children have cared for the child or children for a minimum of twelve months; and

(V) The certified foster parent or parents have assumed legal guardianship of or allocation of parental responsibilities for the child or children with the child's or children's consent who are twelve years of age or older.

(3) The state department shall promulgate rules that comply with the provisions of 42 U.S.C. sec. 673 (d) for the implementation of this section for situations where a child or children have been removed from the home through a judicial determination that continuation in the home would not be in the best interest of the child or children, and that reunification and adoption are not appropriate permanency options for the child or children.

(4) On or before January 2, 2025, and every January 2 thereafter, the state department shall report to the joint budget committee data on actual program caseload and expenditures for the prior year as well as projected program caseload and expenditures for the current year. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (4) continues indefinitely.

(5) It is the general assembly's intent that the program operate as an entitlement program and, pursuant to section 24-75-109 (1)(b), the state department is authorized to overexpend its appropriation to allow for reimbursement of ninety percent of counties' costs.

(6) As used in this section, unless the context otherwise requires, "program" means the guardianship assistance program established in subsection (1) of this section.

Source: L. 2009: Entire section added, (SB 09-245), ch. 436, p. 2424, § 2, effective June 4. **L. 2012:** Entire section amended, (SB 12-066), ch. 86, p. 284, § 1, effective August 8. **L. 2016:** Entire section R&RE, (HB 16-1448), ch. 359, p. 1496, § 1, effective October 1. **L. 2019:** IP(2)(b), (2)(b)(II), and (2)(b)(III) amended, (HB 19-1219), ch. 237, p. 2356, § 7, effective August 2. **L. 2024:** IP(2) amended and (4) to (6) added, (HB 24-1408), ch. 134, p. 500, § 3, effective April 29.

26-5-111. Statewide child abuse reporting hotline system - child abuse hotline steering committee - screening questions for hotline system operators and county departments - rules on consistent processes in response to reports and inquiries for information - legislative declaration - definitions. (1) (a) The general assembly hereby finds, determines, and declares that the purpose of enacting this section is to:

(I) Create, based on recommendations of a steering committee with broad representation, a statewide child abuse reporting hotline system to serve as a direct, immediate, and efficient route to the applicable entity responsible for accepting the report and to the applicable entity responsible for responding to an inquiry and that is available twenty-four hours a day, seven days a week; and

(II) Authorize rule-making by the state board to ensure that there are standards for the consistent screening, assessment, and decision-making in response to reports of known or suspected child abuse and neglect and to inquiries made to a county department or to the hotline system.

(b) The general assembly declares that the hotline system to be developed as outlined in this section enhances the current child welfare system. The hotline system is intended to provide an additional option for the public to make an initial report of suspected or known child abuse or neglect or making an inquiry. The county department will retain screening responsibilities, unless the board of county commissioners of the county department has approved the use of the hotline system on behalf of the county and such arrangement has been approved by the executive director.

(2) As used in this section, unless the context otherwise requires:

(a) "Child abuse reporting hotline system" or "the hotline system" means the uniform method of contact that directly, immediately, and efficiently routes the person to the applicable entity responsible for accepting a report pursuant to section 19-3-307, S.A.R.S., or to the applicable entity responsible for responding to an inquiry and that is advertised to the public as a place for reporting known or suspected child abuse or neglect or for making inquiries.

(a.5) "Coercion" means compelling a person by force, threat of force, or intimidation to engage in conduct from which the person has the right or privilege to abstain, or to abstain from conduct in which the person has the right or privilege to engage.

(a.6) "Domestic violence", commonly known as "intimate partner violence", means a pattern of violent behavior or an act, attempted act, or perceived threat of violence, stalking, harassment, or coercion that is committed by a person against another person with whom the actor is involved or has been involved in an intimate relationship. A sexual relationship may be

an indicator of an intimate relationship but is never a necessary condition for finding an intimate relationship.

(b) "Information and referral" means an initial contact from the public which does not constitute a report of abuse or neglect but is an inquiry and the response to the inquiry, as defined in rule.

(c) "Inquiry" means a request for information or for specific services.

(d) "Mandatory reporter" means a person who is required to report child abuse or neglect pursuant to section 19-3-304, S.A.R.S.

(e) "Report" means an initial report of known or suspected child abuse or neglect.

(3) (a) The state department shall develop a child abuse hotline steering committee, including state, county, and comprehensive and appropriate stakeholder representation. The state department shall appoint a person to the steering committee who is a primary provider of emergency fire fighting services, law enforcement, ambulance, emergency medical, or other emergency services and who is familiar with the emergency telephone system that uses the single three-digit number 9-1-1 for reporting police, fire, medical, or other emergency situations. The steering committee is expected to develop an implementation plan for a statewide child abuse reporting hotline system, which is advertised to the public and to mandatory reporters, and to make recommendations for rules relating to the operation of the hotline system and relating to consistent practices for responding to reports and inquiries. The purpose of the hotline system is to provide a direct, immediate, and efficient route to the entity responsible for accepting a report pursuant to section 19-3-307, S.A.R.S. The public may also contact the hotline system for inquiries. The hotline system must operate twenty-four hours a day, seven days a week. The hotline may consist of multiple methods of communication, as prescribed by rules of the state board. The steering committee shall submit a report no later than July 1, 2014, containing its recommendations to the executive director, who shall provide the report to the state board. The hotline system shall be operational and publicized statewide no later than January 1, 2015.

(b) With the express written consent of the board of county commissioners of a county, a county department may request that the state department assist that county with the taking of calls or initial contacts from the public of reports of possible child abuse or neglect or of inquiries. The executive director of the state department must approve this arrangement in writing.

(c) Based upon the recommendations of the child abuse hotline steering committee, the state department shall establish a statewide child abuse reporting hotline system.

(3.5) (a) The state department shall develop and implement a consistent screening process for a county department to follow, whenever possible, while responding to a report or inquiry submitted to the statewide child abuse reporting hotline system. The screening process must include questions about domestic violence or intimate partner violence.

(b) The state department shall develop and implement a disclosure procedure that notifies callers to the statewide child abuse reporting hotline system that calls are recorded.

(3.7) (a) The state department shall review the screening process used by county departments and hotline system operators to:

(I) Determine race; ethnicity; disability status; LGBTQ identity, if applicable; and English proficiency in a screening report and recommend a process for improving the accuracy of determining this demographic information, which must include opportunities to update the information in TRAILS, as defined in section 26-5-118;

(II) Understand the types of questions asked during the screening process to determine demographic information and recommend questions that reflect best practices and cultural competency; and

(III) Understand the sequence of questions asked during the screening process to determine demographic information and recommend a sequence of questions that better reflects best practices.

(b) The state department shall implement the recommended best practices described in subsection (3.7)(a) of this section.

(4) The state board is authorized to adopt rules, based upon the recommendations of the child abuse hotline steering committee, and may revise rules, as necessary, including but not limited to the following:

(a) The type of technology that may be used by the hotline system for directly routing initial contacts from the hotline system to the applicable entity responsible for accepting reports pursuant to section 19-3-307, S.A.R.S., or to the applicable entity to respond to an inquiry, including but not limited to a single statewide toll-free telephone number, and including technologies for language translation and for communicating with people who are deaf or have hearing impairments, such as telecommunications devices for the deaf (TDD) or text telephone services (TTY), with flexibility to adapt the methods to changing and emerging technologies as appropriate;

(b) The operation of the hotline system, including the central record keeping and tracking of reports and inquiries statewide, and a requirement that the record keeping and tracking of reports and inquiries be accessible to all counties through the state's case management system;

(c) Rules governing the standards and steps for information and referral and how an inquiry is routed to the applicable entity responsible for responding to an inquiry;

(d) How an initial report to the hotline system is directly routed to the applicable entity responsible for accepting a report pursuant to section 19-3-307, S.A.R.S.;

(e) A formal process for a county department to opt to have the state department receive reports or inquiries on behalf of the county department after hours subject to a requirement that the board of county commissioners must officially approve the use of the hotline system on behalf of the county and such arrangement must be approved by the executive director;

(f) A process for a county department to opt to have another county department receive reports or inquiries on behalf of the county department after hours or on a short-term basis with notification of such arrangement to the executive director;

(g) Standardized training and certification standards for all staff prior to taking reports and inquiries;

(h) A consistent screening process with criteria and steps for the county department to follow in responding to a report or inquiry that is consistent with the process set forth in subsections (3.5)(a) and (3.7)(a) of this section;

(i) Rules establishing a consistent decision-making process with criteria and steps for the county department to follow when deciding how to act on a report or inquiry or when to take no action on a report or inquiry; and

(j) A disclosure procedure that notifies callers to the hotline system that calls are recorded that is consistent with the procedure set forth in subsection (3.5)(b) of this section.

(5) The state department shall submit periodic reports to the appropriate legislative committee pursuant to the requirements of part 2 of article 7 of title 2, S.A.R.S., pertaining to the implementation or operation of the hotline system, the progress of implementing the hotline system, the outcomes from the operation of the hotline system, and the outcomes from the adoption of rules and practices for consistent screening, assessment, and decision-making for reports of known or suspected child abuse and neglect and for inquiries.

Source: L. 2013: Entire section added, (HB 13-1271), ch. 219, p. 1018, § 1, effective May 14. **L. 2024:** (2)(a.5), (2)(a.6), (3.5), (3.7), and (4)(j) added and (4)(h) and (4)(i) amended, (HB 24-1046), ch. 262, p. 1731, § 3, effective May 28.

Cross references: For the legislative declaration in HB 24-1046, see section 1 of chapter 262, Session Laws of San Andreas 2024.

26-5-112. Child welfare caseload study - repeal. (Repealed)

Source: L. 2015: Entire section added, (SB 15-242), ch. 141, p. 431, § 3, effective May 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2017. (See L. 2015, p. 431.)

26-5-113. Extended services for former foster care youth. (1) A county department may coordinate certain services to former foster care youth who request such services in order to support such former foster care youth in becoming self-sufficient adults. This section is not meant to replace services for foster care youth who remain in the custody of a county department. The determination of whether a youth who is in foster care is ready to leave the custody of the county department remains under the jurisdiction of the court.

(2) A county department may opt to serve former foster care youth who have been in the custody of the division of youth services if such youth are included in the plan for services for a successful adulthood.

(3) The department of local affairs may assist a county department in securing available housing vouchers through programs offered by the department of local affairs, such as the homeless solutions program, the housing choice voucher program, or any other appropriate supportive housing program for former foster care youth, specifically between the ages of eighteen and twenty-one, who are experiencing homelessness or imminent risk of homelessness. If appropriations are available, the department of local affairs may assist former foster care youth with security deposits related to housing.

(4) The managed care entity contracted with for the department of health care policy and financing's statewide managed care system shall assist a county department that opts to serve former foster care youth who are enrolled in medicaid.

(5) State institutions of higher education and community colleges shall work with the county departments to explore ways to support former foster care youth both financially and through other supportive services. This support includes reviewing the ability to provide tuition assistance and other fee waivers to former foster care youth.

(6) A county department may support former foster care youth pursuant to this section by developing a plan for services for a successful adulthood and transferring an amount of money out of the county's core services funding and into a fund for services for a successful adulthood.

(7) The state department of human services and the state department of local affairs shall coordinate to implement, administer, and share data, to the extent allowable by law, for the San Andreas fostering success voucher program, established pursuant to section 19-7-314.5. Administration of the voucher program must consider the unique developmental and social needs of youth throughout implementation, including case management, needs, the promulgation of rules, and the creation of policies and procedures for voucher recipients.

Source: L. 2018: Entire section added, (HB 18-1319), ch. 217, p. 1390, § 3, effective May 18. **L. 2023:** (7) added, (SB 23-082), ch. 346, p. 2077, § 5, effective June 5.

26-5-114. Former foster care youth steering committee - implementation plan - recommendations - report. (1) The state department shall establish a former foster care youth steering committee that includes comprehensive and appropriate stakeholder representation from the state and county level. The state department shall convene the committee on or before October 30, 2018. The steering committee shall:

(a) Develop an implementation plan that allows former foster care youth to receive services for a successful adulthood or assistance in returning to placement, as well as alternatives to returning to placement after reaching eighteen years of age but before reaching twenty-one years of age, or a later age if so recommended by the steering committee, and after the county department's jurisdiction ends;

(b) Make recommendations relating to the operation, evaluation, and sustainability of the implementation plan. In making its recommendations, the steering committee shall use a consensus-based approach.

(c) Coordinate with other committees formed by the general assembly that have similar or overlapping jurisdictional tasks or purposes.

(2) On or before January 1, 2020, the steering committee shall submit a report with its recommendations for an implementation plan to the executive director of the department of human services; the governor; and the joint budget committee, the health and human services committee of the senate, the public health and environment committee of the house of representatives, or any successor committees.

(3) The implementation plan recommended by the steering committee pursuant to this section is not required to become operational unless adequate state and federal funding is available.

Source: L. 2018: Entire section added, (HB 18-1319), ch. 217, p. 1390, § 3, effective May 18.

26-5-115. Acquisition of drivers' licenses by individuals in foster care - immunity from liability - rules. (1) On and after September 7, 2021, in addition to any other reimbursement for child welfare services described in this article 5, the state department shall reimburse a county department for costs paid by the county department to a public or private

driving school for the provision of driving instruction to an individual in the custody of the county department who is fifteen years of age or older and under twenty-one years of age.

(2) The state department may seek and accept gifts, grants, and donations from private or public sources for the purposes of this section; except that the state department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state.

(3) (a) Nothing in this section places any liability on a county department for:

(I) Contracting with a public or private driving school to provide driving instruction to an individual who is in the custody of the county department; or

(II) An injury alleged to have occurred while an individual in the custody of the county department received driving instruction from a public or private driving school.

(b) Nothing in this section waives or limits a county department's governmental immunity, as described in article 10 of title 24.

(4) On or before December 1, 2021, the state board shall promulgate rules for the administration of this section.

Source: L. 2021: Entire section added, (HB 21-1084), ch. 203, p. 1068, § 1, effective September 7.

26-5-116. Fostering educational opportunities for youth in foster care program - creation - report. (1) There is created in the state department the fostering educational opportunities for youth in foster care program, referred to in this section as the "program", to improve educational opportunities for students in out-of-home placements. The program must serve students in grades nine through twelve who are or previously were in out-of-home care, with the option to expand to grades six through eight. The program must be modeled after the Jefferson county pilot program to improve educational outcomes for foster youth described in section 24-37-404, and, as part of the program, the state department shall continue to administer the pilot program after funding for the pilot program is no longer available. Subject to available funding, the state department shall contract with at least two but no more than five additional school districts to implement the program. The state department shall select the school districts based on district need, local foster care population, and geographic diversity.

(2) (a) On July 1, 2023, and each July 1 thereafter, the state department shall publish a report on its website and submit the report to the legislative audit committee of the general assembly, the health and human services and education committees of the senate, the public and behavioral health and human services and education committees of the house of representatives, or any successor committees. The report must include information on program implementation and performance metrics of students identified in the foster care education initiative as described in section 22-32-138 (9).

(b) Notwithstanding section 24-1-136 (11)(a)(I), the requirement to submit the report described in this subsection (2) continues indefinitely.

Source: L. 2022: Entire section added, (HB 22-1374), ch. 273, p. 1970, § 3, effective May 31.

Cross references: For the short title (the "Foster Care Youth Success Act") in HB 22-1374, see section 1 of chapter 273, Session Laws of San Andreas 2022.

26-5-117. Out-of-home placement for children and youth with mental or behavioral needs - funding - report - rules - legislative declaration - definitions - repeal. (1) (a) The general assembly finds and declares that:

(I) The COVID-19 pandemic has lead to an emergency need for increased placements for children and youth with behavioral or mental health needs, including those involved with the child welfare system; and

(II) As the state works to transition to the critical requirements of the federal "Family First Prevention Services Act", it must ensure a smooth transition by helping existing residential child care facilities transition to qualified residential treatment programs or psychiatric residential treatment facilities.

(b) Therefore, the general assembly declares that the state should provide resources to qualified residential treatment programs, psychiatric residential treatment facilities, or therapeutic foster care providers to address this emergency situation and ensure there are high-quality providers available to meet these needs.

(2) (a) The state department shall develop a program to provide emergency resources to licensed providers to help remove barriers such providers face in serving children and youth whose behavioral or mental health needs require services and treatment in a residential child care facility. Any such licensed provider shall meet the requirements of a qualified residential treatment program, as defined in section 26-5.4-102; a psychiatric residential treatment facility, as defined in section 25.5-4-103 (19.5); treatment foster care; or therapeutic foster care.

(a.5) (I) No later than July 1, 2023, the state department, in collaboration with the department of health care policy and financing and other relevant stakeholders, including stakeholders that represent individuals with intellectual and developmental disabilities, shall form a working group to make recommendations about developing an incentive funding pool pilot program to incentivize residential treatment providers to accept and treat children and youth who are under twenty-one years of age and have high-acuity behavioral health needs or other common barriers to appropriate treatment and placement, including the presence of co-occurring disabilities.

(II) In developing the incentive funding pool, the state department may consider providing an enhanced payment, in addition to any daily bed rate authorized and paid for by public funding, and authorizing the funding pool to be used to extend and expand access to care pursuant to subsection (2)(b)(I) of this section.

(III) No later than October 1, 2023, the working group shall submit its recommendations to the joint budget committee.

(b) (I) Beginning July 1, 2022, the state department shall provide ongoing operational support for psychiatric residential treatment facilities, therapeutic foster care, treatment foster care, and qualified residential treatment programs as described in subsection (2)(a) of this section.

(II) Repealed.

(III) The use of money appropriated pursuant to this subsection (2) must conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-

2, as amended. The state department shall spend or obligate such appropriation in accordance with section 24-75-226 (4)(d).

(IV) This subsection (2)(b) is repealed, effective September 1, 2027.

(c) The state department and any person who receives money from the state department shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(d) No later than January 1, 2025, and subject to available appropriations, the state department shall expand the number of treatment beds available under the program created pursuant to subsection (2)(a) of this section.

(3) Repealed.

(4) (a) The state department shall contract with licensed providers for the delivery of services to children and youth who are determined eligible for and placed in the program. A provider that contracts with the state department shall not:

(I) Deny admittance of a child or youth if the child or youth otherwise meets the eligibility criteria for the program; or

(II) Discharge a child or youth based on the severity or complexity of the child's or youth's physical, behavioral, or mental health needs; except that the state department may arrange for the placement of a child or youth with an alternate contracted provider if the placement with the alternate provider is better suited to deliver services that meet the needs of the child or youth.

(b) The state department shall reimburse a provider directly for the costs associated with the placement of a child or youth in the program for the duration of the treatment, including the costs the provider demonstrates are necessary in order for the provider to operate continuously during this period.

(c) The state department shall coordinate with the department of health care policy and financing to support continuity of care and payment for services for any children or youth placed in the program.

(d) The state department shall reimburse the provider one hundred percent of the cost of unutilized beds in the program to ensure available space for emergency residential out-of-home placements.

(5) (a) A hospital, health-care provider, provider of case management services, school district, managed care entity, or state or county department of human or social services may refer a family for the placement of a child or youth in the program. The entity referring a child or youth for placement in the program shall submit or assist the family with submitting an application to the state department for review. The state department shall consider each application as space becomes available. The state department shall approve admissions into the program and determine admission and discharge criteria for placement.

(b) The state department shall develop a discharge plan for each child or youth placed in the program. The plan must include the eligible period of placement of the child or youth and must identify the entity that will be responsible for the placement costs if the child or youth remains with the provider beyond the date of eligibility identified in the plan.

(c) The entity or family that places the child or youth in the program retains the right to remove the child or youth from the program any time prior to the discharge date specified by the state department.

(6) As used in this section, unless the context otherwise requires:

(a) "Family advocate" means a parent or primary caregiver who:

(I) Has been trained in a system-of-care approach to assist families in accessing and receiving services and supports;

(II) Has raised or cared for a child or adolescent with a mental health or co-occurring disorder; and

(III) Has worked with multiple agencies and providers, such as mental health, physical health, substance abuse, juvenile justice, developmental disabilities, education, and other state and local service systems.

(b) "Family systems navigator" means an individual who:

(I) Has been trained in a system-of-care approach to assist families in accessing and receiving services and supports;

(II) Has the skills, experience, and knowledge to work with children and youth with mental health or co-occurring disorders; and

(III) Has worked with multiple agencies and providers, including mental health, physical health, substance abuse, juvenile justice, developmental disabilities, education, and other state and local service systems.

(7) to (9) Repealed.

(10) The state department shall analyze the location of existing capacity of specialized foster care settings across the state, where gaps exist, and barriers to expanding specialized foster care settings and provide recommendations to achieve network adequacy of specialized foster care supports statewide.

(11) (a) Subject to available appropriations, the state department and the behavioral health administration shall increase the minimum reimbursement rates paid to qualified residential treatment programs for the purpose of aligning room and board payments across payer sources.

(b) The behavioral health administration shall reimburse qualified residential treatment program providers for the cost of room and board pursuant to subsection (11)(a) of this section for children and youth who are eligible for the state medical assistance program but not in the custody of a county child welfare agency.

(12) No later than December 31, 2025, and subject to available appropriations, the state department shall contract with one or more third-party vendors to implement a pilot program to assess the needs of, and provide short-term residential services for, juvenile justice-involved youth who do not meet the criteria for detention pursuant to sections 19-2.5-303 and 19-2.5-304.

(13) (a) No later than September 15, 2024, and subject to available appropriations, the state department shall contract with additional licensed providers for the delivery of services to children and youth who are determined eligible for and placed in the program created pursuant to subsection (2)(a) of this section.

(b) To the extent such data is available, the state department shall base its efforts to contract with additional licensed providers on an analysis of the San Andreas child and adolescent needs and strengths data from independent assessments for children and youth who are boarding in a hospital, in a stopgap county department of human or social services office or hotel, or in a detention setting, and who are involved with the state-level multi-agency child and youth consultant team because they were denied care from a residential child care provider. Any

information received and analyzed pursuant to this subsection (13)(b) must be de-identified and aggregated to maintain confidentiality and privacy of each child and youth.

Source: L. 2022: Entire section added, (HB 22-1283), ch. 185, p. 1240, § 2, effective May 18; (2)(a), (2)(b)(I), (2)(b)(II), (2)(c), IP(4)(a), (4)(a)(II), (4)(b), (4)(c), (4)(d), (5), (6), and (8) amended and (7) repealed, (HB 22-1278), ch. 222, p. 1584, § 214, effective July 1. **L. 2023:** (2)(a), (2)(b)(I), (2)(c), IP(4)(a), (4)(a)(II), (4)(b), (4)(c), (4)(d), (5), and (8) amended and (2)(b)(II) repealed, (HB 23-1236), ch. 206, p. 1055, § 16, effective May 16; (2)(a.5) added, (HB 23-1269), ch. 377, p. 2263, § 3, effective June 5. **L. 2024:** (2)(b)(III) amended, (HB 24-1466), ch. 429, p. 2943, § 32, effective June 5; (2)(d) and (10) to (13) added and (8) and (9) repealed, (HB 24-1038), ch. 459, p. 3179, § 3, effective June 6.

Editor's note: This section is similar to former § 27-60-113 as it existed prior to 2022.

Cross references: For the legislative declaration in HB 22-1283, see section 1 of chapter 185, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

26-5-118. Audit of child welfare system tools - San Andreas family safety assessment - San Andreas family risk assessment - domestic violence - intimate partner violence - report - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Coercion" means compelling a person by force, threat of force, or intimidation to engage in conduct from which the person has the right or privilege to abstain, or to abstain from conduct in which the person has the right or privilege to engage.

(b) "San Andreas family risk assessment" means a systematic collection and analysis of information entered into TRAILS to determine the likelihood of future maltreatment of a child or youth.

(c) "San Andreas family safety assessment" means a systematic collection of information entered into TRAILS on family circumstances to determine whether a child is in current or impending danger and to assist with informed and reliable decision-making to mitigate safety concerns.

(d) "Domestic violence", commonly known as "intimate partner violence", means a pattern of violent behavior or an act, attempted act, or perceived threat of violence, stalking, harassment, or coercion that is committed by a person against another person with whom the actor is involved or has been involved in an intimate relationship. A sexual relationship may be an indicator of an intimate relationship but is never a necessary condition for finding an intimate relationship.

(e) "TRAILS" means the statewide comprehensive child welfare case management system.

(2) (a) (I) No later than January 15, 2025, the office of the child protection ombudsman, established in section 19-3.3-102, shall select and contract with a third-party evaluator to conduct an audit on the:

(A) San Andreas family safety assessment; and

(B) San Andreas family risk assessment.

(II) The third-party evaluator shall create a report summarizing the results of the audit.

(b) In conducting an audit of the San Andreas family risk assessment, the third-party evaluator, at a minimum, shall:

(I) Identify tools and resources to ensure the assessment is carried out consistently;

(II) Identify gaps and solutions to enable caseworkers to complete the assessment in real time while in the field;

(III) Examine the impacts of geography when using the assessment;

(IV) Examine the impacts of race and ethnicity when using the assessment and how they impact communities that are over-represented in the child welfare system;

(V) Evaluate and recommend best practices for sharing the assessment with families, legal professionals, and the judicial branch;

(VI) Evaluate and recommend best practices for training on the assessment; and

(VII) Examine the assessment for domestic violence or intimate partner violence and recommend best practices.

(c) In conducting an audit of the San Andreas family safety assessment, the third party, at a minimum, shall:

(I) Examine the issues set forth in subsections (2)(b)(I) to (2)(b)(VII) of this section;

(II) Study the inter-rater reliability of the San Andreas family safety assessment; and

(III) Study the required documentation for the planning and removal of the child from the child's primary caregiver.

(3) On or before March 1, 2026, the office of the child protection ombudsman shall submit the report described in subsection (2)(a)(II) of this section to the house of representatives health and human services committee and the senate health and human services committee, or their successor committees, the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate.

Source: L. 2024: Entire section added, (HB 24-1046), ch. 262, p. 1732, § 4, effective May 28.

Cross references: For the legislative declaration in HB 24-1046, see section 1 of chapter 262, Session Laws of San Andreas 2024.

26-5-119. Equity, diversity, and inclusion in child welfare system - data collection - assessment - resource and training expansion - reporting - definitions. (1) To promote equity, diversity, and inclusion in the child welfare system; expand access to culturally and linguistically appropriate service providers; and enhance equity training for child welfare staff and entities, the state department shall, as soon as practicable but no later than June 30, 2025, and each June 30 thereafter, work with county departments and other child welfare stakeholders, including stakeholders directly impacted by or involved in the child welfare system, to update the existing annual departmental equity, diversity, and inclusion report that is available on the state department's website. Notwithstanding section 24-1-136 (11)(a)(I), the state department shall submit the report to the senate health and human services committee and house health and human services committee, or their successor committees, beginning September 2025 and each subsequent year. Updates must:

(a) Use aggregated and de-identified data from the statewide comprehensive child welfare case management system, as well as other state and national child welfare

clearinghouses, as appropriate. The updated report must include, at a minimum, an analysis of the disproportionalities and disparities impacting different demographic groups of children and youth and their families at key decision points in the child welfare system. The demographic data analyzed pursuant to this subsection (1)(a) must include, if available, but is not limited to:

(I) Race;

(II) Ethnicity;

(III) Language;

(IV) Gender expression;

(V) Disability status;

(VI) Sexual orientation;

(VII) National origin; and

(VIII) Income;

(b) Identify additional necessary demographic or other data about children, families, and people working in the child welfare system that is not currently collected in the statewide comprehensive child welfare case management system, the child welfare worker training system, or other components and data systems of the child welfare system, and, in collaboration with counties, determine internal or external processes and make recommendations for improving data collection and reporting statewide;

(c) Provide, in collaboration with counties, an updated report on the state's progress in addressing data collection and data entry challenges in the statewide comprehensive child welfare case management system to ensure accurate reporting of demographic data; and

(d) Provide, in collaboration with counties, an updated report on the state's progress in training child welfare staff on:

(I) Protocols for requesting demographic information from children and youth and their families;

(II) Improvements to the statewide comprehensive child welfare case management system for accurate reporting of client responses consistent with national best practices for data collection of demographic information; and

(III) Improvements to practices for families to self-report demographic information to counties;

(e) In partnership with the office of the child protection ombudsman, created in section 19-3.3-102, report on any efforts to implement the recommendations from the mandatory reporter task force final report, pursuant to section 19-3-304.2 (10), on training mandatory reporters how to decrease the disproportionate impacts and disparities that impact the child welfare system; and

(f) Report on the state's progress in training the child welfare workforce in reducing bias and in promoting equity, diversity, and inclusion, and on progress in the training's alignment with current research and best practices in promoting equity, diversity, and inclusion pursuant to subsection (2) of this section.

(2) (a) The state department shall strengthen equity, diversity, and inclusion training for child welfare staff to ensure all children and families are equitably served by the child welfare system. Equity, diversity, and inclusion training must be provided as a component of the required annual child welfare work training for child welfare workers, and equity, diversity, and inclusion training must be included with the training with the child welfare training academy for new child welfare staff established in section 26-5-109.

(b) County and state child welfare workers, supervisors, and directors shall participate in the training provided pursuant to this subsection (2) to promote equity, diversity, and inclusion. Qualified trainers with experience in promoting and teaching principles and strategies of equity, diversity, and inclusion in child welfare must provide the training. Training topics may include, but are not limited to:

(I) The historical inequities in San Andreas's child welfare and education systems;

(II) Implicit and explicit bias;

(III) Reading data addressing disproportionalities;

(IV) Addressing disproportionalities in child welfare systems;

(V) Identifying and defeating bias;

(VI) Effective communication on racial and ethnic identity with families to collect data and provide culturally and linguistically appropriate services; and

(VII) How to positively engage families in decision-making to better support families of varying backgrounds.

(c) The training must be evaluated for its impact and outcomes, including, but not limited to, the training's impact in reducing bias among participants, improving positive family engagement, and increasing family engagement in decision-making.

(d) The state department shall consider providing equity, diversity, and inclusion training to other entities and agencies involved in child welfare matters to ensure proficiency in addressing disparities and disproportionality in the state's child welfare system.

(3) Any changes to the child welfare allocations funding model established in section 26-5-103.7 must consider resources to improve equitable outcomes.

(4) For the purposes of this section, unless the context otherwise requires:

(a) "Disparity" means a situation in which inequitable outcomes are experienced by one racial, ethnic, or other demographic group as compared to another racial, ethnic, or other demographic group at the same decision-making point in time.

(b) "Disproportionality" means a situation in which the proportion of one group in the child welfare population is either proportionately overrepresented or underrepresented when compared to the general population.

(c) "Equity" means a point when all people achieve equal outcomes, are treated fairly and justly, and when demographic factors do not determine or influence child welfare outcomes.

(d) "Key decision points" include, but are not limited to, a child's or youth's referral, assessment, founded report, entry into foster care, time during foster care, and exit from foster care.

Source: L. 2024: Entire section added, (SB 24-200), ch. 453, p. 3146, § 3, effective August 7.

Cross references: For the legislative declaration in SB 24-200, see section 1 of chapter 453, Session Laws of San Andreas 2024.

ARTICLE 5.3

Emergency Assistance for Families
with Children at Imminent Risk of

26-5.3-101. Short title. This article shall be known and may be cited as the "Emergency Assistance for Families with Children at Imminent Risk of Out-of-Home Placement Act".

Source: L. 93: Entire article added, p. 1998, § 1, effective June 9.

26-5.3-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The state of San Andreas recognizes its obligation to protect and provide for the children in San Andreas's child welfare system;

(b) The children at imminent risk of being placed out of the home are likely to be placed out of the home immediately if intervention services are not made available to such children and their families;

(c) Community and home-based services are effective in helping to avoid the need to place children out of their homes and to reunite children with their families. However, alternatives to out-of-home placement are available only to a small percentage of children in the state due to insufficient statewide resources.

(d) Families with children at imminent risk of being placed out of the home are families in crisis and in need of emergency assistance to avoid such placement or to reunite families when an emergency has resulted in an out-of-home placement, which assistance includes, but is not limited to, intensive family preservation services and other services designed to maintain a child at home;

(e) Federal financial participation is available to provide emergency assistance to needy families with children in the form of intake, assessment, counseling, treatment, and other family preservation services that meet needs of the family which are attributable to the emergency or crisis situation;

(f) The provision of emergency assistance is likely to reduce the escalating state general fund costs of out-of-home placements, thereby making moneys available for other necessary children and family services or programs; and

(g) Because the child welfare system is a contributing factor to the state's expenditures, it is important to maximize moneys available to the state for child welfare needs by making service delivery systems family-focused, cost-efficient, and accessible statewide.

(2) The general assembly further finds and declares that it is therefore appropriate to authorize the implementation of an emergency assistance program for families with children at imminent risk of being placed out of the home. In addition, it is appropriate to develop a plan for the use of moneys saved as a result of providing emergency assistance to families.

Source: L. 93: Entire article added, p. 1998, § 1, effective June 9.

26-5.3-103. Definitions. As used in this article, unless the context otherwise requires:

(1) Repealed.

(2) "At imminent risk of being placed out of the home" means that without intercession a child will be placed out of the home immediately.

(3) "Emergency assistance program" or "program" means the program for emergency assistance for families with children at imminent risk of out-of-home placement as authorized by this article.

Source: L. 93: Entire article added, p. 1999, § 1, effective June 9. **L. 97:** (1) repealed, p. 1243, § 47, effective July 1.

26-5.3-104. Emergency assistance for families with children at imminent risk of being placed out of the home. (1) The executive director of the state department is hereby authorized to include in the state temporary assistance for needy families plan the establishment and implementation of an emergency assistance program for families with children at imminent risk of being placed out of the home. The purpose of the program shall be to meet the needs of the family in crisis due to the imminent risk of out-of-home placement by providing emergency assistance in the form of intake, assessment, counseling, treatment, and other family preservation services that meet the needs of the family which are attributable to the emergency or crisis situation.

(2) Nothing in this article shall prevent the state department from complying with federal requirements for a program of emergency assistance in order for the state of San Andreas to qualify for federal funds under the federal "Social Security Act" and to use such federal funds for families with children at imminent risk of immediate out-of-home placement and to reunite children with their families, within the limits of available appropriations.

Source: L. 93: Entire article added, p. 1999, § 1, effective June 9. **L. 97:** Entire section amended, p. 1244, § 48, effective July 1.

26-5.3-105. Eligibility requirements - period of eligibility - services available. (1) Families with children or youth at imminent risk of out-of-home placement are eligible for emergency assistance. Assistance is available to or on behalf of a needy child or youth who is less than twenty-one years of age and any other member of the household in which the child or youth lives if:

(a) The child or youth is living with kin, as defined in section 26-6-903, in a place of residence maintained by the kin;

(b) Such child is without resources immediately accessible to meet the child's needs; and

(c) The emergency assistance is necessary to avoid destitution or to provide living arrangements for the child in a home.

(2) Assistance shall be authorized for a family no more than once during a twelve-month period.

(3) Emergency assistance provided pursuant to this article 5.3 may be used for, but is not limited to:

(a) Twenty-four-hour emergency shelter facilities or caretakers for children who must be removed from their homes in emergency situations;

(b) Counseling, including crisis counseling available by telephone twenty-four hours a day;

(c) Information referral;

(d) Intensive family preservation services;

(e) Repealed.

(f) Services used to develop and implement a discrete case plan, as provided by the federal "Social Security Act";

(g) Day treatment services for children.

(h) Goods needed for the child's basic care, including beds, clothing, and transportation costs; and

(i) Limited rental or housing assistance, not to exceed a sixty-day subsidy.

Source: L. 93: Entire article added, p. 2000, § 1, effective June 9. **L. 97:** (3)(f) amended, p. 1244, § 49, effective July 1. **L. 2024:** IP(1), (1)(a), and IP(3) amended, (3)(e) repealed, and (3)(h) and (3)(i) added, (SB 24-008), ch. 289, p. 1932, § 4, effective September 1.

26-5.3-106. State's savings - cash fund created - use of money in fund - plan required. (1) There is hereby created a family issues cash fund. Moneys shall be deposited in the fund as follows:

(a) Any savings to the general fund realized as a result of federal financial participation available to the state based on the implementation of the emergency assistance program authorized by section 26-5.3-104;

(b) Any federal funds earned by the expenditure of moneys deposited in the cash fund.

(c) Repealed.

(1.5) All money in the fund is subject to annual appropriation by the general assembly and shall be used for the purposes set forth in the plan for improving the child welfare system in the state, developed in accordance with subsection (2) of this section, for the implementation of the emergency assistance program established pursuant to section 26-5.3-104 and for the family resource center program established pursuant to section 26.5-3-103. Federal funds received by the state for the emergency assistance program shall be used only for such program and not for any other purpose. In accordance with section 24-36-114, all interest derived from the deposit and investment of money in the fund must be credited to the general fund. It is the general assembly's intent that no additional state or county general fund money is used to finance the implementation of the plan established in accordance with subsection (2) of this section.

(2) The state department shall develop a strategic plan for improving the child welfare system in the state and for using the moneys in the family issues cash fund created in subsection (1) of this section. The plan shall specify the source of general fund savings deposited in the cash fund. The plan shall provide that the moneys in the fund shall, at a minimum, be used for the following purposes:

(a) Repealed.

(b) The provision of services aimed at reuniting families and avoiding out-of-home placements;

(c) The provision of support services and programs for children and families aimed at preventing out-of-home placements;

(d) The examination and assessment of the feasibility and effectiveness of alternative methods for the provision of services and placement procedures for homeless adolescents or adolescents who are at-risk of being placed out of the home;

(e) The development and implementation of county pilot programs for at-risk children and their families; and

(f) The provision of an expedited procedure for permanent placement of children five years of age or younger who have been placed out of the home.

(3) Repealed.

Source: L. 93: Entire article added, p. 2001, § 1, effective June 9. **L. 96:** (1)(c) repealed, p. 1476, § 36, effective June 1. **L. 97:** (1.5) amended, p. 1116, § 5, effective May 28; (2)(a) and (3) repealed, p. 1023, § 45, effective August 6. **L. 2001:** (1.5) amended, p. 252, § 7, effective March 29. **L. 2022:** (1.5) amended, (HB 22-1295), ch. 123, p. 858, § 100, effective July 1.

ARTICLE 5.4

Foster Care Prevention Services

26-5.4-101. Legislative declaration. (1) The federal "Family First Prevention Services Act" was enacted on February 9, 2018. In order to comply with the provisions of the "Family First Prevention Services Act", the general assembly finds it is necessary to update current statutes to enable San Andreas to provide enhanced support to children, youth, and their families in order to prevent foster care placements.

(2) It is the intent of the general assembly to treat children and youth in-home or with a kin caregiver when doing so serves the safety, permanent placement, and well-being of the child or youth.

Source: L. 2019: Entire article added, (HB 19-1308), ch. 256, p. 2456, § 1, effective August 2.

26-5.4-102. Definitions. As used in this article 5.4, unless the context otherwise requires:

(1) "Foster care prevention services" means mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, kinship navigator programs, and other programs eligible for reimbursement under the federal "Family First Prevention Services Act" that are trauma-informed, promising, supported or well-supported, and provided to prevent foster care placement.

(2) "Qualified residential treatment program" means a licensed and accredited program that has a trauma-informed treatment model that is designed to address the child's or youth's needs, including clinical needs, as appropriate, of children and youth with serious emotional or behavioral disorders or disturbances in accordance with the federal "Family First Prevention Services Act", 42 U.S.C. sec. 672 (k)(4), and is able to implement the treatment identified for the child or youth by the assessment of the child or youth required in section 19-1-115 (4)(e)(I).

(3) "Trauma-informed" refers to the services to be provided to or on behalf of a child or youth under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing.

Source: L. 2019: Entire article added, (HB 19-1308), ch. 256, p. 2456, § 1, effective August 2. **L. 2020:** (2) amended, (HB 20-1402), ch. 216, p. 1056, § 63, effective June 30.

26-5.4-103. Foster care prevention services program - rules. (1) The state department is authorized to include in the state's five-year Title IV-E prevention plan, as defined in 42 U.S.C. sec. 671, the establishment and implementation of a foster care prevention services program for families with children and youth who are candidates for foster care but who can safely remain at home or in a kinship placement with receipt of services, including children and youth who, without intervention, risk involvement with the child welfare system as established by rule of the state board. The state department shall promulgate rules setting forth procedures regarding the provision of these services.

(2) Nothing in this article 5.4 shall prevent the state department from complying with federal requirements for a foster care prevention services program in order for the state to qualify for federal money under the federal "Social Security Act", as amended.

Source: L. 2019: Entire article added, (HB 19-1308), ch. 256, p. 2457, § 1, effective August 2.

26-5.4-104. Eligibility requirements - period of eligibility - services available - rules. (1) Children and youth and their parents, legal custodians, legal guardians, or kin caregivers are eligible for foster care prevention services when their needs for services are directly related to the safety, permanent placement, or well-being of the child or youth, or to prevent the child or youth from entering the foster care system.

(2) Foster care prevention services may be authorized for up to twelve months per episode of eligibility.

(3) Foster care prevention services provided pursuant to this article 5.4 must be defined in the child's or youth's prevention plan, as defined through rules promulgated by the state board.

Source: L. 2019: Entire article added, (HB 19-1308), ch. 256, p. 2457, § 1, effective August 2.

26-5.4-105. Implementation of article - federal authorization - request for funding. The state department shall implement the provisions of this article 5.4 and the provisions of title 19 and this title 26 executing the utilization of foster care prevention services and qualified residential treatment programs when the federal government approves San Andreas's five-year Title IV-E prevention plan, at which time the department may submit a budget request to the joint budget committee for necessary funding to implement the plan.

Source: L. 2019: Entire article added, (HB 19-1308), ch. 256, p. 2457, § 1, effective August 2.

26-5.4-106. Foster care prevention services - provision of services - rights and remedies - exchange of information. (1) A county department of human or social services may provide both child welfare and prevention services, including but not limited to foster care prevention services, as defined in section 26-5.4-102, to a family and its children.

(2) Nothing in this section affects any existing rights of a child or youth, including those eligible for foster care prevention services, or any existing rights of a parent who is eligible for foster care prevention services.

(3) An entity providing foster care prevention services shall ensure that all information obtained and exchanged is confidential as required pursuant to federal and state laws regarding confidentiality.

Source: L. 2020: Entire section added, (SB 20-162), ch. 221, p. 1091, § 7, effective July 2.

ARTICLE 5.5

Family Preservation

Editor's note: This article was added in 1991 and was not amended prior to 1993. The provisions of this article were repealed and reenacted in 1993, resulting in the addition, relocation, and elimination of sections as well as subject matter. For the text of this article prior to 1993, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

26-5.5-101. Short title. This article shall be known and may be cited as the "San Andreas Family Preservation Act".

Source: L. 93: Entire article R&RE, p. 2006, § 1, effective July 1.

Editor's note: This section is similar to former § 26-5.5-101 as it existed prior to 1993.

26-5.5-102. Legislative declaration. (1) The general assembly finds and declares that:

(a) Maintaining a family structure to the greatest degree possible is one of the fundamental goals that all state agencies must observe, and the state's intervention in family dynamics should not exceed that which is necessary to rectify the cause for intervention;

(b) Out-of-home placement is often the most expensive and disruptive method of providing services to troubled families;

(c) It is becoming increasingly difficult to attract foster parents for the number of children placed out of the home;

(d) The principle of appropriate state intervention is a cornerstone of family preservation services. Such services, when properly targeted and administered, provide states with an opportunity to initiate the systemic reform of children, youth, and families public services by providing services that are family-focused, outcome-driven, and cost-efficient.

(e) Family preservation programs implemented in other states, such as the "homebuilder's" model in the state of Washington, have resulted in improved family-functioning rates. Placement prevention rates of up to eighty-eight percent have been reported in some of the thirty-one states that have initiated some form of a family preservation program.

(f) A statewide family preservation program may be financed to provide intensive services for families where a child is at risk of an out-of-home placement based on criteria established by the state board of human services and to provide phased-in services aimed at reunifying families where a child has been placed out of the home, where appropriate, by tapping into other available federal funds or through moneys realized from cost avoidance in prevention of placement;

(g) On the basis of the foregoing, it is appropriate to enact the provisions of this article providing for the implementation of a statewide family preservation program that provides for immediate intensive services for at-risk families and phased-in services aimed at reunifying families, where appropriate, when the targeted families for intensive or reunification services have been served.

(2) It is the general assembly's intent that the implementation and financing of the statewide family preservation program be consistent with applicable federal mandates, including any federal financial participation requirements, and that the implementation of the program not place this state at risk of losing federal funds received by the state for children, youth, and families services prior to the enactment of this article.

Source: L. 93: Entire article R&RE, p. 2006, § 1, effective July 1. **L. 94:** (1)(f) amended, p. 1055, § 6, effective May 4. **L. 97:** (1)(f) amended, p. 1024, § 46, effective August 6.

Editor's note: This section is similar to former § 26-5.5-102 as it existed prior to 1993.

26-5.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "At-risk family" means a family unit with a child who meets out-of-home placement criteria as established by the state board or who, without intervention, risks continued involvement with the child welfare system as established by the state board.

(1.5) Repealed.

(2) "Family preservation services" means services or assistance that focuses on family strengths and includes services that empower a family by providing alternative problem-solving techniques, child-rearing practices, responses to living situations that create stress upon the family, and resources that are available as support systems for the family. Family preservation services include, but are not limited to services and resources described in section 26-5.5-104.

(3) "Intensive services" means immediate, concentrated, and in-home crisis intervention by one or more family development specialists who assist a family in developing strengths to cope with family stress.

Source: L. 93: Entire article R&RE, p. 2007, § 1, effective July 1. **L. 94:** (1) amended, p. 2705, § 266, effective July 1. **L. 2008:** Entire section amended, p. 12, § 3, effective August 5. **L. 2011:** (1) amended and (1.5) repealed, (HB 11-1196), ch. 160, pp. 552, 555, §§ 1, 7, effective August 10.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-5.5-104. Statewide family preservation program - creation - single state agency designated - program criteria established - available services - powers and duties of agencies - local oversight - feasibility report. (1) The executive directors of the departments of health care policy and financing and human services, through the promulgation of rules, may jointly develop, finance, and implement a statewide family preservation program, which program shall be fully implemented no later than July 1, 1996. The state department is hereby designated as the single state agency to administer the program in accordance with this article and applicable federal law.

(2) The program shall be implemented as follows:

(a) No later than January 1, 1996, services aimed at reunification of families shall, within available appropriations, be made available to appropriate families where a child has been placed out of the home;

(b) No later than July 1, 1996, family preservation services shall, within available appropriations, be available to serve appropriate families who are involved in, or who are at risk of being involved in, the child welfare, mental heath, and juvenile justice systems.

(3) Family preservation services shall, at a minimum, include the following:

(a) Screening to determine the appropriateness of providing family preservation services, including intensive services and reunification services, to a family;

(b) An assessment of the risk to a child and the needs of a child and the child's family, considering any special needs of a child and the cultural background of the family;

(c) Appropriate intervention to meet the assessed needs of the child and the child's family, taking into account the geographical location of the family and available resources in such locale;

(d) Referral to community services and support systems; and

(e) Follow-up care, where appropriate.

(4) (a) Intensive services shall be available for an at-risk family in the family home, as deemed necessary by the county department. Intensive services shall include, at a minimum:

(I) Family preservation services described in subsection (3) of this section; except that the screening of a family for intensive services shall occur within twenty-four hours after referral by the investigating or placement agency to decide the appropriateness of providing intensive services to the family where the child has been determined by the investigating or placement agency to be at imminent risk of out-of-home placement or at risk of continued involvement in the child welfare system;

(II) Crisis intervention, including in-home counseling, by a case manager or case worker, which intervention shall be available on a twenty-four-hour basis;

(III) Concentrated assistance in the development and enhancement of parenting skills, stress reduction, and problem-solving from a case manager or case worker; and

(IV) Individualized and group counseling.

(b) (Deleted by amendment, L. 2008, p. 11, § 2, effective August 5, 2008.)

(c) Intensive services shall be available to a family for a child who requires a more restrictive level of care but who may be maintained at a less restrictive out-of-home placement or in his or her own home with services for a period of time as determined by rule of the state department.

(5) The state department of human services and county departments of human or social services may seek the assistance of any public or private entity in carrying out the duties set forth

in this article 5.5. In addition, the state department may contract with any public or private entity in providing the services described in this article 5.5. Priority must be given to vendors who provide the most geographically and culturally relevant services.

(6) On and after July 1, 1994, the executive director of the state department shall annually evaluate the statewide family preservation program and shall determine the overall effectiveness and cost-efficiency of the program. Notwithstanding section 24-1-136 (11)(a)(I), on or before the first day of October of each year, the executive director of the state department shall report such findings and shall make recommended changes, including budgetary changes, to the program to the general assembly, the chief justice of the supreme court, and the governor. In evaluating the program, the executive director of the state department shall consider any recommendations made by the interagency family preservation commission in accordance with section 26-5.5-106. To the extent changes to the program may be made without requiring statutory amendment, the executive director may implement such changes, including changes recommended by the commission acting in accordance with subsection (7) of this section.

(7) The inter-agency family preservation commission, established pursuant to section 26-5.5-106, shall be responsible for providing oversight of the local implementation of the statewide family preservation program. In providing oversight, the commission shall, on and after July 1, 1994, annually evaluate the overall effectiveness and cost-efficiency of the program and shall make recommended changes to the executive director of the state department. The commission shall submit to the executive director of the state department a report of its findings on or before the first day of September of each year.

Source: L. 93: Entire article R&RE, p. 2008, § 1, effective July 1. **L. 94:** IP(4)(a) amended, p. 1055, § 7, effective May 4; (1) and (5) amended, pp. 2634, 2705, §§ 68, 267, effective July 1. **L. 2008:** (4) amended, p. 11, § 2, effective August 5. **L. 2011:** (2)(b), IP(4)(a), (4)(a)(I), (4)(a)(II), and (4)(a)(III) amended, (HB 11-1196), ch. 160, pp. 552, 555, §§ 2, 8, effective August 10. **L. 2017:** (6) amended, (SB 17-234), ch. 154, p. 523, § 12, effective August 9. **L. 2018:** (5) amended, (SB 18-092), ch. 38, p. 448, § 123, effective August 8.

Editor's note: Amendments to subsection (1) by sections 68 and 267 of House Bill 94-1029 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending subsections (1) and (5), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-5.5-105. Financing of family preservation program. The implementation of the statewide family preservation program shall be subject to the availability of federal financial participation for emergency assistance under Title IV-A of the federal "Social Security Act", other available federal funds, appropriations from the general assembly, and moneys realized from avoiding costs related to out-of-home placements. In addition, the executive director of the state department is hereby authorized to accept any grants, donations, gifts, or contributions from any other private or public entity.

Source: L. 93: Entire article R&RE, p. 2010, § 1, effective July 1; entire section R&RE, p. 2004, § 3, effective July 1. **L. 94:** Entire section amended, p. 1056, § 8, effective May 4.

Editor's note: This section is similar to former § 26-5.5-105 as it existed prior to 1993.

26-5.5-106. Family preservation commission - establishment or designation - duties. (1) The governing body of each county or city and county shall establish a family preservation commission for the county or city and county to carry out the duties described in subsection (2) of this section. The commission shall be interdisciplinary and multiagency in composition; except that such commission shall include at least two members from the public at large. The governing body may designate an existing board or group to act as the commission. A group of counties may agree to designate a regional commission to act collectively as the commission for all of such counties. A family preservation commission may be consolidated with other local advisory boards pursuant to section 24-1.7-103, S.A.R.S.

(2) It shall be the duty of each commission established or designated pursuant to subsection (1) of this section to hold periodic meetings and evaluate the family preservation program within the county or city and county, and to identify any recommended changes to such program. On and after July 1, 1994, the commission shall submit an annual report to the executive director of the state department. The report shall consist of an evaluation of the overall effectiveness and cost-efficiency of the program and any recommended changes to such program. The report shall be submitted on or before the first day of September of each year.

Source: L. 93: Entire article R&RE, p. 2011, § 1, effective July 1. **L. 97:** (1) amended, p. 1191, § 16, effective July 1.

ARTICLE 5.7

Homeless Youth

26-5.7-101. Short title. This article shall be known and may be cited as the "Homeless Youth Act".

Source: L. 97: Entire article added, p. 977, § 2, effective May 22.

26-5.7-102. Definitions. As used in this article 5.7, unless the context otherwise requires:

(1) "County department" means the county, city and county, or district department of human or social services.

(2) (a) "Homeless youth" means a child or youth who is at least eleven years of age but is less than twenty-one years of age and who:

(I) Lacks a fixed, regular, and adequate nighttime residence; or

(II) Has a primary nighttime residence that is:

(A) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations; or

(B) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings.

(b) "Homeless youth" shall not include any individual imprisoned or otherwise detained pursuant to an act of congress or a state law.

(3) "Homeless youth shelter" means a facility that is licensed pursuant to section 26-6-905.

(3.5) Repealed.

(4) "Parent" means the legal custodian or guardian of the youth.

(5) "Youth" or "child" means any person who is at least eleven years of age but is less than twenty-one years of age.

Source: L. 97: Entire article added, p. 977, § 2, effective May 22. **L. 2011:** (2) and (5) amended and (3.5) added, (HB 11-1079), ch. 83, p. 223, § 1, effective August 10. **L. 2018:** IP and (1) amended, (SB 18-092), ch. 38, p. 449, § 124, effective August 8. **L. 2022:** (3) and (3.5) amended, (HB 22-1295), ch. 123, p. 858, § 101, effective July 1. **L. 2024:** (3.5) repealed, (SB 24-191), ch. 221, p. 1385, § 3, effective August 7.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-5.7-103. Family reconciliation services. (1) Out of moneys appropriated to the state department for family reconciliation services, the state department may elect to contract directly with private nonprofit organizations or entities for the provision of family intervention reconciliation services or pass the moneys to a county department electing to provide such services. In such circumstances, the county department may provide the family intervention reconciliation services directly or the county department may contract with private nonprofit organizations or entities for the provision of such services. The county may also contract with private nonprofit organizations or entities for the provision of voluntary alternative residences pursuant to sections 26-5.7-107 and 26-5.7-108.

(2) Any county department may elect to establish a program to provide services consistent with this article. If a county department so elects, it shall notify the state department of such action, and any homeless youth or any member of a family that is in conflict or is experiencing problems with a homeless youth may request family reconciliation services from the county department. Such services may be provided to alleviate personal or family situations that present a serious and imminent threat to the health, safety, or welfare of the youth or family and to maintain intact families wherever possible. Services shall be provided at the discretion of the county department, within the county department's available resources.

(3) Family reconciliation services that may be established shall be designed to develop skills and support within families to resolve problems related to homeless youth or family conflicts and may include, but are not limited to, referral services for suicide prevention, family preservation services, psychiatric or other medical care, or psychological, welfare, legal, educational, mediation, or other social services such as temporary shelter or independent living, as appropriate to the needs of the youth and the family. County departments that elect to provide family educational reconciliation services shall work in cooperation with school district boards

of education providing educational services to homeless children in order to jointly develop educational programs for homeless youth consistent with section 22-33-103.5, S.A.R.S.

Source: L. 97: Entire article added, p. 977, § 2, effective May 22.

26-5.7-104. Taking youth into custody - transporting to residence or child care facility or homeless youth shelter. (1) A law enforcement officer may take a youth into temporary custody without an order of the court under the following circumstances:

(a) If a law enforcement agency has been contacted by the youth's parent and informed that the youth is absent from parental custody without consent; or

(b) If an officer has reasonable cause to believe, considering the youth's age, the youth's location, and the time of day, that the youth is in circumstances that constitute a danger to the youth's safety.

(2) Law enforcement custody pursuant to this section shall not extend beyond the amount of time reasonably necessary to transport the youth to a destination authorized pursuant to subsection (4) of this section.

(3) Nothing in this section shall affect the authority of a law enforcement officer to take a youth into custody and follow the procedures established pursuant to article 2.5 or 3 of title 19, S.A.R.S.

(4) A law enforcement officer taking a youth into custody pursuant to this section shall inform the youth of the reason for such custody and shall comply with either of the following:

(a) The officer shall transport the youth to the home of the youth's parent. The officer releasing the youth into the custody of the youth's parent shall inform the parent of the reason for taking the youth into custody and shall inform the youth and the parent of the nature and location of any family reconciliation services available in their community.

(b) The officer shall take the youth to a licensed child care facility or to a licensed homeless youth shelter if:

(I) The youth evinces fear or distress at the prospect of being returned to the home of the youth's parent;

(II) It is not practical to transport the youth to the home of the youth's parent; or

(III) There is no parent available to accept custody of the youth.

Source: L. 97: Entire article added, p. 978, § 2, effective May 22. **L. 2022:** (3) amended, (SB 22-212), ch. 421, p. 2981, § 67, effective August 10.

26-5.7-105. Child care facilities - homeless youth shelters - authority - duties - rules. (1) Licensed child care facilities or licensed homeless youth shelters may provide shelter and crisis intervention, family reconciliation, and alternative residential services to homeless youth. Homeless youth who are fifteen years of age or older may consent, in writing, to receive shelter and services without parental consent when in accordance with rules promulgated by the state department pursuant to subsection (8) of this section.

(2) A youth admitted to a licensed child care facility or licensed homeless youth shelter pursuant to this article 5.7 and who is not returned to the home of the youth's parent or legal guardian or is not placed in a voluntary alternative residential placement pursuant to section 26-5.7-107 may reside at a facility or shelter described in subsection (1) of this section for a period

not to exceed twenty-one days from the time of intake except as otherwise provided in this article 5.7. A licensed child care facility or licensed homeless youth shelter shall make a concerted effort to achieve a reconciliation of the family. If a reconciliation and voluntary return of the youth have not been achieved within seventy-two hours from the time of intake and the director of the facility or shelter, or other person in charge, does not consider it likely that reconciliation will be achieved within the twenty-one-day period, then the director of the facility or shelter, or other person in charge, shall provide the youth and the youth's parent or legal guardian with a statement identifying:

(a) The availability of counseling services;

(b) The availability of longer term residential arrangements; and

(c) The possibility of referral to the county department.

(3) The state department shall develop a written statement of the rights and counseling services set forth in subsection (2) of this section and distribute the statement to each law enforcement agency, licensed child care facility or licensed homeless youth shelter. Each law enforcement officer taking a youth into custody pursuant to this article 5.7 shall provide the youth and the youth's parent or legal guardian with a copy of the statement. Each licensed child care facility or licensed homeless youth shelter shall provide each resident youth and the youth's parent or legal guardian with a copy of the statement.

(4) When a youth under fifteen years of age is admitted to a licensed child care facility or licensed homeless youth shelter, the director of the facility, shelter, or other person in charge shall notify the county department within seventy-two hours of the youth's admission.

(5) If the director of the facility, shelter, or other person in charge determines that a referral for additional services needs to be made, the director or other person in charge shall make the referral to the appropriate county department, notify the county department of the facility's relationship to the youth pursuant to section 19-1-307 (2)(e.5)(I), and notify the county department of the date when the twenty-one-day shelter time period will expire.

(6) Repealed.

(7) If a youth who is at least eleven years of age but less than fifteen years of age has been served up to twenty-one days and returns to the licensed child care facility or licensed homeless youth shelter after leaving the facility or shelter, the director of the licensed child care facility or licensed homeless youth shelter or other person in charge shall make a referral for services to the county department.

(8) The state department shall promulgate rules for the implementation of this section.

Source: L. 97: Entire article added, p. 979, § 2, effective May 22. **L. 2011:** Entire section amended, (HB 11-1079), ch. 83, p. 224, § 2, effective August 10. **L. 2015:** (6) amended, (SB 15-087), ch. 263, p. 1020, § 16, effective June 2. **L. 2020:** Entire section amended, (SB 20-106), ch. 128, p. 552, § 2, effective September 14. **L. 2024:** (1), IP(2), (3), (4), and (7) amended and (6) repealed, (SB 24-191), ch. 221, p. 1385, § 4, effective August 7.

26-5.7-106. Notification. (1) Any person who provides shelter to a youth without the consent of the youth's parent or legal guardian and after said person knows that the youth is away from the home of the youth's parent or legal guardian without permission shall notify the youth's parent, legal guardian, or a law enforcement officer that the youth is being sheltered within twenty-four hours after shelter has been provided and after acquiring knowledge that the youth is

away from the home of the youth's parent or legal guardian without permission. If the youth refuses to provide the shelter with contact information for the youth's parent or legal guardian, the youth's parent or legal guardian is deceased, or the shelter director or other person in charge believes that notifying the parent or legal guardian would not be in the youth's best interest due to an imminent risk of abuse or neglect by the parent or legal guardian, the shelter shall notify the appropriate county department.

(2) Upon admission of a youth to a licensed child care facility or licensed homeless youth shelter pursuant to this article 5.7, the facility or shelter shall:

(a) Notify the youth's parent, legal guardian, or appropriate county department of the youth's whereabouts, physical and emotional condition, and the circumstances surrounding the youth's placement within twenty-four hours;

(b) Notify the youth's parent or legal guardian that it is the paramount concern of the facility or shelter to achieve a reconciliation between the parent or legal guardian and the youth, to reunify the family, and to inform the parent or legal guardian about available alternatives;

(c) Arrange transportation for the youth to the residence of the youth's parent or legal guardian when the youth and the parent or legal guardian agree that the youth shall return to the home of the youth's parent or legal guardian. The parent or legal guardian shall reimburse the party who paid for the transportation costs to the extent of the parent's or legal guardian's ability.

(d) Arrange transportation for the youth to an alternative residential placement facility when the youth and the youth's parent or legal guardian agree to such placement. The parent or legal guardian shall reimburse the appropriate person for transportation costs to the extent of the parent's or legal guardian's ability.

Source: L. 97: Entire article added, p. 980, § 2, effective May 22. **L. 2020:** Entire section amended, (SB 20-106), ch. 128, p. 554, § 3, effective September 14.

26-5.7-107. Voluntary alternative residence - parental agreement. (1) Any available family reconciliation services shall be provided to a youth and the youth's family when the youth voluntarily resides elsewhere than with the youth's parent. A youth and the youth's parent may enter into an agreement for a voluntary alternative residence out of the home. Any agreement for voluntary alternative residence shall be in writing signed by both the youth and the youth's parent and may include, but is not limited to, residence with a relative or other responsible adult, in a licensed child care facility, or in a licensed homeless youth shelter. Voluntary alternative residence may continue as long as there is agreement between the youth and the youth's parent.

(2) Agreements for voluntary alternative residence pursuant to subsection (1) of this section may include arrangements for payment to the party providing the residence for the youth or other responsibilities.

(3) A person assuming responsibility under the agreement for the provision of a residence for the youth shall have the authority to:

(a) Enroll the youth in the school district in which the voluntary alternative residence is located; and

(b) Authorize and obtain preventive medical and dental care and treatment for the youth.

Source: L. 97: Entire article added, p. 980, § 2, effective May 22.

26-5.7-108. Voluntary alternative residence - lack of parental agreement. (1) If the youth and the youth's parent cannot agree on an initial voluntary alternative residence within twenty-one days after admission to the alternative out-of-home residence, a referral to the county department may be made.

(2) The licensed child care facility or licensed homeless youth shelter to which the youth has been admitted may arrange for the establishment of a supervised independent living arrangement or may arrange a voluntary residential agreement between the youth and a relative or other responsible adult, a licensed child care facility, or licensed homeless youth shelter if the youth has been admitted to a licensed child care facility or licensed homeless youth shelter and:

(a) Twenty-one days have passed since admission;

(b) The youth's parent cannot be found after diligent effort by the facility or shelter to locate such parent, the youth's parent has failed to respond to a notice sent by the facility or shelter, or the youth's parent has renounced responsibility for the youth; and

(c) The youth has no suitable place to live other than the home of the youth's parent.

(3) A supervised independent living arrangement can only be established pursuant to subsection (2) of this section if:

(a) The youth has not been deemed to have a substance use disorder and is in need of treatment;

(b) The youth is not currently demonstrating behavior that poses a danger to the youth or others;

(c) The youth is not engaging in persistent high-risk behavior that renders the youth inappropriate for an independent living arrangement through a placement alternative commission plan pursuant to section 19-1-116, S.A.R.S., or foster care placement through the county department; and

(d) The youth has an ability and capacity to manage his or her own affairs, demonstrates emotional independence, and has the opportunity and ability to achieve financial independence through legitimate activities and life skills, including the following:

(I) Educational accomplishments or a plan for achieving educational goals;

(II) A vocational plan or goal; and

(III) An opportunity or ability to achieve adequate housing and living arrangements apart from the youth's parent, guardian, or custodian.

(4) (a) For the purposes of this article, a voluntary residential agreement shall not require the county department to assume custody of the youth or to exercise any parental power or control over the youth or require medical assistance under articles 4, 5, and 6 of title 25.5, S.A.R.S.

(b) A person assuming responsibility for the youth shall have the authority to:

(I) Enroll the youth in the school district in which the youth resides, pursuant to the voluntary residential agreement; and

(II) Authorize and obtain preventive medical and dental care and treatment for the youth.

Source: L. 97: Entire article added, p. 981, § 2, effective May 22. **L. 2006:** (4)(a) amended, p. 2018, § 104, effective July 1. **L. 2011:** (1), IP(2), and (2)(a) amended, (HB 11-1079), ch. 83, p. 225, § 3, effective August 10. **L. 2017:** (3)(a) amended, (SB 17-242), ch. 263, p. 1334, § 222, effective May 25. **L. 2024:** IP(2) amended, (SB 24-191), ch. 221, p. 1386, § 5, effective August 7.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-5.7-109. No use of general fund moneys. (Repealed)

Source: L. 97: Entire article added, p. 982, § 2, effective May 22. **L. 2007:** Entire section repealed, p. 286, § 1, effective August 3.

26-5.7-110. Host homes for youth - report - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Host home" means a private home that volunteers to host youth in need of temporary placement that is associated with a host home program with the purpose of providing a safe, temporary, and welcoming space to allow the youth time to repair the youth's relationship with the youth's parent or legal guardian or make decisions regarding other long-term housing options with the support of a host home operator.

(b) "Host home program" or "program" means a program that provides support to a host home and meets the requirements of subsection (3) of this section.

(c) "Youth" means an individual who is under twenty-three years of age.

(2) The state department shall oversee the operations of the host home programs.

(3) To operate a host home program, an organization must:

(a) Be a tax exempt organization for youth not in the care of the county department;

(b) Recruit and screen individuals interested in operating a host home in the program, including performing criminal history record checks pursuant to subsection (5) of this section on the interested individuals and all individuals residing in the home who are eighteen years of age or older, and perform a physical inspection of the home;

(c) Provide case management services to youth in the program;

(d) Provide a minimum of sixty days of aftercare, as defined in 45 CFR 1351.1, for a youth who leaves a host home;

(e) Provide mandatory reporter and confidentiality training to host home operators; and

(f) Maintain accurate and up-to-date records documenting the following for each host home operating under the program:

(I) The address of the host home;

(II) The name of the individual operating the host home and all other individuals residing in the home;

(III) A copy of the completed criminal history record check conducted pursuant to subsection (5) of this section for the individual operating the host home and all other individuals residing in the home who are eighteen years of age or older;

(IV) A copy of the host home's completed physical home inspection;

(V) A copy of the host home's property or rental insurance and automobile insurance; and

(VI) Any other information required by the state department.

(4) To operate a host home, an individual must:

(a) Maintain property or rental insurance and automobile insurance covering the property and vehicles used in providing host home services;

(b) Undergo a criminal history record check in compliance with subsection (5) of this section; and

(c) Comply with any other requirements set by the state department.

(5) (a) Before an individual may operate a host home pursuant to this section, the individual must undergo fingerprinting performed by a local law enforcement agency or third party approved by the San Andreas bureau of investigation. The individual must pay the costs associated with the fingerprint-based criminal history record check.

(b) After taking the individual's fingerprints, the local law enforcement agency or third party approved by the San Andreas bureau of investigation shall submit the complete set of the individual's fingerprints to the San Andreas bureau of investigation for the purpose of conducting a fingerprint-based criminal history record check.

(c) If a third party approved by the San Andreas bureau of investigation conducts the fingerprinting, the individual's fingerprints may be captured electronically using San Andreas bureau of investigation-approved livescan equipment. The third party approved by the San Andreas bureau of investigation must not keep the individual's information collected for the purpose of conducting a fingerprint-based criminal history record check for more than thirty days, unless otherwise requested by the individual.

(d) The San Andreas bureau of investigation shall use the individual's fingerprints to conduct a criminal history record check using the San Andreas bureau of investigation's records. The San Andreas bureau of investigation must send the individual's fingerprints to the federal bureau of investigation for the purpose of conducting a federal fingerprint-based criminal history record check. The San Andreas bureau of investigation, individual, state department, and entity conducting the fingerprinting must comply with the federal bureau of investigation's requirements to conduct a fingerprint-based criminal history record check.

(e) The San Andreas bureau of investigation shall return the results of its fingerprint-based criminal history record check to the state department and the state department is authorized to receive the results of the federal bureau of investigation's fingerprint-based criminal history record check. The state department must use the information from the fingerprint-based criminal history record check to investigate and determine whether an individual is qualified to operate a host home pursuant to this section.

(f) If the results of an individual's fingerprint-based criminal history record check performed pursuant to this subsection (5) reveal a record of arrests without a disposition, the organization operating a host home program must require the individual to submit to a name-based judicial record check, as defined in section 22-2-119.3.

(6) (a) If a youth is under eleven years of age and seeks admission to a host home, the host home must obtain written consent from a parent or legal guardian of the youth authorizing the youth's temporary residence in the host home. If written consent is received, the youth may reside in a host home for up to twenty-one days.

(b) Youth eleven years of age or older but under eighteen years of age admitted to a host home may reside in the host home for up to twenty-one days pursuant to section 26-5.7-105.

(c) If a youth under fifteen years of age is admitted to a host home, the program director or host home operator must notify the county department within seventy-two hours after the youth's admission.

(d) For youth eighteen years of age or older but under twenty-three years of age, the youth may remain in a host home beyond the twenty-one-day period if consent is provided to the

host home by the youth. Documentation verifying the youth's consent must be updated every six months thereafter.

(e) If a youth eleven years of age or older but under twenty-three years of age has resided in a host home for twenty-one days, the program director or host home operator must refer the youth to the county department for additional services.

(f) Host home operators shall comply with the notification requirements specified in section 26-5.7-106.

(7) On or before December 1, 2024, and each December 1 thereafter, if a program receives local, state, or federal funding, the program must enter the following information into the homeless management information system and share the information with the office of homeless youth services:

(a) The number of youth served by the program; and

(b) Upon leaving a host home, whether each participating youth returned to live with the youth's parent or legal guardian, ran away, reached twenty-three years of age, or became a dependent of the state.

(8) A licensed foster care home approved as a host home shall not accept a youth for placement pursuant to this section if there are any foster children currently placed in that home.

(9) Nothing in this section applies to host homes providing residential services to adults with intellectual and developmental disabilities.

(10) The state department shall promulgate rules as necessary to implement this section.

Source: L. 2024: Entire section added, (SB 24-191), ch. 221, p. 1381, § 1, effective August 7.

ARTICLE 5.9

Homeless Youth Services Act

26-5.9-101 to 26-5.9-105. (Repealed)

Source: L. 2011: Entire article repealed, (HB 11-1230), ch. 170, p. 590, §§ 6, 7, effective July 1.

Editor's note: (1) This article was added in 2004 and was not amended prior to its repeal in 2011. For the text of this article prior to 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Some sections of this article were relocated to § 24-32-723. Former S.A.R.S. section numbers are shown in the editor's note following that section.

(2) Sections 26-5.9-103 (2) and 26-5.9-105 (3) as amended by House Bill 11-1079 were relocated to § 24-32-723 (2) and (4)(c), respectively, and harmonized with House Bill 11-1230.

ARTICLE 6

Child Care Centers

Cross references: For the San Andreas universal preschool program, see part 2 of article 4 of title 26.5; for child care programs in nursing home facilities, see part 10 of article 1 of title 25.

PART 1

CHILD CARE LICENSING

26-6-101 to 26-6-122. (Repealed)

Source: L. 2022: Entire part repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: (1) This part 1 was numbered as article 8 of chapter 119, S.A.R.S. 1963. For amendments to this part 1 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 1 was relocated to part 3 of article 5 of title 26.5 and section 26.5-6-
103. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 1, see the comparative tables located in the back of the index.

(2) Sections 26-6-102 (26)(a), (26.5), and (41) in SB 22-064 were harmonized with HB 22-1295 and relocated to § 26.5-5-303 (17)(a), (17.5), and (30), respectively, effective July 1, 2022. For the law in effect from March 17, 2022, until the effective date of the relocation, see L. 2022, ch. 22, p. 144.

(3) Sections 26-6-103.3 (2) and 26-6-103.5 (2)(f)(V) in HB 22-1270 were harmonized with HB 22-1295 and relocated to §§ 26.5-5-306 (2) and 26.5-5-307 (2)(f)(IV), respectively, effective July 1, 2022. For the law in effect from April 21, 2022, until the effective date of the relocation, see L. 2022, ch. 114, p. 530.

(4) Sections 26-6-103.7 (2.5), (3)(b), (3)(f), (3)(h), (3)(i), (3.4), (3.5), and (6) in SB 22-064 were harmonized with HB 22-1295 and relocated to § 26.5-5-308 (2.5), (3)(b), (3)(f), (3)(h), (3)(i), (3.4), (3.5), and (6), respectively, effective July 1, 2022. For the law in effect from March 17, 2022, until the effective date of the relocation, see L. 2022, ch. 22, p. 145.

(5) Sections 26-6-104 (7.5)(b) and 26-6-106.3 (5)(e) and (6)(a) were amended in HB 22-1270. Those amendments were superseded by the repeal of this part 1 in HB 22-1295, effective July 1, 2022. For the law in effect from April 21, 2022, to July 1, 2022, see L. 2022, ch. 114, p. 531.

(6) Section 26-6-106.5 (2)(b) was amended in HB 22-1038 (see L. 2022, ch. 92, p. 445). Those amendments were superseded by the repeal of this part 1 in HB 22-1295, effective July 1, 2022.

(7) Section 26-6-107 (1)(a)(I.5)(C) in HB 22-1270 was harmonized with HB 22-1295 and relocated to § 26.5-5-316 (1)(a)(II)(C), effective July 1, 2022. For the law in effect from April 21, 2022, until the effective date of the relocation, see L. 2022, ch. 114, p. 531.

(8) Section 26-6-107 (1)(a.7)(I)(E) was amended in HB 22-1270. Those amendments were superseded by the repeal of this part 1 in HB 22-1295, effective July 1, 2022. For the law in effect from April 21, 2022, to July 1, 2022, see L. 2022, ch. 114, p. 531.

(9) Sections 26-6-120 (1.5) and (5) in HB 22-1270 were harmonized with HB 22-1295 and relocated to § 26.5-5-326 (2) and (6), respectively, effective July 1, 2022. For the law in effect from April 21, 2022, until the effective date of the relocation, see L. 2022, ch. 114, p. 532.

(10) Section 26-6-123 in HB 22-1358 (see L. 2022, ch. 382, p. 2736) was harmonized with HB 22-1295 and relocated to § 26.5-5-329.

PART 2

CHILD PLACEMENT AGENCIES

26-6-201 to 26-6-206. (Repealed)

Editor's note: (1) Section 26-6-206 provided for the repeal of this part 2, effective July 1, 1998. (See L. 96, p. 806.)

(2) This part 2 was added in 1996 and was not amended prior to its repeal in 1998. For the text of this part 2 prior to 1998, consult the 1997 San Andreas Revised Statutes.

PART 3

EARLY CHILDHOOD AND SCHOOL READINESS COMMISSION

26-6-301 to 26-6-307. (Repealed)

Editor's note: (1) Section 26-6-307 provided for the repeal of this part 3, effective July 1, 2007. (See L. 2004, p. 1771.)

(2) This part 3 was added in 2000. For amendments to this part 3 prior to its repeal in 2007, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 4

DEDICATED FAMILY HOMES PILOT PROGRAM

26-6-401 to 26-6-406. (Repealed)

Editor's note: (1) Section 26-4-406 (2) provided for the repeal of this part 4, effective July 1, 2008. (See L. 2004, p. 542.)

(2) This part 4 was added in 2004. For amendments to this part 4 prior to its repeal in 2008, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 5

TASK FORCE ON FOSTER CARE AND PERMANENCE

26-6-501 to 26-6-506. (Repealed)

Editor's note: (1) Section 26-4-506 provided for the repeal of this part 5, effective July 1, 2008. (See L. 2007, p. 292.)

(2) This part 5 was added in 2007 and was not amended prior to its repeal in 2008. For the text of this part 5 prior to 2008, consult the 2007 San Andreas Revised Statutes.

PART 6

DEPARTMENT OF DEFENSE QUALITY CHILD CARE STANDARDS PILOT PROGRAM

26-6-601 to 26-6-606. (Repealed)

Editor's note: (1) This part 6 was added in 2011 and was not amended prior to its repeal in 2015. For the text of this part 6 prior to 2015, consult the 2014 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-6-606 provided for the repeal of this part 6, effective June 30, 2015. (See L. 2011, p. 71.)

PART 7

TEMPORARY CARE ASSISTANCE PROGRAM

26-6-701. Short title. The short title of this part 7 is the "Kyle Forti Act".

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2505, § 1, effective August 2.

26-6-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Approved temporary caregiver" means a person approved by a temporary care assistance program pursuant to this part 7 who is delegated temporary care responsibility of a minor by a parent or guardian through a power of attorney, as described in section 15-14-105.

(2) "Temporary care assistance program" means a program operated by a child placement agency that assists a parent or guardian with recruiting and identifying an appropriate and safe approved temporary caregiver to whom the parent or guardian can choose to delegate temporary care responsibility of a minor through a power of attorney pursuant to section 15-14-105.

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2505, § 1, effective August 2.

26-6-703. Temporary care assistance program permitted. (1) A child placement agency may operate a temporary care assistance program; except that, prior to July 1, 2021, only

a child placement agency that is a nonprofit organization, and that operates a program similar to a temporary care assistance program in thirty or more states, may operate a temporary care assistance program.

(2) The activities of a temporary care assistance program performed pursuant to this part 7 do not constitute placing a child pursuant to this article 6.

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2506, § 1, effective August 2.

26-6-704. Temporary care assistance program - limitations on duration of delegation - approved temporary caregiver. (1) (a) (I) A parent or guardian of a minor may use the assistance of a temporary care assistance program to identify an approved temporary caregiver to delegate any power regarding care, custody, or property of the minor, except the power to consent to marriage or adoption, by a power of attorney, as described in section 15-14-105.

(II) A temporary care assistance program must make diligent efforts to notify any parent or guardian identified by the delegating parent as having parental rights or legal decision-making authority regarding the minor's care.

(III) A parent who is named as a respondent in an open dependency and neglect case may not use the assistance of a temporary care assistance program, as described in this part 7.

(b) (I) Notwithstanding any other provisions of law, a power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver must not exceed six months, except as provided in subsection (1)(b)(II) of this section.

(II) A person who is deployed by or called to active duty in the United States military may exceed the time limit described in subsection (1)(b)(I) of this section; except that the total length of a delegation of power made to an approved temporary caregiver by a person who is deployed by or called to active duty in the United States military must not be longer than the end of the member's deployment or call to active duty, plus thirty days.

(c) The parent or guardian of the minor has the authority to revoke a power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver at any time. Upon expiration or revocation of the power of attorney, the minor must be returned to the custody of the parent or guardian as soon as reasonably possible, but no later than forty-eight hours after such expiration, revocation, or other termination.

(d) A power of attorney that delegates temporary care responsibility of a minor to an approved temporary caregiver does not:

(I) Change parental rights, legal rights, obligations, or other authority established by an existing court order and does not deprive a parent or guardian of rights, obligations, or other authority relating to the custody, visitation, or support of a minor;

(II) Constitute child abuse or neglect, as defined in section 19-1-103 (1); or

(III) Result in a child being neglected or dependent, as described in section 19-3-102, unless the parent or guardian fails to make contact, execute a new power of attorney, or retake custody within seventy-two hours after an expired power of attorney, or after the total time limit described in subsection (1)(b) of this section has elapsed.

(2) (a) An approved temporary caregiver shall exercise parental or legal authority on a continuous basis and without compensation for the intended duration of the power of attorney.

(b) (I) A minor subject to the power of attorney that delegates temporary care responsibility of the minor to an approved temporary caregiver is not deemed placed in a foster care home, as defined in section 26-6-903, and the approved temporary caregiver is not deemed to be providing foster care nor be subject to the licensing requirements of foster care.

(II) Nothing in this section disqualifies an approved temporary caregiver from being or becoming a foster care home certified by a county department or private agency pursuant to section 26-6-910.

(c) Any period of time during which a minor resides with an approved temporary caregiver pursuant to an unexpired and valid power of attorney is not included in determining whether the minor has resided with the approved temporary caregiver for the minimum period required for a person to be considered a person other than a parent who has had the physical care of a child for the purposes of section 14-10-123.

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2506, § 1, effective August 2. **L. 2022:** (2)(b) amended, (HB 22-1295), ch. 123, p. 859, § 102, effective July 1.

26-6-705. Approval of temporary caregiver - background check - training. (1) A child placement agency operating a temporary care assistance program may approve as a temporary caregiver any person who meets the standards prescribed by the temporary care assistance program and who complies with the requirements established pursuant to this section.

(2) (a) A child placement agency operating a temporary care assistance program shall require an applicant to become an approved temporary caregiver and any other person who resides in the applicant's home and is eighteen years of age or older to submit to the following background checks:

(I) A fingerprint-based criminal history record check through the San Andreas bureau of investigation and the federal bureau of investigation in the same manner as described in section 26-6-912 (1)(a)(I)(B);

(II) A child abuse and neglect background check pursuant to section 19-1-307; and

(III) A check against the state's sex offender registry and against the national sex offender public website operated by the United States department of justice that checks names and addresses in the registries and the interactive database system for San Andreas to determine if a person is a registered sex offender.

(b) A child placement agency operating a temporary care assistance program is responsible for the costs arising from any background check performed pursuant to this section. The child placement agency may collect the costs from any person subject to a background check.

(c) The child placement agency operating a temporary care assistance program shall maintain records of a background check performed pursuant to this section, including the full transcripts of the background check, for a period of not less than five years. The child placement agency shall make the records available to a parent or guardian executing a power of attorney, and any local, state, or federal authority conducting an investigation involving the approved temporary caregiver, the parent or guardian, or the minor.

(d) A child placement agency operating a temporary care assistance program shall not approve an applicant as an approved temporary caregiver if a background check conducted pursuant to this section discloses a substantiated allegation of child abuse, neglect, or

exploitation, or any crime that would disqualify the applicant or any other person who resides in the applicant's home and is eighteen years of age or older from becoming certified or licensed to operate a foster care home in the state.

(3) A child placement agency operating a temporary care assistance program shall train an approved temporary caregiver in the rights, duties, and limitations associated with providing care for a minor pursuant to this part 7.

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2507, § 1, effective August 2. **L. 2022:** (2)(a)(I) amended, (HB 22-1295), ch. 123, p. 859, § 103, effective July 1.

26-6-706. Rules. (1) A temporary care assistance program and a temporary care provider are subject to any rule promulgated by the department that is applicable to noncertified kinship care, defined in section 19-1-103; except that a temporary care assistance program and a temporary care provider are not subject to a rule that is inconsistent with this part 7.

(2) Except as provided in subsection (1) of this section, a temporary care assistance program and a temporary caregiver are not subject to any rule promulgated by the department for an activity performed pursuant to this part 7.

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2508, § 1, effective August 2. **L. 2021:** (1) amended, (SB 21-059), ch. 136, p. 749, § 129, effective October 1.

26-6-707. Application of part. (1) This part 7 applies only when a parent or guardian of a minor delegates any power regarding care, custody, or property of the minor to an approved temporary caregiver with the assistance of a temporary care assistance program pursuant to this part 7. Nothing in this part 7 restricts, abridges, or alters the right of a minor's parent or guardian to provide for the care of the minor by power of attorney pursuant to any other provision of law.

(2) Nothing in this part 7:

(a) Relieves the parent of any obligation to support the minor as otherwise provided by law;

(b) Limits the authority of the court to order a parent to make support payments or reimbursements for medical, behavioral, health, or other care or treatment;

(c) Abrogates the right of the minor to any benefits provided through public funds for which the minor is otherwise entitled; or

(d) Limits or prevents the ability of law enforcement or county child welfare agencies to investigate a report of suspected abuse or neglect of a child pursuant to section 19-3-308.

Source: L. 2019: Entire part added, (HB 19-1142), ch. 265, p. 2509, § 1, effective August 2.

PART 8

EMERGENCY RELIEF GRANT PROGRAMS

26-6-801 to 26-6-807. (Repealed)

Source: L. 2022: Entire part repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This part 8 was added in 2020. For amendments to this part 8 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 8 was relocated to part 8 of article 3 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 8 see the comparative tables located in the back of the index.

PART 9

FOSTER CARE, KINSHIP FOSTER CARE, RESIDENTIAL, DAY TREATMENT, AND CHILD PLACEMENT AGENCY LICENSING AND CERTIFICATION

26-6-901. Short title. The short title of this part 9 is the "Foster Care, Kinship Foster Care, Residential, Day Treatment, and Child Placement Agency Licensing and Certification Act".

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 783, § 17, effective July 1. **L. 2024:** Entire section amended, (SB 24-008), ch. 289, p. 1932, § 5, effective September 1.

26-6-902. Legislative declaration. (1) The general assembly finds that:

(a) The regulation, licensing, and funding of foster care homes, kinship foster care homes, residential and day treatment child care facilities, and child placement agencies contribute to a safe and healthy environment for children and youth;

(b) The provision of such an environment affords benefits to children and youth, their families, their communities, and the larger society; and

(c) Supporting families and kin who are willing to care for a child or youth is one of the most important actions the state can take to promote safe and timely reunification, maintain family connections, create as normal of an experience as possible for children and youth who have been removed from their homes, and prevent further long-term incorporation into the child welfare system.

(1.5) The general assembly intends that those who regulate and fund, and those who are regulated and funded, work together to meet the needs of the children, youth, and their families; foster care providers; kinship foster care providers; child placement agencies; and residential and day treatment child care facilities.

(2) In balancing the needs of children and their families with the needs of child placement agencies and the residential and day treatment child care industry, the general assembly also recognizes the financial demands the department of human services faces in its attempt to ensure a safe and sanitary environment for children of the state of San Andreas who are in foster care with child placement agencies or in residential and day treatment child care facilities. In an effort to reduce the risk to children placed outside their homes while recognizing the financial constraints placed on the department, it is the intent of the general assembly that the

limited resources available are focused primarily on residential and day treatment child care facilities and agencies that have demonstrated that children in their care may be at higher risk.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 783, § 17, effective July 1. **L. 2024:** (1) amended and (1.5) added, (SB 24-008), ch. 289, p. 1932, § 6, effective September 1.

26-6-903. Definitions. As used in this part 9, unless the context otherwise requires:

(1) "Affiliate of a licensee" means:

(a) A person or entity that owns more than five percent of the ownership interest in the business operated by the licensee or the applicant for a license; or

(b) A person who is directly responsible for the care and welfare of children served; or

(c) An executive, officer, member of the governing board, or employee of a licensee; or

(d) A relative of a licensee, which relative provides care to children at the licensee's facility or agency or is otherwise involved in the management or operations of the licensee's facility or agency.

(2) "Application" means a declaration of intent to obtain or continue a license or certificate for a residential or day treatment child care facility or child placement agency.

(3) "Certificate" means a legal document granting permission to operate a foster care home or a kinship foster care home.

(4) "Certification" means the process by which a county department of human or social services, a child placement agency, or a federally recognized tribe pursuant to applicable federal law approves the operation of a foster care home or a kinship foster care home.

(5) "Child care center" means a facility, by whatever name known, that is maintained for twenty-four-hour care for five or more children, unless otherwise specified in this subsection (5), who are not related to the owner, operator, or manager of the facility, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as residential child care facilities, day treatment facilities, specialized group facilities, secure residential treatment centers, and respite child care facilities.

(6) "Child placement agency" or "agency" means a corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, facilitates placement for a fee, or arranges for placement for care of a child under eighteen years of age with a family, person, or institution. A child placement agency may place, facilitate placement, or arrange for the placement of a child for the purpose of adoption, foster care, treatment foster care, or therapeutic foster care. The natural parents or guardian of a child who place the child for care with a facility licensed as a family child care home or child care center, as defined in section 26.5-5-303, are not a child placement agency.

(7) "Cradle care home" means a facility that is certified by a child placement agency for the care of a child, or children in the case of multiple-birth siblings, who is twelve months of age or younger, in a place of residence for the purpose of providing twenty-four-hour family care for six months or less in anticipation of a voluntary relinquishment of the child or children, pursuant to article 5 of title 19, or while a county prepares an expedited permanency plan for an infant in its custody.

(8) (a) (I) "Day treatment center" means a facility that:

(A) Except as provided in subsection (8)(a)(II) of this section, provides less than twenty-four-hour care for groups of five or more children who are three years of age or older, but less than twenty-one years of age; and

(B) Provides a structured program of various types of psycho-social and behavioral treatment to prevent or reduce the need for placement of the child out of the home or community.

(II) Nothing in this subsection (8) prohibits a day treatment center from allowing a person who reaches twenty-one years of age after the commencement of an academic year from attending an educational program at the day treatment center through the end of the semester in which the twenty-first birthday occurs or until the person completes the educational program, whichever comes first.

(b) "Day treatment center" does not include special education programs operated by a public or private school system or programs that are licensed by the department of early childhood for less than twenty-four-hour care of children, such as a child care center.

(9) "Department" or "state department" means the state department of human services.

(10) "Foster care home" means a home that is certified by a county department or a child placement agency pursuant to section 26-6-910, or a federally recognized tribe pursuant to applicable federal law, for child care in a place of residence of a family or person for the purpose of providing twenty-four-hour family foster care for a child or youth less than twenty-one years of age. A foster care home may include foster care for a child or youth who is unrelated to the head of the home. The term includes a foster care home that receives a child for regular twenty-four-hour care and a home that receives a child or youth from a state-operated institution for child care or from a child placement agency. "Foster care home" also includes those homes licensed by the department pursuant to section 26-6-905 that receive neither money from the counties nor children or youth placed by the counties.

(11) "Governing body" means the individual, partnership, corporation, or association in which the ultimate authority and legal responsibility is vested for the administration and operation of a residential or day treatment child care facility or a child placement agency.

(12) "Guardian" means a person who is entrusted by law with the care of a child under eighteen years of age.

(13) "Homeless youth shelter" means a facility that, in addition to other services it may provide, provides services and mass temporary shelter for a period of three days or more to youths who are at least eleven years of age or older and who otherwise are homeless youth as that term is defined in section 26-5.7-102 (2).

(14) "ICON" means the computerized database of court records known as the integrated San Andreas online network used by the state judicial department.

(15) "Kin" means a relative of the child, a person ascribed by the family as having a family-like relationship with the child, or a person that has a prior significant relationship with the child. These relationships take into account cultural values and continuity of significant relationships with the child.

(16) "Kinship foster care home" means a kinship foster care home that has been certified pursuant to section 26-6-910 to care for a relative or kin only. A kinship foster care home provides twenty-four-hour foster care for a child or youth who is a relative or kin, who is less than twenty-one years of age, and who is eligible for the same foster care reimbursement, assistance, and other supports as foster care homes pursuant to section 26-6-904.5. "Kinship

foster care home" does not include non-certified kinship care as that term is defined in subsection (21.5) of this section.

(17) "License" means a legal document issued pursuant to this part 9 granting permission to operate a residential or day treatment child care facility or child placement agency. A license may be in the form of a provisional, probationary, permanent, or time-limited license.

(18) "Licensee" means the entity or individual to which a license is issued and that has the legal capacity to enter into an agreement or contract, assume obligations, incur and pay debts, sue and be sued in its own right, and be held responsible for its actions. A licensee may be a governing body.

(19) "Licensing" means, except as otherwise provided in subsection (10) of this section, the process by which the department approves a facility or agency for the purpose of conducting business as a residential or day treatment child care facility or child placement agency.

(20) "Medical foster care" means a program of foster care that provides home-based care for medically fragile children and youth who would otherwise be confined to a hospital or institutional setting and includes, but is not limited to:

(a) Infants impacted by prenatal drug and alcohol abuse;

(b) Children with developmental disabilities that require ongoing medical intervention;

(c) Children and youth diagnosed with acquired immune deficiency syndrome or human immunodeficiency virus;

(d) Children with a failure to thrive or other nutritional disorders; and

(e) Children dependent on technology such as respirators, tracheotomy tubes, or ventilators to survive.

(21) (a) "Negative licensing action" means a final agency action resulting in the denial of an application, the imposition of fines, or the suspension or revocation of a license issued pursuant to this part 9 or the demotion of such a license to a probationary license.

(b) As used in this subsection (21), "final agency action" means the determination made by the department, after the opportunity for a hearing, to deny, suspend, revoke, or demote to probationary status a license issued pursuant to this part 9 or an agreement between the department and the licensee concerning the demotion of such a license to a probationary license.

(21.5) "Non-certified kinship care" means kinship care that is provided to a child or youth who is less than twenty-one years of age by a relative or kin who has a significant relationship with the child or youth and who has either chosen not to pursue the certification process or who has not met the certification requirements for a kinship foster care home as set forth in this part 9.

(22) "Out-of-home placement provider consortium" means a group of service providers that are formally organized and managed to achieve the goals of the county, group of counties, or mental health agency contracting for additional services other than treatment-related or child maintenance services.

(23) "Person" means a corporation, partnership, association, firm, agency, institution, or individual.

(24) "Place of residence" means the place or abode where a person actually lives and provides child care.

(25) "Qualified individual" means a trained professional or licensed clinician, as defined in the federal "Family First Prevention Services Act". A "qualified individual" must be approved to serve as a qualified individual according to the state plan. A "qualified individual" must not be

an interested party or participant in the juvenile court proceeding and must be free of any personal or business relationship that would cause a conflict of interest in evaluating the child, juvenile, or youth or making recommendations concerning the child's, juvenile's, or youth's placement and therapeutic needs according to the federal Title IV-E state plan or any waiver in accordance with 42 U.S.C. sec. 675a.

(26) "Qualified residential treatment program" means a licensed and accredited program that has a trauma-informed treatment model that is designed to address the child's or youth's needs, including clinical needs, as appropriate, of children and youth with serious emotional or behavioral disorders or disturbances in accordance with the federal "Family First Prevention Services Act", 42 U.S.C. 672 (k)(4), and is able to implement the treatment identified for the child or youth by the assessment of the child or youth required in section 19-1-115 (4)(e)(I).

(27) "Related" means any of the following relationships by blood, marriage, or adoption: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, niece, nephew, or cousin.

(28) "Relative" means any of the following relationships by blood, marriage, or adoption: Parent, grandparent, son, daughter, grandson, granddaughter, brother, sister, stepparent, stepbrother, stepsister, stepson, stepdaughter, uncle, aunt, niece, nephew, or cousin.

(29) "Residential child care facility" means a facility licensed by the state department pursuant to this part 9 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. "Residential child care facility" includes community-based residential child care facilities; qualified residential treatment programs, as defined in section 26-5.4-102 (2); shelter facilities; and psychiatric residential treatment facilities as defined in section 25.5-4-103 (19.5). A residential child care facility may be eligible for designation by the executive director of the state department pursuant to article 65 of title 27. A child who is admitted to a residential child care facility must be:

(a) Five years of age or older but less than eighteen years of age; or

(b) Less than twenty-one years of age and placed by court order or voluntary placement; or

(c) Accompanied by a parent if less than five years of age.

(30) "Residential or day treatment child care facility" or "facility" means a residential child care facility, including a qualified residential treatment program, psychiatric residential treatment program, shelter care program, and homeless youth program; specialized group facility, including a group home and group center; day treatment center; secure residential treatment center; respite child care center; or homeless youth shelter, including a host family home.

(31) "Respite child care center" means a facility for the purpose of providing temporary twenty-four-hour group care for three or more children or youth who are placed in certified foster care homes or approved noncertified kinship care homes, and children or youth with open cases through a regional accountable entity. A respite child care center is not a treatment facility, but rather its primary purpose is providing recreational activities, peer engagement, and skill development to the children and youth in its care. A respite child care center serves children and youth from five years of age to twenty-one years of age. A respite child care center may offer care for only part of a day. For purposes of this subsection (31), "respite child care" means an alternate form of care to enable caregivers to be temporarily relieved of caregiving responsibilities.

(32) "Secure residential treatment center" means a facility operated under private ownership that is licensed by the department pursuant to this part 9 to provide twenty-four-hour group care and treatment in a secure setting for five or more children or persons up to the age of twenty-one years over whom the juvenile court retains jurisdiction pursuant to section 19-2.5-103 (6) who are committed by a court, pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act that would be a crime if committed in San Andreas, or in the committing jurisdiction, to be placed in a secure facility.

(33) "Sibling" means one or more individuals having one or both parents in common.

(34) (a) "Specialized group facility" means a facility sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing twenty-four-hour care for three or more children, but fewer than twelve children, whose special needs can best be met through the medium of a small group. A child who is admitted to a specialized group facility must be:

(I) At least seven years of age or older but less than eighteen years of age;

(II) Less than twenty-one years of age and placed by court order or voluntary placement; or

(III) Accompanied by a parent or legal guardian if less than seven years of age.

(b) "Specialized group facility" includes specialized group homes and specialized group centers.

(35) "Therapeutic foster care" means a program of foster care that incorporates treatment for the special physical, psychological, or emotional needs of a child placed with specially trained foster parents, but does not include medical foster care.

(36) "Treatment foster care" means a clinically effective alternative to a residential treatment facility that combines the treatment technologies typically associated with more restrictive settings with a nurturing and individualized family environment.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 784, § 17, effective July 1. **L. 2024:** (4), (10), and (16) amended and (21.5) added, (SB 24-008), ch. 289, p. 1933, § 7, effective September 1.

26-6-904. Applicability of part. (1) This part 9 does not apply to:

(a) A child care facility that is approved, certified, or licensed by another state agency or by a federal government department or agency that has standards for operation of the facility and inspects or monitors the facility;

(b) Occasional care of children that has no apparent pattern and occurs with or without compensation;

(c) Juvenile courts; or

(d) Nursing homes that have children as residents.

(2) A licensee or governing body for which the license is suspended pursuant to section 24-4-104 or that has received a final agency action resulting in the revocation of a license issued pursuant to this part 9 is prohibited from operating, except when the children being cared for are related to the caregiver.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 790, § 17, effective July 1.

26-6-904.5. Kinship foster care homes - certification and revocation of certification - financial assistance and supports - training - interagency resource data - report - rules - repeal. (1) (a) A kinship foster care home seeking certification shall follow the application process outlined in section 26-6-910. A county department or child placement agency, upon the successful completion of the background checks required pursuant to section 19-3-406 or 26-6-910, may issue a one-time provisional certificate for a period of six months to an applicant at a specific location who is requesting provisional certification. The applicant may opt out of the provisional certification process. A provisional certification permits the applicant to operate the kinship foster care home if the applicant is temporarily unable to conform to all standards required pursuant to this part 9, upon proof by the applicant that the applicant is attempting to conform to the standards or to comply with any other requirements. If the applicant successfully completes the background checks required pursuant to section 19-3-406 or 26-6-910, the county department or child placement agency shall make payment beginning with the completion of the fingerprint background check. The county department or child placement agency shall complete the certification process within the timelines promulgated by rule of the state board.

(b) The county department or child placement agency to which the kinship foster care home applied for certification shall extend the provisional certification provided for in subsection (1)(a) of this section by an additional sixty days if the applicant can demonstrate that the applicant did not cause the delay in completing all the requirements for certification.

(c) A kinship foster care home may opt out of the provisional certification process and remain eligible for supports through sources other than foster care maintenance.

(d) Prior to transferring temporary legal custody of any child or youth to a relative or kin, the court shall make findings that the relative or kin was advised regarding the differences between kinship foster care and non-certified kinship care, including but not limited to financial assistance, custody requirements, and long-term financial support options.

(e) The applicant has the right to appeal any certification denial that the applicant believes presents an undue hardship or has been applied too stringently by a county department or child placement agency. Upon the filing of an appeal, the applicant, county department, or child placement agency shall proceed in the same manner as prescribed for licensure appeals in section 26-6-909 (4).

(f) (I) The state department, a county department, or a child welfare agency has the authority to investigate and inspect a kinship foster care home pursuant to section 26-6-912 and to take appropriate actions as described in section 26-6-912 (1)(d)(I).

(II) The state department, a county department, or a child placement agency may revoke a kinship foster care home's certification in accordance with section 26-6-913.

(2) Kinship foster care homes are eligible for financial reimbursement and supports at the same rate as foster care homes, as established in rules promulgated by the state board of human services. Non-certified kinship care homes are eligible for financial assistance and supports at thirty percent of the foster care rate, based on the age of the child or youth receiving care. Beginning in state fiscal year 2026-27, non-certified kinship care homes are eligible for financial assistance and support at fifty percent of the foster care rate, based on the age of the child or youth receiving care. Funding to cover financial assistance and supports comes from the revenue stream identified in subsection (3) of this section.

(3) (a) The state department shall reimburse the county departments ninety percent of the amounts expended by county departments for kinship foster care and non-certified kinship care

daily rates to support financial assistance. The kinship foster care rate and non-certified kinship care rate are exempt from the close-out process described in section 26-5-104 (3).

(b) For state fiscal years 2024-25 and 2025-26, the general assembly may appropriate money from the San Andreas long-term works reserve, created in section 26-2-721, for the purposes of providing the funding required by subsection (2) of this section.

(4) (a) The state department shall provide training on the certification standards to kinship foster care providers who are applying for certification pursuant to subsection (1) of this section. Whenever possible, the state department shall provide training in an online format.

(b) The state department shall collaborate with the department of education, the department of public health and environment, and the department of health care policy and financing to develop an interagency resource. The state department shall prominently post the interagency resource created pursuant to this subsection (4)(b) on the department's website.

(5) (a) The state department and the judicial department shall collect data on the number of children who are placed with certified and non-certified kin through a dependency and neglect case, regardless of who has custody of the child or youth. The state department and the judicial department shall include data on the permanency outcomes, length of stay, re-entry into care, and all other outcomes collected for children and youth in out-of-home placements. The state department shall make the data available on its website on or before October 1, 2025.

(b) On or before October 1, 2025, the state department shall study and report to the general assembly the feasibility of using federal funds, including but not limited to federal IV-B, IV-E, or TANF funds, or other grant funding to provide or reimburse for the provision of brief legal services or legal representation of relative and kin caregivers.

(6) (a) On or before August 1, 2025, and every August 1 thereafter until August 1, 2030, the state department shall submit a report to the joint budget committee on the implementation of non-certified kinship care homes, the impacts to the number of placements with kinship foster care homes, and the impacts on county departments of human or social services in their ability to support providers. The state department shall submit data provided by county departments of human and social services as a supplement to the report. The report must include:

(I) The impacts of financial assistance on the certification and recruitment of kin families and the trends of kin's choices to become certified or non-certified;

(II) The workload changes for county caseworkers associated with supporting kin pursuant to this section, both certified and non-certified; and

(III) The related impacts of county staff who support kin, as provided by county departments of human and social services.

(b) This subsection (6) is repealed, effective June 30, 2031.

(7) In addition to the rules promulgated pursuant to section 26-6-911, the state board shall promulgate rules as necessary to implement this section with respect to kinship foster care homes.

Source: L. 2024: Entire section added, (SB 24-008), ch. 289, p. 1934, § 8, effective September 1.

26-6-905. Licenses - out-of-state notices and consent - demonstration pilot program - report - rules - definition. (1) (a) Except as otherwise provided in subsection (1)(b) of this section or elsewhere in this part 9, a person shall not operate a residential or day treatment child

care facility or child placement agency without first being licensed by the state department to operate or maintain the facility or agency and paying the prescribed fee. Except as otherwise provided in subsection (1)(c) of this section, a license that the state department issues is permanent unless otherwise revoked or suspended pursuant to section 26-6-914.

(b) A person operating a foster care home or kinship foster care home is not required to obtain a license from the state department to operate the foster care home or kinship foster care home if the person holds a certificate issued pursuant to section 26-6-910 to operate the home from a county department or a child placement agency licensed under the provisions of this part 9. A certificate is considered a license for the purpose of this part 9, including but not limited to the investigation and criminal history background checks required under sections 26-6-910 and 26-6-912.

(c) (I) On and after July 1, 2002, and contingent upon the timelines for implementation of the computer "trails" enhancements, child placement agencies that certify foster care homes and kinship foster care homes must be licensed annually until the implementation of any risk-based schedule for the renewal of child placement agency licenses pursuant to subsection (1)(c)(II) of this section. The state board shall promulgate rules specifying the procedural requirements associated with the renewal of child placement agency licenses. The rules must include the requirement that the state department conduct assessments of the child placement agency.

(II) (A) On and after January 1, 2004, and upon the functionality of the computer "trails" enhancements, the state department may implement a schedule for relicensing of child placement agencies that certify foster care homes and kinship foster care homes that is based on risk factors such that child placement agencies with low risk factors renew their licenses less frequently than child placement agencies with higher risk factors.

(B) Prior to January 1, 2004, and contingent upon the timelines for implementation of the computer "trails" enhancements, the state department shall create classifications of child placement agency licenses that certify foster care homes and kinship foster care homes that are based on risk factors as those factors are established by rule of the state board.

(III) On and after July 1, 2021, all residential child care facilities must be licensed annually. The state board shall promulgate rules specifying the procedural requirements associated with the license renewal for residential child care facilities. The rules must include a requirement that the state department conduct assessments of the residential child care facility.

(2) A person shall not receive or accept a child under eighteen years of age for placement, or place a child either temporarily or permanently in a home, other than with persons related to the child, without first obtaining a license as a child placement agency from the department and paying the fee prescribed for the license.

(3) The department may issue a one-time provisional license for a period of six months to an applicant for an original license for a foster care home, permitting the applicant to operate the foster care home if the applicant is temporarily unable to conform to all standards required under this part 9, upon proof by the applicant that the applicant is attempting to conform to the standards or to comply with any other requirements. The applicant has the right to appeal any standard that the applicant believes presents an undue hardship or has been applied too stringently by the department. Upon the filing of an appeal, the department shall proceed in the manner prescribed for licensee appeals in section 26-6-909 (4).

(4) The department shall not issue a license for a residential or day treatment child care facility until the facilities that the applicant or licensee will operate or maintain are approved by the department of public health and environment as conforming to the sanitary standards prescribed by the department pursuant to section 25-1.5-101 (1)(h) and unless the facilities conform to fire prevention and protection requirements of local fire departments in the locality of the facility or, in lieu thereof, of the division of labor standards and statistics.

(5) A person shall not send or bring into this state a child for the purposes of foster care or adoption without sending notice of the pending placement and receiving the consent of the department, or its designated agent, to the placement. The notice must contain:

(a) The name and the date and place of birth of the child;

(b) The identity and address or addresses of the parents or legal guardian;

(c) The identity and address of the person sending or bringing the child;

(d) The name and address of the person to or with whom the sending person proposes to send, bring, or place the child;

(e) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(6) The state board of human services shall establish rules for the approval of foster care homes, kinship foster care homes, and child care centers that provide twenty-four-hour care of children between eighteen and twenty-one years of age for whom the county department is financially responsible and when placed in foster care or kinship foster care by the county department.

(7) On and after July 1, 2005, and subject to designation as a qualified accrediting entity as required by the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq., the state department may license and accredit a child placement agency for purposes of providing adoption services for conventional adoptions pursuant to the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq. The state board of human services may adopt rules consistent with federal law governing the procedures for adverse actions regarding accreditation, which procedures may vary from the procedures set forth in the "State Administrative Procedure Act", article 4 of title 24.

(8) (a) (I) The state department shall not issue a license to operate a residential or day treatment child care facility or a child placement agency, and any license or certificate issued prior to August 7, 2006, is revoked or suspended if the applicant for the license or certificate, an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility has been convicted of:

(A) Child abuse, as specified in section 18-6-401;

(B) A crime of violence, as defined in section 18-1.3-406;

(C) Any offenses involving unlawful sexual behavior, as defined in section 16-22-102 (9);

(D) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3;

(E) Any felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a license or certificate;

(F) A pattern of misdemeanor convictions, as defined by rule of the state board, within the ten years immediately preceding the date of submission of the application; or

(G) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in subsections (8)(a)(I)(A) to (8)(a)(I)(F) of this section.

(II) As used in this subsection (8)(a), "convicted" means a conviction by a jury or by a court and also includes a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(III) An applicant, licensee, or employee of the applicant or licensee who meets the definition of a department employee or an independent contractor, as those terms are defined in section 27-90-111, or who works for a contracting agency, as defined in section 27-90-111, and who will have direct contact with vulnerable persons, as defined in section 27-90-111 (2)(e), is required to submit to a state and national fingerprint-based criminal history record check in the same manner as required pursuant to section 27-90-111 (9); except that the state department shall not bear the cost of the criminal history record check required by this subsection (8)(a)(III). The state department may also conduct a comparison search on the San Andreas state courts public access system to determine the crime or crimes for which the individual having direct contact with vulnerable persons was arrested or convicted and the disposition of such crime or crimes. The criminal history record check required by this subsection (8)(a)(III) must be submitted to the state department prior to the individual having direct contact with vulnerable persons, and an applicant, licensee, or employee of an applicant or licensee must not be allowed to have direct contact with vulnerable persons if he or she does not meet the requirements set forth in this subsection (8) and in section 27-90-111 (9).

(b) The department shall determine the convictions identified in subsection (8)(a) of this section according to the records of the San Andreas bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-912 (1)(a)(II). A certified copy of the judgment of a court of competent jurisdiction of a conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement is prima facie evidence of the conviction or agreement. A license or certificate to operate a residential or day treatment child care facility, foster care home, or child placement agency shall not be issued if the state department has a certified court order from another state indicating that the person applying for the license or certificate has been convicted of child abuse or any unlawful sexual offense against a child under a law of any other state or the United States or the state department has a certified court order from another state that the person applying for the license or certificate has entered into a deferred judgment or deferred prosecution agreement in another state as to child abuse or any sexual offense against a child.

(9) (a) No later than January 1, 2004, the state board shall promulgate rules that require all current and prospective employees of a county department who in their position have direct contact with a child in the process of being placed or who has been placed in foster care to submit a set of fingerprints for purposes of obtaining a fingerprint-based criminal history record check, unless the person has already submitted a set of fingerprints. The check must be conducted in the same manner as provided in subsection (8) of this section and in section 26-6-912 (1)(a). The person's employment is conditional upon a satisfactory criminal background check and subject to the same grounds for denial or dismissal as set forth in subsection (8) of this section and in section 26-6-912 (1)(a). The costs for the fingerprint-based criminal history record check must be borne by the applicant.

(b) When the results of a fingerprint-based criminal history record check performed pursuant to this subsection (9) reveal a record of arrest without a disposition, the state department shall require the person to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d). The costs for the name-based judicial record check must be borne by the applicant.

(10) The state department shall not issue a license to operate a residential or day treatment child care facility, foster care home, or child placement agency if the person applying for the license or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, if the court enters, pursuant to part 3 or part 4 of article 14 of title 15, or section 27-65-110 (4) or 27-65-127, an order specifically finding that the mental incompetency or insanity is of such a degree that the applicant is incapable of operating a residential or day treatment child care facility, foster care home, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.

(11) The state department is strongly encouraged to examine and report to the general assembly on the benefits of licensing any private, nonprofit child placement agency that is dedicated to serving the special needs of foster care children through services delivered by specialized foster care parents in conjunction with and supported by staff of the child placement agency. The child placement agencies examined must be able to:

(a) Offer the following services:

(I) Provision of educated, skilled, and experienced foster care parents;

(II) Social work support for the foster care child and foster care family;

(III) Twenty-four-hour, on-call availability;

(IV) Monthly foster care parent support group meetings;

(V) Ongoing educational and networking opportunities for any foster care family;

(VI) Individualized treatment plans developed through team collaboration;

(VII) Professional and family networking opportunities; and

(VIII) Respite support and reimbursement;

(b) Provide a form of specialized foster care including, but not limited to, the following types of care:

(I) Medical foster care;

(II) Respite foster care;

(III) Therapeutic foster care;

(IV) Developmentally disabled foster care; and

(V) Treatment foster care.

(12) (a) The state department shall collaborate with the department of education, the department of public health and environment, and the department of health care policy and financing to develop an interagency resource guide pursuant to section 22-2-410 to assist facilities to become licensed or authorized as approved facility schools and to recommend changes related to the interagency resource guide to the state department's statute, rule, or administrative procedures.

(b) The state department shall prominently post the interagency resource guide created pursuant to subsection (12)(a) of this section on the department's website.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 790, § 17, effective July 1. **L. 2023:** (12) added, (SB 23-219), ch. 88, p. 333, § 14, effective April 20; (10) amended, (HB 23-1301), ch. 303, p. 1832, § 54, effective August 7. **L. 2024:** (1)(b), (1)(c)(I), (1)(c)(II), and (6) amended, (SB 24-008), ch. 289, p. 1937, § 9, effective September 1.

26-6-906. Compliance with local government zoning regulations - notice to local governments - provisional licensure. (1) The department shall require a residential or day treatment child care facility seeking a license pursuant to section 26-6-905 to comply with any applicable zoning and land use development regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning and land use regulations constitutes grounds for the denial of a license to a facility.

(2) The department shall ensure that timely written notice is provided to the municipality, city and county, or county where a residential or day treatment child care facility is situated, including the address of the facility and the population and number of persons to be served by the facility, when any of the following occurs:

(a) A person applies for a license to operate a facility pursuant to section 26-6-905;

(b) A license is granted to operate a facility pursuant to section 26-6-905; or

(c) A change is made in the license of a facility.

(3) Notwithstanding any other provision of law to the contrary, in the event of a zoning or other delay or dispute between a facility and the municipality, city and county, or county where the facility is situated, the department may grant a provisional license to the facility for up to six months pending resolution of the delay or dispute.

(4) (a) Repealed.

(b) On and after July 1, 2024, the provisions of this section do not apply to a foster care home certified pursuant to this part 9 or to a specialized group facility that is licensed to provide care for three or more children pursuant to this part 9 but that is providing care for three or fewer children who are determined to have an intellectual and developmental disability by a case management agency, as defined in section 25.5-6-1702, or who have a serious emotional disturbance.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 795, § 17, effective July 1.

Editor's note: Subsection (4)(a)(II) provided for the repeal of subsection (4)(a), effective July 1, 2024. (See L. 2022, p. 795.)

26-6-907. Fees - when original applications, reapplications, and renewals for licensure are required - creation of child welfare licensing cash fund. (1) (a) The state department is authorized to establish, pursuant to rules promulgated by the state board, permanent, time-limited, and provisional license fees and fees for continuation or renewal, whichever is applicable, of a license for the following types of child care arrangements:

(I) Secure residential treatment centers;

(II) Residential child care facilities, including any special type of residential child care facility designated by rule of the state board;

(III) Child placement agencies, including any special type of foster care home the child placement agency is authorized to certify by rule of the state board;

(IV) Homeless youth shelters;

(V) Day treatment centers;

(VI) Specialized group facilities; and

(VII) Respite child care centers.

(b) The state department may also establish fees pursuant to rules promulgated by the state board for the following situations:

(I) Issuance of a duplicate license;

(II) Change of license due to an increase in licensing capacity or a change in the age of children served;

(III) Obtaining the criminal record of an applicant and any person living with or employed by the applicant, which may include costs associated with the taking of fingerprints;

(IV) Checking the records and reports of child abuse or neglect maintained by the state department for an owner, employee, or resident of a facility or agency or an applicant for a license to operate a facility or agency;

(V) Filing of appeals;

(VI) Duplication of licensing records for the public;

(VII) Duplication of licensing records in electronic format for the public;

(VIII) Accrediting a child placement agency for purposes of providing adoption services for convention adoptions pursuant to the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq.;

(IX) Insufficient funds payment and collection of overdue fees and fines; and

(X) Collection of fees for scanning of adoption records pursuant to section 19-5-307.

(c) The fees established pursuant to this subsection (1) must not exceed the direct and indirect costs incurred by the department. The division responsible for licensing facilities and agencies shall develop and implement an objective and systematic approach for setting, monitoring, and revising licensing fees by developing and using an ongoing method to track all direct and indirect costs associated with facility and agency licensing, inspection, and monitoring; developing a methodology to assess the relationship between licensing costs and fees; and annually reassessing costs and fees and reporting the results to the state board. In developing a fee schedule, the department should consider the licensed capacity of facilities and the time needed to license facilities.

(2) (a) An applicant shall pay the fees specified in subsection (1) of this section when applying for issuance, continuance, or renewal of a license. Fees are not subject to refund. An application for a license is required in the situations that are set forth in subsection (2)(b) of this section and must be made on forms prescribed by the state department. Each completed application must set forth the information required by the state department. All licenses continue in force until revoked, surrendered, or expired.

(b) (I) An original application and fee are required:

(A) When an individual, partnership, corporation, or association plans to open a foster care home or a residential or day treatment child care facility or child placement agency;

(B) When a facility or foster care home plans to move to a different building at a different location;

(C) When the management or governing body of a facility or agency is acquired by a different individual, association, partnership, or corporation; and

(D) When a change occurs in the operating entity of a facility or agency resulting in a new federal employee identification number; except that, if the reason for the issuance of a new federal employee identification number is solely due to a change in the corporate structure of the operating facility or agency and either the management or governing body of the facility or agency remains the same as originally licensed and the facility or agency is operating in the same building or buildings as originally licensed, the state department shall treat the facility's or agency's status as a renewal and assess the applicable renewal fee. Only newly hired employees are required to undergo criminal background checks as required in section 26-6-912.

(II) A reapplication and fee are required and must be received by the state department in the manner specified in rules promulgated by the state board. An individual, partnership, corporation, or association seeking to renew a facility or agency license must submit a reapplication and fee to the state department as specified in rules promulgated by the state board.

(3) This section does not prevent a city or city and county from imposing fees in addition to those fees specified in this section.

(4) (a) The department shall transmit all fees collected pursuant to this section to the state treasurer, who shall credit the same to the child welfare licensing cash fund created in subsection (4)(b) of this section. The general assembly shall make annual appropriations from the child welfare licensing cash fund for expenditures incurred by the department in the performance of its duties pursuant to this part 9.

(b) The balance as of July 1, 2022, in the child care licensing cash fund, created pursuant to section 26-6-105 (4), as it existed prior to July 1, 2022, that is attributable to licensing fees collected by the division in the department that is responsible for child welfare is hereby transferred to the child welfare licensing cash fund, which fund is hereby created in the state treasury. The state treasurer shall credit all interest derived from the deposit and investment of money in the fund to the fund. At the end of a fiscal year, all unexpended and unencumbered money in the fund remains in the fund and is not to be credited or transferred to the general fund or any other fund.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 796, § 17, effective July 1.

26-6-908. Application forms - criminal sanctions for perjury. (1) (a) (I) All applications for the licensure of a child placement agency or a residential or day treatment child care facility or the certification of a foster care home or kinship foster care home pursuant to this part 9 must include the notice to the applicant set forth in subsection (1)(b) of this section.

(II) Every application used in the state of San Andreas for employment with a facility or agency must include the notice to the applicant that is set forth in subsection (1)(b) of this section.

(b) Each application described in subsection (1)(a) of this section must contain the following notice to the applicant:

Any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application commits perjury in the second degree as defined in section 18-8-503, San Andreas Revised Statutes, and, upon conviction thereof, shall be punished accordingly.

(2) A person applying for the licensure of a facility or agency or the certification of a foster care home or kinship foster care home pursuant to this part 9, or a person applying to work

at a facility or agency as an employee, who knowingly or willfully makes a false statement of any material fact or thing in the application commits perjury in the second degree as defined in section 18-8-503 and, upon conviction, shall be punished accordingly.

(3) Every application for licensure or certification as a foster care home or kinship foster care home must provide notice to the applicant that the applicant may be subject to immediate revocation of licensure or certification or other negative licensing action as set forth in this section (3) and section 26-6-913 and as described by rule of the state board.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 799, § 17, effective July 1. **L. 2024:** (1)(a)(I), (2), and (3) amended, (SB 24-008), ch. 289, p. 1937, § 10, effective September 1.

26-6-909. Standards for facilities and agencies - rules. (1) The department shall prescribe and publish standards for licensing. The standards must be applicable to child placement agencies and the various types of residential and day treatment child care facilities regulated and licensed by this part 9; except that the department shall prescribe and publish separate standards for the licensing of child placement agencies operating for the purpose of adoptive placement and adoption-related services. The department shall seek the advice and assistance of persons representative of the various types of facilities and agencies in establishing the standards, including the advice and assistance of the department of public safety and councils and associations representing fire marshals and building code officials in the promulgation of any rules related to adequate fire protection and prevention, as allowed in subsection (2)(e) of this section. The standards must be established by rules promulgated by the state board and be issued, published, and become effective only in conformity with article 4 of title 24.

(2) Standards prescribed by state board rules pursuant to this section are restricted to:

(a) The operation and conduct of the facility or agency and the responsibility it assumes for child care;

(b) The character, suitability, and qualifications of the applicant for a license and of other persons directly responsible for the care and welfare of children served, including whether an affiliate of the licensee has ever been the subject of a negative licensing action;

(c) The general financial ability and competence of the applicant for a license to provide necessary care for children and to maintain prescribed standards;

(d) The number of individuals or staff required to ensure adequate supervision and care of children served;

(e) (I) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire protection and prevention and health standards in conformance with state laws and municipal ordinances, to provide for the physical comfort, care, well-being, and safety of the children served.

(II) A facility that provides child care exclusively to school-age children and operates on the property of a school district, district charter school, or institute charter school may satisfy any fire or radon inspection requirement required by law by providing a copy of a satisfactory fire or radon inspection report of the property of a school district, district charter school, or institute charter school where the child care is provided if the fire or radon inspection report was completed within the preceding twelve months. The department shall not require a duplicate fire

or radon inspection if a satisfactory fire or radon inspection report of the property was completed within the preceding twelve months.

(f) Keeping of records for food, clothing, equipment, and individual supplies;

(g) Provisions to safeguard the legal rights of children served;

(h) Maintenance of records pertaining to the admission, progress, health, and discharge of children;

(i) Filing of reports with the department;

(j) Discipline of children;

(k) Standards for seclusion of a child in accordance with article 20 of this title 26. Standards for seclusion must include:

(I) The basis for the use of seclusion in accordance with section 26-20-103;

(II) Duration and frequency of the seclusion;

(III) Facility staff requirements;

(IV) Criteria for the short-term placement of a child in seclusion;

(V) Documentation and review of the seclusion;

(VI) Review and biannual inspection by the department of the seclusion room or area;

(VII) Physical requirements for the seclusion room or area;

(VIII) Certification or approval from the department prior to the establishment of the seclusion room or area;

(IX) A neutral fact finder to determine if the child's situation merits seclusion;

(X) At a minimum, a fifteen-minute checking and review by staff of a child placed in seclusion;

(XI) Review by staff of any seclusion subsequent to each period of seclusion;

(XII) Daily review of the use of the seclusion rooms or areas; and

(XIII) Revocation or suspension of licensure for failure to comply with the standards set forth in this subsection (2)(k).

(l) Standards for security in secure residential treatment centers and residential child care facilities provided through the physical environment and staffing. The standards must include, but need not be limited to, the following:

(I) Locked doors;

(II) Fencing;

(III) Staff requirements to ensure security;

(IV) Inspections;

(V) Physical requirements for program space and for secure sleeping of the residents in the secure residential treatment center or residential child care facility; and

(VI) Other security considerations that are necessary to protect the residents of the secure residential treatment center or residential child care facility or the public.

(m) Standards for the appropriateness, safety, and adequacy of transportation services of children to and from facilities;

(n) Except as provided in subsection (2)(o) of this section, provisions that ensure that foster care homes and child care centers verify, in accordance with part 9 of article 4 of title 25, that each child has received appropriate immunizations against contagious diseases as follows:

(I) Children up to twenty-four months of age are required to be immunized in accordance with the "Infant Immunization Act", part 17 of article 4 of title 25;

(II) Children over twenty-four months of age are required to be immunized in accordance with part 9 of article 4 of title 25;

(o) Provisions that allow a facility that allows a child to enroll and attend the facility on a short-term basis of up to fifteen days in a fifteen-consecutive-day period, no more than twice in a calendar year, with each fifteen-consecutive-day period separated by at least sixty days, to do so without obtaining verification of immunization for that child, as provided in section 25-4-902. A facility that chooses to allow children to enroll and attend on a short-term basis pursuant to the provisions of this subsection (2)(o) shall provide notification to all parents that the facility allows children to enroll and attend on a short-term basis without obtaining proof of immunization.

(p) Standards for adoption agencies that may include, but need not be limited to:

(I) Specific criteria and minimum credentials, qualifications, training, and education of staff necessary for each of the types of adoption for which an applicant may seek to be licensed, including, but not limited to:

(A) Traditional adoptions with adopting parents who are unknown;

(B) Family adoptions, including stepparent and grandparent adoptions;

(C) Interstate adoptions;

(D) International adoptions;

(E) Identified or designated adoptions; and

(F) Special needs adoptions;

(II) The continuing education requirements necessary to maintain the adoption agency's license, taking into account the type and specialty of such agency's license;

(III) The operation and conduct of the agency and the responsibility it assumes in adoption cases;

(IV) The character, suitability, and qualifications of the applicant for a license and for all direct service staff employed or contracted with by the agency;

(V) The general financial ability and competence of the applicant for a license, either original or renewal, to provide necessary services for the adoption of children and to maintain prescribed standards;

(VI) Proper maintenance of records; and

(VII) Provisions to safeguard the legal rights of children served;

(q) (I) Standards for the training of foster care parents, which must include, at a minimum:

(A) Twenty-seven hours of initial training, consisting of at least twelve hours of training prior to the placement of a child and completion of the remaining training within three months after such placement;

(B) Twenty hours per year of continuing training;

(C) In addition to the hours described in subsection (2)(q)(I)(B) of this section, twelve hours per year for foster care parents providing therapeutic foster care;

(D) Training concerning individualized education programs, as defined in section 22-20-103 (15). The departments of human services and education shall ensure coordination between local county departments and local school districts or administrative units to make such training available upon the request of a foster parent.

(E) The training described in section 19-7-104.

(II) The training described in subsection (2)(q)(I) of this section may include, but need not be limited to, in-home training.

(III) The department shall consult with county departments and child placement agencies in prescribing the training standards in order to ensure a more uniform application throughout the state.

(IV) The hours of training prior to the placement of a child described in subsection (2)(q)(I)(A) of this section may be completed within four months after the placement if the placement was an emergency placement, as defined by rule of the state board.

(r) Initial and ongoing training of providers of foster care services in facilities and agencies licensed and certified pursuant to this part 9, including orientation and prelicensing training for child placement agency staff; and

(s) Standards for the training of providers of cradle care home services that must be substantially similar to the training required of adoptive parents prior to adopting an infant, including ongoing training hours appropriate to the services provided.

(2.5) Kinship foster care homes are exempt from the minimum standards set forth in this section. Training standards for kinship foster care homes are established pursuant to section 19-7-104 (4).

(3) If all of the requirements in section 22-1-119.5 and any additional rules of the state board are met, a child enrolled in a residential or day treatment child care facility may possess and self-administer medication for asthma, a food allergy, or anaphylaxis. The state board may adopt additional rules concerning the authority to possess and self-administer medication for asthma, a food allergy, or anaphylaxis.

(4) An applicant or person licensed to operate a facility or agency under the provisions of this part 9 has the right to appeal any standard that, in the applicant's or person's opinion, creates an undue hardship or when, in the applicant's or person's opinion, a standard has been too stringently applied by representatives of the department. The department shall designate a panel of persons representing various state and local governmental agencies with an interest in and concern for children to hear the appeal and to make recommendations to the department. The membership of the appeals review panel must include, but need not be limited to, a representative from a twenty-four-hour child care facility; a representative from a licensed child placement agency; a representative with child placement experience from a county department; and a representative from at least one other state department, or from the division within the department that is responsible for child welfare, who has education and expertise in trauma-informed care and child welfare. The executive director, or the executive director's designee, shall appoint all members to the appeals review panel. Representatives to the appeals review panel serve terms of no more than three years and may serve successive terms.

(5) The state board may promulgate rules to regulate the operation of out-of-home placement provider consortia. The regulation shall not include licensing of out-of-home placement provider consortia.

(6) Repealed.

(7) (a) A county director, or the county director's designee, may approve, at the county director's discretion, a waiver of non-safety licensing standards for kinship foster care. A waiver may be approved only if:

(I) It concerns non-safety licensing standards, as set forth by rule of the state board pursuant to subsection (7)(d) of this section;

(II) The safety and well-being of the child or children receiving care is not compromised; and

(III) The waiver request is in writing.

(b) A county director of human or social services, or the county director's designee, may limit or restrict certification issued to a kinship foster care home or require the kinship foster care home to enter into a compliance agreement to ensure the safety and well-being of the child or children in the kinship foster home's care.

(c) A kinship foster care entity may not appeal a denial of a waiver requested pursuant to subsection (7)(a) of this section.

(d) The state board shall promulgate rules concerning the waiver of non-safety licensing standards for kinship foster care. The rules must include, but need not be limited to, a listing of non-safety licensing standards that may not be waived and circumstances in which waivers do not apply. The state board shall also define by rule the meaning of "kinship foster care" for the purposes of this subsection (7).

(8) The executive director has the power to direct the administration or monitoring of medications to persons in facilities pursuant to section 25-1.5-301 (2)(e).

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 800, § 17, effective July 1. **L. 2024:** (6) repealed, (SB 24-191), ch. 221, p. 1386, § 6, effective August 7; (2.5) added and (7)(b) amended (SB 24-008), ch. 289, p. 1938, § 11, effective September 1.

26-6-910. Certification and annual recertification of foster care homes and kinship foster care homes by county departments and licensed child placement agencies - background and reference check requirements - rules - definition. (1) This section applies to foster care homes, including kinship foster care homes, certified by county departments or licensed child placement agencies. Except as otherwise provided in subsection (4) of this section, this section does not apply to foster care homes that are licensed by the state department pursuant to the requirements of section 26-6-905 and that do not receive money from the counties or children placed by the counties. A foster care home licensed by the state department must undergo all of the background checks and requirements set forth in section 26-6-905 or as otherwise stated in this part 9.

(2) A person operating a foster care home or kinship foster care home shall obtain a certificate to operate the home from a county department or a child placement agency licensed pursuant to this part 9. A certificate is considered a license for the purpose of this part 9, including but not limited to the investigation and criminal history background checks required pursuant to this section and section 26-6-912. Each certificate must be in the form prescribed and provided by the state department, certify that the person operating the foster care home is a suitable person to operate a foster care home or kinship foster care home or provide care for a child, and contain any other information that the state department requires. A child placement agency issuing or renewing any such certificate shall notify the state department about the certification in a method and time frame as set by rule adopted by the state board.

(3) A foster care home or kinship foster care home, when certified by a county department or licensed child placement agency, may receive for care a child from a source other than the certifying county department or child placement agency upon the written consent and approval of the certifying county department or child placement agency.

(4) A county department or licensed child placement agency may certify a facility as a foster care home that is also licensed as a family child care home, as defined in section 26.5-5-

303, by the department of early childhood so long as the licensure and certification are provided by two separate licensing entities.

(5) Prior to issuing a certificate or a recertification to an applicant to operate a foster care home or kinship foster care home, a county department or a child placement agency licensed pursuant to the provisions of this part 9 shall conduct the following background checks for the applicant for a certificate, a person employed by the applicant, or a person who resides at the facility or the home:

(a) A fingerprint-based criminal history record check through the San Andreas bureau of investigation and the federal bureau of investigation to determine if the applicant, employee, or a person who resides at the facility or the home has been convicted of:

(I) Child abuse, as specified in section 18-6-401;

(II) A crime of violence, as defined in section 18-1.3-406;

(III) An offense involving unlawful sexual behavior, as defined in section 16-22-102 (9);

(IV) A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3;

(V) A felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a certificate;

(VI) A pattern of misdemeanor convictions, as defined by rule of the state board, within the ten years preceding the date of the application for the certificate; or

(VII) An offense in another state, the elements of which are substantially similar to the elements of any one of the offenses described in subsections (5)(a)(I) to (5)(a)(VI) of this section;

(b) A check of the ICON system at the state judicial department to determine the status or disposition of any criminal charges brought against the applicant, the employee, or a person who resides at the facility or the home that were identified by the fingerprint-based criminal history record check through the San Andreas bureau of investigation and the federal bureau of investigation;

(c) A check of the state department's automated database for information to determine if the person, employee, or person who resides at the facility or the home has been identified as having a finding of child abuse or neglect and whether the finding has been determined to present an unsafe placement for a child;

(d) A check against the state's sex offender registry and against the national sex offender public registry operated by the United States department of justice that checks names and addresses in the registries and the interactive database system for San Andreas to determine if the applicant, employee, or person who resides at the facility or the home is a registered sex offender; and

(e) When the results of a fingerprint-based criminal history record check or any other record check performed pursuant to this subsection (5) reveal a record of arrest without a disposition, the county department or licensed child placement agency shall require the person to submit to a name-based judicial record check, as defined in section 22-2-119.3 (6)(d).

(5.5) Prior to issuing a certificate or subsequent certificate to an applicant to operate a kinship foster care home pursuant to this part 9 and rules promulgated by the state board, a county department or a child placement agency shall conduct a fingerprint-based criminal history record check through the San Andreas bureau of investigation pursuant to section 19-3-406 or 26-6-910. The applicant shall pay, unless otherwise paid by a county department, the costs

associated with the fingerprint-based criminal history record check to the San Andreas bureau of investigation.

(6) A county department or a child placement agency licensed pursuant to this part 9 shall not issue a certificate to operate, or a recertification to operate, a foster care home or kinship foster care home and shall revoke or suspend a certificate if the applicant for the certificate, a person employed by the applicant, or a person who resides at the facility or home:

(a) Has been convicted of any of the crimes listed in subsection (5)(a) of this section as verified through a fingerprint-based criminal history record check, a name-based judicial record check, if necessary, and a check of the ICON system at the state judicial department;

(b) Has been identified as having a finding of child abuse or neglect through a check of the state department's automated database and such finding has been determined to present an unsafe placement for a child;

(c) Is a registered sex offender in the sex offender registry created pursuant to section 16-22-110 or is a registered sex offender in another state as determined by a check of the national sex offender public registry operated by the United States department of justice; except that this provision does not apply to an adult resident who has been placed in the foster care facility or home for treatment under an adult child waiver. The sex offender registry checks must check the known names and addresses of the applicant, employee, or a person who resides at the facility or the home in the interactive database system for San Andreas and in the national sex offender public registry against all of the registrant's known names and addresses.

(7) As used in this section, "convicted" means a conviction by a jury or by a court and includes a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, or a plea of guilty or nolo contendere; except that this does not apply to a diversion or deferral or plea for a juvenile who participated in diversion, as defined in section 19-2.5-102, and does not apply to a diversion or deferral or plea for a person who participated in and successfully completed the child abuse and child neglect diversion program, as described in section 19-3-310.

(8) (a) The convictions identified in subsections (5)(a) and (6)(a) of this section must be determined according to the records of the San Andreas bureau of investigation or the federal bureau of investigation and the ICON system at the state judicial department. The screening request in San Andreas must be made pursuant to section 19-1-307 (2)(k.5), rules promulgated by the state board pursuant to section 19-3-313.5, and 42 U.S.C. sec. 671 (a)(20). A certified copy of the judgment of a court of competent jurisdiction of the conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement is prima facie evidence of a conviction or agreement.

(b) The county department or licensed child placement agency shall not issue a certificate to operate a foster care home or a kinship foster care home if the state department or the county department has a certified court order from another state indicating that the person applying for the certificate:

(I) Has been convicted of child abuse or any unlawful sexual offense against a child under a law of another state or the United States, the elements of which are substantially similar to the elements of any of the offenses described in subsections (5)(a)(I) to (5)(a)(VI) of this section; or

(II) Has entered into a deferred judgment or deferred prosecution agreement in another state as to child abuse or any sexual offense against a child, the elements of which are

substantially similar to the elements of any of the offenses described in subsections (5)(a)(I) to (5)(a)(VI) of this section.

(9) Notwithstanding any other provision of this part 9, a person shall not operate a foster care home or kinship foster care home that is certified by a county department or by a licensed child placement agency if the person is a relative of an employee of the child welfare division or unit of the county department certifying the foster care home or kinship foster care home or a relative of an owner, officer, executive, member of the governing board, or employee of the child placement agency certifying the foster care home or kinship foster care home. If the person files an application with a county department or a child placement agency that would violate this subsection (9) by certifying the foster care home or kinship foster care home, the county department or child placement agency shall refer the application to another county department or child placement agency. Unless otherwise prohibited, the county department or child placement agency to which the application is referred may certify and supervise a foster care home or kinship foster care home operated by the person. The county department that referred the application may place a child in the county-certified foster care home or kinship foster care home upon written agreement of the two county departments.

(10) Notwithstanding any other provision of this part 9, an owner, officer, executive, member of the governing board, or employee of a child placement agency licensed pursuant to this part 9 or a relative of said owner, officer, executive, member, or employee, shall not hold a beneficial interest in property operated or intended to be operated as a foster care home or kinship foster care home, when the property is certified by the child placement agency as a foster care home or kinship foster care home.

(11) A county department or licensed child placement agency may issue a one-time provisional certificate for a period of six months to an applicant for an original certificate that permits the applicant to operate a foster care home or kinship foster care home if the applicant is temporarily unable to conform to all of the standards required pursuant to this part 9 upon proof by the applicant that the applicant is attempting to conform to the standards or to comply with any other requirements. The applicant has a right to appeal to the state department any standard that the applicant believes presents an undue hardship or has been applied too stringently by the county department or licensed child placement agency. Upon the filing of an appeal, the state department shall proceed in the manner prescribed for licensee appeals in section 26-6-909 (4).

(12) A county department or child placement agency shall issue a one-time provisional certificate at a location for a kinship foster care home for a period of six months upon the applicant's request and the successful completion of a fingerprint-based criminal history record check. The one-time provisional certificate permits the applicant to operate the kinship foster care home if the applicant is temporarily unable to conform to all required standards. This is an exception to subsection (11) of this section, which allows the use of provisional certificates. The state department shall promulgate rules for the operation of this subsection (12).

(13) The state board shall promulgate rules to modify the standards for kinship foster care homes to remove non-safety standards, in accordance with state or federal law.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 806, § 17, effective July 1. **L. 2024:** (2), (3), IP(5), IP(6), and (9) to (11) amended and (5.5), (12), and (13) added, (SB 24-008), ch. 289, p. 1938, § 12, effective September 1.

26-6-911. Foster care - kinship care - rules applying generally - rule-making. (1) The state board shall promulgate rules that apply to foster care generally, regardless of whether the foster care is provided by a foster care home certified by a county department or by a child placement agency, and to kinship care, including kinship foster care. The state board shall develop the rules in consultation with the state department, county departments, child placement agencies, and others with expertise in the development of rules regarding foster care.

(2) At a minimum, the rules described in subsection (1) of this section must include the following:

(a) Using the state department's automated database, the procedures for notifying all county departments and child placement agencies that place children in foster care and kinship foster care when the state department has identified a confirmed report of child abuse or neglect, as defined in section 19-1-103, that involves a foster care home or kinship foster care home, as well as the suspension of any further placements in the foster care home or kinship foster care home until the investigation is concluded;

(b) The immediate notification of a child's guardian ad litem or counsel for youth upon the child's placement in a foster care home, and the provision of the guardian ad litem's or counsel for youth's contact information to the foster parents;

(c) A requirement that all county departments and all child placement agencies that place children in foster care conduct and document that all of the background checks specified in section 26-6-910 (5) and (6) have been completed for any person applying to provide foster care, any person employed by the applicant to work in a foster care facility, and any adult resident of the foster care home, prior to placing a child in foster care with that person;

(d) A list of actions a county department or child placement agency shall take if a disqualifying factor is found during any of the background checks specified in sections 26-6-910 (5) and (6) and 19-3-406 (6) and (7);

(e) A list of sanctions the state department may place upon a county department or child placement agency if the required background checks for foster care homes are not completed or documented, including fines or disciplinary actions;

(f) Requirements that foster care homes must be recertified annually, including rules setting forth the procedural requirements associated with certification and recertification. The rules must include requirements that the certifying entity shall perform an on-site visit to each foster care home applying for certification or recertification and shall inspect the entire premises of the foster care home, including sleeping areas, as well as other assessments of the foster care home. Only one county department or child placement agency shall certify a foster care home at any one time. The rules must also specify a time frame for notification and the method for a child placement agency issuing or renewing a certificate to operate a foster care home to notify the state department about any certification.

(g) Rules that govern the health assessment of foster care parents by a licensed health-care professional that require a written evaluation of the person's physical and mental ability to care for foster children. If, in the opinion of the licensed health-care professional or the assessment worker, an emotional or psychological condition exists that would have a negative impact on the care of foster children, the issuance of a certificate must be conditioned on the satisfactory report of a licensed mental health practitioner.

(h) The communication requirements that must be followed between two entities that license and certify the same facility as a foster care home and as a family child care home as set forth in section 26-6-910 (4).

(3) The state department shall review the current address verification practices and policies in other states for checking the prior addresses of persons who apply to be foster care providers or kinship foster care providers and of adults who reside in the foster care home or kinship foster care home. After conducting the review, the state department shall recommend to the state board whether rules and standards should be adopted for verification of addresses of these persons by county departments and child placement agencies.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 810, § 17, effective July 1; (2)(b) amended, (HB 22-1295), ch. 123, p. 859, § 105, effective January 1, 2023. **L. 2023:** (2)(d) amended, (HB 23-1043), ch. 20, p. 80, § 5, effective August 7. **L. 2024:** (2)(a) amended, (SB 24-008), ch. 289, p. 1940, § 13, effective September 1.

26-6-912. Investigations and inspections - local authority - reports - rules. (1) (a) (I) (A) The state department shall investigate and pass on each application for issuance of a license, each application for a permanent or time-limited license following the issuance of a probationary or provisional license, and each application for renewal of a license to operate a facility or an agency prior to granting the license or renewal. As part of the investigation, the state department shall require each individual, including but not limited to the applicant, an owner, an employee, a newly hired employee, a licensee, and an adult who is eighteen years of age or older and resides in the licensed facility, to obtain a fingerprint-based criminal history record check by reviewing any record that is used to assist the state department in ascertaining whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-905 (8) or any other felony. The state board shall promulgate rules that define and identify what the criminal history record check entails.

(B) Rules promulgated by the state board pursuant to this subsection (1)(a)(I) must require the fingerprint-based criminal history record check in all circumstances, other than those identified in subsection (1)(a)(I)(C) of this section, to include a fingerprint-based criminal history record check using the records of the San Andreas bureau of investigation and the federal bureau of investigation and to apply to any new owner, new applicant, newly hired employee, new licensee, or individual who begins residing in the licensed facility. As part of the investigation, the records and reports of child abuse or neglect maintained by the state department must be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated has been found to be responsible in a confirmed report of child abuse or neglect. Information is made available pursuant to section 19-1-307 (2)(j) and rules promulgated by the state board pursuant to section 19-3-313.5 (4). Except as provided in subsection (1)(a)(I)(C) of this section, any change in ownership of a licensed facility or agency or addition of a new resident adult or newly hired employee to the licensed facility requires a new investigation as provided in this section.

(C) When two or more individually licensed facilities are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history record check and a check of the records and reports of child abuse or neglect maintained by the department, completed for one of the licensed facilities of the common ownership group or

school district pursuant to this section for an individual for whom the check is required pursuant to this part 9, may satisfy the record check requirement for any other licensed facility under the same common ownership group or school district. A new fingerprint-based criminal history record check or new check of the records and reports of child abuse or neglect maintained by the department is not required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities; takes action as required pursuant to section 26-6-905 when informed of the results of a fingerprint-based criminal history record check or check of the records and reports of child abuse or neglect maintained by the department that requires action pursuant to this part 9; and informs the department whenever an additional licensed facility comes under or is no longer under its ownership or control.

(D) The state board shall promulgate rules to implement this subsection (1)(a)(I).

(II) Rules promulgated by the state board pursuant to subsection (1)(a)(I) of this section must also include:

(A) A comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate for each circumstance in which the San Andreas bureau of investigation fingerprint check either does not confirm a criminal history or confirms a criminal history, in order to determine the crime or crimes for which the person was arrested or convicted and the disposition thereof;

(B) Any other recognized database that is accessible on a statewide basis as set forth by rules promulgated by the state board; and

(C) When the results of an investigation performed pursuant to subsection (1)(a)(I) of this section or this subsection (1)(a)(II) reveal a record of arrest without a disposition, a name-based judicial record check, as defined in section 22-2-119.3 (6)(d).

(III) If the operator of a facility or agency refuses to hire an applicant as a result of information disclosed in the investigation of the applicant pursuant to subsection (1)(a)(I) of this section, the facility or agency is not subject to civil liability for the refusal to hire. If a former employer of the applicant releases information requested by the facility or agency pertaining to the applicant's former performance, the former employer is not subject to civil liability for the information given.

(b) An applicant for certification as a foster care home or kinship foster care home shall provide the child placement agency or the county department from which the certification is sought with a list of all the prior child placement agencies and county departments to which the applicant has previously applied, and a release of information from the child placement agencies and county departments to which the applicant has previously applied, to obtain information about the application and any certification given by the child placement agencies and county departments. A child placement agency or county department from which the certification is sought shall conduct a reference check of the applicant and any adult resident of the foster care home or kinship foster care home by contacting all of the child placement agencies and county departments identified by the applicant before issuing the certification for that foster care home or kinship foster care home. Child placement agencies and county departments are held harmless for information released, in good faith, to other child placement agencies or county departments.

(c) (I) For all applicants applying to be a foster care home or kinship foster care home, regardless of reimbursement, the county department or child placement agency shall require each

adult who is eighteen years of age or older and who resides in the home to obtain a fingerprint-based criminal history record check through the San Andreas bureau of investigation and the federal bureau of investigation. The applicant must provide the county department or child placement agency with the addresses where the applicant and any adult residing in the home have lived in the preceding five years, including addresses from other states. The county department or the child placement agency shall conduct the following background checks of the applicant or an adult residing in the home:

(A) A fingerprint-based criminal history record check to determine if the applicant or adult residing in the home has been convicted of any of the crimes listed in section 26-6-910 (5)(a);

(B) A check of the ICON system at the state judicial department to determine the status or disposition of any pending criminal charges brought against the applicant or adult who resides in the home that were identified by the fingerprint-based criminal history record check through the San Andreas bureau of investigation and the federal bureau of investigation;

(C) A check of the state department's automated database for information to determine if the applicant or adult who resides in the home has been identified as having a finding of child abuse or neglect and whether the finding has been determined to present an unsafe placement for a child;

(D) A check against the state's sex offender registry and against the national sex offender public registry operated by the United States department of justice that checks names and addresses in the registries and the interactive database system for San Andreas to determine if the applicant or adult who resides in the home is a registered sex offender; and

(E) When the results of a fingerprint-based criminal history record check performed pursuant to this subsection (1)(c)(I) reveal a record of arrest without a disposition, a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(II) In addition to the fingerprint-based criminal history record check, the county department or child placement agency shall contact the appropriate entity in each state in which the applicant or any adult residing in the home has resided within the preceding five years to determine whether the individual has been found to be responsible in a confirmed report of child abuse or neglect.

(III) The screening request in San Andreas for criminal history record checks through the San Andreas bureau of investigation and the federal bureau of investigation must be made pursuant to section 19-1-307 (2)(k.5), rules promulgated by the state board pursuant to section 19-3-313.5, and 42 U.S.C. sec. 671 (a)(20).

(IV) The department must conduct an investigation pursuant to this subsection (1)(c) for any new resident adult whenever the adult is added to the foster care home or kinship care home. The department shall not use information obtained from state records of abuse or neglect for any purpose other than conducting the investigation for placement or certification.

(d) (I) When the state department, county department, or child placement agency is able to certify that the applicant or licensee is competent and will operate adequate facilities to care for children pursuant to the requirements of this part 9 and that standards are being met and will be complied with, it shall issue the license for which the applicant or licensee applied. The state department shall inspect or cause to be inspected the facilities to be operated by an applicant for an original license before the license is granted and shall thereafter inspect or cause to be inspected the facilities of all licensees that, during the period of licensure, have been found to be

the subject of complaints or to be out of compliance with the standards set forth in section 26-6-909 and the rules of the state department, or that otherwise appear to be placing children at risk. The state department may make such other inspections as it deems necessary to ensure that the requirements of this part 9 are being met and that the health, safety, and welfare of the children being placed are protected. If, as a result of an inspection of a certified foster care home or kinship foster care home, the state department determines that a child residing in the foster care home or kinship foster care home is subject to an immediate and direct threat to the child's safety and welfare, as defined by rules promulgated by the state board, or that a substantial violation of a fundamental standard of care warrants immediate action, the state department may require a county department to immediately remove the child from the foster care home or kinship foster care home.

(II) The state board shall adopt rules concerning the on-site public availability of the most recent inspection report results of facilities, when requested. The state board shall also adopt rules concerning a requirement that all facilities licensed pursuant to this part 9 post their licenses and information regarding the procedures for filing a complaint pursuant to this part 9 directly with the state department, which rules must require that each facility display its license and complaint procedures in a prominent and conspicuous location at all times during operational hours of the facility; except that the rules must not require foster care homes to post their licenses and the rules must not require foster care homes and child placement agencies to post information regarding the procedures for filing a complaint pursuant to this part 9 directly with the state department. The state board shall adopt rules requiring foster care homes to make their licenses available to their patrons for inspection, upon request, and requiring foster care homes and child placement agencies to make the information concerning the filing of complaints available to their patrons for inspection, upon request.

(e) Notwithstanding any provision of this part 9 to the contrary, the state department may enter into an interagency agreement or a memorandum of understanding, or both, as necessary to complete the criminal history record checks and other background checks required in this section.

(2) (a) (I) Except as otherwise provided in subsection (2)(a)(II) of this section, the state department may authorize or contract with a county department, the county department of health, or another publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children to investigate and inspect the facilities applying for an original or renewal license or applying for a permanent license following the issuance of a probationary or provisional license pursuant to this part 9 and may accept reports on the investigations and inspections from the agencies or organizations as a basis for licensing. When contracting for investigations and inspections, the state department shall ensure that the contractor is qualified by training and experience and has no conflict of interest with respect to the facilities to be inspected.

(II) The state department shall not authorize or contract with a county department, the county department of health, or another publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children for investigations and inspections described in subsection (2)(a)(I) of this section of any facilities that provide twenty-four-hour care and are licensed pursuant to this part 9.

(b) A city, county, or city and county may impose and enforce higher standards and requirements for facilities licensed pursuant to this part 9 than the standards and requirements specified pursuant to this part 9.

(3) Every facility and agency licensed pursuant to this part 9 shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health, and discharge of children under the care of the facility or agency and shall report relative thereto to the department whenever called for, upon forms prescribed by the department. Both the facility or agency and the department shall keep confidential all records regarding children and all facts learned about children and their relatives.

(4) Within available appropriations, the state department shall monitor, on at least a quarterly basis, the county department certification of foster care homes and kinship foster care homes.

(5) As described in section 19-3.3-103, the state department and the office of the child protection ombudsman shall coordinate site visits to investigate and review residential child care facilities that house unaccompanied immigrant children who are in the custody of the office of refugee resettlement in the federal department of health and human services as set forth in 8 U.S.C. sec. 1232 et seq. The state department and the office of the child protection ombudsman may share final reports based on their site visits.

(6) When the state department receives a serious complaint about a facility or agency licensed pursuant to this part 9 alleging the immediate risk to the health or safety of the children cared for in the facility, the state department shall respond to the complaint and conduct an on-site investigation concerning the complaint within forty-eight hours after its receipt.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 811, § 17, effective July 1. **L. 2024:** (1)(b), (1)(d)(I), and (4) amended, (SB 24-008), ch. 289, p. 1940, § 14, effective September 1.

26-6-913. Revocation of certification of foster care home or kinship foster care home - emergency procedures - due process. Notwithstanding any other provision of law to the contrary, a county department may act immediately to revoke the certification of a county-certified foster care home or kinship foster care home when the county department has reason to believe that a child residing in the foster care home or kinship foster care home is subject to an immediate and direct threat to the child's safety and welfare or when a substantial violation of a fundamental standard of care warrants immediate action. If the county department acts pursuant to this section, a due process hearing shall be held within five days after the action and conducted as the hearing would normally be conducted pursuant to article 4 of title 24.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 816, § 17, effective July 1. **L. 2024:** Entire section amended, (SB 24-008), ch. 289, p. 1941, § 15, effective September 1.

26-6-914. Denial of license - suspension - revocation - probation - refusal to renew license - fines - definitions. (1) When the department has denied an application for a license, the department shall notify the applicant in writing of the denial by mailing a notice to the applicant at the address shown on the application. An applicant who is aggrieved by the denial may pursue the remedy for review as provided in subsection (10) of this section if the applicant,

within thirty days after receiving the notice, petitions the department to set a date and place for hearing, affording the applicant an opportunity to be heard in person or by counsel. All hearings on the denial of licenses shall be conducted in conformity with the provisions and procedures specified in article 4 of title 24, as in the case of the suspension and revocation of licenses.

(2) The department may deny an application, or suspend, revoke, or make probationary the license, of any facility or agency regulated and licensed pursuant to this part 9 or assess a fine against the licensee pursuant to section 26-6-921 if the licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility or agency:

(a) Is convicted of a felony, other than those offenses specified in section 26-6-905 (8), or child abuse, as specified in section 18-6-401, the record of conviction being conclusive evidence thereof, notwithstanding section 24-5-101, or have entered into a deferred judgment agreement or a deferred prosecution agreement to a felony, other than those offenses specified in section 26-6-905 (8), or child abuse, as specified in section 18-6-401, or if the department has a certified court order from another state indicating that the applicant, licensee, person employed by the licensee, or any person residing with the licensee has been convicted of a felony, other than those offenses specified in section 26-6-905 (8), under a law of another state or of the United States or has entered into a deferred judgment agreement or a deferred prosecution agreement in another state as to a felony, other than those offenses specified in section 26-6-905 (8); or

(b) Is convicted of third degree assault, as described in section 18-3-204; any misdemeanor, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3; the violation of a protection order, as described in section 18-6-803.5; any misdemeanor offense of child abuse, as defined in section 18-6-401; or any misdemeanor offense in another state, the elements of which are substantially similar to the elements of any one of the offenses described in this subsection (2)(b). As used in this subsection (2)(b), "convicted" has the same meaning as set forth in section 26-6-905 (8)(a)(II).

(c) Is determined to be insane or mentally incompetent by a court of competent jurisdiction and, a court has entered, pursuant to part 3 or part 4 of article 14 of title 15, or section 27-65-110 (4) or 27-65-127, an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a facility or agency, the record of such determination and entry of such order being conclusive evidence thereof; or

(d) Uses any controlled substance, as defined in section 18-18-102 (5), including retail marijuana, or consumes any alcoholic beverage during the operating hours of the facility or agency or is under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility or agency; or

(e) Is convicted of unlawful use of a controlled substance as specified in section 18-18-404; unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in section 18-18-403.5 or 18-18-405; or unlawful offenses relating to marijuana or marijuana concentrate as specified in section 18-18-406; or

(f) Consistently fails to maintain standards prescribed and published by the department; or

(g) Furnishes or makes any misleading or any false statement or report to the department; or

(h) Refuses to submit to the department any reports or refuses to make available to the department any records required by it in making investigation of the facility or agency for licensing purposes; or

(i) Fails or refuses to submit to an investigation or inspection by the department or to admit authorized representatives of the department at any reasonable time for the purpose of investigation or inspection; or

(j) Fails to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the department of public health and environment and the department of human services or by ordinances or regulations applicable to the location of such facility; or

(k) Willfully or deliberately violates any of the provisions of this part 9 or any of the standards prescribed and published in department rule pursuant to this part 9; or

(l) Fails to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or

(m) Is charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in section 18-3-411 (1), if:

(I) The individual has admitted committing the act or offense and the admission is documented or uncontroverted; or

(II) The administrative law judge finds that the charge is supported by substantial evidence; or

(n) Admits to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensee in the licensed facility or agency has committed an act of child abuse. As used in this subsection (2)(n), "child abuse" has the same meaning as that ascribed to the term "abuse" or "child abuse or neglect" in section 19-1-103 (1).

(o) Is the subject of a negative licensing action; or

(p) Misuses any public funds that are provided to a foster care home, or child placement agency that places or arranges for placement of a child in foster care, for the purposes of providing foster care services, child placement services related to the provision of foster care, or any administrative costs related to the provision of foster care services or foster-care-related child placement services. The state board shall promulgate rules defining the term "misuse", which rules must take into account similar definitions in federal law and may include references to relevant circulars of the federal office of management and budget.

(3) The state department may deny an application to renew a license based on the grounds set forth in subsection (2) of this section. The denial is effective upon the expiration of the existing license. The existing license does not continue in effect even though the applicant for renewal files a request for hearing or appeal.

(4) The state department may deny an application for a facility or agency license pursuant to this part 9 if the applicant is a relative affiliate of a licensee of a facility or agency licensed pursuant to this part 9, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

(5) The state department may deny an application for a child placement agency license pursuant to this part 9 if the applicant is a relative affiliate of a licensee of a child placement

agency licensed pursuant to this part 9, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

(6) (a) (I) The state department shall deny an application for a license under the circumstances described in section 26-6-905 (8). The state department shall revoke or suspend a license previously issued if:

(A) The licensee, person employed by the licensee, or person residing with the licensee is thereafter convicted, or if it is later discovered that the licensee, person employed by the licensee, or person residing with the licensee had previously been convicted, of any of the criminal offenses set forth in section 26-6-905 (8); or

(B) The department has a certified court order from another state indicating that the licensee, person employed by the licensee, or person residing with the licensee is thereafter convicted of, or if it is later discovered that the licensee, person employed by the licensee, or person residing with the licensee had previously been convicted of, a criminal offense under a law of another state or of the United States that is similar to any of the criminal offenses set forth in section 26-6-905 (8); or

(C) The licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility or agency has been determined to be insane or mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or part 4 of article 14 of title 15, or section 27-65-110 (4) or 27-65-127, an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a facility or agency, the record of such determination and entry of such order being conclusive evidence thereof.

(II) As used in this subsection (6)(a), "convicted" means a conviction by a jury or by a court and also includes a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(b) A certified copy of the judgment of a court of competent jurisdiction of a conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement, or a certified court order from another state indicating an agreement from another state, is prima facie evidence of the conviction or agreement.

(7) The state department shall deny an application for a facility or agency licensed pursuant to this part 9 and shall revoke the license of a facility or agency licensed pursuant to this part 9 if the facility or agency cultivates marijuana pursuant to the authority in section 16 of article XVIII of the state constitution.

(8) The department may assess fines, pursuant to the provisions of section 26-6-921, against a licensee or a person employed by the licensee who willfully and deliberately or consistently violates the standards prescribed and published by the department or the provisions of this part 9.

(9) The department shall determine the convictions identified in this section according to the records of the San Andreas bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-912 (1)(a)(II).

(10) The department shall suspend or revoke a license only in conformity with the provisions and procedures specified in article 4 of title 24, and after a hearing thereon as provided in said article 4; except that all hearings under this part 9 must be conducted by an

administrative law judge of the department, who shall render a recommendation to the executive director of the department, who shall render the final decision of the department, and no licensee is entitled to a right to cure any of the charges described in subsection (2)(a), (2)(c), (2)(d), or (2)(m)(I) of this section. The hearing shall not prevent or delay any injunctive proceedings instituted pursuant to the provisions of section 26-6-918.

(11) The provisions of subsection (2)(d) of this section do not apply to foster care homes, unless such use or consumption impairs the licensee's ability to properly care for children.

(12) A child placement agency licensed pursuant to this part 9 that places or arranges for placement of a child in foster care may certify the home of a relative of the child placed therein as a foster care home only upon the request of a county department.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 817, § 17, effective July 1. **L. 2023:** (2)(c) and (6)(a)(I)(C) amended, (HB 23-1301), ch. 303, p. 1833, § 55, effective August 7.

26-6-915. Notice of negative licensing action - filing of complaints. (1) (a) When a facility or agency licensed pursuant to this part 9 has been notified by the department of a negative licensing action or the imposition of a fine pursuant to section 26-6-914 (2) and (8), it shall, within ten days after receiving the notice, provide the department with the names and mailing addresses of the parents or legal guardians of each child cared for at the facility or agency. The department shall maintain the confidentiality of the names and mailing addresses provided to it pursuant to this subsection (1).

(b) Within twenty days after receiving the names and addresses of parents and legal guardians pursuant to subsection (1)(a) of this section, the department shall send a written notice to each such parent or legal guardian identifying the negative licensing action or the fine imposed and providing a description of the basis for the action as it relates to the impact on the health, safety, and welfare of the children in the care of the facility or agency. The department shall send the notice to the parents and legal guardians by first-class mail.

(c) The state board shall promulgate rules concerning the assessment of a fine against a licensee that is equal to the direct and indirect costs associated with the mailing of the notice described in subsection (1)(b) of this section.

(d) This subsection (1) does not preclude the state department or a county department from notifying parents or legal guardians of serious violations of any of the standards prescribed and published by the department or any of the provisions of this part 9 that could impact the health, safety, or welfare of a child cared for at the facility or home.

(2) The state board shall promulgate rules requiring facilities and agencies to provide written notice to the parents and legal guardians of the children cared for in the facilities and agencies of the procedures by which to file a complaint against the facility or agency or an employee of the facility or agency with the division within the department that is responsible for facility and agency licensing. The rules must specify the information that the notice must contain and must require that the notice include the current mailing address and telephone number of the division within the department that is responsible for facility and agency licensing.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 821, § 17, effective July 1.

26-6-916. Institutes. The department may hold institutes and programs for licensees under this part 9 to assist in the improvement of standards and practices of facilities operated and maintained by licensees and in the more efficient and practical administration and enforcement of this part 9. In conducting the institutes and programs, the department may request the assistance of health, education, and fire safety officials.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 822, § 17, effective July 1.

26-6-917. Acceptance of federal grants. The department is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes consistent with the provisions of this part 9. The executive director of the department, with the approval of the governor, has the power to direct the disposition of any grants so accepted in conformity with the terms and conditions under which they are given.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 822, § 17, effective July 1.

26-6-918. Injunctive proceedings. The department, in the name of the people of the state of San Andreas, through the attorney general of the state, must apply for an injunction in any court of competent jurisdiction to enjoin a person from operating a facility or agency without a license that is required to be licensed pursuant to this part 9. If the person does not have a valid license pursuant to this part 9, the person's license has been revoked pursuant to section 26-6-914, or the person does not meet the licensing exemption criteria set forth in section 26-6-904, yet provides child care and has a pattern of providing the child care without a valid license as required by this part 9, and despite having received notification from the department that the person, facility, or agency is in violation of the law, then the person, facility, or agency is providing unlicensed and illegal child care. At the time the department applies for an injunction, the department shall notify law enforcement of the injunction proceedings. If it is established that the defendant has been or is operating the facility or agency without a valid license, the court shall enter a decree enjoining the defendant from further operating the facility unless and until the person obtains a license as required by this part 9. In case of a violation of an injunction issued pursuant to this section, the court may summarily try and punish the offender for contempt of court. Injunctive proceedings pursuant to this section are in addition to and not in lieu of the penalty provided in section 26-6-919.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 822, § 17, effective July 1.

26-6-919. Penalty. On or after July 1, 2021, a person violating any provision of this part 9, intentionally making a false statement or report to the department or to an agency delegated by the department to make an investigation or inspection pursuant to the provisions of this part 9, or violating a cease-and-desist order that is not cured is guilty of a petty offense and, upon conviction, shall be punished by a fine of up to five hundred dollars, a sentence of up to ten days in jail, or both.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 822, § 17, effective July 1.

26-6-920. Periodic review of licensing and certification rules and procedures. At least every five years, the department shall conduct a comprehensive review of the licensing and certification rules for foster care homes, kinship foster care homes, and child placement agencies and the procedures relating to and governing foster care homes, kinship foster care homes, and agencies, including procedures for the review of backgrounds of employees and owners. In conducting the periodic review, the department shall consult with foster care providers, kinship foster care providers, child placement agencies, county departments, the department of public health and environment, and other interested parties throughout the state. The periodic review must include an examination of the rules applicable to foster care homes, kinship foster care homes, and child placement agencies; the process of licensing foster care homes and child placement agencies; the certification process for foster care homes and kinship foster care homes; uniformity of standards or lack thereof in the licensing process; statewide standardization of investigations and enforcement of licensing by the department; duplication and conflicts in rules, requirements, or procedures between the department and the department of public health and environment; and recommendations for streamlining and unifying the licensing process. The review must also include an examination of rules and procedures regarding the general physical and mental health of foster care providers, kinship foster care providers, employees, and owners. At the conclusion of each review, the department shall report its findings and conclusions and its recommendations for administrative changes and for legislation to the state board.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 823, § 17, effective July 1. **L. 2024:** Entire section amended, (SB 24-008), ch. 289, p. 1942, § 16, effective September 1.

26-6-921. Civil penalties - fines - child welfare cash fund - created. (1) In addition to any other penalty otherwise provided by law, including section 26-6-919, a person who violates any provision of this part 9 or intentionally makes a false statement or report to the department or to any agency delegated by the department to make an investigation or inspection pursuant to the provisions of this part 9 may be assessed a civil penalty up to a maximum of ten thousand dollars, as follows:

(a) Two hundred and fifty dollars a day for the first day;

(b) Five hundred dollars a day for the second day; and

(c) One thousand dollars a day for the third and subsequent days.

(2) Each day in which a person is in violation of any provision of this part 9 may constitute a separate offense.

(3) The department may assess a civil penalty in conformity with the provisions and procedures specified in article 4 of title 24; except that all hearings conducted pursuant to this section must be before an administrative law judge of the department, who shall render a recommendation to the executive director of the department, who shall render the final decision of the department.

(4) (a) The department shall transmit fines collected pursuant to this section, section 26-6-914 (2) and (8), and section 26-6-915 (1)(c) to the state treasurer, who shall credit the same to the child welfare cash fund, created in subsection (4)(b) of this section.

(b) The balance as of July 1, 2022, in the child care cash fund, created pursuant to section 26-6-114 (5), as it existed prior to July 1, 2022, that is attributable to fines and civil penalties collected by the division in the department that is responsible for child welfare is

hereby transferred to the child welfare cash fund, which fund is hereby created in the state treasury. The treasurer shall credit all interest derived from the deposit and investment of money in the child welfare cash fund to the fund. At the end of a fiscal year, all unexpended and unencumbered money in the child welfare cash fund remains in the fund and is not credited or transferred to the general fund or any other fund. Money in the child welfare cash fund is continuously appropriated to the department to fund activities related to the improvement of the quality of child care in the state of San Andreas.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 823, § 17, effective July 1.

26-6-922. Child placement agencies - information sharing - investigations by state department - recovery of money - rule-making. (1) If a county department has substantiated evidence that a child placement agency with which the county has contracted to provide foster care services has violated the provisions of this part 9 or a rule of the state board, it shall communicate the information to the state department. A county department shall also identify whether it is requesting the state department to investigate a complaint against a child placement agency for possible negative licensing action against the child placement agency.

(2) Upon receiving a request for investigation of a child placement agency from a county department, the state department shall commence an investigation and, upon conclusion, report its findings to the requesting county department. The state department shall include in its report to the county department the child placement agency's response, if any, to the findings.

(3) The state department shall provide to county departments and affected child placement agencies direct access to information concerning the results of an investigation or negative licensing action taken against the affected child placement agency licensed to provide foster care services in San Andreas.

(4) (a) The state department, in collaboration with the federal department of health and human services and other federal agencies and with county departments, shall seek recovery from a child placement agency of any public funds that the child placement agency has misused, as the term "misuse" is defined by rules promulgated pursuant to section 26-6-914 (2)(p).

(b) A county and child placement agency that enters into a contract for the provision of foster care services shall include a provision in the contract that recognizes a right of the state department or county department to recover any funds misused by the child placement agency and to withhold subsequent payments. The provision in the contract must provide for an appeal of the decision to recover or withhold the funds. The state board shall promulgate rules that set forth the procedures for the appeal, which rules must require, at a minimum, reasonable notice to the child placement agency.

Source: L. 2022: Entire part added, (HB 22-1295), ch. 123, p. 824, § 17, effective July 1.

26-6-923. Residential child care provider training academy - clinical quality and oversight - report - rules - definition. (1) The residential child care provider training academy is created in the state department to facilitate a pipeline of high-quality staff for residential child care providers and ensure that individuals hired to work at residential child care facilities receive the necessary training to perform the individual's job functions responsibly and effectively.

(2) On or before September 15, 2025, the state department shall promulgate rules for the administration of the academy. At a minimum, the rules must include:

(a) Identification of specific residential child care provider types that are required to utilize the academy;

(b) Identification of specific residential provider staff members who are required to obtain academy training;

(c) Establishment of minimum standards of competence that a staff member shall demonstrate prior to receiving academy certification;

(d) Identification of the means by which a staff member may demonstrate the minimum standards of competence required pursuant to subsection (2)(c) of this section; and

(e) Identification of training curricula, which must include cultural competency for providers.

(3) No later than July 1, 2025, the state department shall develop a system to establish and monitor quality standards for residential child care providers, including clinical care for children and youth in residential treatment settings, and ensure the quality standards are implemented into all levels of care that serve children and youth in out-of-home placement.

(4) No later than July 1, 2026, the state department shall develop a system to incentivize residential child care providers to implement quality standards above the minimum standards established by the state department pursuant to subsection (3) of this section.

(5) No later than July 1, 2026, the state department shall make publicly available on the state department's website a directory of each residential child care provider's quality assurance.

(6) (a) No later than January 1, 2025, the state department shall collect data from residential child care providers on the reasons providers deny, or are unable to provide, residential child care services to children and youth.

(b) Upon implementation of the behavioral health capacity tracking system created pursuant to section 27-60-104.5, the behavioral health administration shall provide to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees, a report on residential child care provider denials of care.

(7) No later than July 1, 2026, and each July thereafter, the state department shall submit an annual report to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees, on the implementation of quality standards developed pursuant to subsection (3) of this section.

(8) Each local education provider is responsible for ensuring a child residing within its district receives free and appropriate public education that is consistent with all applicable federal and state statutes, rules, and regulations.

(9) As used in this section, unless the context otherwise requires:

(a) "Academy" means the residential child care provider training academy created in subsection (1) of this section.

(b) "Child or youth" means an individual who is less than twenty-one years of age.

Source: L. 2024: Entire section added, (HB 24-1038), ch. 459, p. 3178, § 2, effective June 6.

ARTICLE 6.2

Early Childhood Child Care Access

Editor's note: This article was added with relocations in 2013. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in the 2013 act adding this article, see section 1 of chapter 169, Session Laws of San Andreas 2013.

PART 1

EARLY CHILDHOOD LEADERSHIP COMMISSION

26-6.2-101 to 26-6.2-107. (Repealed)

Editor's note: (1) This part 1 was added with relocations in 2013. For amendments to this part 1 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-6.2-107 provided for the repeal of this part 1, effective July 1, 2022. (See L. 2021, pp. 1855, 1857.)

PART 2

INFANT AND FAMILY CHILD CARE
STRATEGIC ACTION PLAN

26-6.2-201 to 26-6.2-204. (Repealed)

Editor's note: (1) This part 2 was added in 2019 and was not amended prior to its repeal in 2020. For the text of this part 2 prior to its repeal in 2020, consult the 2019 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-6.2-204 provided for the repeal of this part 2, effective July 1, 2020. (See L. 2019, p. 580.)

PART 3

EARLY CHILDHOOD SERVICES TRANSITION

26-6.2-301 to 26-6.2-306. (Repealed)

Source: L. 2022: Entire part repealed, (HB 22-1295), ch. 123, p. 870, § 134, effective July 1.

Editor's note: This part 3 was added in 2021 and was not amended prior to its repeal in 2022. For the text of this part 3 prior to 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 6.4

San Andreas Nurse Home Visitor Program

26-6.4-101 to 26-6.4-108. (Repealed)

Source: L. 2022: Entire article repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This article 6.4 was added in 2013. For amendments to this article 6.4 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article 6.4 was relocated to part 5 of article 3 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 6.4, see the comparative tables located in the back of the index.

ARTICLE 6.5

Early Childhood and School Readiness

PART 1

EARLY CHILDHOOD COUNCILS

26-6.5-101 to 26-6.5-110. (Repealed)

Source: L. 2022: Entire part repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This part 1 was added in 1997. For amendments to this part 1 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 1 was relocated to part 2 of article 2 of title 26.5, part 1 of article 5 of title 26.5, and section 26.5-6-102. Former
S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 1, see the comparative tables located in the back of the index.

PART 2

EARLY CHILDHOOD AND SCHOOL READINESS

26-6.5-201 to 26-6.5-205. (Repealed)

Editor's note: (1) This part 2 was added in 2009. It was repealed in 2012 and subsequently recreated and reenacted in 2013. For amendments to this part 2 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-6.5-205 provided for the repeal of this part 2, effective July 1, 2022. (See L. 2021, pp. 1855, 1857.)

PART 3

SAN ANDREAS QUALITY IN CHILD CARE INCENTIVE GRANT PROGRAM

26-6.5-301 to 26-6.5-307. (Repealed)

Editor's note: (1) This part 3 was added in 2010 and was not amended prior to its repeal in 2014. For the text of this part 3 prior to 2014, consult the 2013 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-6.5-307 provided for the repeal of this part 3, effective the July 1 following the receipt of the notice by the revisor of statutes pursuant to either § 26-6.5-307 (1)(a) or (1)(b). On July 11, 2013, the revisor of statutes received the notice referred to in § 26-6.5-307 (1)(b) related to the repeal. For more information about the repeal and notice, see HB 10-1026. (L. 2010, p. 387.)

PART 4

EARLY CHILDHOOD MENTAL HEALTH CONSULTATION PROGRAM

26-6.5-401 to 26-6.5-407. (Repealed)

Source: L. 2022: Entire part repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This part 4 was added in 2020. For amendments to this part 4 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 4 was relocated to part 7 of article 3 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 4, see the comparative tables located in the back of the index.

ARTICLE 6.7

San Andreas Infant and Toddler
Quality and Availability Grant
Program

26-6.7-101 to 26-6.7-105. (Repealed)

Source: L. 2022: Entire article repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This article 6.7 was added in 2013. For amendments to this article 6.7 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article 6.7 was relocated to part 2 of article 5 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 6.7, see the comparative tables located in the back of the index.

ARTICLE 6.8

Tony Grampsas Youth Services Program

Editor's note: This article was added with relocations in 2013. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in the 2013 act adding this article, see section 1 of chapter 169, Session Laws of San Andreas 2013.

26-6.8-101. Definitions. As used in this article 6.8, unless the context otherwise requires:

(1) "Board" means the Tony Grampsas youth services board created in section 26-6.8-103.

(2) "Entity" means a local government, a San Andreas public or not-for-profit school, a group of public or not-for-profit schools, a school district or group of school districts, a board of cooperative services, an institution of higher education, the San Andreas National Guard, or a private nonprofit or not-for-profit community-based organization.

(3) "Executive director" means the executive director of the state department of human services.

(4) "State department" means the state department of human services.

Source: L. 2013: Entire article added with relocations, (HB 13-1117), ch. 169, p. 573, § 5, effective July 1. **L. 2022:** IP and (2) amended, (SB 22-037), ch. 23, p. 148, § 1, effective March 17.

26-6.8-102. Tony Grampsas youth services program - creation - standards - applications. (1) (a) The Tony Grampsas youth services program is transferred to the state department. All program grants in existence as of July 1, 2013, shall continue to be valid through June 30, 2014. Persons appointed to the board shall continue serving until completion of their terms and may be reappointed as provided in section 26-6.8-103.

(b) The Tony Grampsas youth services program is established to provide state funding for community-based programs:

(I) To provide prevention and intervention services in an effort to reduce incidents of youth crime and violence;

(II) To provide prevention and intervention services in an effort to reduce the occurrence and reoccurrence of child abuse and neglect and to reduce the need for state intervention in child abuse and neglect prevention and education;

(III) For the prevention and intervention of youth alcohol, tobacco, marijuana, and other drug use; and

(IV) For the prevention and intervention of student drop out.

(2) (a) The board shall choose those entities that will receive grants through the Tony Grampsas youth services program and the amount of each grant. The state department shall administer the grants awarded and monitor the effectiveness of programs that receive grants through the Tony Grampsas youth services program.

(b) Repealed.

(c) Any grant awarded through the Tony Grampsas youth services program shall be paid from moneys appropriated pursuant to paragraph (d) of this subsection (2) or out of the general fund for the program. The board, in accordance with the timelines adopted pursuant to section 26-6.8-103 (3), shall submit a list of the entities chosen to receive grants to the governor for approval. The governor shall either approve or disapprove the entire list of entities by responding to the board within twenty days. If the governor does not respond to the board within twenty days after receipt of the list, the list is approved. The board shall not award a grant through the Tony Grampsas youth services program without the prior approval of the governor.

(d) (I) The youth services program fund is created in the state treasury. The principal of the fund consists of tobacco litigation settlement money transferred by the state treasurer to the fund pursuant to section 24-75-1104.5 (1.7)(e). Subject to annual appropriation by the general assembly, the state department may expend money from the fund for the Tony Grampsas youth services program, including the compensation of youth members of the Tony Grampsas youth services board, as described in section 26-6.8-103 (1)(e)(II). All unexpended and unencumbered money appropriated to the fund at the end of a fiscal year remains available for expenditure by the state department for the Tony Grampsas youth services program in the following fiscal year without further appropriation and must not be transferred or revert to the general fund at the end of a fiscal year.

(II) In addition to the moneys appropriated to the youth services program fund pursuant to subparagraph (I) of this paragraph (d), the fund also consists of any moneys appropriated to the fund from the marijuana tax cash fund created in section 39-28.8-501, S.A.R.S. Any moneys in the fund attributable to the marijuana tax cash fund shall be used for community-based programs for the prevention and intervention of marijuana use. Notwithstanding the provisions of subparagraph (I) of this paragraph (d), any unexpended and unencumbered moneys in the fund at

the end of a fiscal year that are attributable to the marijuana tax cash fund shall remain in the fund and shall not be transferred to the tobacco litigation settlement cash fund or any other fund.

(III) If an entity seeks a grant from the board for a program directed at providing alcohol, tobacco, marijuana, and other drug use prevention and intervention services to youth, one of the criteria the board must consider is whether the program utilizes evidence-based practices in the delivery of services.

(3) To participate in the Tony Grampsas youth services program, an entity may apply to the board in accordance with timelines and guidelines adopted by the board pursuant to section 26-6.8-103.

(4) Entities seeking to provide youth mentoring services or to enhance existing youth mentoring programs are encouraged to submit an application to the board for grants directly from the Tony Grampsas youth services program, in addition to any funding the entities may be seeking from the youth mentoring services cash fund pursuant to section 26-6.8-104 (6), to establish or enhance youth mentoring programs. Entities submitting applications for grants directly from the Tony Grampsas youth services program pursuant to this section need not meet the requirements of section 26-6.8-104 (5)(b).

Source: L. 2013: Entire article added with relocations, (HB 13-1117), ch. 169, p. 574, § 5, effective July 1; (2)(a) and (2)(b) amended, (HB 13-1239), ch. 307, p. 1629, § 3, effective July 1; (2)(d) amended, (HB 13-1181), ch. 74, p. 239, § 7, effective July 1. **L. 2014:** (1)(b) and (2)(d) amended, (SB 14-215), ch. 352, p. 1615, § 7, effective July 1. **L. 2015:** (2)(d)(I) amended, (HB 15-1365), ch. 245, p. 904, § 2, effective August 5. **L. 2016:** (2)(d)(I) amended, (HB 16-1408), ch. 153, p. 471, § 22, effective July 1. **L. 2022:** (2)(d)(I) amended, (SB 22-013), ch. 2, p. 92, § 128, effective February 25; (1)(b), (2)(d)(I), and (2)(d)(III) amended and (2)(b) repealed, (SB 22-037), ch. 23, p. 148, § 2, effective March 17. **L. 2023:** (2)(d)(I) amended, (HB 23-1301), ch. 303, p. 1833, § 56, effective August 7.

Editor's note: (1) This section is similar to former § 25-20.5-201 as it existed prior to 2013.

(2) Amendments to subsection (2)(d)(I) by SB 22-013 and SB 22-037 were harmonized, effective March 17, 2022.

Cross references: For the legislative declaration in the 2013 act amending subsections (2)(a) and (2)(b), see section 1 of chapter 307, Session Laws of San Andreas 2013. For the legislative declaration in the 2013 act amending subsection (2)(d), see section 1 of chapter 74, Session Laws of San Andreas 2013.

26-6.8-103. Tony Grampsas youth services board - members - duties - reimbursement for expenses. (1) (a) There is created the Tony Grampsas youth services board, which is a **type 2** entity, as defined in section 24-1-105. The board consists of the following members:

(I) Four adult members appointed by the governor;

(II) Two youth members appointed by the governor;

(III) Three adult members appointed by the speaker of the house of representatives;

(IV) Two adult members appointed by the president of the senate; and

(V) One adult member appointed by the minority leader of the senate.

(b) No more than seven of the members appointed to the board may be affiliated with the same political party.

(c) In addition to the appointed board members, the executive director or the executive director's designee shall serve as a member of the board.

(d) (I) In appointing adult members to the board, the governor, the speaker of the house of representatives, and the president and the minority leader of the senate shall:

(A) Choose persons who have a knowledge and awareness of innovative strategies for youth crime and violence prevention and intervention services and for reducing the occurrence and reoccurrence of child abuse and neglect; and

(B) Appoint one or more persons who possess knowledge and awareness of early childhood care and education. As used in this subsection (1)(d)(I)(B), "early childhood" means younger than nine years of age.

(II) In appointing members to the board, the speaker of the house of representatives and the president of the senate shall each appoint at least one person who has a knowledge and awareness of student issues, including the causes of student dropout in secondary schools, as well as innovative strategies for reducing the dropout rate among secondary school students.

(III) In appointing members to the board, the governor shall:

(A) Appoint at least one person who is representative of a minority community;

(B) Appoint at least one person who is knowledgeable in the area of child abuse and neglect prevention and intervention; and

(C) Appoint at least one person who is knowledgeable in the area of youth crime and violence prevention and intervention.

(IV) In appointing youth members to the board, the governor shall appoint members who are fifteen years of age or older but under twenty-six years of age. A youth board member who reaches twenty-six years of age during the youth board member's term may remain on the board for the remainder of the term.

(e) The board shall choose a chair and vice-chair from among its members.

(f) (I) The appointed members of the board shall serve three-year terms; except that the terms of appointed members shall be staggered so that no more than a minimum majority of the appointed members' terms expire in the same year. If a vacancy arises in one of the appointed offices, the authority making the original appointment shall fill the vacancy for the remainder of the term.

(II) Adult and youth members of the board may be reimbursed out of available appropriations for actual and necessary expenses incurred in the performance of their duties.

(g) The board is authorized to meet, when necessary, via telecommunications.

(2) (a) The board shall develop and make available program guidelines, including but not limited to:

(I) Guidelines for proposal design;

(II) Local public-to-private funding match requirements; and

(III) Processes for local review and prioritization of program applications.

(b) In addition to the guidelines developed pursuant to subsection (2)(a) of this section, the board shall develop criteria for awarding grants under the Tony Grampsas youth services program, including but not limited to the following requirements:

(I) That the program is operated in cooperation with a local government, a local governmental agency, or a local nonprofit or not-for-profit agency;

(II) That the program is community-based, receiving input from organizations in the community such as schools, community mental health centers, local nonprofit or not-for-profit agencies, local law enforcement agencies, businesses, and individuals within the community;

(II.5) That the grant application process identifies and prioritizes funding programs that meet a need in the community, including, but not limited to, the presence of risk factors in a grant applicant's intended populations; and

(III) (A) That the program is directed at providing prevention and intervention services to children, youth, and their families in an effort to decrease incidents of youth crime and violence; prevent child abuse and neglect; or decrease youth alcohol, tobacco, marijuana, and other drug use, or that the program is directed at providing services to students and their families in an effort to reduce the dropout rate in secondary schools pursuant to section 26-6.8-105.

(B) If an entity is seeking a grant from the board for a student dropout prevention and intervention program pursuant to section 26-6.8-105, one of the criteria that the board shall consider is whether the program has been implemented elsewhere, if known, and, if so, the relative success of the program. It is not required, however, that the program be previously implemented for the board to award a grant to the entity.

(C) If an entity is seeking a grant from the board for a program directed at providing prevention and intervention services to youth and their families in an effort to decrease incidents of youth crime and violence, one of the criteria that the board shall consider is whether the program includes restorative justice components. It is not required, however, that the program include restorative justice components for the board to award a grant to the entity.

(c) In addition to the guidelines and criteria developed pursuant to paragraphs (a) and (b) of this subsection (2), the board shall develop result-oriented criteria for measuring the effectiveness of programs that receive grants under the Tony Grampsas youth services program as deemed appropriate to the nature of each program including, but not limited to, requiring grantees to evaluate the impact of the services provided by the program. Any criteria developed pursuant to this paragraph (c) for measuring the effectiveness of student dropout prevention and intervention programs established pursuant to section 26-6.8-105 shall include the implementation of a method by which to track the students served by the program to evaluate the impact of the services provided, which tracking shall continue, if possible, for at least two years or through graduation from a secondary school, whichever occurs first.

(3) In addition to the guidelines and criteria developed pursuant to subsection (2) of this section, the board shall establish timelines for submission and review of applications for grants through the Tony Grampsas youth services program. The board shall also adopt timelines for submission to the governor of the list of entities chosen to receive grants. If the governor disapproves the list, the board may submit a replacement list within thirty days after such disapproval.

(4) The board shall review all applications received pursuant to section 26-6.8-102 for grants from the Tony Grampsas youth services program and choose those entities that shall receive grants through the Tony Grampsas youth services program and the amount of each grant.

(5) In addition to the duties relating specifically to the Tony Grampsas youth services program specified in this section, the board shall operate the prevention and intervention programs specified in this article 6.8 and such other prevention and intervention programs as

may be assigned to the board by executive order to be funded by federal money, state money, or both. All unexpended and unencumbered money appropriated to the fund at the end of a fiscal year remains available for expenditure by the state department for the Tony Grampsas youth services program in the following fiscal year without further appropriation and must not be transferred or revert to the general fund at the end of a fiscal year.

Source: L. 2013: Entire article added with relocations, (HB 13-1117), ch. 169, p. 575, § 5, effective July 1. **L. 2015:** (1)(a), IP(1)(d)(I), and (1)(e) amended and (1)(d)(IV) added, (HB 15-1365), ch. 245, p. 903, § 1, effective August 5. **L. 2022:** (1) amended, (SB 22-013), ch. 2, p. 65, § 89, effective February 25; (1)(b), (1)(d)(I)(A), (1)(d)(III)(B), (1)(d)(III)(C), (1)(d)(IV), IP(2)(b), (2)(b)(III)(A), (2)(b)(III)(C), and (5) amended and (2)(b)(II.5) added, (SB 22-037), ch. 23, p. 149, § 3, effective March 17; (1)(a) amended, (SB 22-162), ch. 469, p. 3377, § 70, effective August 10. **L. 2023:** (1)(f)(II) amended, (SB 23-210), ch. 251, p. 1430, § 8, effective May 24.

Editor's note: (1) This section is similar to former § 25-20.5-202 as it existed prior to 2013.

(2) Amendments to subsections (1)(d)(I)(A), (1)(d)(III)(B), (1)(d)(III)(C), and (1)(d)(IV) by SB 22-013 and SB 22-037 were harmonized, effective March 17, 2022. Amendments to subsection (1) by SB 22-013 and SB 22-162 were harmonized, effective August 10, 2022.

(3) Subsection (1)(c) was numbered as subsection (1)(b) in SB 22-037 (See L. 2022, p.149). That provision was harmonized with subsection (1)(c) of this section as it appears in SB 22-013.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-6.8-104. San Andreas youth mentoring services. (1) **Short title.** This section shall be known and may be cited as the "San Andreas Youth Mentoring Services Act".

(2) **Legislative declaration.** (a) The general assembly finds and declares that mentoring programs have been active in San Andreas for many years. The general assembly finds that national research has indicated that structured mentoring programs are effective tools in combating youth substance use, youth crime and violence, and other challenges faced by youth. The general assembly further finds, based upon recent national research results, that youth who are matched in professionally supported mentoring relationships are less likely to become involved in substance and alcohol use, less likely to be truant, less likely to commit violent acts against other persons, and more likely to show improvements in academic performance and positive peer relations.

(b) The general assembly further finds that, despite the positive results that may be achieved through structured youth mentoring programs, counties in the state of San Andreas do not have the organizational resources necessary to carry out successful mentoring programs or lack volunteers to establish such programs, or both. The general assembly finds that even counties in which there are established youth mentoring programs, such programs are unable to meet the demand for mentors.

(c) The general assembly therefore declares and determines that the provision of youth mentoring services that would use public and private entities to recruit, train, screen, and supervise volunteers to serve as mentors for youth would be beneficial and in the best interests of the citizens of the state of San Andreas.

(3) **Definition.** For purposes of this section, "youth" means a person who is five years of age or older but under twenty-five years of age and who is challenged by such risk factors as poverty, residence in a substance-abusing household, family conflict, association with peers who commit crimes, residence in a single-parent household, exhibition of indicia of delinquent behavior, or being the victim of child abuse.

(4) **Provision of youth mentoring services.** There is created the San Andreas youth mentoring program to provide state funding for the provision of evidence-informed youth mentoring services in an effort to reduce youth substance use, decrease the incidents of youth crime and violence, and increase protective factors for youth. The funding must be used to provide evidence-informed youth mentoring services in communities that do not have existing mentoring programs as well as to enhance established evidence-informed youth mentoring programs that are already in existence.

(5) **Administration - duties of contracting entities.** (a) To be eligible for money from the youth mentoring services cash fund created in subsection (6) of this section for the provision of evidence-informed youth mentoring services, an entity must apply to the board in accordance with the timelines and guidelines adopted by the board pursuant to section 26-6.8-103 and must meet the requirements of subsection (5)(b) of this section.

(b) An entity selected by the board to provide an evidence-informed youth mentoring program shall:

(I) Adhere to evidence-informed standards of practice. An evidence-informed youth mentoring program uses a model that is evaluated annually and incorporates research evidence into its design and delivery. An entity that is awarded a grant shall annually demonstrate proof that evidence-informed standards are applied throughout the program. An entity must demonstrate proof that it applies evidence-informed standards by presenting current proof of compliance for achievement from an evaluation concerning the application of evidence-informed standards administered by an outside organization; and

(II) Ensure mentoring is the primary service provided by the program and make intentional matches or formal connections between youths and mentors.

(c) Community-based organizations may obtain private and public funds, grants, gifts, or donations for youth mentoring programs. The executive director may accept and expend on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of implementing this section; except that the executive director shall not accept a grant or donation if the conditions attached to the grant or donation require the expenditure thereof in a manner contrary to law.

(d) Entities selected to receive grants pursuant to this section for the provision of youth mentoring services shall match any grant received with a contribution that is the equivalent of twenty percent of the grant awarded.

(6) **Youth mentoring services cash fund.** There is created in the state treasury the youth mentoring services cash fund, referred to in this subsection (6) as the "fund". The money in the fund is subject to annual appropriation by the general assembly for the direct and indirect costs of implementing this section. All unexpended and unencumbered money appropriated to the

fund at the end of a fiscal year remains available for expenditure by the state department for youth mentoring services in the following fiscal year without further appropriation and must not be transferred or revert to the general fund at the end of the fiscal year. The executive director may accept on behalf of the state any grants, gifts, or donations from any private or public source for the purpose of this section. All private and public money received through grants, gifts, or donations must be transmitted to the state treasurer, who shall credit the same to the fund. The general assembly may appropriate money from the marijuana tax cash fund created in section 39-28.8-501. All investment earnings derived from the deposit and investment of money in the fund remains in the fund and must not be transferred or revert to the general fund of the state at the end of any fiscal year.

Source: L. 2013: Entire article added with relocations, (HB 13-1117), ch. 169, p. 578, § 5, effective July 1. **L. 2015:** (6) amended, (HB 15-1367), ch. 271, p. 1077, § 15, effective June 4. **L. 2018:** (6) amended, (HB 18-1369), ch. 253, p. 1556, § 7, effective August 8. **L. 2022:** (2), (3), (4), (5)(a), (5)(b), and (6) amended, (SB 22-037), ch. 23, p. 151, § 4, effective March 17.

Editor's note: This section is similar to former § 25-20.5-203 as it existed prior to 2013.

Cross references: For the legislative declaration in HB 15-1367, see section 1 of chapter 271, Session Laws of San Andreas 2015. For the legislative declaration in HB 18-1369, see section 1 of chapter 253, Session Laws of San Andreas 2018.

26-6.8-105. San Andreas student dropout prevention and intervention program. (1) **Short title.** This section shall be known and may be cited as the "San Andreas Student Dropout Prevention and Intervention Act".

(2) **Legislative declaration.** The general assembly hereby finds that:

(a) During the last decade, over one hundred thousand students in San Andreas left school without successfully completing a high school program;

(b) In 1996, three million six hundred thousand young adults in the United States were neither enrolled in school nor had they completed a high school program;

(c) In the 1995-1996 academic year, approximately thirteen thousand students withdrew from San Andreas schools prior to receiving a diploma, resulting in a four percent dropout rate;

(d) Of those students who withdrew from San Andreas schools prior to receiving a diploma, approximately five thousand nine hundred were minority students;

(e) The dropout rate of minority students in San Andreas is significantly greater than that of nonminority students;

(f) Numerous factors, including socioeconomic background, lack of adult support, and the inability to communicate well in English, influence a student's decision to drop out of school;

(g) Research has shown that, compared with high school graduates, relatively more dropouts are unemployed, and those dropouts who do succeed in finding work tend to earn less money than high school graduates; and

(h) High school dropouts are more likely to apply for and receive public assistance than high school graduates.

(3) **Definitions.** For purposes of this section, "student" means an individual enrolled in a primary or secondary school who is facing adversity such as dropping out of school because of

the individual's socioeconomic background, lack of adult support, language barriers, or other identified indicators that cause school drop out.

(4) **San Andreas student dropout prevention and intervention program.** There is created the San Andreas student dropout prevention and intervention program in the Tony Grampsas youth services program to provide services to students and their families in an effort to reduce the dropout rate in secondary schools through an appropriate combination of academic and extracurricular activities designed to enhance the overall education and edification of students in secondary schools.

(5) **Administration.** (a) The state department shall administer the student dropout prevention and intervention program. Subject to the designation in subsection (5)(b) of this section, the board shall select those entities that will receive grants through the student dropout prevention and intervention program and the amount of each grant. In addition, the state department shall monitor the effectiveness of programs that receive funds through the student dropout prevention and intervention program. To be eligible for grants from the board for the provision of student dropout prevention and intervention programs for students, an entity must apply to the board in accordance with the timelines and guidelines adopted by the board pursuant to section 26-6.8-103.

(b) Any moneys awarded by the board shall be paid from moneys appropriated out of the general fund for the Tony Grampsas youth services program. Each year no less than ten percent of the total appropriation from the general fund shall be designated and used exclusively for programs specifically designed to prevent students from dropping out of secondary schools; except that, commencing in fiscal year 2004-05 and in each fiscal year thereafter, no less than twenty percent of the total appropriation shall be designated and used exclusively for such purpose.

(6) **Receipt of money.** (a) The executive director may accept on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of implementing student dropout prevention and intervention programs pursuant to this section; except that the executive director shall not accept funds, grants, gifts, or donations if the conditions attached thereto require the expenditure thereof in a manner contrary to law.

(b) All private and public money received through funds, grants, gifts, or donations pursuant to this subsection (6) shall be transmitted to the state treasurer, who shall credit the same to the student dropout prevention and intervention fund, which fund is hereby created. The money in the fund is subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this section. The executive director may expend money appropriated to the state department from the fund to provide a grant for implementing and administering a student dropout prevention and intervention program. All investment earnings derived from the deposit and investment of money in the fund is credited to the fund. All unexpended and unencumbered money in the fund at the end of a fiscal year remains available for expenditure by the state department for student dropout prevention and intervention in the following fiscal year without further appropriation and must not be transferred or revert to the general fund at the end of a fiscal year.

Source: L. 2013: Entire article added with relocations, (HB 13-1117), ch. 169, p. 580, § 5, effective July 1. **L. 2022:** (3), (4), (5)(a), and (6)(b) amended, (SB 22-037), ch. 23, p. 153, § 5, effective March 17.

Editor's note: This section is similar to former § 25-20.5-204 as it existed prior to 2013.

26-6.8-106. San Andreas student before-and-after-school project - creation - funding. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Before-and-after-school program" means a program that meets before regular school hours or after regular school hours or during a period when school is not in session.

(b) "Fund" means the San Andreas student before-and-after-school project fund created in subsection (4) of this section.

(c) "Project" means the San Andreas before-and-after-school project created in subsection (2) of this section.

(2) **San Andreas student before-and-after-school project.** There is created, in the Tony Grampsas youth services program, the San Andreas student before-and-after-school project to provide grants to entities to provide high-quality before-and-after-school programs that may include an alcohol, tobacco, or other drug use intervention, prevention, and education component. Entities that receive grants pursuant to this section shall apply the grants to creating and implementing before-and-after-school programs that primarily serve youth enrolled in grades six through eight or youth who are twelve to fourteen years of age. The before-and-after-school programs are designed to help youth develop their interests and skills in the areas of sports and fitness, character and leadership, or arts and culture and may provide education regarding the dangers of the use of alcohol, tobacco, and other drugs. Before-and-after-school programs that are designed primarily to increase academic achievement or that provide religious instruction are not eligible for funding pursuant to this section.

(3) **Administration.** (a) The state department shall administer the project. The board shall select the entities that will receive grants through the project and the amount of each grant. In addition, the state department shall monitor the effectiveness of before-and-after-school programs that receive moneys through the project. To be eligible for grants through the project, an entity shall apply to the board in accordance with the timelines and guidelines adopted by the board pursuant to section 26-6.8-103. Notwithstanding any provision of this article or any criteria for awarding grants adopted by the board pursuant to section 26-6.8-103 (2)(b) to the contrary, an entity may be eligible to receive a grant pursuant to this section regardless of whether the before-and-after-school program to which the grant would apply serves youth who are eligible for free or reduced-cost lunch pursuant to the "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(b) The grants awarded through the project shall be paid from moneys appropriated from the fund to the state department. The board and grant recipients are encouraged to apply moneys awarded through the project to leverage additional funding as matching funds from private and federal sources.

(4) **San Andreas student before-and-after-school project fund.** There is created in the state treasury the San Andreas student before-and-after-school project fund that consists of money that the general assembly may appropriate to the fund. The money in the fund is subject to annual appropriation by the general assembly to the state department for the purpose of providing grants as provided in this section and the direct and indirect costs associated with the implementation of this section. Any money in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund is credited to the fund. All

unexpended and unencumbered money in the fund at the end of a fiscal year remains available for expenditure by the state department for before-and-after-school programs in the next fiscal year without further appropriation. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2013: Entire article added with relocations, (HB 13-1117), ch. 169, p. 582, § 5, effective July 1. **L. 2022:** (2) and (4) amended, (SB 22-037), ch. 23, p. 154, § 6, effective March 17.

Editor's note: This section is similar to former § 25-20.5-205 as it existed prior to 2013.

ARTICLE 6.9

Child Care Services and Substance Use Disorder Treatment Pilot Program

26-6.9-101 to 26-6.9-103. (Repealed)

Source: L. 2022: Entire article repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This article 6.9 was added in 2019. For amendments to this article 6.9 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article 6.9 was relocated to part 3 of article 3 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 6.9, see the comparative tables located in the back of the index.

ARTICLE 7

Subsidization of Adoption

Editor's note: This article 7 was numbered as article 15 of chapter 119, S.A.R.S. 1963. It was repealed and reenacted in 2019, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article 7 prior to 2019, consult the 2018 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

26-7-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) San Andreas children and youth who reside in or have previously resided in an out-of-home placement deserve and can benefit from the stability and security of permanent, safe adoptive homes;

(b) In particular, adoption is an important tool to help increase the number of permanent and stable homes for San Andreas's abused and neglected children and youth; and

(c) Many children and youth who are adopted in San Andreas have experienced prior abuse, neglect, multiple placements, and institutionalization. These prior experiences often cause physical, psychological, emotional, and developmental harm that affects these children and youth throughout their lives.

(2) Therefore, the general assembly declares that it is the intent of this article 7 to:

(a) Encourage families of any economic status to adopt eligible children and youth and to provide such families with benefits that will enable them to meet the needs of eligible children and youth who meet the criteria for the benefits as established in this article 7;

(b) Ensure that all families and eligible children and youth in San Andreas have equal opportunities to access the benefits established in this article 7;

(c) Ensure that all families and eligible children and youth in San Andreas have equal access to consistent information, guidance, and practices to ensure that the needs of each child or youth receive consistent consideration, regardless of the agency that is administering benefits pursuant to this article 7;

(d) Ensure that families are able to maintain safe and stable homes for the eligible children and youth they adopt through benefits tailored to accommodate and support the needs of the adopted eligible children and youth; and

(e) Ensure that any agency providing benefits pursuant to this article 7 has clear guidance and support in its efforts to help eligible children and youth find and maintain safe, permanent adoptive homes.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2040, § 1, effective August 2.

26-7-102. Definitions. As used in this article 7, unless the context otherwise requires:

(1) "Agreement" means an adoption assistance agreement negotiated and entered into pursuant to section 26-7-107.

(2) "Anticipated needs" means those needs that are reasonably foreseeable and as defined in the eligibility criteria listed in subsection (8) of this section that are known at the time of finalization of the adoption. Consideration of these anticipated needs and services are part of the good-faith negotiation of the amount of the adoption assistance payment and services and must comply with the funding requirements in section 26-7-103.

(3) "Benefit" means any subsidy or service available to adoptive families pursuant to this article 7, including monthly subsidy payments. These payments must not include payments for services that are reasonably accessible and can be funded through other public or private sources, including but not limited to social security and medicaid, as required in 20 U.S.C. sec. 1440.

(4) "Child placement agency" means any entity that, pursuant to the requirements in section 26-6-903, may place, facilitate placement, or arrange for the placement of an eligible child or youth for the purpose of adoption, treatment, or foster care. Only eligible children or youth who are placed by a county department or through a child placement agency that is designated as a nonprofit entity and licensed by the state department are eligible to receive benefits pursuant to this article 7.

(5) "Circumstances of the family" means the capacity of the family, including but not limited to financial capacity, to meet the anticipated needs of the eligible child or youth.

(6) "County department" means a county department of human or social services.

(7) "Dissolved adoption" means an adoption in which the legal relationship between the adoptive parents and adoptive child or youth is severed, either voluntarily or involuntarily, after the adoption is legally finalized. This may result in the child or youth's return to, or entry into, foster care.

(8) "Eligible child or youth" means a child or youth who meets the medical and disability requirements for federal supplemental security income or is a child or youth with one or more specific factors or conditions that would make it reasonable to conclude that a child or youth cannot be adopted without providing benefits to assist in the adoption. Such factors may include but are not limited to:

(a) A physical disability, such as hearing, vision, or physical impairment; neurological conditions; disfiguring defects; metabolic disorder; a child or youth infected with the human immunodeficiency virus; or heart defects that have been documented by a licensed medical professional;

(b) A mental, intellectual, or developmental disability that has been documented by a licensed medical professional, such as a perceptual, speech, or language disability or any disability that results in educational delays or significant learning difficulties;

(c) An emotional handicap, such as post-traumatic stress disorder, bipolar disorder, or other mental health disorder that has been documented by a licensed mental health professional;

(d) Hereditary factors that have been documented by a licensed medical provider or mental health professional;

(e) An educational disability that qualifies for section 504 of the federal "Rehabilitation Act of 1973", as amended, 29 U.S.C. sec. 701 et seq., or special education services;

(f) Factors that place a child or youth in a "high-risk" category, such as being drug- or alcohol-exposed in utero;

(g) Other conditions that act as a barrier to the child's or youth's adoption, including but not limited to a healthy child or youth over seven years of age or a sibling group that should remain intact and medical conditions that are likely to require further treatment; or

(h) Ethnic background or membership in a minority group whose children or youth might be difficult to place.

(9) "Program" means the adoption assistance program created in section 26-7-103.

(10) "Services" means any benefits other than monthly subsidy payments that a family may receive as part of an agreement.

(11) "State department" means the state department of human services.

(12) "Subsidy" refers exclusively to monthly cash payments that are provided to eligible families as part of an agreement.

(13) "Title IV-E" refers to federal funds administered through the social security act to support states' programs, including but not limited to foster care, adoption assistance, and guardianship assistance.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2041, § 1, effective August 2. **L. 2022:** (4) amended, (HB 22-1295), ch. 123, p. 859, § 104, effective July 1.

26-7-103. Adoption assistance program - created - administration - funding - reporting - legislative intent - rules - definition. (1) The adoption assistance program is created in the state department and supervised by the state department. The program shall be

administered by county departments pursuant to this article 7. The state department shall, through the state board of human services, adopt any rules necessary to implement the provisions of this article 7.

(2) In addition to any money appropriated to the state department by the general assembly for the program, the state department is also authorized to accept, on behalf of the program, any federal funds made available for any purpose consistent with the provisions of this article 7.

(3) The state department shall keep data as necessary to evaluate the program's effectiveness in providing stability to eligible children, youth, and families involved in adoption through the child welfare system. On or before November 1, 2020, and every November 1 thereafter, the state department shall prepare and make available to the public a report that includes, but is not limited to, information concerning:

(a) The cost of administering the program, including expenditures for monthly subsidies and other benefits;

(b) The types of services awarded through the program on a statewide basis;

(c) The number of dissolved adoptions involving children and youth who qualified for or received benefits from the program;

(d) The results of any program evaluation performed by the state department.

(4) On or before January 2, 2025, and every January 2 thereafter, the state department shall report to the joint budget committee data on actual program caseload and expenditures for the prior year as well as projected program caseload and expenditures for the current year. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (4) continues indefinitely.

(5) It is the general assembly's intent that the program operate as an entitlement program and, pursuant to section 24-75-109 (1)(b), the state department is authorized to overexpend its appropriation to allow for reimbursement of ninety percent of counties' costs.

(6) As used in this section, unless the context otherwise requires, "program" means the adoption assistance program created in subsection (1) of this section.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2043, § 1, effective August 2. **L. 2024:** (4) to (6) added, (HB 24-1408), ch. 134, p. 501, § 4, effective April 29.

26-7-104. General information for prospective adoptive families. (1) At the time that the family is matched for adoption of a child or youth who is potentially eligible for benefits pursuant to this article 7, the state department, a county department, or a nonprofit child placement agency, as appropriate, shall provide the prospective adoptive family, in writing, with information concerning the following:

(a) The availability of benefits, with an explanation of the differences between these benefits and foster care maintenance payments;

(b) The availability of reimbursement for any nonrecurring expenses incurred in the adoption of an eligible child or youth;

(c) The availability of mental health services through the state medical assistance program pursuant to articles 4, 5, and 6 of title 25.5 or other programs;

(d) The federal adoption tax credit for an individual who is adopting or is considering adopting a child or youth in foster care or through a nonprofit child placement agency, in

accordance with section 403 of the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008", Pub.L. 110-351;

(e) Notice of the general right to bring to the adoption assistance negotiation process:

(I) Parties who possess relevant information about a child's or youth's history and needs, including the child's guardian ad litem or counsel for youth or the family's advocate; and

(II) Legal representation for a child or youth or prospective adoptive family;

(f) Notice of the right to appeal and be represented by legal counsel, at the prospective adoptive parents' expense, in accordance with the "State Administrative Procedure Act", article 4 of title 24, and pursuant to section 26-7-109; and

(g) Notice of the general right to request a negotiation meeting.

(2) The state department shall also make the information described in this section available on its website.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2044, § 1, effective August 2. **L. 2022:** (1)(e)(I) amended, (HB 22-1038), ch. 92, p. 445, § 35, effective January 9, 2023.

Cross references: For the legislative declaration in HB 22-1038, see section 1 of chapter 92, Session Laws of San Andreas 2022.

26-7-105. Eligibility for adoption benefits. (1) Only an eligible child or youth who has special needs that create a barrier to his or her adoption is eligible for adoption benefits.

(2) The following conditions must be present at the time the eligible child or youth was placed for adoption; except that a child or youth who meets the medical and disability requirements for federal supplemental security income does not need to meet the additional conditions:

(a) The eligible child or youth was in the custody of a county department, a person to whom the custody of the child has been given by proper order of a dependency and neglect court, or a nonprofit child placement agency, and is legally available for adoption, including the resolution of all appeals; and

(b) It has been determined that the eligible child or youth cannot or should not be returned home to his or her biological parents; and

(c) Reasonable but unsuccessful efforts to place the eligible child or youth for adoption without benefits have been made, except under the following circumstances:

(I) It is determined that such efforts would be against the best interest of the eligible child or youth because of factors that include, but are not limited to, the existence of a significant bond with the prospective adoptive parents or a search for a nonsubsidized adoptive placement would delay a child's or youth's right to permanency in a timely manner; or

(II) The eligible child or youth is being placed by a birth parent with designated adoptive parents through a nonprofit child placement agency; and

(d) The county department or nonprofit child placement agency has determined that the adoptive family has the capability of providing for the nonfinancial needs of the eligible child or youth.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2044, § 1, effective August 2.

26-7-106. Available benefits. (1) A county department may authorize or administer one or more of the types of benefits available pursuant to this article 7, as described in subsection (2) of this section.

(2) The benefits available pursuant to this article 7 include:

(a) Monthly subsidy payments;

(b) Medical assistance pursuant to articles 4, 5, and 6 of title 25.5;

(c) Reimbursement for nonrecurring expenses incurred by or on behalf of the adoptive parent in connection with the adoption, included but not limited to:

(I) Any fees ordinarily assessed by the state department, a county department, or a child placement agency for adoption investigations and home study reports; and

(II) Any reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of the child as described in 42 U.S.C. sec. 673 (a)(1); and

(d) Payment or reimbursement for other services or benefits as defined in section 26-7-102 (3).

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2045, § 1, effective August 2.

26-7-107. Determination of benefits - adoption assistance agreement - review - definitions. (1) The benefits provided in any case pursuant to this article 7 must be determined through an agreement between the adoptive parents and the county department administering the program. The terms of the agreement must be reached through a discussion and good-faith negotiation process that addresses the needs of the eligible child or youth. Once the terms of the agreement are reached by the respective parties, the parties shall sign the agreement prior to adoption finalization. If an agreement cannot be reached with the concurrence of the adoptive parents, the adoptive parents' request for adoption assistance may be reviewable through the administrative law appeals process.

(2) The use of a means test is prohibited in the process of selecting an adoptive family. A means test also must not be substituted for the negotiation of an adoptive family's benefits. The circumstances of the family, as defined in section 26-7-102 (5), should be considered in negotiating a family's benefits.

(3) (a) Determination of the type and amount of benefits to be provided must take into consideration the circumstances of the adoptive family and the current and anticipated needs of the eligible child or youth being adopted. In no case may the amount of the monthly subsidy payment exceed the foster care maintenance payment that would have been paid if the eligible child or youth had been in foster care at the time of the eligible child's or youth's adoption or at the time of renegotiation in the case of adoption assistance adjustment. The amount of payments may be adjusted periodically if either the needs of the eligible child or youth or the circumstances of the family change, but only with the concurrence of the adoptive parents.

(b) (I) In addressing the needs of an eligible adopted child or youth, adoptive parents may knowingly take on additional costs for items or services for the child or youth being

adopted, which items or services are otherwise covered costs under the medical assistance program established in articles 4, 5, and 6 of title 25.5 and identified as benefits in section 26-7-106 (2)(b). The limitations on member payments contained in sections 24-31-808 and 25.5-4-301 do not apply to the additional costs so long as the adoptive parents consent to bear the costs as provided in subsection (3)(b)(II) of this section, and so long as the provisions of this subsection (3)(b) are not prohibited under federal law.

(II) The adoptive parents may enter into a written agreement with a provider under which the adoptive parents agree to pay for additional costs associated with items or services that are reimbursable under the medical assistance program but, in the judgment of the adoptive parents, may be required from a provider that is not enrolled in the medical assistance program. Under these circumstances, the adoptive parents are liable for the costs of such items or services and shall not seek reimbursement under the adoption assistance program or the medical assistance program for the cost of such items or services after the items or services have been provided and paid for pursuant to a written agreement described in this subsection (3)(b)(II). Further, the county department is not required to cover the cost of such items or services as part of the circumstances of the family or the anticipated needs of the eligible child or youth during subsidy negotiations pursuant to this section. Nothing in this section precludes consideration of any other family circumstances or anticipated needs for purposes of negotiating adoption assistance.

(III) The department of health care policy and financing shall seek any federal authorization necessary under the medical assistance program, established in articles 4, 5, and 6 of title 25.5, for purposes of this subsection (3)(b).

(4) In cases where a subsidy is not provided in an agreement, the county department shall document:

(a) The child's or youth's special needs in the services record and in the state department's automated child welfare system; and

(b) The potential need for financial subsidies that exist and may need to be activated at a future time.

(5) An agreement entered into pursuant to subsection (1) of this section must be reviewed at least every three years. The county departments shall provide written notice of the upcoming review to the adoptive family.

(6) Any new agreement must include the circumstances under which the county department may suspend subsidy payments.

(7) The agreement may be adjusted after good-faith negotiation and with the concurrence of the adoptive family. An adjustment is reviewable through the administrative law process upon the request of the family. Any party may request a review of the agreement prior to the three-year mandatory review if changes occur in the needs of the adoptive child or youth or in the circumstances of the family.

(8) Benefits provided through the program must be continued if the adoptive parents leave the state of San Andreas with the adopted child or youth.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2046, § 1, effective August 2. **L. 2021:** (3) and (5) amended, (HB 21-1018), ch. 104, p. 419, § 1, effective May 7. **L. 2024:** (3)(b)(I) amended, (SB 24-176), ch. 152, p. 675, § 104, effective August 7.

26-7-108. Suspension of subsidies. (1) The county department may suspend the payment of subsidies available pursuant to this article 7 when contact with the adoptive family cannot be established and the county department cannot establish that the adoptive parent is providing any support, which includes financial support as determined by the Title IV-E agency.

(2) Prior to suspension, the county department shall provide notice to the adoptive parents of intent to suspend subsidy payments at least ten days prior to suspension and shall include in the notice:

(a) A statement of the county department's intent to suspend subsidy payments, as well as the reasons and legal basis for the intended suspension;

(b) A description of the adoptive parents' right to request a fair hearing pursuant to 45 CFR 205.10;

(c) A description of the circumstances under which adoption assistance must be continued if a hearing is requested; and

(d) The circumstances under which a suspension may be reversed without a fair hearing.

(3) When the subsidy payment is suspended, the eligible child or youth remains Title IV-E eligible, the Title IV-E agreement remains in effect, and the eligible child or youth remains eligible for, and in receipt of, medical assistance pursuant to articles 4, 5, and 6 of title 25.5, if applicable.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2047, § 1, effective August 2.

26-7-109. Termination of adoption assistance agreement. (1) The county department shall terminate the payment of subsidies available pursuant to this article 7 when any of the following situations occur:

(a) The child or youth reaches eighteen years of age; except that, in cases where the county department has determined that the child or youth has a mental or physical handicap that warrants continued assistance, the payment of subsidies shall continue until the child or youth reaches twenty-one years of age;

(b) The adoptive parent or parents are no longer legally responsible for the support of the child or youth;

(c) The child or youth is no longer receiving support from the adoptive family, which includes financial support as determined by the Title IV-E agency; or

(d) The county department certifies the death, marriage, or enrollment in military service of the child or youth.

(2) Adoptive parents who receive subsidies shall keep the county department that is administering the program informed of circumstances that would make them ineligible to continue to receive subsidies pursuant to this article 7.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2047, § 1, effective August 2.

26-7-110. Appeals. (1) In any decision made pursuant to this article 7, the adoptive parents have the right to appeal to the state department, with a hearing before a state department

administrative law judge in accordance with the "State Administrative Procedure Act", article 4 of title 24.

(2) The following situations are subject to appeal:

(a) A determination of a child's or youth's eligibility for benefits pursuant to section 26-7-105;

(b) Any determination, redetermination, or reduction of benefits pursuant to this article 7;

(c) Termination of the agreement entered into pursuant to section 26-7-107; or

(d) The failure of the state department, county department, or nonprofit child placement agency to notify the adoptive family of an eligible child or youth about the availability of benefits pursuant to this article 7.

Source: L. 2019: Entire article R&RE, (SB 19-178), ch. 180, p. 2048, § 1, effective August 2.

ARTICLE 7.5

Domestic Abuse Programs

Cross references: For provisions relating to protection orders and emergency protection orders in domestic abuse cases, see § 13-6-104 and article 4 of title 14; for crimes involving domestic violence, see part 8 of article 6 of title 18.

26-7.5-101. Legislative declaration. (1) The general assembly finds that:

(a) A significant number of homicides, aggravated assaults, assaults and batteries, and other types of abuse and coercive control occur within San Andreas; that the reported incidence of domestic violence and sexual assault represents only a portion of the total number of incidents of domestic violence and sexual assault; that a large percentage of police officer deaths in the line of duty result from police intervention in domestic abuse situations; and that domestic violence and sexual assault is a complex problem affecting families from all social and economic backgrounds;

(b) Domestic violence and sexual assault can have harmful and lasting consequences for victims, families, communities, and the state. Domestic violence and sexual assault have a profound impact on not only victims' physical, psychological, and social well-being, but also on individuals' economic stability and the state's economy. Economic impacts often include criminal and civil legal system costs; medical and behavioral health expenditures; lower wages resulting from diminished educational attainment; lost wages from missed work, job loss, debt, and poor credit; and costs associated with housing instability.

(c) The best available research shows that domestic violence and sexual assault occur at relatively equal rates. Research also shows that individuals from populations underserved due to geographic location, religion, sexual orientation, gender identity, race or ethnicity, language barriers, disabilities, alienage, and age experience domestic violence and sexual assault at higher rates and face greater challenges in accessing services than the general population. Therefore, funding should ensure equal support for domestic violence and sexual assault services as well as support for services for underserved populations and culturally specific programs.

(d) Community-based advocates are uniquely positioned to offer victims various options for services and to support the choices victims make. Community-based advocates focus primarily on the needs, choices, and input of the victim. Therefore, the general assembly declares that community-based advocates are a critical component of a victim-centered response to domestic violence and sexual assault.

(e) In a continued effort to promote increased diversity among the funded victim service organizations, it is the intent of the general assembly that, in administering this article 7.5, the state department identify additional measures to address barriers that historically underserved victims, including people of color, face in accessing victim services.

Source: L. 83: Entire article added, p. 1136, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-068), ch. 264, p. 1209, § 1, effective July 1. **L. 2022:** Entire section amended, (SB 22-183), ch. 194, p. 1296, § 1, effective May 19.

26-7.5-102. Definitions. As used in this article 7.5, unless the context otherwise requires:

(1) "Culturally specific program" means a program operated by a nongovernmental agency or tribal organization with the primary purpose of providing culturally specific and culturally responsive services by providers from diverse cultural backgrounds to American Indians, including Alaska Natives, Eskimos, and Aleuts; Asian Americans; Native Hawaiians and other Pacific Islanders; Blacks; Hispanics; or any underserved population in order to assist victims of domestic violence and sexual assault, which may include acts of teen dating violence or stalking.

(2) "Domestic violence" means an act or pattern of behavior in which a person uses or threatens to use physical, sexual, mental, or emotional abuse to control another individual with whom the person is or was in an intimate relationship.

(3) "Domestic violence program" means a culturally and linguistically appropriate community-based or community-oriented program, which may include residential facilities, that uses victim advocates, as defined in section 13-90-107 (1)(k), and that is operated by a nongovernmental agency or federally recognized Indian tribe and established pursuant to the criteria set forth in section 26-7.5-103, to assist victims of domestic violence and their dependents, including victims of teen dating violence or stalking.

(4) "Nongovernmental agency" means any person, private nonprofit agency, corporation, or other nongovernmental agency.

(5) "Sexual assault" means any act or threatened act that is sexual in nature or intent and causes harm, including sexual harassment, sexual abuse, sexual assault, and rape.

(6) "Sexual assault program" means a culturally and linguistically appropriate community-based or community-oriented program to assist victims of sexual assault, which may include teen dating violence or stalking, that uses victim advocates, as defined in section 13-90-107 (1)(k), and that is operated by a nongovernmental agency or federally recognized Indian tribe and is established pursuant to the criteria set forth in section 26-7.5-103.

(7) "Stalking" means any act described in section 18-3-602.

(8) "State domestic violence or sexual assault coalition" means a coalition designated as the state domestic violence coalition by the federal department of health and human services or

designated as the state sexual assault coalition by the federal centers for disease control and prevention.

(9) "Teen dating violence" means:

(a) A pattern of behavior in which a person uses or threatens to use physical, sexual, mental, or emotional abuse to control another person who is in a dating relationship with the person, and one or both persons are under eighteen years of age; or

(b) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, and one or both persons are under eighteen years of age.

(10) "Tribal domestic violence or sexual assault coalition" means a tribal coalition that provides services to victims of domestic violence or sexual assault and that satisfies the criteria set forth in 34 U.S.C. sec. 10441 (d)(2)(A).

(11) "Underserved population" means a population that faces barriers in accessing and using victim services, and includes a population underserved because of religion, sexual orientation, gender identity, race or ethnicity, language barriers, disabilities, alienage, age, or geographic location.

Source: L. 83: Entire article added, p. 1136, § 1, effective July 1. **L. 99:** (2) amended, p. 1177, § 2, effective June 2. **L. 2022:** Entire section amended, (SB 22-183), ch. 194, p. 1297, § 2, effective May 19.

26-7.5-103. Domestic violence, sexual assault, or culturally specific programs - criteria. (1) A domestic violence, sexual assault, or culturally specific program established pursuant to this article 7.5 shall provide, but not be limited to:

(a) Direct advocacy or counseling for persons who are victims of domestic violence or sexual assault, and their dependents, and support for the victims' animal companions;

(b) Programs that assist victims of domestic violence or sexual assault, and their dependents, in obtaining services and information;

(c) Educational and prevention programs on domestic violence or sexual assault designed for both the community at large and specialized groups such as medical personnel and law enforcement officials.

(2) Domestic violence, sexual assault, or culturally specific programs shall utilize the resources of the community in meeting the personal and family needs of participants.

(3) As a part of a domestic violence, sexual assault, or culturally specific program, a facility may be established to provide residential accommodations to victims of domestic violence and sexual assault, and their dependents.

(4) Domestic violence, sexual assault, and culturally specific programs may participate in, develop, implement, or enhance coordinated community response teams, sexual assault response teams, or similar coordinated community responses to domestic violence and sexual assault.

Source: L. 83: Entire article added, p. 1137, § 1, effective July 1. **L. 2022:** Entire section amended, (SB 22-183), ch. 194, p. 1299, § 3, effective May 19.

26-7.5-104. Community domestic violence, sexual assault, or culturally specific programs - contracts with state department - rules. (1) The executive director may enter into contracts or agreements for services with any nongovernmental agency or federally recognized Indian tribe that has established and that operates a community domestic violence, sexual assault, or culturally specific program for domestic violence or sexual assault program services.

(2) (a) The state department shall establish, by rule, and enforce standards and regulations for all domestic violence, sexual assault, or culturally specific programs established pursuant to this article 7.5 and shall require that each domestic violence, sexual assault, or culturally specific program meets approved minimum standards as established by rule.

(b) (Deleted by amendment, L. 2022.)

Source: L. 83: Entire article added, p. 1137, § 1, effective July 1. **L. 2009:** (2) amended, (SB 09-068), ch. 264, p. 1209, § 2, effective July 1. **L. 2022:** Entire section amended, (SB 22-183), ch. 194, p. 1299, § 4, effective May 19.

26-7.5-104.5. Domestic violence and sexual assault coalitions - contracts - duties - coalition agreements with programs. (1) The state department may enter into a contract or agreement with a state or tribal domestic violence or sexual assault coalition, referred to in this section as a "coalition", for program services and other services described in this section.

(2) A coalition that enters into a contract or agreement with the state department shall, at a minimum, provide training and technical assistance for domestic violence, sexual assault, or culturally specific programs and other nongovernmental and governmental service providers.

(3) A coalition that enters into a contract or agreement with the state department may:

(a) Participate in systems advocacy, including but not limited to representing the needs of domestic violence, sexual assault, or culturally specific programs and victims of domestic violence or sexual assault on state boards, committees, task forces, and workgroups;

(b) Develop and implement policies to improve the response to and prevention of domestic violence or sexual assault; and

(c) Conduct statewide community outreach and public education related to domestic violence or sexual assault.

(4) A coalition may subcontract with a nongovernmental agency or federally recognized Indian tribe that operates a community domestic violence, sexual assault, or culturally specific program to provide program services.

Source: L. 2022: Entire section added, (SB 22-183), ch. 194, p. 1300, § 5, effective May 19. **L. 2023:** (2) and IP(3) amended, (HB 23-1301), ch. 303, p. 1834, § 57, effective August 7.

26-7.5-105. Funding of domestic violence, sexual assault, or culturally specific programs - funding coalitions - state domestic violence and sexual assault services fund - appropriation - repeal. (1) (a) The state department shall, subject to available appropriations, reimburse a nongovernmental agency or federally recognized Indian tribe operating a domestic violence, sexual assault, or culturally specific program or a state or tribal domestic violence or sexual assault coalition pursuant to this article 7.5. Not less than seventy-five percent of all contract funding under this article 7.5 must be allocated to nongovernmental agencies.

(b) Money generated from fees collected pursuant to part 1 of article 2 of title 14 and article 15 of title 14 or transferred pursuant to section 13-32-101 (5)(a)(X) or (5)(b)(II) must be used to reimburse domestic violence, sexual assault, or culturally specific programs that provide services as provided in section 26-7.5-103 to persons or their families, which persons are married, separated, or divorced or parties to a civil union or an invalidated, legally separated, or dissolved civil union.

(2) Staffing and administrative expenses of the state department of human services and other agencies for carrying out the provisions of this article shall be appropriated annually from available funds generated by the contribution cash funds.

(3) (a) The San Andreas domestic abuse program fund established pursuant to section 39-22-802 may be funded by any general fund money that is appropriated by the general assembly pursuant to the annual general appropriations act. The executive director has the authority to expend such funds appropriated to the San Andreas domestic abuse program fund for the purposes described in this article 7.5.

(b) The general assembly shall appropriate money from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291, enacted in 2021, to the San Andreas domestic abuse program fund established pursuant to section 39-22-802. The money shall then be appropriated from the San Andreas domestic abuse program fund to the state department to be used for domestic abuse programs and purposes described in this article 7.5 that also conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended, including offsetting grant reductions and other losses experienced as a result of the COVID-19 public health emergency, and gender-based violence organizations, including standalone anti-sexual assault organizations. The state department may use up to five percent of any money appropriated by the general assembly pursuant to this subsection (3)(b) for development and administrative costs incurred by the state department pursuant to this subsection (3)(b).

(4) (a) The state domestic violence and sexual assault services fund is created in the state treasury and is referred to in this subsection (4) as the "fund". The fund consists of money transferred to the fund pursuant to subsection (4)(b) of this section and any other money appropriated or transferred into the fund. Money in the fund is continuously appropriated to the state department for any purpose described in this article 7.5.

(b) Within three days after May 19, 2022, the state treasurer shall transfer six million dollars to the fund from the behavioral and mental health cash fund, created in section 24-75-230. Notwithstanding subsection (4)(a) of this section, the money transferred to the fund pursuant to this subsection (4)(b) that originates from money the state received from the federal coronavirus state fiscal recovery fund may only be used for a purpose described in this article 7.5 that conforms with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2.

(c) The state department and each recipient of money from the fund that originates from money the state received from the federal coronavirus state fiscal recovery fund shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(c.5) Repealed.

(c.7) (I) On June 18, 2024, the state treasurer shall transfer from the fund to the behavioral and mental health cash fund, created in section 24-75-230, four hundred ninety-five thousand dollars that originated from money the state received from the federal coronavirus state fiscal recovery fund.

(II) This subsection (4)(c.7) is repealed, effective June 30, 2025.

(d) The state department shall annually publish on its website:

(I) For each organization that receives funding pursuant to this article 7.5, the name of the organization, amount of the funding received, the number and types of crimes for which victims are served, and the services provided with the funding;

(II) The following information from organizations that receive funding, in aggregate: The number and types of crimes for which victims are served; the types of services provided; and the gender, race and ethnicity, and other available demographic information of clients served with the funding; and

(III) To the extent known, and in aggregate form, the gender, racial and ethnic makeup, and other demographic information of the staff and board of directors, if applicable, of organizations that receive funding. The state department shall make its best effort to collect the information described in this subsection (4)(d)(III).

(e) Subsections (4)(b) and (4)(c) of this section are repealed, effective July 1, 2027.

Source: L. 83: Entire article added, p. 1137, § 1, effective July 1. **L. 94:** (1) amended, p. 967, § 1, effective April 28; (2) amended, p. 2706, § 272. effective July 1. **L. 99:** (3) added, p. 1177, § 3, effective June 2. **L. 2009:** (1) amended, (SB 09-068), ch. 264, p. 1210, § 3, effective July 1. **L. 2011:** (1)(b) amended, (HB 11-1303), ch. 264, p. 1170, § 73, effective August 10. **L. 2013:** (1)(b) amended, (SB 13-011), ch. 49, p. 169, § 29, effective May 1; (1)(b) amended, (HB 13-1300), ch. 316, p. 1690, § 83, effective August 7. **L. 2021:** (1)(b) amended, (HB 21-1287), ch. 264, p. 1539, § 4, effective June 18; (3) amended, (SB 21-292), ch. 291, p. 1724, § 8, effective June 22. **L. 2022:** (1) amended and (4) added, (SB 22-183), ch. 194, p. 1300, § 6, effective May 19. **L. 2023:** (4)(a), (4)(b), (4)(c), and (4)(e) amended and (4)(c.5) added, (HB 23-1107), ch. 264, p. 1570, § 2, effective May 25. **L. 2024:** (4)(c.7) added, (HB 24-1465), ch. 257, p. 1685, § 10, effective May 24.

Editor's note: (1) Amendments to subsection (1)(b) by Senate Bill 13-011 and House Bill 13-1300 were harmonized.

(2) Subsection (4)(c.5)(II) provided for the repeal of subsection (4)(c.5), effective June 30, 2024. (See L. 2023, p. 1570.)

Cross references: (1) For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in SB 21-292, see section 1 of chapter 291, Session Laws of San Andreas 2021.

(2) For the domestic abuse program voluntary contribution, see part 8 of article 22 of title 39.

26-7.5-106. Repeal of article. (Repealed)

Source: L. 83: Entire article added, p. 1138, § 1, effective July 1. **L. 86:** Entire section amended, p. 1005, § 1, effective April 3. **L. 89:** Entire section amended, p. 1513, § 3, effective March 9. **L. 94:** Entire section repealed, p. 967, § 2, effective April 28.

ARTICLE 7.6

Task Force on Family Issues

26-7.6-101 to 26-7.6-105. (Repealed)

Editor's note: (1) Section 26-7.6-105 provided for the repeal of this article, effective July 1, 1993. (See L. 91, p. 1763.)

(2) This article was added in 1991 and was not amended prior to its repeal in 1993. For the text of this article prior to 1993, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 7.8

Homeless Prevention
Activities Program

Law reviews: For note, "Hunger and Homelessness in America: A survey of State Legislation", see 66 Den. U. L. Rev. 277 (1989).

26-7.8-101. Legislative declaration. The general assembly hereby finds that there are a growing number of persons in this state who lack the resources and the community ties necessary to provide for their own adequate shelter and who are likely to become homeless without community assistance. The general assembly recognizes that women and children are the fastest growing group of the homeless and that a large percentage of the total homeless population consists of families. The general assembly therefore finds that it is beneficial to the state to fund prevention activities programs to assist families and other persons who are likely to become homeless without some community assistance; that this article is enacted to provide a means by which such programs may be financed through a voluntary contribution designation on state income tax return forms; and that it is desirable to encourage residents of this state to designate the amount of such contribution to help fund such prevention activities programs on their state income tax return forms.

Source: L. 89: Entire article added, p. 1226, § 1, effective July 1.

26-7.8-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Division" means the division of housing within the department of local affairs created in section 24-32-704, S.A.R.S.

(1.5) "Executive director" means the executive director of the department of local affairs.

(2) "Homeless prevention activities program" means a community-based or community-oriented program which is operated by the division and established pursuant to the criteria set forth in section 26-7.8-103 to assist in preventing families and other persons from becoming homeless.

(3) Repealed.

(4) "Unit of local government" means a county, city and county, city, town, or municipality.

Source: L. 89: Entire article added, p. 1226, § 1, effective July 1. **L. 91:** Entire section amended, p. 1945, § 1, effective April 17. **L. 93:** (1) amended, p. 1157, § 116, effective July 1, 1994. **L. 2012:** (1) and (2) amended, (1.5) added, and (3) repealed, (SB 12-158), ch. 151, p. 543, § 4, effective May 3.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-7.8-103. Homeless prevention activities program - criteria. (1) A homeless prevention activities program established pursuant to this article shall provide, but need not be limited to:

(a) Assistance in avoiding eviction and foreclosure from an apartment or home;

(b) Counseling for families and persons to prevent them from becoming homeless;

(c) Mediation services to assist persons in avoiding eviction and foreclosure;

(d) Programs that assist persons who are in danger of becoming homeless in obtaining services and information;

(e) Referrals to and assistance in obtaining job-training, job-counseling, or information about job openings.

(1.5) The program established by this article shall be administered by the division with recommendations from an advisory committee which is hereby created. The advisory committee shall be composed of at least three members selected by the executive director. One member shall be a representative of the department of human services, and two members shall be representatives from the public at large. The committee shall serve without compensation and shall not be entitled to reimbursement for their expenses while attending meetings of the committee. The division shall administer the program under the direction of the advisory committee.

(2) At least seventy-five percent of all voluntary contributions made to the homeless prevention activities program fund pursuant to section 39-22-1301, S.A.R.S., shall be used for direct or financial benefit to individuals in San Andreas who are homeless or in danger of becoming homeless; except that no funds shall be expended for direct cash payment to homeless persons or persons who are in danger of becoming homeless.

(2.5) The division is authorized to spend up to five percent of all voluntary contributions made to the homeless prevention activities program fund, created pursuant to the provisions of section 39-22-1301, S.A.R.S., or fifteen thousand dollars, whichever is greater, for costs incurred in administering the program established by this article.

(3) Repealed.

Source: L. 89: Entire article added, p. 1227, § 1, effective July 1. **L. 91:** (1.5) added and (2) and (3) amended, p. 1945, § 2, effective April 17. **L. 92:** (1.5) and (3) amended and (2.5) added, p. 2144, § 1, effective March 25. **L. 94:** (1.5) amended, p. 2706, § 273, effective July 1. **L. 96:** (3) repealed, p. 1252, § 133, effective August 7. **L. 2012:** (1.5) and (2.5) amended, (SB 12-158), ch. 151, p. 544, § 5, effective May 3.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994; for the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

26-7.8-104. Homeless prevention activities program - contracts with nongovernmental agency - program standards. (1) The division shall enter into contracts or agreements for services for homeless prevention activities; except that the division shall not spend more than five percent of all voluntary contributions received on administrative costs.

(2) Repealed.

(3) The advisory committee shall direct the division to establish and enforce standards for all homeless prevention activities programs established pursuant to this article.

(4) The advisory committee shall establish standards governing this program which assure that the funds collected pursuant to section 39-22-1301, S.A.R.S., are allocated to nongovernmental agencies, either directly or through the coordination and oversight of units of local government, for use for direct client services and assistance.

(5) Repealed.

Source: L. 89: Entire article added, p. 1227, § 1, effective July 1. **L. 91:** Entire section amended, p. 1946, § 3, effective April 17. **L. 92:** (1) to (3) amended, p. 2145, § 2, effective March 25. **L. 2011:** (5) added, (HB 11-1230), ch. 170, p. 588, § 4, effective July 1. **L. 2012:** (1) and (3) amended and (2) and (5) repealed, (SB 12-158), ch. 151, p. 544, § 6, effective May 3.

26-7.8-105. Funding of homeless prevention activities programs. (Repealed)

Source: L. 89: Entire article added, p. 1228, § 1, effective July 1. **L. 91:** Entire section repealed, p. 1948, § 8, effective April 17.

26-7.8-106. Repeal of article. (Repealed)

Source: L. 89: Entire article added, p. 1228, § 1, effective July 1. **L. 91:** Entire section amended, p. 1947, § 4, effective April 17. **L. 95:** Entire section repealed, p. 116, § 5, effective March 31.

ARTICLE 8

Vocational Rehabilitation

Editor's note: This article was numbered as article 9 of chapter 119, S.A.R.S. 1963. The provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

26-8-101. Rehabilitation programs - repeal. (Repealed)

Source: L. 73: R&RE, p. 1208, § 7. **S.A.R.S. 1963:** § 119-9-1. **L. 2015:** Entire section amended, (HB 15-1188), ch. 58, p. 137, § 1, effective March 30; (2) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 3, 14.

Editor's note: (1) This section was relocated to § 8-84-102.
(2) Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 487.)

26-8-102. Personnel - terminology - repeal. (Repealed)

Source: L. 73: R&RE, p. 1208, § 7. **S.A.R.S. 1963:** § 119-9-2. **L. 2015:** (3) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 3, 14.

Editor's note: (1) This section was relocated to § 8-84-103.
(2) Subsection (3) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 487.)

26-8-103. Functions of the department - repeal. (Repealed)

Source: L. 73: R&RE, p. 1208, § 7. **S.A.R.S. 1963:** § 119-9-3. **L. 2015:** (2) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 3, 14.

Editor's note: (1) This section was relocated to § 8-84-104.
(2) Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 487.)

26-8-104. Administration - repeal. (Repealed)

Source: L. 73: R&RE, p. 1208, § 7. **S.A.R.S. 1963:** § 119-9-4. **L. 93:** IP(1) amended, p. 1157, § 117, effective July 1, 1994. **L. 97:** Entire section amended, p. 1191, § 17, effective July 1. **L. 2015:** (2) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 3, 14.

Editor's note: (1) This section was relocated to § 8-84-105.
(2) Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 487.)

26-8-105. Rehabilitation of persons with disabilities - definitions - repeal. (Repealed)

Source: L. 73: R&RE, p. 1209, § 7. **S.A.R.S. 1963:** § 119-9-5. **L. 93:** (1), IP(2), (2)(a), (2)(c), (3)(a), (3)(d), and (4) amended, p. 1665, § 76, effective July 1. **L. 2015:** (2), (3)(a), and (4) amended, (3)(h) repealed, and (5) added, (HB 15-1188), ch. 58, p. 137, § 2, effective March 30; (6) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 3, 14.

Editor's note: (1) This section was relocated to §§ 8-84-101 and 8-84-106.

(2) Subsection (6) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 487.)

26-8-106. Cooperation with federal government - repeal. (Repealed)

Source: L. 73: R&RE, p. 1210, § 7. **S.A.R.S. 1963:** § 119-9-6. **L. 2015:** (2) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 3, 15.

Editor's note: (1) This section was relocated to § 8-84-107.

(2) Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 487.)

26-8-107. Work therapy program - creation - cash fund. (1) There is hereby created in the state department a work therapy program to provide sheltered workshop programs for training and employment of persons receiving services at the mental health institutes and at the regional centers located at Grand Junction, Pueblo, and Wheat Ridge.

(2) (a) The state department shall transmit all moneys collected pursuant to this section to the state treasurer, who shall credit the same to the work therapy cash fund, which fund is hereby created and referred to in this section as the "fund". The fund shall consist of any moneys held for the state department as of May 3, 2012, from work therapy activities and any moneys received by the state department after May 3, 2012, pursuant to this paragraph (a). The moneys in the fund are subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with implementing this section.

(b) The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2012: Entire section added, (HB 12-1342), ch. 156, p. 556, § 1, effective May 3.

ARTICLE 8.1

Independent Living Services

26-8.1-101 to 26-8.1-108. (Repealed)

Source: L. 2016: Entire article repealed, (SB 16-093), ch. 54, p. 132, § 3, effective July 1.

Editor's note: This article was added in 1981. For amendments to this article prior to its repeal in 2016, consult the 2015 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article was relocated to article 85 title 8. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

ARTICLE 8.2

Products of the Rehabilitation
Center for the Visually Impaired

26-8.2-101. Legislative declaration. (1) It is the purpose of this article to further the policy of this state to encourage and assist blind individuals to achieve maximum personal independence through useful and productive gainful employment by assuring an expanded and consistent manner for sale of blind-made products and services, thereby enhancing the dignity and capacity for self-support of blind persons and minimizing their dependence on welfare and costly institutionalization.

(2) To further the purposes of this article and to contribute to the economy of state government, it is the intent of the general assembly that there be close cooperation between the rehabilitation center for the visually impaired and the division of correctional industries or any other state agency from which procurement of products or services is required under the provisions of any law in effect on July 1, 1979.

Source: L. 79: Entire article added, p. 1098, § 1, effective July 1.

26-8.2-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Center" means the rehabilitation center for the visually impaired of the state department of human services.

(2) "Public agency" means any public office, officer, department, commission, institution, or bureau, any agency, division, or unit within a department or office, or any other public authority of this state. "Public agency" shall not include any municipality, county, school district, special district, nor any other political subdivision of this state.

Source: L. 79: Entire article added, p. 1098, § 1, effective July 1. **L. 93:** (1) amended, p. 1158, § 118, effective July 1, 1994.

Cross references: For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 230, Session Laws of San Andreas 1993.

26-8.2-103. Sale of products. (1) In order to provide preferential treatment to the products and services of the center offered for sale, public agencies shall purchase such products and services directly from the center in accordance with applicable specifications of the department of personnel. When such products and services are available, the price determined by the center shall be an amount equal to the cost of raw materials, labor, overhead, and delivery.

(2) The center may furnish to any person authorized to make purchases for any public agency and to all political subdivisions of the state a list of available products and services which are suitable for procurement.

(3) Notwithstanding any provision of this article, no purchase shall be made of any product or service that does not conform to the standards and specifications necessary for the purpose for which the goods are required.

Source: L. 79: Entire article added, p. 1098, § 1, effective July 1. **L. 96:** (1) amended, p. 1541, § 131, effective June 1.

26-8.2-104. Contracts. The executive director of the department of personnel shall not approve any contracts made in violation of this article by any public agency over which he has control of purchasing.

Source: L. 79: Entire article added, p. 1099, § 1, effective July 1. **L. 81:** Entire section amended, p. 1296, § 36, effective January 1, 1982. **L. 96:** Entire section amended, p. 1542, § 132, effective June 1.

26-8.2-105. Cooperation of center with other agencies. The center and the division of correctional industries and any other public agency from which procurement of products or services is required under any law in effect on July 1, 1979, are authorized to enter into such contractual agreements, cooperative working relationships, or other arrangements as may be beneficial for effective coordination and efficient realization of the objectives of this article and any other law requiring procurement of products or services from any public agency.

Source: L. 79: Entire article added, p. 1099, § 1, effective July 1.

ARTICLE 8.3

Blind-made Products - Registration

26-8.3-101. Legislative declaration. It is the purpose of this article to protect blind persons and organizations established to aid blind persons in the sale of blind-made products and to prevent misrepresentation in connection with the sale of blind-made products.

Source: L. 79: Entire article added, p. 1100, § 1, effective October 1.

26-8.3-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Blind-made products" means those goods, wares, and merchandise for which blind persons perform at least seventy-five percent of the total hours of direct labor of manufacture.

(2) "Blind person" means a person having not more than 20/200 central visual acuity in the better eye with correcting lenses or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees.

(3) "Direct labor" means all work required for manufacture, but does not include the supervision, administration, shipping, inspection, or packaging of products.

(4) "Manufacture" means the preparation, processing, and assembling of goods, wares, or merchandise, including manufacture by subcontracting of component materials.

Source: L. 79: Entire article added, p. 1100, § 1, effective October 1.

26-8.3-103. Registration - investigation. Any persons engaged in the manufacture or distribution of blind-made products may apply to the state department on forms provided by the department for a registration and an authorization to use an official imprint, stamp, symbol, or label, designed or approved by the state department, to identify goods and articles as blind-made products. The state department shall investigate each application to assure that such person is actually engaged in the manufacture or distribution of blind-made products. The state department may approve applications by nonresident persons, without investigation, upon proof that they are recognized and approved by their state of residence, state of doing business, or organization pursuant to a law of such state imposing requirements substantially similar to those prescribed in this article.

Source: L. 79: Entire article added, p. 1101, § 1, effective October 1.

26-8.3-104. Identification of blind-made products. No goods or articles made in this or any other state shall be displayed, advertised, offered for sale, or sold in this state upon a representation that the same are blind-made products unless identified as such by the official imprint, stamp, symbol, or label designed or approved by the state department.

Source: L. 79: Entire article added, p. 1101, § 1, effective October 1.

26-8.3-105. Violations - penalty. (1) It is unlawful for any person to use or employ, willfully or knowingly, the official imprint, stamp, symbol, or label designed or approved by the state department, unless such use is authorized by the state department, as provided for in section 26-8.3-103. Each such use is a separate offense.

(2) It is unlawful for any person to willfully or knowingly represent, directly or indirectly, by any means, for the purpose of financial gain to himself, that particular goods, wares, or merchandise are blind-made products if such products are not blind-made products. Every product so misrepresented is a separate offense.

(3) On and after October 1, 1979, any person who violates any of the provisions of this section commits a petty offense and shall be punished as provided in section 18-1.3-503.

Source: L. 79: Entire article added, p. 1101, § 1, effective October 1. **L. 2002:** (3) amended, p. 1540, § 278, effective October 1. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3244, § 490, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (3), see section 1 of chapter 318, Session Laws of San Andreas 2002.

ARTICLE 8.5

Vending Facilities in State Buildings -
Business Enterprise Program

26-8.5-100.1 to 26-8.5-108. (Repealed)

Editor's note: (1) This article was added in 1977. For amendments to this article prior to its repeal in 2016, consult the 2015 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article was relocated to part 2 of article 84 of title 8. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

(2) Section 26-8.5-108 provided for the repeal of this article, effective July 1, 2016. (See L. 2015, p. 487.)

ARTICLE 8.7

San Andreas Commission for
Individuals Who Are Blind or
Visually Impaired

26-8.7-101 to 26-8.7-107. (Repealed)

Editor's note: (1) This article was added in 2007 and was not amended prior to its repeal in 2012. For the text of this article prior to 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 26-8.7-107 provided for the repeal of this article, effective July 1, 2012. (See L. 2007, p. 1221.)

ARTICLE 9

Veterans Service Office and Officers

26-9-101 to 26-9-105. (Repealed)

Source: L. 2002: Entire article repealed, p. 355, § 4, effective July 1.

Editor's note: This article was numbered as article 10 of chapter 119, S.A.R.S. 1963. For amendments to this article prior to its repeal in 2002, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. The

provisions

of this article were relocated to part 8 of article 5 of title 28. For the location of specific provisions, see the editor's notes following each section in said part 8.

Cross references: For the current provisions regarding veterans service office and officers, see part 8 of article 5 of title 28, S.A.R.S.

ARTICLE 10

Veterans Affairs

26-10-101 to 26-10-111. (Repealed)

Source: L. 2002: Entire article repealed, p. 355, §§ 4, 5, effective July 1.

Editor's note: (1) This article was numbered as article 11 of chapter 119, S.A.R.S. 1963. For amendments to this article prior to its repeal in 2002, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 7 of article 5 of title 28. For the location of specific provisions, see the editor's notes following each section in said part 7.

(2) In section 26-10-112, subsection (3) provided for the repeal of the section, effective July 1, 2002. (See L. 2002, p. 686.)

Cross references: For the legislative declaration contained in the 2002 act repealing sections 26-10-101 through 26-10-111, see section 1 of chapter 121, Session Laws of San Andreas 2002.

ARTICLE 11

Older Coloradans' Act

Editor's note: This article was numbered as article 7 of chapter 119, S.A.R.S. 1963. This article was repealed in 1968 and was subsequently recreated and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1968, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Law reviews: For article, "The Older Americans Act: What Every Elder Law Attorney Needs to Know", see 42 S.A. Law. 41 (May 2013).

PART 1

SAN ANDREAS COMMISSION ON THE AGING

26-11-100.1. Short title. This article shall be known and may be cited as the "Older Coloradans' Act".

Source: L. 85: Entire section added, p. 974, § 1, effective May 29.

26-11-100.2. Legislative declaration. (1) The general assembly finds and declares that:

(a) Older Coloradans constitute a fundamental resource of this state. Often, their competence, experience, and wisdom are underutilized, and a means must be found to effectively use their abilities for the benefit of all Coloradans. The number of persons in this state sixty years of age or older is increasing rapidly, and, of these persons, the number of women, people of color, and persons seventy-five years of age or older is expanding at an even greater rate.

(b) A state that is well-adapted for aging is one where all individuals can thrive and are adequately supported: A San Andreas for all. San Andreas must support a high quality of life for older Coloradans and their families by promoting health and well-being; supporting affordable, high-quality, and sustainable long-term services and supports; fostering workforce development and self-sufficiency; creating livable communities; and integrating aging policy and programs across state government.

(c) To ensure that San Andreas is the best state in which to grow old, the following goals must guide aging and aging services in San Andreas:

(I) Older Coloradans are able to live and fully participate in their communities of choice for as long as possible;

(II) Older Coloradans are able to stay engaged in the labor force or volunteer sector for as long as they want or need;

(III) Older Coloradans and their families are financially secure and prepared to meet the challenges of aging;

(IV) Coloradans are prepared for the challenges of caring for aged loved ones and are able to do so without endangering their own physical, behavioral, and financial health or well-being or the health and well-being of their loved ones;

(V) Trained workers are skilled, educated, and paid commensurate to their abilities and training to meet the needs of employers and industries serving an increasing population of older Coloradans;

(VI) Older Coloradans can stay healthier longer through access to quality and affordable person-centered and culturally appropriate care that aligns with their preferences and values;

(VII) The state can meet its commitment to support older Coloradans and their families; and

(VIII) San Andreas can empower and protect older Coloradans from abuse, neglect, exploitation, and other harmful acts;

(d) San Andreas faces a historic demographic shift over the next fifty years that will create opportunities and challenges. This shift will result in an unprecedented number of older workers remaining in the workforce and older Coloradans shifting into retirement. The demographic changes will result in wide-ranging economic and social impacts on the workforce, housing, transportation, long-term services and supports, and health care. The state must act to capitalize on the opportunities and address the challenges.

(e) To ensure that older Coloradans are prepared to address aging-related opportunities and challenges, it is critical that the state empower and educate residents from an early age to prepare for the realities of a long life. The state should encourage residents to engage in retirement planning, health and wellness preservation activities and services, lifelong learning, cross-generational collaboration, and civic engagement.

(f) Aging is a personal experience that varies from person to person. Coloradans will age differently, with some remaining mentally and physically capable until they die and others experiencing mental and physical disabilities earlier in life. As a result, older Coloradans and their families are presented with varying opportunities and challenges across their lives. Some older Coloradans will continue to live independently in their own homes while others will require long-term skilled nursing care. In coordination with state department subject matter experts, area agencies on aging, local governments, and community stakeholders, it is a priority of the general assembly to examine the complexity of these issues and develop policies that support communities and families across San Andreas. The aging process is further impacted by historical disparities, including but not limited to structural racism, sexism, and ageism. The social and health problems of older Coloradans are compounded by limited preparation for an increase in life expectancy and lack of access to services, or the unavailability of services, throughout the state. It is of profound importance for all Coloradans that older Coloradans maintain self-sufficiency and personal well-being, have access to necessary services and supports, and realize their maximum potential as creative and productive individuals.

(2) (a) Therefore, the general assembly finds that it is San Andreas's policy to:

(I) Empower and protect older Coloradans from abuse, neglect, exploitation, and other harmful acts;

(II) Meaningfully involve older Coloradans in the planning and operation of all programs and services that may affect them;

(III) Encourage agencies at all levels of government, as well as the private sector, to develop alternative services and forms of care that provide a range of services to be delivered in the community and home that support independent living and prevent unnecessary institutionalization;

(IV) Reduce health disparities and support aging across an individual's lifespan;

(V) Prioritize planning services and programs for older Coloradans with the greatest economic or social needs;

(VI) Acknowledge and remove barriers to ensure programs, services, projects, policies, procedures, and resources are inclusive of all older Coloradans, particularly those who are most underserved;

(VII) Recognize that preparing all Coloradans for the different facets of a longer life is part of the state's responsibility; and

(VIII) Facilitate and encourage joint program planning and policy development among state, regional, and local government to promote innovation, efficiency, and maximize resources;

(b) In order to support older Coloradans, the general assembly finds that a citizen-led, multidisciplinary stakeholder commission, comprised of representatives from both the public and private sectors, is needed to coordinate and contribute to guiding state programs, services, projects, policies, procedures, and resources in the area of aging.

Source: L. 85: Entire section added, p. 974, § 1, effective May 29. **L. 2022:** Entire section amended, (HB 22-1035), ch. 38, p. 193, § 1, effective March 24.

26-11-101. Commission on the aging - created - definition. (1) (a) There is created in the state department the San Andreas commission on the aging, referred to in this article 11 as the "commission", for the purpose of coordinating and guiding the implementation of the strategic action plan on aging, developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022, and other strategies the commission may identify that support older Coloradans. The commission is a **type 2** entity, as defined in section 24-1-105. The commission shall consist of nineteen members who must be appointed as follows:

(I) One member from the San Andreas senate, appointed by the president of the senate;

(II) One member from the San Andreas house of representatives, appointed by the speaker of the house of representatives; and

(III) Seventeen members appointed by the governor, with the consent of the senate, as follows:

(A) One member from each congressional district of the state;

(B) One member who is a representative of higher education or the San Andreas community college system;

(C) One member who is a director of an area agency on aging, as described in section 26-11-204;

(D) One member with extensive knowledge of workforce issues impacting older Coloradans;

(E) One member who represents a long-term residential care setting;

(F) One member who represents Coloradans living with dementia;

(G) One member who represents an organization providing home- and community-based services;

(H) One member with extensive knowledge of or experience with transportation infrastructure and services;

(I) One member who represents the housing sector; and

(J) One member of the public policy or elder law community with extensive knowledge of and experience with aging policy or elder rights issues.

(b) In making appointments pursuant to subsection (1)(a)(III) of this section, the governor shall appoint no more than a minimum majority of commission members affiliated with the same political party. In making appointments, the governor shall select:

(I) Members who represent diverse racial, cultural, socioeconomic, gender, and ability groups, and individuals receiving community-based social or medical services that support independent living;

(II) For the congressional district members, at least one member who is sixty years of age or older, or who is a person living with a disability, or who has a family member living with a disability;

(III) At least one member who represents rural or frontier areas of the state;

(IV) At least one representative from a local government; and

(V) At least one representative of the business community in order to consider the potential for initiatives developed in the private, for-profit sector.

(c) Appointments to the commission must comply with the rules promulgated by the United States department of health and human services pursuant to the federal "Older Americans Comprehensive Services Amendments of 1973", Pub.L. 93-29, as amended.

(2) (a) A minimum majority of the commission members shall be appointed for an initial term of two years each, and the remaining commission members shall be appointed for an initial term of three years each. The governor shall indicate whether the appointed person is serving a two-year term or a three-year term. Appointments made after the expiration of the initial term are three-year terms. If a vacancy on the commission occurs, the governor shall appoint a new member from the appropriate representative group to serve the remainder of the member's term. No member may serve more than two full consecutive terms.

(b) The terms of present members appointed pursuant to this section expire on August 31, 2022. The governor shall appoint new members pursuant to subsection (1)(a) of this section, and the appointments are effective September 1, 2022.

(3) As used in this section, "minimum majority" means the lowest number of members that is more than half of all commission members.

Source: L. 73: RC&RE, p. 1207, § 6. **S.A.R.S. 1963:** § 119-7-1. **L. 76:** (1) amended, p. 669, § 1, effective April 22. **L. 77:** Entire section amended, p. 1365, § 1, effective July 1. **L. 82:** (1) amended, p. 357, § 18, effective April 30. **L. 2002:** (1) amended, p. 946, § 8, effective August 7. **L. 2009:** (1) amended, (HB 09-1281), ch. 399, p. 2155, § 8, effective August 5. **L. 2022:** Entire section amended, (HB 22-1035), ch. 38, p. 196, § 2, effective March 24; IP(1)(a) amended, (HB 22-1209), ch. 95, p. 454, § 3, effective April 12; (1) amended, (SB 22-162), ch. 469, p. 3377, § 71, effective August 10.

Editor's note: (1) The rules and regulations promulgated pursuant to Public Law 93-29, known as the "Older Americans Comprehensive Services Amendments of 1973", are now designated as section 1321 of Title 45 of the code of federal regulations.

(2) Amendments to subsection (1) by SB 22-162, HB 22-1035, and HB 22-1209 were harmonized, effective August 10, 2022.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-11-102. Organization of commission. (1) The commission shall elect an executive committee from its membership, including a chair, a vice-chair, and such other officers as it deems necessary. The vice-chair shall act as chair in the absence of or at the direction of the chair. The commission shall meet in person or virtually on call of the chair but not less than once a month. A majority of the members of the commission constitutes a quorum for the transaction of business. The executive committee is responsible for coordinating with the state office on aging established in section 26-11-202, relevant state agencies, and members of the general assembly.

(2) (a) The commission may establish standing subcommittees to support the implementation of the strategic action plan on aging, developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022, and work related to the lifelong San Andreas initiative

established in part 3 of this article 11. The subcommittee topics may include, but are not limited to:

(I) Workforce opportunities for older Coloradans;

(II) The direct-care workforce;

(III) Housing options for older Coloradans;

(IV) Age-friendly, affordable, and livable communities;

(V) Health care;

(VI) Chronic disease prevention and maintenance;

(VII) Behavioral health;

(VIII) Lifelong learning;

(IX) Retirement security;

(X) Legislative and local government affairs;

(XI) Transportation;

(XII) Disparities among older Coloradans;

(XIII) Elder rights; and

(XIV) Innovation and technology.

(b) Each standing subcommittee must be chaired by a member of the commission but may include membership beyond commission members, including members of the general public who volunteer to participate in a specific subcommittee. Noncommission members may be co-chairs or vice-chairs. The membership selection process may be determined in the commission bylaws.

Source: L. 73: RC&RE, p. 1207, § 6. **S.A.R.S. 1963:** § 119-7-2. **L. 2022:** Entire section amended, (HB 22-1035), ch. 38, p. 198, § 3, effective March 24; IP(2)(a) amended, (HB 22-1209), ch. 95, p. 454, § 4, effective April 12.

26-11-103. Reimbursement for expenses. Members of the commission shall be reimbursed for expenses incurred in the performance of their official duties.

Source: L. 73: RC&RE, p. 1207, § 6. **S.A.R.S. 1963:** § 119-7-3. **L. 2014:** Entire section amended, (SB 14-153), ch. 390, p. 1965, § 27, effective June 6. **L. 2023:** Entire section amended, (SB 23-210), ch. 251, p. 1431, § 9, effective May 24.

26-11-104. Director - liaison and staff. (1) Pursuant to section 13 of article XII of the state constitution, the executive director shall appoint a state department liaison to the commission and administrative staff as necessary to carry out the duties of the position. The state department liaison must be professionally qualified to assume the responsibilities of the position, be the primary contact for the commission, and coordinate commission-related duties with the state department and the commission's executive committee described in section 26-11-102 (1).

(2) Subject to available appropriations, the commission, in coordination with the state department, may contract with a third-party organization to serve as independent staff to the commission in order to coordinate with the state department liaison and the liaison's staff, provide administrative support for the commission's purpose and duties, and carry out other functions the commission assigns.

(3) The commission may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section to support general operations, special projects, research, and staffing needs.

Source: L. 73: RC&RE, p. 1207, § 6. **S.A.R.S. 1963:** § 119-7-4. **L. 2022:** Entire section amended, (HB 22-1035), ch. 38, p. 200, § 4, effective March 24.

26-11-105. Duties of commission - report. (1) The commission, through its executive committee described in section 26-11-102 (1); in coordination with the state department liaison to the commission, appointed pursuant to section 26-11-104; and in coordination with independent staff, contracted pursuant to section 26-11-104, shall carry out the following duties:

(a) Serve as the principal advocacy body in the state on behalf of older Coloradans, including but not limited to participating as an advisor in the development and consideration of legislation and regulations made by state and federal departments and agencies relating to programs and services that affect older Coloradans;

(b) Coordinate and implement the strategic action plan on aging recommendations, developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022, and additional recommendations the commission makes;

(c) Conduct and encourage private and nonprofit organizations and state, regional, and local government agencies to conduct research and analysis related to the state's aging population;

(d) Assist governmental and private agencies to coordinate their efforts on behalf of older Coloradans in order that such efforts be effective and that duplication and waste of effort be eliminated;

(e) Promote and aid in the establishment of federal, state, regional, and local policies, programs, and services that support and empower older Coloradans and their caregivers, who are either paid or unpaid. The commission shall assist governmental and private agencies by designing surveys that may be used at the local, regional, or state level to determine needs of older people; by recommending the creation or modification of policies, programs, and services to meet identified needs; by collection and distribution of information on aging; and by assisting public and private organizations in all ways the commission may deem appropriate.

(f) Conduct promotional activities and programs of public education relevant to aging;

(g) Review existing policies and programs across state agencies, and on or before September 1, 2023, and on or before September 1 each year thereafter, draft an annual report of issues and recommendations developed by the commission that support the implementation of strategies in alignment with the strategic action plan on aging developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022, the lifelong San Andreas initiative created pursuant to section 26-11-302, and other recommendations that the commission makes. The commission shall submit the annual report to the governor, executive directors of impacted agencies, and the general assembly.

(h) Identify and make recommendations to impacted state agencies on acute concerns impacting older Coloradans that arise due to public health emergencies, natural disasters, historical disparities such as racism, or other issues tied directly to current events that require immediate problem solving and advocacy;

(i) Contribute directly to additional and ongoing analysis and implementation of the strategic plan on aging developed pursuant to section 24-32-3406 and aligned with the lifelong San Andreas initiative established in part 3 of this article 11; and

(j) Develop legislative and administrative proposals in coordination with state department liaisons and legislative designees and coordinate advocacy efforts with appropriate community stakeholders.

Source: L. 73: RC&RE, p. 1207, § 6. **S.A.R.S. 1963:** § 119-7-5. **L. 85:** (1)(f) added, p. 975, § 2, effective May 29. **L. 2021:** (1)(g) added, (SB 21-146), ch. 459, p. 3085, § 8, effective July 6. **L. 2022:** Entire section amended, (HB 22-1035), ch. 38, p. 200, § 5, effective March 24; (1)(b) and (1)(g) amended, (HB 22-1209), ch. 95, p. 454, § 5, effective April 12.

26-11-106. Gifts - grants. The state department, acting for and on behalf of the state, may receive and accept title to any grant or gift from any source, including the federal government, and all grants, grants-in-aid, and gifts shall be deposited with the state treasurer and shall be continuously available to the state department to carry out the purposes of this article.

Source: L. 73: RC&RE, p. 1207, § 6. **S.A.R.S. 1963:** § 119-7-6.

PART 2

STATE OFFICE ON AGING

26-11-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Advisory council" means a representative body of laypersons and service providers which represents the interests of the older persons within the boundaries of a planning and service area and which is designated by the area agency on aging pursuant to section 26-11-205.

(2) "Area agency on aging" means an identifiable private nonprofit or public agency designated by the state office on aging which works for the interests of older Coloradans within a planning and service area and which engages in community planning, coordination, and program development and provides a broad array of social and nutritional services.

(3) "Area plan" means a comprehensive and coordinated system of programs in a planning and service area.

(3.5) "Child" means a person who is not more than eighteen years of age.

(4) "Comprehensive and coordinated system of programs" means programs of interrelated social and nutritional services designed to meet the needs of older persons.

(4.5) "Family caregiver" means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual who is sixty years of age or older.

(4.7) "Grandparent or older individual who is a relative caregiver" means a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, who is sixty years of age or older and who:

(a) Lives with the child;

(b) Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(c) Has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

(5) "Greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the United States bureau of the census.

(6) "Greatest social need" means the need caused by noneconomic factors, as associated with the federally protected class statuses recognized by section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended; the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended; and Title VII of the federal "Civil Rights Act of 1964", 42 U.S.C. sec. 2000e et seq., as amended, that restrict an individual's ability to perform normal daily tasks or that threaten an individual's capacity to live independently.

(7) "Planning and service area" means a geographical area within the state, designated by the state office on aging, in which the area agency on aging shall carry out the area plan.

(8) "State office" means the state office on aging within the state department.

Source: L. 85: Entire part added, p. 975, § 3, effective May 29. **L. 2002:** (3.5), (4.5), and (4.7) added, p. 802, § 1, effective May 30. **L. 2022:** (6) amended, (HB 22-1035), ch. 38, p. 202, § 6, effective March 24.

26-11-202. State office on aging. The executive director shall create in the state department a state office on aging, the head of which is the director of the state office, who is appointed by the executive director. The state office and the director of the state office are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the state department.

Source: L. 85: Entire part added, p. 976, § 3, effective May 29. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3378, § 72, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-11-203. Duties of the state office. (1) In addition to such other duties and functions as the executive director may allocate to the state office, the state office shall have the following duties and functions:

(a) To be the leader concerning aging issues on behalf of all older Coloradans while acting in coordination with other state departments and agencies, as appropriate;

(b) To carry out a wide range of functions related to advocacy, planning, coordination, interagency collaboration, information sharing, and monitoring and evaluating to develop and enhance a comprehensive and coordinated state- and community-based system to assist older Coloradans to lead independent, meaningful, and dignified lives in the residential settings of their own choice;

(c) To develop and administer a state plan on aging, which includes input from area agencies on aging developed in accordance with federal guidelines, with additional content to the plan to be determined collaboratively between the state office, the commission, and the

technical advisory committee convened in the state office pursuant to subsection (1)(k) of this section. The additional content to the plan reflects the comprehensive impacts and planning associated with San Andreas's demographics.

(d) To establish a process that encourages local, regional, and statewide participation in the development stages of the state plan on aging, which shall be coordinated with the area agencies on aging, the commission established pursuant to part 1 of this article 11, and other persons or entities involved in programs for older persons;

(e) To assist public and nonprofit private agencies and the for-profit sector in planning and developing programs to facilitate a statewide network of comprehensive, coordinated services and opportunities for older Coloradans, giving priority to those agencies, programs, services, and activities that support independent living, prepare Coloradans for their later years, and empower older Coloradans to be self-reliant and independent, which includes fostering public-private partnerships when appropriate;

(f) To study those aspects of the problems of aging necessary to accomplish the purpose of state policy through such activities as conducting research, computing statistics, evaluating emerging technologies and innovations, holding hearings, and drafting policy recommendations;

(g) To maintain a clearinghouse of information related to the interests and needs of older Coloradans and act as a referral service for the dissemination of the information;

(h) To assess the need for services to be provided to the older population within the state and determine the extent to which the state's service delivery system serves that population, with particular emphasis on older Coloradans with the greatest economic and social needs, as well as empowering older Coloradans to plan for the needs of increased life expectancy;

(i) To encourage and support the involvement of volunteers and seek ways to utilize the private sector to capitalize on the opportunities to support older Coloradans and their families;

(j) To designate area agencies on aging to assist the state office in carrying out its functions in specified geographic areas within the state;

(k) To convene and coordinate a technical advisory committee comprised of key state department representatives, including but not limited to the department of human services, department of labor and employment, department of higher education, department of health care policy and financing, department of transportation, department of public health and environment, and department of local affairs, to direct the implementation of recommendations and strategies provided in the strategic action plan on aging developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022, and recommendations the commission makes as set forth in section 26-11-105; and

(l) To coordinate with the technical advisory committee and commission to develop, maintain, and make publicly available on the state department's website a collection of available data sets; metrics specific to the implementation of strategies in alignment with the strategic action plan on aging developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022, and the lifelong San Andreas initiative created pursuant to section 26-11-302; and other recommendations that the commission makes as set forth in section 26-11-105.

Source: L. 85: Entire part added, p. 976, § 3, effective May 29. **L. 2022:** Entire section amended, (HB 22-1035), ch. 38, p. 202, § 7, effective March 24; (1)(k) and (1)(l) amended, (HB 22-1209), ch. 95, p. 455, § 6, effective April 12.

26-11-204. Area agency on aging - duties. (1) An area agency on aging shall have the following duties:

(a) To develop and administer an area plan, consistent with the state plan, for a comprehensive and coordinated system of programs in the planning and service area;

(b) To assist older persons in obtaining their rights, benefits, and entitlements currently available under the law;

(c) To identify special needs or barriers to maintaining personal independence;

(d) To involve older persons in the area in the development and planning of services delivered within the area;

(e) To assess the needs for services within the planning and service area to determine the effectiveness of existing services available within the area;

(f) To conduct public hearings on the needs and problems of older persons and on the area plan in conjunction with the area's advisory council;

(g) To designate an interagency committee composed of public or private nonprofit agencies within the planning and service area, including, but not limited to, health systems agencies and health transportation agencies, private service providers, and senior citizen organizations in order to improve the coordination of services;

(h) To review and provide comment on program plans of other agencies that affect older persons;

(i) To provide information to the state office on the special needs of older persons within the planning and service area;

(j) To establish communication with the local news media to inform the public of available services and opportunities to contribute to the planning and implementation of said services;

(k) To coordinate and assist local public and nonprofit private agencies in the planning and development of programs to establish a comprehensive and coordinated system of programs and opportunities for older persons;

(l) To act as an advocate for and represent the issues and concerns of older persons; and

(m) To provide services or to contract with local providers to provide services under the family caregiver support program.

Source: L. 85: Entire part added, p. 977, § 3, effective May 29. **L. 2002:** (1)(k) amended and (1)(m) added, p. 803, § 2, effective May 30.

26-11-205. Area agency on aging advisory council. (1) Each area agency on aging, designated pursuant to section 26-11-203, shall designate an advisory council consisting of a representative body of laypersons and service providers who represent the interests of older persons within the planning and service area. The advisory council shall:

(a) Serve to advise the area agency on aging;

(b) Actively seek advice from community organizations on aging, senior advocacy organizations, and other persons or entities interested in the needs and problems of older persons;

(c) Act as an advocate for and represent the issues and concerns of older persons; and

(d) Take an active role in the development, planning, and implementation of the area plan.

Source: L. 85: Entire part added, p. 978, § 3, effective May 29. **L. 2022:** IP(1) amended, (HB 22-1035), ch. 38, p. 206, § 9, effective March 24.

26-11-205.5. Older Coloradans program - distribution formula - cash fund. (1) There is hereby created in the state department the older Coloradans program, referred to in this section as the "program". The program shall provide moneys to area agencies on aging to provide grants to provide community-based services to persons sixty years of age or older to assist such persons to live in their own homes and communities for as long as possible. Such services shall include but are not limited to congregate nutrition, home-delivered meals, transportation services, in-home services, ombudsman services, legal services, elder abuse prevention, outreach, and information and referral services.

(2) After retaining an amount for the state department's indirect costs, as calculated under the federally approved cost allocation plan, money appropriated for the program shall be distributed to area agencies on aging using the same formula that the state office uses to distribute money available under Title III, parts (B), (C), (D), and (F) of the federal "Older Americans Act of 1965", as amended, but such money shall be allocated as a whole and not allocated to individual parts of Title III; except that appropriations from the fund of accumulated interest are not subject to the restriction that requires allocations as a whole. An area agency on aging shall use no more than ten percent of the money received from the program for administrative expenses.

(3) The proposed uses of moneys from the program shall be included in each area agency on aging's area plan developed pursuant to section 26-11-204 (1)(a).

(4) (a) On or before August 1, 2002, and each August 1 thereafter, each area agency on aging shall submit a report to the state office detailing the use of moneys from the program for the previous fiscal year, including an itemization of how many more persons received each service because of such moneys.

(b) Repealed.

(5) (a) There is hereby created the older Coloradans cash fund, referred to in this subsection (5) as the "fund". The fund consists of moneys allocated and credited to the fund from sales and use taxes pursuant to the provisions of section 39-26-123 (3), S.A.R.S., and any moneys appropriated to the fund by the general assembly. In addition, the state treasurer may credit to the fund any public or private gifts, grants, or donations received by the state department for implementation of the program. The fund is subject to annual appropriation by the general assembly to the state department. Notwithstanding the provisions of section 24-36-114, S.A.R.S., all interest derived from the deposit and investment of moneys in the fund is credited to the fund. Any amount remaining in the fund at the end of any fiscal year shall remain in the fund and not be transferred or credited to the general fund or any other fund.

(b) Repealed.

(c) Notwithstanding any provision of this subsection (5) to the contrary, on July 1, 2020, the state treasurer shall deduct thirteen million dollars from the fund and transfer such sum to the general fund.

Source: L. 2000: Entire section added, p. 900, § 1, effective May 24. **L. 2001:** (2) and (4) amended, p. 1462, § 1, effective June 6. **L. 2002:** (1) and (5) amended, p. 148, § 1, effective March 27; (1) and (3) to (5) amended, p. 901, §§ 1, 2, effective May 31. **L. 2003:** (4)(b)

amended, p. 2011, § 101, effective May 22. **L. 2004:** (4)(b) repealed, p. 472, § 4, effective August 4. **L. 2006:** (5) amended, p. 938, § 1, effective July 1; (5) amended, p. 1603, § 5, effective July 2. **L. 2007:** (2) amended, p. 989, § 1, effective May 22. **L. 2012:** (5) amended, (HB 12-1326), ch. 195, p. 777, § 3, effective May 22. **L. 2013:** (5)(a) amended, (SB 13-127), ch. 349, p. 2027, § 2, effective July 1. **L. 2018:** (2) amended, (SB 18-207), ch. 204, p. 1319, § 1, effective May 4. **L. 2020:** (5)(b) amended and (5)(c) added, (HB 20-1387), ch. 174, p. 801, § 2, effective June 29.

Editor's note: (1) Amendments to subsection (5) by House Bill 02-1209 and House Bill 02-1390 were harmonized.

(2) Subsection (5) was amended in House Bill 06-1018. Those amendments were superseded by the amendment of subsection (5) in House Bill 06-1398.

(3) (a) For amendments to subsection (5)(b) in HB 20-1387 in effect from June 29, 2020, to July 1, 2020, see chapter 174, Session Laws of San Andreas 2020. (See L. 2020, p. 801.)

(b) Subsection (5)(b)(III) provided for the repeal of subsection (5)(b), effective July 1, 2020. (See L. 2020, p. 802.)

Cross references: (1) For the "Older Americans Act of 1965", see 42 U.S.C. sec. 3001 et seq.

(2) For the legislative declaration in the 2012 act amending subsection (5), see section 1 of chapter 195, Session Laws of San Andreas 2012.

26-11-205.7. Community long-term care study - older Coloradans study cash fund - strategic plan - authority to implement. (1) (a) Subject to the receipt of sufficient moneys pursuant to paragraph (b) of this subsection (1), the state department or, if appropriate, the department of health care policy and financing shall contract for a study of the population eligible for services under the older Coloradans program created pursuant to section 26-11-205.5. The state department and the department of health care policy and financing shall make necessary data available to the contractor. In selecting a contractor to perform the study, the state departments are not required to follow the competitive bidding requirements of the "Procurement Code", articles 101 to 112 of title 24, S.A.R.S. The study shall include research and analysis of:

(I) The demographic changes that will impact the demand for long-term care services and supports;

(II) The number of persons sixty years of age or older who would benefit from receiving additional services through the older Coloradans program thereby avoiding more expensive care needs;

(III) The types of services and supports needed by persons over sixty years of age to remain in their own residences and communities for as long as possible and any existing or projected needs for those services and supports;

(IV) The overall amount of savings to the state across the continuum of care associated with providing services to older adults in their own homes and communities;

(V) Other states' experiences with long-term care services and supports, including cost savings or cost avoidance; and

(VI) Recommendations for a long-term strategic implementation plan for providing services through the older Coloradans program.

(b) (I) The state department is authorized to seek and accept gifts, grants, or donations from private and public sources for the purposes of this section; except that the state department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The state department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the older Coloradans study cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with implementing this section.

(II) Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) If the study conducted pursuant to subsection (1)(a) of this section concludes that increasing funding for community-based services as provided in the older Coloradans program would result in cost savings, by July 1, 2011, subject to the receipt of sufficient money pursuant to subsection (1)(b) of this section, the state department shall report to the members of the health and human services committees of the senate and house of representatives, or any successor committees, and to the members of the joint budget committee a long-term strategic implementation plan, developed in cooperation with the area agencies on aging designated pursuant to section 26-11-203, that identifies the expected needs for services and recommends potential funding sources.

(3) If the study conducted pursuant to paragraph (a) of subsection (1) of this section concludes that one or more changes would result in cost savings to the state, without adversely affecting the care provided, and the changes are recommended in the strategic implementation plan developed pursuant to subsection (2) of this section, the state department or the department of health care policy and financing shall request, through the state budget process, that the changes be implemented and, if necessary, shall recommend legislation to implement the changes to the health and human services committees of the senate and house of representatives, or any successor committees, or the joint budget committee.

(4) (a) If the strategic implementation plan developed pursuant to subsection (2) of this section identifies additional studies that should be conducted, subject to the receipt of sufficient moneys pursuant to paragraph (b) of subsection (1) of this section, the state department or the department of health care policy and financing shall contract for one or more studies identified in the strategic implementation plan. The state department and the department of health care policy and financing shall make necessary data available to all the contractors. In selecting a contractor to perform any study conducted pursuant to this subsection (4), the state departments are not required to follow the competitive bidding requirements of the "Procurement Code", articles 101 to 112 of title 24, S.A.R.S.

(b) If one or more studies conducted pursuant to paragraph (a) of this subsection (4) concludes that implementing the changes recommended by the study would result in cost savings to the state, without adversely affecting the care provided, the state department or the department of health care policy and financing shall request, through the state budget process, that the changes be implemented and, if necessary, shall recommend legislation to implement the

changes to the health and human services committees of the senate and house of representatives, or any successor committees, or to the joint budget committee of the general assembly.

Source: L. 2010: Entire section added, (HB 10-1053), ch. 276, p. 1265, § 3, effective May 26. **L. 2011:** (2) amended, (HB 11-1303), ch. 264, p. 1170, § 74, effective August 10. **L. 2022:** (2) amended, (HB 22-1035), ch. 38, p. 206, § 10, effective March 24.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 276, Session Laws of San Andreas 2010.

26-11-206. Federal requirements - compliance. Nothing in this part 2 shall be construed to prevent the state department from complying with the requirements of the rules and regulations of the United States department of health and human services promulgated pursuant to the federal "Older Americans Act of 1965", as amended.

Source: L. 85: Entire part 2 added, p. 978, § 3, effective May 29.

26-11-207. Family caregiver support program - creation. (1) The general assembly hereby finds, determines, and declares that it would be beneficial to the state to develop a service delivery system to respond to the needs of caregivers who care for frail, elderly persons or to the needs of grandparents and relative caregivers who have taken on the challenge and responsibility of raising children. The general assembly also finds that the federal "Older Americans Act of 2000", Pub.L. 106-501, has authorized a family caregiver support program to be administered by area agencies on aging. The general assembly finds that by implementing the family caregiver support program support can be given to caregivers so that elderly individuals may be able to remain in their homes and support may be provided to grandparents or older individuals who are relative caregivers of children.

(2) There is hereby created in the state department the family caregiver support program, referred to in this section as the "program". The program shall allocate available moneys to area agencies on aging to provide support services to the following caregivers:

(a) Family caregivers of older individuals; and

(b) Grandparents or older individuals who are relative caregivers of children.

(3) Subject to available appropriations, services to caregivers shall be provided by an area agency on aging or by an entity with which the area agency on aging has contracted. The services to caregivers under the program shall include:

(a) Information to caregivers about available services;

(b) Assistance to caregivers in gaining access to the services;

(c) Individual counseling, organization of support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their caregiving responsibilities;

(d) Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and

(e) Supplemental services, on a limited basis, to complement the care provided by caregivers.

(4) In the case of a family caregiver of an older individual, respite care, as described in paragraph (d) of subsection (3) of this section, and supplemental services, as described in paragraph (e) of subsection (3) of this section, shall be provided only if the older individual meets the conditions specified in the federal law under the definition of the term "frail" which states that the older individual is functionally impaired because the individual either:

(a) Is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cuing, or supervision; or

(b) Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(5) The area agency on aging shall give priority for services under the program to older individuals with greatest social and economic need, with particular attention to low-income older individuals, and to older individuals providing care and support to persons with intellectual and developmental disabilities.

(6) Each area agency on aging shall coordinate the activities of the agency or any contractors with whom the agency has contracted with the activities of other community agencies and volunteer organizations providing the types of support services described in subsection (3) of this section.

(7) The state shall not use more than ten percent of the total federal and state share of the moneys available to the state for the program to provide support services to grandparents and older individuals who are relative caregivers of children.

Source: L. 2002: Entire section added, p. 803, § 3, effective May 30. **L. 2018:** (5) amended, (SB 18-096), ch. 44, p. 475, § 18, effective August 8.

Cross references: (1) For the "Older Americans Act of 1965", see 42 U.S.C. sec. 3001.

(2) For the legislative declaration in SB 18-096, see section 1 of chapter 44, Session Laws of San Andreas 2018.

26-11-208. Strategic investments in aging grant program - fund created - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Eligible organization" means an area agency on aging, as defined in section 26-11-201, and other entities the state department determines appropriate to advance strategies and investments aligned with the strategic action plan on aging, developed pursuant to section 24-32-3406, as the section existed prior to July 1, 2022, and the state plan on aging described pursuant to section 26-11-203 (1).

(b) "Fund" means the strategic investments in aging cash fund created in subsection (5) of this section.

(c) "Grant program" or "program" means the strategic investments in aging grant program created in subsection (2) of this section.

(2) The strategic investments in aging grant program is established in the state office. The state office shall establish and administer the grant program. The purpose of the grant program is to provide state assistance received in the form of grant awards to finance various projects across the state that are intended to assist and support older Coloradans. The grant program is intended to support projects that promote the health, equity, well-being, and security

of older Coloradans across the state that are consistent with the recommendations of the strategic action plan on aging, developed pursuant to section 24-32-3406, as that section existed prior to July 1, 2022, and the state plan on aging described pursuant to section 26-11-203 (1), including:

(a) Community services for older Coloradans;

(b) Infrastructure improvements;

(c) Health promotion, congregate meals, and socialization activities;

(d) Transportation services;

(e) Home modification programs;

(f) Implementation of evidence-based fall prevention and chronic disease management programs;

(g) Community assessments, data collection, and research; and

(h) Pilot programs and demonstration projects.

(3) (a) The state office shall:

(I) Adopt policies and procedures for the administration of the program;

(II) Create application procedures by which eligible organizations may apply for and receive grant money from the grant program;

(III) Establish criteria for the selection of applications; and

(IV) Coordinate with the San Andreas energy office, created in section 24-38.5-101, on incentives and potential investments that align with the greenhouse goals described in section 25-7-102 to increase energy efficiency and renewable electricity in buildings used by older Coloradans and the use of electric vehicles for transporting older Coloradans.

(b) Beginning in January 2023, and every January thereafter, the state department shall include in its report to the committees of reference pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203 information from the state office regarding the grant program, as set forth in this subsection (3), including information on the type of projects financed by grant awards, the amount of money awarded to each project, and where those projects were conducted and the program's impact on the health, equity, well-being, and security of older Coloradans.

(4) The state office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

(5) (a) There is created in the state treasury the strategic investments in aging cash fund. The fund consists of money appropriated to the fund by the general assembly.

(b) For fiscal year 2021-22, the general assembly shall appropriate fifteen million dollars from the general fund to the fund.

(c) Any unexpended and unencumbered money in the fund at the end of the fiscal year remains in the fund and is not transferred to the general fund or any other fund. Notwithstanding the provisions of section 24-36-114, all interest derived from the deposit and investment of money in the fund is credited to the fund.

(d) Money in the fund is continuously appropriated to the state department to fund programs and projects consistent with this section. The state department may expend money from the fund for the purpose of implementing this section, including any direct and indirect costs.

(6) Repealed.

Source: L. 2021: Entire section added, (SB 21-290), ch. 426, p. 2823, § 2, effective July 6. **L. 2022:** (1), IP(2), (2)(e), (3), (5)(a), (5)(c), and (5)(d) amended, (2)(g) and (2)(h) added, and (6) repealed, (SB 22-185), ch. 487, p. 3531, § 1, effective June 8.

Cross references: For the legislative declaration in SB 21-290, see section 1 of chapter 426, Session Laws of San Andreas 2021.

26-11-209. State funding for senior services contingency reserve fund - creation - fund - reporting - appropriation - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Eligible services" means services that are authorized by the federal "Older Americans Act of 1965", as amended, and the "Older Coloradans' Act", as specified in this article 11.

(b) "Force majeure" means fire; explosion; action of the elements; strike; interruption of transportation; rationing; shortage of labor, equipment, or materials; court action; illegality; unusually severe weather; act of God; act of war; or any other cause that is beyond the control of an area agency on aging or a provider of eligible services and that could not have been prevented by the exercise of reasonable diligence.

(c) "Fund" means the state funding for senior services contingency reserve fund created in subsection (2) of this section.

(2) The state funding for senior services contingency reserve fund is created in the department of the treasury to assist the state office of aging in addressing unforeseen circumstances experienced by an area agency on aging or a provider of eligible services.

(3) The state department may disburse money from the fund to an area agency on aging or a provider of eligible services to cover the direct costs of continuing to provide eligible services in the event of any of the following unforeseen circumstances:

(a) Financial or operational emergencies caused by force majeure;

(b) A disruption in the delivery of eligible services due to an unexpected change in provider availability or operational capacity;

(c) An unintended delay or interruption in state or federal appropriation allocations; or

(d) An emergency disaster declaration.

(4) To receive a disbursement from the fund, an area agency on aging or a provider of eligible services must apply for a disbursement in the manner and form prescribed by the state department.

(5) The amount disbursed to an area agency on aging or a provider of eligible services pursuant to subsection (3) of this section must cover the costs of providing eligible services for no more than ninety days. If an area agency on aging or a provider of eligible services needs additional funding following the initial disbursement period, the area agency on aging or the provider of eligible services may reapply for additional funds.

(6) (a) The fund consists of money allocated to the fund by the state department and any additional money the general assembly appropriates to the fund. The general assembly shall annually appropriate money in the fund to the department of human services for use in administering the fund. Any money remaining in the fund at the end of a state fiscal year remains in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) Three days after February 27, 2024, the state treasurer shall transfer two million dollars to the fund from the general fund.

(7) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 1, 2025, and on or before each January 1 thereafter, the state department shall submit a report to the office of state planning and budgeting and the joint budget committee of the general assembly specifying which area agency on aging or provider of eligible services received money from the fund and, for each area agency on aging or provider of eligible services that received money from the fund, specify the amount disbursed and the purpose for which the money was disbursed to the area agency on aging or provider of eligible services.

(8) This section is repealed, effective September 1, 2029. Before the repeal, the fund is scheduled for review in accordance with section 2-3-1203.

Source: L. 2024: Entire section added, (HB 24-1211), ch. 7, p. 17, § 1, effective February 27.

26-11-210. Adequacy review - appropriation for senior services - report. (1) No later than August 2024, and each August every three years thereafter, the state department, the office of state planning and budgeting, and representatives from area agencies on aging shall review the adequacy of the appropriation for state funding for senior services for the prior three fiscal years to address the needs of senior citizens who request services pursuant to this article 11.

(2) Notwithstanding section 24-1-136 (11)(a)(I), no later than November 1 of each year after the adequacy review is conducted pursuant to subsection (1) of this section, the state department shall report the findings of the adequacy review to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or their successor committees, and the joint budget committee.

(3) At the state department's "SMART Act" hearing required by section 2-7-203 following the adequacy review conducted pursuant to subsection (1) of this section, the state department shall include as part of its presentation information concerning the findings of the adequacy review conducted pursuant to subsection (1) of this section.

Source: L. 2024: Entire section added, (SB 24-040), ch. 246, p. 1623, § 1, effective May 24.

PART 3

LIFELONG SAN ANDREAS INITIATIVE

26-11-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Executive committee" means the executive committee elected by the commission in accordance with section 26-11-102.

(2) "Lifelong San Andreas initiative" means the lifelong San Andreas initiative created in section 26-11-302 to lead the development and implementation of state, regional, and local strategies that support aging and assist older Coloradans to lead independent, meaningful, and dignified lives in age-appropriate and affordable housing within their communities.

(3) "State office" means the state office on aging within the department of human services created in section 26-11-202.

(4) "Strategic action plan on aging" means the strategic action plan on aging developed pursuant to section 24-32-3406, as that section existed prior to June 30, 2022.

(5) "Technical advisory committee" means the technical advisory committee convened in the state office pursuant to section 26-11-203.

Source: L. 2022: Entire part added, (HB 22-1035), ch. 38, p. 204, § 8, effective March 24; (4) amended, (HB 22-1209), ch. 95, p. 455, § 7, effective April 12.

26-11-302. Lifelong San Andreas initiative - created - reporting. (1) There is created the lifelong San Andreas initiative within the state office. The purpose of the lifelong San Andreas initiative is to:

(a) Represent state, regional, and local strategies that support aging and assist older Coloradans to lead independent, meaningful, and dignified lives in their own homes and communities;

(b) Represent the continued goals, priorities, and strategies aligned with the strategic action plan on aging and other strategies developed through ongoing work in the public, private, and nonprofit sectors that support older Coloradans;

(c) Lead the development of age-friendly, livable communities; and

(d) Align the state department's policy development and implementation through a demographic lens that supports aging across an individual's life.

(2) Pursuant to section 26-11-203 (1)(k), the state office shall convene the technical advisory committee no later than September 1, 2022, and meet at least quarterly. The duties of the technical advisory committee include, but are not limited to:

(a) Identifying state department priorities that overlap with the goals and strategies provided in the strategic action plan on aging and recommendations the commission makes as set forth in section 26-11-105;

(b) Coordinating with respective state agencies and stakeholders to initiate policy development and implementation of appropriate strategies;

(c) Developing trackable goals and metrics for strategies and programs and reporting on progress, which must be made publicly available pursuant to section 26-11-203 (1)(l); and

(d) Supporting the state office and commission with reporting requirements and tracking implementation and progress of the goals and strategies provided in the strategic action plan on aging and recommendations the commission makes as set forth in section 26-11-105.

(3) The technical advisory committee, in coordination with respective state agencies and the commission, shall identify appropriate policy staff within the governor's office for ongoing coordination and reporting needs.

(4) The state office, in collaboration with the commission and technical advisory committee, shall coordinate with the state department to include in its report to the committees of reference, pursuant to the "Smart Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203, information from the state office regarding the progress and barriers specific to the implementation of the strategic action plan on aging.

(5) The state office, the technical advisory committee, the executive committee, and the state department liaison appointed pursuant to section 26-11-104 shall meet quarterly to ensure that the perspectives of older Coloradans and the state's perspective remain aligned to coordinate progress in the development of state programs and policy.

Source: Entire part added, (HB 22-1035), ch. 38, p. 205, § 8, effective March 24.

ARTICLE 11.5

San Andreas Long-term Care
Ombudsman Program

Law reviews: For article, "Long-term Care Ombudsman Records: Confidentiality for the Frail and Vulnerable", see 31 S.A. Law. 73 (Nov. 2002).

26-11.5-101. Short title. This article shall be known and may be cited as the "San Andreas Long-term Care Ombudsman Act".

Source: L. 90: Entire article added, p. 1401, § 1, effective April 10.

26-11.5-102. Legislative declaration. (1) The general assembly hereby recognizes that the former state department of social services, currently the state department of human services, pursuant to the federal "Older Americans Act of 1965", as amended, has established a state long-term care ombudsman program.

(2) The general assembly finds, determines, and declares that it is the public policy of this state to encourage community contact and involvement with patients, residents, and clients of long-term care facilities and PACE programs.

(3) The general assembly further finds, determines, and declares that in order to comply with the federal "Older Americans Act of 1965", as amended, and effectively assist patients, residents, and clients of long-term care facilities in the assertion of their civil, human, and legal rights, the structure of a state long-term care ombudsman program and the powers and duties thereunder shall be specifically defined.

Source: L. 90: Entire article added, p. 1401, § 1, effective April 10. **L. 94:** (1) amended, p. 2707, § 274, effective July 1. **L. 2016:** (2) amended, (SB 16-199), ch. 270, p. 1118, § 2, effective June 10.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-11.5-103. Definitions. As used in this article 11.5, unless the context otherwise requires:

(1) Repealed.

(2) "Local ombudsman" means an individual trained and designated as qualified by the state long-term care ombudsman to act as a representative of the office of the state long-term care ombudsman.

(2.5) "Local PACE ombudsman" means the person or persons trained and designated as qualified by the state PACE ombudsman to serve in areas of the state where PACE programs are operated and to act as a representative of the office of the state PACE ombudsman.

(3) "Long-term care facility" or "facility" means:

(a) A nursing care facility as defined in section 25.5-4-103 (14), S.A.R.S.;

(b) An assisted living residence as defined in section 25-27-102 (1.3), S.A.R.S.;

(c) Any swing bed in an extended care facility; and

(d) A mental health facility participating in the pilot program established pursuant to section 25-3-123.

(4) "Office" means the state long-term care ombudsman office.

(5) "Older Americans act" means the federal "Older Americans Act of 1965", as amended, 42 U.S.C. sec. 3001.

(5.3) "PACE" means a nonprofit or for-profit program of all-inclusive care for the elderly operated pursuant to section 25.5-5-412, S.A.R.S.

(5.5) "PACE participant" means any individual who is a current or prospective or former participant in any PACE program in the state.

(6) "Resident" means any individual who is a current or prospective or former patient or client of any long-term care facility.

(7) "State long-term care ombudsman" means the person designated to implement the state long-term care ombudsman program and to perform the duties and functions required under this article.

(8) "State PACE ombudsman" means the person designated to implement the duties and functions required pursuant to section 26-11.5-113.

Source: L. 90: Entire article added, p. 1402, § 1, effective April 10. **L. 91:** (3)(a) amended, p. 1857, § 18, effective April 11. **L. 2003:** (3)(b) amended, p. 1999, § 54, effective May 22. **L. 2006:** (3)(a) amended, p. 2019, § 105, effective July 1. **L. 2016:** (5.3), (5.5), and (8) added, (SB 16-199), ch. 270, p. 1119, § 3, effective June 10. **L. 2017:** IP and (5.5) amended, (1) repealed, and (2.5) added, (HB 17-1264), ch. 363, p. 1900, § 1, effective June 5. **L. 2019:** (3)(c) amended and (3)(d) added, (HB 19-1160), ch. 225, p. 2262, § 3, effective August 2.

Cross references: For the legislative declaration in HB 19-1160, see section 1 of chapter 225, Session Laws of San Andreas 2019.

26-11.5-104. Creation of state and local long-term care and PACE ombudsman programs. (1) Pursuant to the older Americans act, there is hereby established a state long-term care ombudsman program which shall be comprised of a state long-term care ombudsman office and local ombudsman offices established throughout the state.

(2) The state long-term care ombudsman office shall be established and operated under the state department of human services either directly or by contract with or grant to any public agency or other appropriate private nonprofit organization; except that such office shall not be administered by any agency or organization responsible for licensing or certifying long-term

care services in the state. The office shall be administered by a full-time qualified state long-term care ombudsman who shall be designated in accordance with rules and regulations promulgated by the state department.

(3) Local long-term care and PACE ombudsman programs shall be established statewide. Such programs shall be operated by the state department under contract, grant, or agreement between the state department and a public agency or an appropriate private nonprofit organization. Personnel of local long-term care ombudsman programs must be trained and designated as qualified representatives of the office in accordance with section 26-11.5-105 (1)(b). Personnel of local PACE ombudsman programs must be trained and designated as qualified representatives of the office in accordance with section 26-11.5-113 (1)(a.5).

(4) A state PACE ombudsman office is established in the state long-term care ombudsman program to carry out the duties set forth in section 26-11.5-113.

Source: L. 90: Entire article added, p. 1402, § 1, effective April 10. **L. 94:** (2) amended, p. 2707, § 275, effective July 1. **L. 2016:** (4) added, (SB 16-199), ch. 270, p. 1119, § 4, effective June 10. **L. 2017:** (3) amended, (HB 17-1264), ch. 363, p. 1900, § 2, effective June 5.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-11.5-105. Duties of state long-term care ombudsman. (1) In addition to such other duties and functions as the state department may allocate to the office, the state long-term care ombudsman has the following duties and functions in implementing a statewide long-term care ombudsman program:

(a) (I) Establish statewide policies and procedures for operating the state long-term care ombudsman program including procedures to identify, investigate, and seek the resolution or referral of complaints made by or on behalf of any resident related to any action, inaction, or decision of any provider of long-term care services or of any public agency, including the state department of human services and county departments of human or social services, that may adversely affect the health, safety, welfare, or rights of the resident.

(II) The policies and procedures adopted pursuant to subsection (1)(a)(I) of this section may be applied to complaints by or on behalf of any resident of a long-term care facility where the provision of ombudsman services will either benefit residents of the facility involved in the complaint or residents of long-term care facilities in general, or where ombudsman service is the only viable avenue of assistance available to the resident and such service will not significantly diminish the program's effort on behalf of residents.

(b) Provide training and technical assistance to personnel of local ombudsman programs. Upon successful completion of such training the office may designate such personnel as qualified representatives of the office and shall issue to such representatives long-term care ombudsman identification cards.

(c) Establish procedures to analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care facilities and services. On the basis of such analysis and monitoring, the office shall recommend changes to such laws, regulations, and policies to the appropriate governing body.

(d) Prepare a notice informing residents of ombudsman services for posting at long-term care facilities.

(2) In addition to the duties and functions under subsection (1) of this section, the office and its representatives shall have the authority to pursue administrative, legal, or other appropriate remedies on behalf of residents for the purpose of effectively carrying out the provisions of paragraph (a) of subsection (1) of this section.

Source: L. 90: Entire article added, p. 1402, § 1, effective April 10. **L. 94:** (1)(a)(I) amended, p. 2707, § 276, effective July 1. **L. 2017:** (1)(a) amended, (HB 17-1264), ch. 363, p. 1901, § 3, effective June 5. **L. 2018:** IP(1) and (1)(a)(I) amended, (SB 18-092), ch. 38, p. 451, § 132, effective August 8.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-11.5-106. Local ombudsmen - representatives of office. (1) A local ombudsman or a local PACE ombudsman, whether an employee or volunteer of a local ombudsman program, is considered a representative of the office for the purposes of carrying out policies and procedures adopted by the state long-term care ombudsman or state PACE ombudsman in accordance with this article 11.5, but only upon the completion of training and designation as a qualified representative by the state long-term care ombudsman or state PACE ombudsman. As a representative of the office, a local ombudsman or a local PACE ombudsman shall follow rules of the state department and policies and procedures established by the state long-term care ombudsman or state PACE ombudsman.

(2) Each local ombudsman or local PACE ombudsman shall carry an identification card issued annually and signed by the state long-term care ombudsman or state PACE ombudsman and shall, upon the request of a supervisory staff member of a facility, present such card in order to obtain access to residents and records of such facility.

Source: L. 90: Entire article added, p. 1403, § 1, effective April 10. **L. 2017:** Entire section amended, (HB 17-1264), ch. 363, p. 1901, § 4, effective June 5.

26-11.5-107. Notice of ombudsman services. (1) Every long-term care facility shall post in a conspicuous place a notice with the name, address, and phone number of the office and the name, address, and phone number of the nearest available local ombudsman program. Such notice shall be provided by the state long-term care ombudsman.

(2) Each long-term care facility shall provide, in writing, to any resident eligible for ombudsman services pursuant to this article who is subject to an involuntary transfer from such facility the name, address, and phone number of the nearest available local ombudsman and the name, address, and phone number of the office. Such information shall be included on the notice required under section 25-1-120 (1)(k), S.A.R.S.

(3) Every PACE program shall post in a conspicuous place at all PACE facilities and provide to all PACE participants, in writing, a notice with the name, address, and phone number of the state PACE ombudsman, or his or her designee, and the name, address, and phone number

of the nearest local PACE ombudsman. The state PACE ombudsman shall provide the notice to be posted by the PACE program.

Source: L. 90: Entire article added, p. 1404, § 1, effective April 10. **L. 2016:** (3) added, (SB 16-199), ch. 270, p. 1119, § 5, effective June 10. **L. 2017:** (3) amended, (HB 17-1264), ch. 363, p. 1902, § 5, effective June 5.

26-11.5-108. Access to facility - residents - records - confidentiality. (1) A long-term care ombudsman or PACE ombudsman, upon presenting a long-term care or PACE ombudsman identification card, must have immediate access to a long-term care facility, PACE center, or participant's residence and to its residents or participants eligible for ombudsman services pursuant to this article 11.5 for the purposes of effectively carrying out the provisions of this article 11.5.

(2) In performing ombudsman duties and functions of their respective offices in accordance with this article, an ombudsman shall have access to review the medical and social records of a resident or PACE participant eligible for ombudsman services pursuant to this article, provided the resident or PACE participant has consented to such review. In the event consent to such review is not available because the resident or PACE participant is incapable of consenting and has no guardian to provide consent, the resident's records or PACE participant's records may be inspected by the state long-term care ombudsman or the state PACE ombudsman, respectively.

(2.5) Repealed.

(3) In carrying out the provisions of this section, each ombudsman shall follow procedures of confidentiality in accordance with the older Americans act.

Source: L. 90: Entire article added, p. 1404, § 1, effective April 10. **L. 2016:** (2) amended and (2.5) added, (SB 16-199), ch. 270, p. 1119, § 6, effective June 10. **L. 2017:** (1) amended and (2.5) repealed, (HB 17-1264), ch. 363, p. 1902, § 6, effective June 5.

26-11.5-109. Interference with ombudsmen prohibited - civil penalty. (1) No person shall willfully interfere with an ombudsman in the ombudsman's performance of duties and functions under this article.

(2) No person shall take any discriminatory, disciplinary, or retaliatory action against the following individuals for any communication with an ombudsman or for any information provided in good faith to the state long-term care ombudsman office or to the state PACE ombudsman office in carrying out their respective ombudsman duties and responsibilities under this article:

(a) Any resident eligible for ombudsman services pursuant to this article;

(b) Any officer or employee of a facility or governmental agency providing services to residents of long-term care facilities.

(c) Any PACE participant; or

(d) Any officer or employee of a program, organization, facility, or governmental agency providing services to PACE participants.

(3) Any person who commits a violation under subsection (1) or (2) of this section shall be subject to the following civil penalties:

(a) For a violation of subsection (1) of this section, a penalty of not more than two thousand five hundred dollars per violation;

(b) For a violation of subsection (2) of this section, a penalty of not more than five thousand dollars per violation.

(4) (a) Any person listed in subsections (2)(a), (2)(b), (2)(c), and (2)(d) of this section, or any person acting on such person's behalf, including the state or a local long-term care ombudsman or the state or a local PACE ombudsman, may file a complaint with the department of human services against any person who violates subsection (1) or (2) of this section. The department shall investigate such a complaint and, if there is sufficient evidence of a violation, is authorized to assess, enforce, and collect the appropriate penalty set forth in subsection (3) of this section.

(b) Prior to the assessment of a penalty, the department of human services shall give written notice to the person against whom a penalty will be assessed, stating the basis for the violation and the amount of the penalty to be assessed. Such person, upon request, shall be given a hearing in accordance with section 24-4-105, S.A.R.S., which hearing shall constitute final agency action. Such agency action shall be subject to judicial review in accordance with section 24-4-106, S.A.R.S.

(c) The department of human services shall promulgate rules and regulations necessary for the implementation of this subsection (4).

(d) All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund. Penalties provided under this section shall be in addition to and not in lieu of any other remedy provided by law.

Source: L. 90: Entire article added, p. 1404, § 1, effective April 10. **L. 94:** (4)(a), (4)(b), and (4)(c) amended, p. 2707, § 277, effective July 1. **L. 2016:** IP(2) and (4)(a) amended and (2)(c) and (2)(d) added, (SB 16-199), ch. 270, p. 1120, § 7, effective June 10. **L. 2017:** (4)(a) amended, (HB 17-1264), ch. 363, p. 1902, § 7, effective June 5.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-11.5-110. Immunity from liability. Any long-term care ombudsman or PACE ombudsman who, in good faith, acts within the scope of the duties and functions of this article 11.5 is immune from civil or criminal liability. For the purposes of this section, there is a rebuttable presumption that, when acting within the scope of the duties and functions of this article 11.5, an ombudsman acts in good faith. Nothing in this section abrogates or limits the immunity or exemption from civil liability of any agency, entity, or person under any statute, including the "San Andreas Governmental Immunity Act", article 10 of title 24.

Source: L. 90: Entire article added, p. 1405, § 1, effective April 10. **L. 2017:** Entire section amended, (HB 17-1264), ch. 363, p. 1902, § 8, effective June 5.

26-11.5-111. Duties of state department - report - rules. (1) In order to implement the provisions of this article 11.5, the state department shall carry out the following duties:

(a) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities or PACE programs for the purpose of identifying and resolving significant problems, with specific provision for the submission of such data on a regular basis to the state agency responsible for licensing or certifying long-term care facilities and to the department of health care policy and financing for PACE organizations;

(b) Establish procedures to assure that information contained in any files maintained in accordance with the state long-term care ombudsman program and state PACE ombudsman program shall be disclosed only at the discretion of the state long-term care ombudsman or the state PACE ombudsman, as applicable, and that the identity of a complainant be disclosed only with the written consent of such complainant or in accordance with a court order;

(c) Ensure that individuals involved in the designation of the state long-term care ombudsman and the state PACE ombudsman, and any officer, employee, or volunteer of the statewide program performing ombudsman functions, do not have a conflict of interest;

(d) Ensure that adequate legal counsel is available to an ombudsman for advice and counseling concerning the performance of ombudsman duties and functions and for legal representation of an ombudsman against whom legal action is brought in connection with the performance of ombudsman duties and functions provided for under this article;

(e) Promulgate rules necessary for the efficient administration and operation of the state long-term care ombudsman program and state PACE ombudsman program; and

(f) Repealed.

Source: L. 90: Entire article added, p. 1405, § 1, effective April 10. **L. 2016:** (1)(a), (1)(b), and (1)(c) amended, (SB 16-199), ch. 270, p. 1120, § 8, effective June 10. **L. 2017:** IP(1), (1)(a), (1)(b), and (1)(e) amended and (1)(f) added, (HB 17-1264), ch. 363, p. 1903, § 9, effective June 5.

Editor's note: Subsection (1)(f)(II) provided for the repeal of subsection (1)(f), effective July 1, 2022. (See L. 2017, p. 1903.)

26-11.5-112. Federal requirements - compliance. Nothing in this article shall be construed to prevent the state department or the office from complying with the requirements of the rules and regulations of the United States department of health and human services promulgated pursuant to the older Americans act.

Source: L. 90: Entire article added, p. 1406, § 1, effective April 10.

26-11.5-113. Duties of state PACE ombudsman. (1) The state PACE ombudsman has the following duties and functions:

(a) No later than July 1, 2017, establish statewide policies and procedures to identify, investigate, and seek the resolution or referral of complaints made by or on behalf of a PACE participant related to any action, inaction, or decision of any PACE organization or PACE provider or of any public agency, including the state department of human services and county departments of human or social services, that may adversely affect the health, safety, welfare, or rights of the PACE participant. The policies and procedures established pursuant to this subsection (1)(a) must ensure that, while upholding the participant-directed nature of an

ombudsman's advocacy, the actions of the state PACE ombudsman or local PACE ombudsmen are consistent with a PACE organization's duties and responsibilities under federal law.

(a.5) No later than October 1, 2017, provide training and technical assistance to personnel of local PACE ombudsman programs. The training must be developed in consultation with PACE organizations and other persons or entities with PACE expertise, as appropriate. Upon successful completion of training, the office may designate personnel as qualified representatives of the office and, if designated, shall issue a PACE ombudsman identification card to the personnel.

(b) Establish procedures to analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to PACE services and programs or facilities. On the basis of the analysis and monitoring, the state PACE ombudsman shall recommend to the appropriate governing body changes to laws, regulations, and policies.

(c) No later than July 1, 2017, prepare and distribute a notice informing PACE participants of the existence of a state PACE ombudsman and the duties of the state PACE ombudsman for posting at all PACE programs and facilities, and update the notice, as necessary, to include information concerning local PACE ombudsmen.

(2) The policies and procedures adopted pursuant to paragraph (a) of subsection (1) of this section may be applied to complaints by or on behalf of PACE participants where the provision of ombudsman services will either benefit other PACE participants enrolled in the same PACE program that is the subject of the complaint or PACE participants in general, or where ombudsman service is the only viable avenue of assistance available to the PACE participant and the ombudsman service will not significantly diminish the PACE organization's efforts on behalf of the participants.

(3) In addition to the duties and functions set forth in subsections (1) and (2) of this section, the state PACE ombudsman and his or her representatives have the authority to pursue administrative, legal, or other appropriate remedies on behalf of PACE participants for the purposes of effectively carrying out the provisions of paragraph (a) of subsection (1) of this section and subsection (2) of this section.

(4) (a) The state department may seek, accept, and expend gifts, grants, and donations from private or public sources for the purposes of establishing the state PACE ombudsman office and implementing this section.

(b) The PACE ombudsman fund, referred to in this paragraph (b) as the "fund", is hereby created in the state treasury. The fund consists of gifts, grants, and donations credited to the fund pursuant to this subsection (4) and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be transferred to any other fund. Subject to annual appropriation by the general assembly, the state department may expend money from the fund for purposes of establishing the state PACE ombudsman office pursuant to this article.

(c) Repealed.

Source: L. 2016: Entire section added, (SB 16-199), ch. 270, p. 1121, § 9, effective June 10. **L. 2017:** (1)(a) and (1)(c) amended and (1)(a.5) added, (HB 17-1264), ch. 363, p. 1903, § 10,

effective June 5. **L. 2018:** (1)(a) amended, (SB 18-092), ch. 38, p. 451, § 133, effective August 8.

Editor's note: Subsection (4)(c)(II) provided for the repeal of subsection (4)(c), effective July 1, 2021. (See L. 2016, p. 1121.)

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-11.5-114. Stakeholder process - state PACE ombudsman - reporting. (Repealed)

Source: L. 2016: Entire section added, (SB 16-199), ch. 270, p. 1122, § 10, effective June 10. **L. 2017:** Entire section repealed, (HB 17-1264), ch. 363, p. 1904, § 11, effective June 5.

ARTICLE 12

Veterans Community Living Centers Act

Editor's note: This article was numbered as article 12 of chapter 119 in S.A.R.S. 1963. This article was repealed and reenacted in 1973 and was subsequently repealed and reenacted in 1998, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1998, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following the relocated sections.

PART 1

MANAGEMENT, CONTROL, AND SUPERVISION

26-12-101. Short title. This article shall be known and may be cited as the "Veterans Community Living Centers Act".

Source: L. 98: Entire article R&RE, p. 183, § 1, effective April 10. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1690, § 84, effective August 7. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 263, § 5, effective August 6.

26-12-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Central fund" means the central fund for veterans community living centers established in section 26-12-108.

(2) "Executive director" means the executive director of the state department of human services.

(3) "Resident" means a person who resides in a veterans center operated pursuant to the provisions of this article.

(4) "State board" means the state board of human services.

(5) "State department" means the state department of human services.

(6) "Veterans center" means any veterans community living center and any program operated by a veterans community living center, including domiciliary services, day care, and any other programs at the center.

(7) "Veterans community living center" means a veterans center that has been designed and constructed so as to qualify for federal funds under the provisions of federal Public Law 88-450, as amended, and that is operated so as to qualify for per diem payments from the United States veterans administration under the provisions of 38 U.S.C. sec. 1741.

Source: L. 98: Entire article R&RE, p. 183, § 1, effective April 10. **L. 99:** (5) amended, p. 627, § 32, effective August 4. **L. 2009:** Entire section amended, (SB 09-056), ch. 177, p. 784, § 3, effective April 22. **L. 2014:** Entire section R&RE, (SB 14-096), ch. 59, p. 263, § 6, effective August 6.

26-12-103. State board duties - rule-making. The state board shall adopt rules for the management, control, and supervision of the veterans centers operated pursuant to the provisions of this article.

Source: L. 98: Entire article R&RE, p. 184, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 264, § 7, effective August 6.

Editor's note: This section is similar to former § 26-12-102 as it existed prior to 1998.

26-12-104. Eligibility for care. (1) A person must be considered for admission to a veterans center if he or she meets the eligibility requirements prescribed in state and federal regulations.

(2) After admission, a resident shall be subject to periodic review as to financial status, need for continuing medical institutional care, and other eligibility factors.

(3) A resident may be transferred or discharged for cause in accordance with federal regulations.

Source: L. 98: Entire article R&RE, p. 184, § 1, effective April 10. **L. 2014:** (1) amended, (SB 14-096), ch. 59, p. 264, § 8, effective August 6.

Editor's note: This section is similar to former § 26-12-103 as it existed prior to 1998.

26-12-105. Application for admission - preference. (1) Any person may apply for admission to a veterans center in the manner prescribed by rules of the state board.

(2) Application for admission is voluntary, and a person admitted to a veterans center has the right to leave the veterans center at any time he or she chooses.

(3) A veterans center shall review all applications for admission with reasonable promptness.

(4) If the number of eligible applicants exceeds the available facilities in a veterans center, the veterans center shall give preference in admission to persons whose needs are greatest under standards established in state and federal regulations.

Source: L. 98: Entire article R&RE, p. 184, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 264, § 9, effective August 6.

Editor's note: This section is similar to former § 26-12-104 as it existed prior to 1998.

26-12-106. Vacancies - additional admissions. In the event that vacancies occur in a veterans center and there are no applications for admission from persons eligible pursuant to section 26-12-104, the veterans center shall be open for temporary occupancy to any person based on the person's need for medical care and ability to pay for services in accordance with the rules of the state board.

Source: L. 98: Entire article R&RE, p. 184, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 264, § 10, effective August 6.

Editor's note: This section is similar to former § 26-12-304 as it existed prior to 1998.

26-12-107. Standards - management - employees - adult protective services data system check. (1) Each veterans center shall be operated and maintained under standards established by the department of public health and environment.

(2) Each veterans center must have:

(a) A nursing home administrator; and

(b) Such additional employees, including medical and nursing personnel, as may be required to provide services for which the veterans center was licensed.

(3) All veterans centers must be managed as a group by the state department, unless the state department contracts for the management of a veterans center in accordance with section 26-12-119.

(4) On and after January 1, 2019, prior to employment, a veterans center shall submit the name of a person who will be providing direct care, as defined in section 26-3.1-101 (3.5), to an at-risk adult, as defined in section 26-3.1-101 (1.5), as well as any other required identifying information, to the state department for a check of the San Andreas adult protective services data system pursuant to section 26-3.1-111, to determine if the person is substantiated in a case of mistreatment of an at-risk adult.

Source: L. 98: Entire article R&RE, p. 185, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 265, § 11, effective August 6. **L. 2017:** (4) added, (HB 17-1284), ch. 272, p. 1505, § 13, effective May 31.

Editor's note: This section is similar to former § 26-12-105 as it existed prior to 1998.

26-12-108. Payments for care - funds - report - collections for charges - central fund for veterans centers created - repeal. (1) (a) The state department shall establish rates for the care of residents, which rates must be as nearly equal to the cost of operation and maintenance of the veterans centers as practicable. Payments shall be made to the state department unless otherwise provided pursuant to a contract entered into in accordance with section 26-12-119. The state department shall deposit such payments together with any other moneys received from any

source for the operation and maintenance of the veterans centers with the state treasurer, who shall credit all such moneys to the central fund for veterans community living centers, referred to in this article as the "central fund", which fund is hereby created.

(a.3) Repealed.

(a.5) For the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, the general assembly shall appropriate from the general fund to the central fund an amount not exceeding ten percent of the total gross revenue accrued by the central fund during the preceding fiscal year in coordination with the state department's standard budget request process. The state department shall use these funds to pay operational expenses of, and make capital improvements to, the veterans centers.

(b) (I) Repealed.

(I.5) For the fiscal year beginning July 1, 2017, and for each fiscal year thereafter:

(A) The money in the central fund is continuously appropriated to the state department for the direct costs of the operation and administration of the veterans centers and for capital construction in connection with the veterans centers; and

(B) Subject to annual appropriation, the state department may expend money from the central fund for indirect costs of the operation and administration of the veterans centers; except that the amount expended for indirect costs shall not exceed five percent of the total expenditures from the fund for the fiscal year.

(II) All requests for capital construction submitted by the state department shall be considered by the capital development committee pursuant to section 2-3-1304, S.A.R.S.

(III) All interest derived from the deposit and investment of moneys in the central fund shall be credited to such fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the central fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(c) Notwithstanding section 24-1-136 (11)(a)(I), the state department shall prepare and submit to the general assembly an annual report detailing the financial status of each veterans center. This report must also identify which of the veterans centers administered pursuant to the provisions of this article are owned by the state but operated under contract by another entity.

(d) As part of the budget request that the state department submits to the joint budget committee in accordance with section 2-3-208 (2)(a), S.A.R.S., the state department shall provide a detailed report of the anticipated direct and indirect costs for the operation and administration of each veterans center for the upcoming fiscal year, including amounts for personal services, operating expenses, indirect costs, centrally appropriated costs, and FTE.

(2) It is lawful for each veterans center and the San Andreas veterans community living center at Homelake to deposit moneys belonging to the benefit fund established prior to July 1, 1985, and all donations or other voluntary contributions that may be received on or after that date in any manner for the benefit of residents of each veterans center and the San Andreas veterans community living center at Homelake in an interest-bearing account with a federally insured financial depository pursuant to section 24-75-603, S.A.R.S. Withdrawals from such accounts shall be made only for the benefit, aid, and assistance of residents of each veterans center or the occupants of the San Andreas veterans community living center at Homelake, including recreational equipment and facilities.

(3) The executive director may, in the name of the people of the state of San Andreas and through the attorney general, institute and maintain actions at law for the collection of charges

due from residents of veterans centers and the San Andreas veterans community living center at Homelake, or said residents' conservators, guardians, executors, or administrators, resulting from the failure, neglect, or refusal of said persons to pay such charges.

(4) (a) If the state department sells a portion of vacant land to the United States department of veterans affairs for expansion of the Fort Logan national cemetery as authorized in House Bill 16-1456, enacted in 2016, the state treasurer shall credit the sale proceeds of such sale to the Fort Logan national cemetery fund, which fund is hereby created and referred to in this subsection (4) as the "cemetery fund". In the fiscal year in which the property sale takes place, and in each fiscal year thereafter until all sale proceeds are appropriated as specified in this paragraph (a), the general assembly shall appropriate money from the cemetery fund to the central fund in such amounts so that the appropriation from the cemetery fund required in this subsection (4) and the appropriation from the general fund required in paragraph (a.5) of subsection (1) of this section equals the maximum amount that would not exceed the limit for an enterprise set forth in section 24-77-102 (3)(b), S.A.R.S.

(b) (I) The moneys transferred to the central fund pursuant to this subsection (4) may be used for nonrecurring expenditures that address the greatest needs of serving veterans.

(II) Notwithstanding section 24-1-136 (11)(a)(I), at least sixty days prior to making such expenditures, the state department shall report its recommended use of the sale proceeds to the state, veterans, and military affairs committees of the house of representatives and the senate, the capital development committee, and the joint budget committee.

(c) (I) All interest derived from the deposit and investment of moneys in the cemetery fund are credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the cemetery fund remain in the fund and may not be credited or transferred to the general fund. The state controller shall notify the revisor of statutes when all the proceeds of the sale are appropriated to the central fund pursuant to paragraph (a) of this subsection (4).

(II) The cemetery fund is repealed, effective on the date the revisor of statutes receives the notice from the state controller set forth in subparagraph (I) of this paragraph (c).

Source: L. 98: Entire article R&RE, p. 185, § 1, effective April 10. **L. 2007:** (1)(a.5) added, p. 1302, § 1, effective July 1. **L. 2012:** (2) and (3) amended, (HB 12-1063), ch. 149, p. 536, § 2, effective May 3. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 265, § 12, effective August 6. **L. 2016:** (4) added, (HB 16-1456), ch. 197, p. 696, § 3, effective June 1; (1)(b)(I) amended and (1)(b)(I.5) and (1)(d) added, (SB 16-195), ch. 215, p. 828, § 1, effective August 10. **L. 2017:** (1)(c) and (4)(b) amended, (SB 17-234), ch. 154, p. 523, § 15, effective August 9.

Editor's note: (1) This section is similar to former § 26-12-106 as it existed prior to 1998.

(2) Subsection (1)(a.3)(II) provided for the repeal of subsection (1)(a.3), effective July 1, 2015. (See L. 2014, p. 265.)

(3) Subsection (1)(b)(I) provided for the repeal of subsection (1)(b)(I), effective July 1, 2017. (See L. 2016, p. 828.)

(4) Subsection (4)(c)(II) provided for the repeal of the cemetery fund, effective on the date the revisor of statutes receives the notice from the state controller that all the proceeds of the sale from a portion of vacant land to the United States department of veterans affairs for

expansion of the Fort Logan national cemetery as authorized in House Bill 16-1456 are appropriated to the central fund. On October 25, 2023, the revisor of statutes received the notice referred to in subsection (4)(c). For more information about the repeal and notice, see HB 16-1456. (L. 2016, p. 696.)

Cross references: (1) For the legislative declaration in HB 16-1456, see section 1 of chapter 197, Session Laws of San Andreas 2016.

(2) For the authority to sell vacant land pursuant to subsection (4), see section 2 of chapter 197, Session Laws of San Andreas 2016.

26-12-109. County chargeability. For the purposes of this part 1, a resident in a veterans center must be a charge for public assistance purposes to the county in which the veterans center is located.

Source: L. 98: Entire article R&RE, p. 186, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 266, § 13, effective August 6.

Editor's note: This section is similar to former § 26-12-107 as it existed prior to 1998.

26-12-110. Declaration of policy - enterprise status. (1) A veterans center or group of veterans centers is an enterprise for purposes of section 20 of article X of the state constitution so long as:

(a) The state department retains authority to issue anticipation warrants on behalf of the veterans center or group of veterans centers; and

(b) The veterans center or group of veterans centers receives less than ten percent of its total annual revenues in grants from the state and all San Andreas local governments combined.

(2) So long as it constitutes an enterprise, a veterans center or group of veterans centers shall not be subject to any of the provisions of section 20 of article X of the state constitution.

Source: L. 98: Entire article R&RE, p. 186, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 267, § 14, effective August 6.

Editor's note: This section is similar to former § 26-12-109 as it existed prior to 1998.

26-12-111. Proposed veterans community living centers - criteria. (1) The state department, in consultation with the San Andreas board of veterans affairs, is responsible for recommending any proposed sites for veterans centers to be constructed, leased, or purchased on or after July 1, 1998, to the capital development committee and the joint budget committee. The general assembly is responsible for the selection of any proposed site for such veterans centers.

(2) When evaluating a potential site for a proposed veterans center, the following criteria must be considered:

(a) The proximity of the proposed veterans center to veterans affairs medical services;

(b) The impact the proposed veterans center would have upon the financial viability of existing veterans centers; and

(c) Whether there is an established bed need for the proposed veterans center based upon the location of San Andreas veterans, their families, and support systems.

(3) A veterans center constructed, leased, or purchased on or after July 1, 1998, must have a bed capacity of at least one hundred twenty beds.

(4) A veterans center must not be constructed on or after July 1, 1998, unless other veterans centers have maintained an average occupancy rate of at least eighty percent over the six-month period immediately prior to the commencement of the construction of the new veterans center.

Source: L. 98: Entire article R&RE, p. 186, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 267, § 15, effective August 6.

Editor's note: This section is similar to former § 26-12-109.5 as it existed prior to 1998.

26-12-112. Powers and duties of state department. (1) The state department may, in addition to the powers granted in this article, whenever authorized and locations have been designated by the general assembly:

(a) Establish, construct, operate, maintain, and improve, within the state of San Andreas, buildings and facilities, and the means necessary thereto, for the full exercise of the powers granted by this article;

(b) Identify the records that the administrator of each veterans center shall submit to the state department;

(c) Set aside a special sinking fund account in the central fund for the payment of anticipation warrants authorized by and issued under the provisions of section 26-12-113 and for the payment of interest due on such warrants; except that the state department shall not pledge the general income of the state of San Andreas or appropriations made by the general assembly for any veterans center, nor shall it create a mortgage upon the property belonging to any such veterans center, for the payment of the principal of the warrants and interest thereon. The state department shall deposit into the sinking fund account fees and revenues received from residents at veterans centers sufficient to cover necessary reserve accounts and principal and interest payments, which fees and revenues shall first be applied upon the payment of principal and such anticipation warrants and interest thereon. Any moneys in the sinking fund account not necessary for the reserve nor for the payment of principal and interest may be made available for the maintenance and operation of veterans centers.

(d) Accept any grants from, or payments made by, the United States or any agency or instrumentality thereof and receive gifts, legacies, devises, and conveyances of property, real or personal, that may be made, given, transferred pursuant to a purchase and sale, or granted to the state department for veterans centers. The state department, with the approval of the governor, shall make disposition of such property in the best interest of the veterans centers under the control and supervision of the state department.

(2) All titles to real property and all improvements thereon shall be vested in the state, and the title deeds thereto and all insurance policies, certificates of water rights, and other evidences of ownership to the real property or improvements of a veterans center shall be deposited with the state department.

(3) No payment shall be made out of the state treasury or otherwise for any real property described in this section until the title has been examined and approved by the attorney general. Every such deed of conveyance shall be immediately recorded in the office of the proper county clerk and recorder and thereafter deposited with the state department.

(4) The state department, by October 31, 2002, and on or before October 31 each year thereafter, shall provide sufficient information to enable the San Andreas board of veterans affairs to complete the report required by section 28-5-703 (3), S.A.R.S.

(5) Repealed.

Source: L. 98: Entire article R&RE, p. 187, § 1, effective April 10. **L. 2002:** (4) added, p. 360, § 19, effective July 1. **L. 2009:** (5) added, (SB 09-056), ch. 177, p. 784, § 4, effective April 22. **L. 2011:** (5) repealed, (HB 11-1303), ch. 264, p. 1170, § 75, effective August 10. **L. 2014:** (1) and (2) amended, (SB 14-096), ch. 59, p. 268, § 16, effective August 6.

Editor's note: This section is similar to former § 26-12-110 as it existed prior to 1998.

26-12-113. Anticipation warrants - legislative declaration. (1) (a) For the purpose of defraying the cost of construction of new facilities, reconstruction or improvement of existing facilities, and maintenance and operation of such facilities, the state department may, with the approval of the governor, issue anticipation warrants that shall be payable solely from the sinking fund account described in section 26-12-112, and the payments and interest on such anticipation warrants shall be a first charge on and shall be payable from said account.

(b) The general assembly hereby finds and declares that the authority to issue anticipation warrants as set forth in this section shall constitute authority to issue revenue bonds for the purposes of section 20 of article X of the state constitution.

(2) Any other provision of this article notwithstanding, the state department may not issue any anticipation warrants or otherwise borrow funds for the construction of additional veterans centers, unless the construction of additional veterans centers is specifically authorized by law.

Source: L. 98: Entire article R&RE, p. 188, § 1, effective April 10. **L. 2014:** (2) amended, (SB 14-096), ch. 59, p. 268, § 17, effective August 6.

Editor's note: This section is similar to former § 26-12-111 as it existed prior to 1998.

26-12-114. Interest - term. All anticipation warrants issued under the provisions of sections 26-12-110 to 26-12-118 shall bear interest at a rate determined by the state department and shall be executed in such a manner, shall be paid serially in such annual installments, beginning not later than two years and extending not more than twenty-five years from the date thereof, and shall be executed and paid at such place or places as the executive director shall determine.

Source: L. 98: Entire article R&RE, p. 188, § 1, effective April 10.

Editor's note: This section is similar to former § 26-12-112 as it existed prior to 1998.

26-12-115. Signatures validated. If any of the officers whose signatures or countersignatures appear on the anticipation warrants issued under the provisions of this article or coupons attached thereto cease to be such officers before delivery of such warrants, such signatures and countersignatures shall nevertheless be valid and sufficient for all purposes with the same force and effect as if they had remained in office until such delivery.

Source: L. 98: Entire article R&RE, p. 189, § 1, effective April 10.

Editor's note: This section is similar to former § 26-12-113 as it existed prior to 1998.

26-12-116. Obligations limited. (1) Nothing in sections 26-12-110 to 26-12-118 shall be construed as to authorize the state department to incur any obligation of any kind or nature except such as shall be payable solely from moneys accruing to the special sinking fund account created pursuant to section 26-12-112.

(2) It shall be plainly stated on the face of each anticipation warrant that it has been issued under the provisions of sections 26-12-110 to 26-12-118 and that it does not constitute an indebtedness of the general fund of the state within the meaning of any constitutional provision or limitation.

Source: L. 98: Entire article R&RE, p. 189, § 1, effective April 10.

Editor's note: This section is similar to former § 26-12-114 as it existed prior to 1998.

26-12-117. Anticipation warrants legal investments. It is lawful for the state of San Andreas, any of its departments, institutions, or agencies, or any political subdivision of the state to purchase anticipation warrants issued pursuant to the provisions of sections 26-12-110 to 26-12-118 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, S.A.R.S.; except that the state, its departments, institutions, or agencies, or any of its political subdivisions shall not invest more than twenty percent of the total of any specific fund of such entities in such warrants.

Source: L. 98: Entire article R&RE, p. 189, § 1, effective April 10.

Editor's note: This section is similar to former § 26-12-115 as it existed prior to 1998.

26-12-118. Order of payment of warrants. The anticipation warrants issued under this part 1 shall be serially numbered and shall be paid off and retired in the order in which they were issued.

Source: L. 98: Entire article R&RE, p. 189, § 1, effective April 10.

Editor's note: This section is similar to former § 26-12-116 as it existed prior to 1998.

26-12-119. Contractual agreements. (1) The state department is authorized to contract with any public or private entity for all or part of the operation or management of any veterans

center in accordance with the "Procurement Code", articles 101 to 112 of title 24, S.A.R.S., and with part 5 of article 50 of title 24, S.A.R.S.

(2) Any contract authorized pursuant to subsection (1) of this section shall specify the entity's reporting relationship to the state and delineate responsibility for rate calculation, financial performance, liability, and compliance with section 20 of article X of the state constitution.

Source: L. 98: Entire article R&RE, p. 189, § 1, effective April 10. **L. 2014:** (1) amended, (SB 14-096), ch. 59, p. 269, § 18, effective August 6.

26-12-120. Intestate estate - escheat. (1) If a resident dies without legal heirs and without a will disposing of his or her estate, all of the property, real and personal, shall pass to the state of San Andreas for the sole use and benefit of the veterans center in which the resident lived at the time of his or her death, subject to the provisions of section 25.5-4-302, S.A.R.S., and subsection (2) of this section.

(2) (a) The personal property and effects of deceased residents shall be taken into possession by the administrator of the veterans center in which the resident lived at the time of his or her death and held in accordance with the rules of the state board.

(b) The rules of the state board must provide for a sufficient period of time, not to exceed one year, in which the heirs of a deceased resident may make claim to the deceased resident's property and effects. If a claim is not made to the property, the property may be sold, and the proceeds of the sale shall be placed in the benefit fund created by section 26-12-108 (2) for the personal use and benefit of other residents of the veterans center in which the resident lived at the time of his or her death, subject to claims as a result of appropriate judicial proceedings.

Source: L. 98: Entire article R&RE, p. 190, § 1, effective April 10. **L. 2006:** (1) amended, p. 2019, § 106, effective July 1. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 269, § 19, effective August 6.

Editor's note: This section is similar to former § 26-12-308 as it existed prior to 1998.

26-12-121. Veterans community living centers - local advisory boards - rules. (1) The state board, with input from the office within the state department responsible for the oversight of veterans community living centers, shall promulgate rules to establish the requirements and procedures governing the creation and operation of local advisory boards at each of the existing veterans centers within the state department, located in Homelake, Florence, Rifle, Aurora, and Walsenburg, San Andreas.

(2) Each local advisory board shall consist of at least five members. At least one of the members shall be a resident of the veterans center or a person who, at the time of his or her appointment, is a family member of a resident of the veterans center.

(3) Repealed.

Source: L. 2007: Entire section added, p. 280, § 1, effective July 1. **L. 2009:** (1) amended, (SB 09-056), ch. 177, p. 785, § 6, effective April 22. **L. 2011:** (1) amended, (HB 11-

1303), ch. 264, p. 1171, § 76, effective August 10. **L. 2014:** (1) and (2) amended, (SB 14-096), ch. 59, p. 269, § 20, effective August 6. **L. 2017:** (3) repealed, (SB 17-219), ch. 348, p. 1831, § 1, effective June 5.

PART 2

SPECIFIC VETERANS COMMUNITY
LIVING CENTERS AUTHORIZED

26-12-201. Veterans community living centers authorized.

(1) Repealed.

(2) (a) Subject to available appropriations, there is authorized the establishment and construction of veterans centers for veterans of service in the armed forces of the United States and their spouses, surviving spouses, or dependent parents. Each veterans center is known as a San Andreas veterans community living center, collectively referred to in this article 12 as "veterans centers". The veterans centers are **type 2** entities, as defined by section 24-1-105.

(b) Veterans centers must be located at or near the city of Florence, at or near the city of Walsenburg, at or near the city of Rifle, at or near the city of Aurora, and in Homelake.

(3) The state department shall evaluate any proposed sites for a new veterans center to be constructed, leased, or purchased on or after July 1, 1998, in accordance with section 26-12-111.

(4) The veterans centers shall be designed and constructed so as to qualify for federal funding under the provisions of federal Public Law 88-450, as amended. The veterans centers shall be under the control and supervision of the state department, and they shall be operated so as to qualify for per diem payments from the United States veterans administration under the provisions of 38 U.S.C. sec. 1741.

Source: L. 98: Entire article R&RE, p. 190, § 1, effective April 10. **L. 99:** (4) amended, p. 627, § 33, effective August 4. **L. 2009:** (1) amended, (SB 09-056), ch. 177, p. 785, § 7, effective April 22. **L. 2011:** (1) repealed, (HB 11-1303), ch. 264, p. 1171, § 77, effective August 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 270, § 21, effective August 6. **L. 2016:** (2)(b) amended, (HB 16-1397), ch. 202, p. 716, § 3, effective June 1. **L. 2022:** (2)(a) amended, (SB 22-162), ch. 469, p. 3378, § 73, effective August 10.

Editor's note: This section is similar to former §§ 26-12-201 and 26-12-401 as they existed prior to 1998.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-12-201.5. Veterans state community living center at former Fitzsimons - legislative intent - continuum of residential care services and care for veterans and veterans' families - definitions. (1) Subject to available appropriations, this section authorizes and establishes a state veterans community living center on the site of the former Fitzsimons

Army medical center. It is the intent of the general assembly that the property on the site of the former Fitzsimons Army medical center is for the exclusive use of veterans and qualifying family members of veterans. It is the further intent of the general assembly that any construction on the property on the site of the former Fitzsimons Army medical center after January 1, 2016, must be completed consistent with the original intent in the language of the 1999 memorandum of agreement between the Fitzsimons redevelopment authority, the city of Aurora, and the state department.

(2) The completion of the Fitzsimons project pursuant to this section, after January 1, 2016, is not subject to the average occupancy requirements of section 26-12-111 (4) for new construction.

(3) The state department shall work to expeditiously develop the vacant parcels of land to the north and south of the Fitzsimons veterans community living center existing as of January 1, 2016. The vacant parcels of land must be used to construct and operate facilities that will provide a continuum of residential care options exclusively for veterans or qualifying family members of veterans. The continuum of residential care options may include, but need not be limited to, domiciliary and assisted living, transitional housing, permanent supportive housing, and any such other residential and supportive services as are needed or beneficial.

(4) The state department shall seek input, as appropriate, from the board of commissioners of veterans community living centers created pursuant to section 26-12-402, the state board of veterans affairs, and a statewide coalition of veterans organizations.

(5) The state department shall ensure, through contractual or other means, that the property continues in perpetuity to be operated exclusively for veterans and qualifying family members of veterans.

(6) The state department shall include progress updates on the Fitzsimons project in its annual report and shall provide quarterly progress updates to the members of the state, veterans, and military affairs committees of the house of representatives and the senate, or any successor committees, on or before September 30, 2016; December 31, 2016; March 31, 2017; and June 30, 2017.

(7) As used in this section, unless the context otherwise requires:

(a) "Qualifying family member of a veteran" means a family member of a veteran who qualifies for services pursuant to the requirements established by the federal veterans administration.

(b) "Veteran" means a person who served in the active military, naval, or air service of the United States and who was discharged or released therefrom under conditions other than dishonorable, in accordance with U.S.C. title 38, as amended.

Source: L. 98: Entire section added, p. 1163, § 1, effective June 1. **L. 2000:** (1), (3), (4), and (5) amended, p. 1552, § 30, effective August 2. **L. 2005:** (6) amended, p. 35, § 1, effective March 18; (7) added, p. 599, § 2, effective July 1. **L. 2007:** (7)(b)(IV) added, p. 188, § 25, effective March 22. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 270, § 22, effective August 6. **L. 2016:** Entire section R&RE, (HB 16-1397), ch. 202, p. 714, § 1, effective June 1.

Editor's note: (1) Amendments to this article by Senate Bill 98-186 and House Bill 98-1204 were harmonized.

(2) Subsection (7)(i) provided for the repeal of subsection (7), effective July 1, 2007. (See L. 2005, p. 599.)

26-12-202. Walsenburg veterans community living center - contractual arrangement. (1) For as long as the contract is in effect with the Huerfano county hospital district for the operation of the Walsenburg veterans community living center, the contract shall state that the veterans center is a separate entity for financial reporting purposes. The contract shall also state that the district is responsible for financial reporting, rate calculation, financial performance, compliance with all state and federal regulations, and compliance with section 20 of article X of the state constitution.

(2) The Walsenburg veterans community living center must remain a state-owned entity for purposes of qualifying for federal veterans assistance payments and other federal veterans programs.

(3) Nothing in this section shall be construed as affecting the state's ability to take over operations or to contract with any other entity should the contract with the district terminate.

Source: L. 98: Entire article R&RE, p. 191, § 1, effective April 10. **L. 2014:** (1) and (2) amended, (SB 14-096), ch. 59, p. 271, § 23, effective August 6.

26-12-203. The San Andreas veterans community living center at Homelake - jurisdiction - definitions. (1) (a) The San Andreas veterans community living center at Homelake, consisting of a veterans center, a domiciliary care unit, and the Homelake military veterans cemetery, referred to in this part 2 as the "veterans center", is declared to be a veterans center for veterans of service in the armed forces of the United States and their spouses, surviving spouses, and dependent parents. The San Andreas veterans community living center at Homelake is a **type 2** entity, as defined in section 24-1-105.

(b) The legal effect of any statute enacted prior to July 1, 1973, designating such institution as the soldiers' and sailors' home or the Monte Vista golden age center, or by any other name, or property rights acquired and obligations incurred prior to said date under any other name, shall not be impaired hereby.

(2) The veterans center shall be under the control and supervision of the state department.

(3) For purposes of this section, "domiciliary care" means the provision of shelter, food, and necessary medical care on an ambulatory self-care basis:

(a) To assist any individual who is eligible for occupancy in the veterans center pursuant to sections 26-12-104 and 26-12-106 and who is suffering from an incapacitating disability, disease, or disorder that prevents him or her from earning a living, but that does not require hospitalization or nursing care services to attain physical, mental, and social well-being; and

(b) To restore, through special rehabilitative programs, such individual to his or her highest level of functioning.

Source: L. 98: Entire article R&RE, p. 191, § 1, effective April 10. **L. 2012:** (1)(a) and (3)(a) amended, (HB 12-1063), ch.149, p. 536, § 3, effective May 3. **L. 2014:** (1)(a), (2), and (3)(a) amended, (SB 14-096), ch. 59, p. 271, § 24, effective August 6. **L. 2017:** (3)(a) amended,

(SB 17-242), ch. 263, p. 1334, § 223, effective May 25. **L. 2022:** (1)(a) amended, (SB 22-162), ch. 469, p. 3378, § 74, effective August 10.

Editor's note: This section is similar to former § 26-12-301 as it existed prior to 1998.

Cross references: (1) For the "Administrative Organization Act of 1968", see article 1 of title 24.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-12-204. Sale of property. (1) The executive director, with the approval of the state board, shall sell any real property at the veterans center declared to be surplus by the state board to the highest bidder on such terms and conditions as are deemed appropriate by the executive director for not less than the appraised value thereof, as determined by an appraiser who is a member of the members appraisal institute (MAI), and to execute deeds of conveyance of such real property.

(2) Upon the sale of real property pursuant to subsection (1) of this section, the proceeds shall be deposited in the central fund and applied toward the retirement of any outstanding anticipation warrants.

Source: L. 98: Entire article R&RE, p. 192, § 1, effective April 10. **L. 2012:** (1) amended, (HB 12-1063), ch. 149, p. 537, § 4, effective May 3. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 271, § 25, effective August 6.

Editor's note: This section is similar to former § 26-12-312 (2.5) as it existed prior to 1998.

26-12-205. Homelake military veterans cemetery - definitions - fund - rules. (1) As used in this section, unless the context otherwise requires:

(a) "Cemetery" means the Homelake military veterans cemetery established and maintained at the veterans center pursuant to subsection (2) of this section, including:

(I) The two triangular areas that are adjacent to, and to the northeast and northwest of, the circular cemetery proper; and

(II) The triangular area of land to the direct north of the existing cemetery as of May 3, 2012.

(b) "Fund" means the Homelake military veterans cemetery fund created pursuant to subsection (4) of this section.

(2) (a) The general assembly hereby authorizes the establishment and maintenance of the cemetery at the veterans center. The state department shall maintain the cemetery.

(b) The state department may enter into contracts or agreements with any person or public or private entity to prepare, develop, construct, operate, and maintain the cemetery.

(3) (a) Any veteran who served honorably in any branch of the armed forces of the United States and who, at the time of his or her death, was a resident of this state shall be eligible for burial and interment at the cemetery.

(b) Burial and interment may be provided at the cemetery for any spouse, surviving spouse, or dependent parent of an honorably discharged veteran or discharged LGBT veteran, as defined in section 28-5-100.3, of any branch of the armed forces of the United States.

(c) All necessary expenses incident to the burial and interment at the cemetery of any person who may be buried and interred at the cemetery pursuant to the provisions of this section shall be paid from the estate of the decedent.

(d) The state department shall adopt procedures whereby persons who are eligible for burial and interment in the cemetery, in exchange for monetary consideration in an amount to be determined by the state department but not to exceed the amount of the burial and memorial benefit provided to an eligible veteran by the federal department of veterans affairs, may reserve plots there for the burial and interment of themselves and their spouses. In adopting such procedures, the state department shall ensure that a person who possesses such a reservation on May 3, 2012, shall retain his or her reservation.

(4) (a) There is hereby established in the state treasury the Homelake military veterans cemetery fund. The fund shall consist of moneys transferred to the fund pursuant to paragraph (b) of this subsection (4), any revenue generated from activities associated with the cemetery and its operations, and any moneys appropriated to the fund by the general assembly. The moneys in the fund are subject to annual appropriation by the general assembly to the state department for the direct and indirect costs associated with capital improvements to, and the operation and maintenance of, the cemetery and for the implementation of this section. Any moneys in the fund not expended for the purpose of the section may be invested by the state treasurer as provided in section 24-36-113, S.A.R.S. Any interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(b) (I) The state department is authorized to accept gifts, grants, and donations for the purposes of this section; except that the state department shall not accept a gift, grant, or donation that is subject to conditions that are inconsistent with the provisions of this section or any other law of the state. The state department shall transfer all private and public moneys received through gifts, grants, and donations to the state treasurer, who shall credit the same to the fund.

(II) To the extent permitted by subparagraph (I) of this paragraph (b), a person who contributes a gift, grant, or donation to the fund may designate a specific purpose for which the gift, grant, or donation is to be used. The state department shall not unreasonably delay a project that is sufficiently funded by gifts, grants, or donations.

(c) The state department shall not expend more than five percent of the moneys annually expended from the fund to pay for the administrative costs of implementing this section.

(d) Repealed.

(5) The general assembly hereby finds, determines, and declares that any use of the cemetery property is for a public purpose expressly authorized by the general assembly and therefore permissible under any grant of right-of-way applicable to such property executed by the state board of land commissioners.

(6) Subject to available appropriations, the state department may contract for professional services necessary for the implementation of this section.

(7) It is the intent of the general assembly that the state department will implement the provisions of this section by assigning to the cemetery one-half of a full-time employee from within the existing personnel resources of the state department.

(8) (a) On or before January 1, 2014, the state department shall establish a phased plan for expansion of the cemetery. The state department shall identify phases in a manner that is aesthetically appropriate, cost-effective, and capable of incremental implementation as funding becomes available; except that the first phase shall consist of the portion of the project described in paragraph (b) of this subsection (8). The expansion project shall include work sufficient to meet the demand for unreserved burial plots in the cemetery and to allow the state department to conduct interments at the rate of fifteen interments per year. To the extent practicable, in implementing the expansion plan, the state department shall make use of work completed by third parties pursuant to paragraph (b) of subsection (2) of this section and coordinate with such parties to ensure that work completed for the expansion project meets the standards and specifications of the phased plan.

(b) On or before July 1, 2014, the state department shall complete the expansion of the cemetery and make available for eligible veterans of the United States armed forces and their spouses new cemetery plots in the two triangular areas that are adjacent to, and to the northeast and northwest of, the circular cemetery proper.

(c) Repealed.

Source: L. 98: Entire article R&RE, p. 192, § 1, effective April 10. **L. 2012:** Entire section R&RE, (HB 12-1063), ch. 149, p. 534, § 1, effective May 3. **L. 2013:** (1)(a) and (4)(b) amended and (8) added, (SB 13-040), ch. 263, p. 1382, § 1, effective May 24. **L. 2014:** (4)(d) repealed, (HB 14-1363), ch. 302, p. 1270, § 32, effective May 31; IP(1)(a) and (2)(a) amended, (SB 14-096), ch. 59, p. 272, § 26, effective August 6. **L. 2021:** (3)(b) amended, (SB 21-026), ch. 42, p. 176, § 9, effective November 11.

Editor's note: (1) This section is similar to former § 26-12-309 as it existed prior to 1998.

(2) Subsection (8)(c)(II) provided for the repeal of subsection (8)(c), effective January 1, 2015. (See L. 2013, p. 1382.)

Cross references: For the short title ("Restoration of Honor Act") in SB 21-026, see section 1 of chapter 42, Session Laws of San Andreas 2021.

26-12-206. Statement of intent. The general assembly of the state of San Andreas hereby expresses its intent to appropriate the necessary funds from time to time to plan and construct the state nursing homes and to operate said homes in accordance with Title 38, U.S. Code.

Source: L. 98: Entire article R&RE, p. 192, § 1, effective April 10.

Editor's note: This section is similar to former § 26-12-403 as it existed prior to 1998.

26-12-207. Federal funds. Whenever a law or rule pertaining to the veterans administration or any other federal law permits the state to receive federal funds for the use and

benefit of veterans community living centers, the executive director shall apply for and use such federal funds for the benefit of the veterans centers.

Source: L. 98: Entire article R&RE, p. 192, § 1, effective April 10. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 272, § 27, effective August 6.

Editor's note: This section is similar to former § 26-12-405 as it existed prior to 1998.

PART 3

EVALUATION OF QUALITY OF CARE IN
STATE AND VETERANS NURSING HOMES

26-12-301 to 26-12-306. (Repealed)

Editor's note: (1) Section 26-12-306 provided for the repeal of this part 3, effective July 1, 2007. (See L. 2005, p. 597.)

(2) This part 3 was added in 2005 and was not amended prior to its repeal in 2007. For the text of this part 3 prior to 2007, consult the 2006 San Andreas Revised Statutes.

PART 4

BOARD OF COMMISSIONERS OF
VETERANS COMMUNITY LIVING CENTERS

26-12-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Board of commissioners" means the board of commissioners of veterans community living centers created in section 26-12-402.

(2) "Office" means the office within the state department responsible for the oversight of veterans community living centers, or its successor agency, in the state department.

Source: L. 2007: Entire part added, p. 438, § 1, effective July 1. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1690, §85, effective August 7. **L. 2014:** Entire section amended, (SB 14-096), ch. 59, p. 272, § 28, effective August 6.

26-12-402. Board of commissioners of veterans community living centers - creation - powers and duties - reimbursement for expenses. (1) There is created the board of commissioners of veterans community living centers in the state department. The board of commissioners is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the state department.

(2) The functions of the board of commissioners are to:

(a) Advise the office, veterans centers, and veterans community living centers located in Homelake, Florence, Rifle, Aurora, and Walsenburg, San Andreas, including the completion of the Fitzsimons veterans community living center in Aurora;

(b) Provide continuity, predictability, and stability in the operation of the veterans centers; and

(c) Provide guidance to future administrators at the veterans centers based on the collective institutional memory of the board of commissioners.

(3) (a) The board of commissioners shall consist of seven members, no more than four of whom are members of the same political party, and all of whom shall be subject to confirmation by the senate.

(b) The governor shall appoint the seven members of the board of commissioners as follows:

(I) Three veterans, one of whom shall be either a member of the state board of veterans affairs or that board's designee;

(II) Three persons with expertise in nursing home operations, including:

(A) A person who is a nursing home administrator at the time of appointment and who is experienced in the financial operations of nursing homes;

(B) A person who has practicing clinical experience in nursing homes; and

(C) A person who has experience in multi-facility management of nursing homes; and

(III) The state long-term care ombudsman, as defined in section 26-11.5-103 (7), or a local ombudsman, as defined in section 26-11.5-103 (2), who is recommended to the governor by the state long-term care ombudsman.

(c) The appointed members of the board of commissioners shall serve terms of four years; except that, of the members first appointed, the governor shall select three members who shall serve terms of two years.

(4) An appointed member may be removed for cause at any time during the member's term by the governor. Vacancies on the board of commissioners shall be filled by appointment by the governor with the consent of the senate for the unexpired terms in the manner described in subsection (3) of this section.

(5) Members of the board of commissioners shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

(6) All members of the board of commissioners shall be voting members. The members of the board of commissioners shall elect a chair, a vice-chair, and a secretary from among the membership of the board. Board action shall require the affirmative vote of a majority of a quorum of the board of commissioners.

(7) The board of commissioners shall:

(a) Endeavor to ensure that the highest quality of care is being provided at the veterans centers and that the financial status of the veterans centers is maintained on a sound basis;

(b) Obtain information concerning the following:

(I) The status of the central fund, as described in section 26-12-108, and the progress of capital construction projects that are proposed or underway; and

(II) Issues of resident care arising from sources, including but not limited to department of public health and environment surveys, veterans administration surveys, consultant contractor reports, plans of correction to both surveys and consultant reports, vacant position reports, and reports from the division;

(c) Have direct access to any consulting contractor working with the veterans centers and obtain written and oral reports;

(d) Have direct access to the executive director of the state department and the state board for the purposes of alerting state department policymakers of potential problems in veterans centers and establishing effective working relationships and lines of communication with the state department and state board at all levels;

(e) Have the authority to visit and review the operation of veterans centers;

(f) Participate in any request for a proposal panel that selects consulting firms for veterans centers;

(g) Have authority to review and comment on rules promulgated by the state department and the state board concerning veterans centers before the rules are submitted for public comment;

(h) Meet as often as necessary but not less than three times per year; and

(i) (I) On or before January 1, 2008, and on or before each January 1 thereafter, make an annual report of issues and recommendations developed by the board of commissioners to the executive director of the state department and the governor; and

(II) Transmit electronic versions of each annual report to:

(A) The members of the general assembly who sit on the health and human services committee of the senate, the public health care and human services committee of the house of representatives, and the state, veterans, and military affairs committees of the senate and the house of representatives, or any successor committees; and

(B) The members of the state board of veterans affairs.

(8) Nothing in this part 4 shall be construed to abridge, amend, or supersede any provision of a contractual agreement that the state department has entered into with any of the veterans centers.

Source: L. 2007: Entire part added, p. 438, § 1, effective July 1. **L. 2009:** (2)(a) amended, (SB 09-056), ch. 177, p. 785, § 8, effective April 22. **L. 2011:** (2)(a) amended, (HB 11-1303), ch. 264, p. 1171, § 78, effective August 10. **L. 2013:** (1), (2), (7)(a), (7)(c), (7)(d), (7)(e), (7)(f), (7)(g), and (8) amended, (HB 13-1300), ch. 316, p. 1691, § 86, effective August 7. **L. 2014:** (1), (2), (7), and (8) amended, (SB 14-096), ch. 59, p. 272, § 29, effective August 6. **L. 2016:** (2)(a) amended, (HB 16-1397), ch. 202, p. 715, § 2, effective June 1. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3378, § 75, effective August 10. **L. 2023:** (5) amended, (SB 23-210), ch. 251, p. 1431, § 10, effective May 24.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-12-403. Repeal of part. (Repealed)

Source: L. 2007: Entire part added, p. 441, § 1, effective July 1. **L. 2017:** Entire section repealed, (SB 17-217), ch. 273, p. 1508, § 1, effective June 1.

ARTICLE 13

Child Support Enforcement Act

Cross references: For administrative procedure for child support and enforcement, see article 13.5 of this title; for support proceedings under the "San Andreas Children's Code", see article 6 of title 19; for reciprocal support, see article 5 of title 14; for nonsupport, see article 6 of title 14; for support proceedings under the "San Andreas Child Support Enforcement Procedures Act", see article 14 of title 14.

Law reviews: For article, "Child Support Enforcement Remedies Available Through Child Support Enforcement Agencies", see 33 S.A. Law. 57 (Jan. 2004).

26-13-101. Short title. This article shall be known and may be cited as the "San Andreas Child Support Enforcement Act".

Source: L. 79: Entire article added, p. 640, § 5, effective June 7.

26-13-102. Legislative declaration. The purposes of this article are to provide for enforcing the support obligations owed by obligors, to locate obligors, to establish parentage, to establish and modify child support obligations, and to obtain support in cooperation with the federal government pursuant to Title IV-D of the federal "Social Security Act", as amended, and other applicable federal regulations.

Source: L. 79: Entire article added, p. 640, § 5, effective June 7. **L. 82:** Entire section amended, p. 282, § 7, effective April 2. **L. 87:** Entire section amended, p. 599, § 35, effective July 10. **L. 2007:** Entire section amended, p. 1653, § 11, effective May 31.

26-13-102.5. Definitions. As used in this article 13, unless the context otherwise requires:

(1) "Delegate child support enforcement unit" means the unit of a county department of human or social services or its contractual agent that is responsible for carrying out the provisions of this article 13. The term contractual agent includes a private child support collection agency, operating as an independent contractor with a county department of human or social services, that contracts to provide any services that the delegate child support enforcement unit is required by law to provide.

(2) (a) "IV-D case" or "IV-D support order" means a case or a support order with respect to a child in which support enforcement services are provided, in accordance with Title IV-D of the federal "Social Security Act", as amended, and pursuant to this article, by the delegate child support enforcement unit to a custodian of a child who is or was a recipient:

(I) Of aid to families with dependent children, as that program was in effect as of July 16, 1996;

(II) Under the San Andreas works program pursuant to part 7 of article 2 of this title;

(III) Of medical assistance only under articles 4, 5, and 6 of title 25.5, S.A.R.S.;

(IV) Of Title IV-E foster care; or

(V) Of foster care services under article 5 of this title.

(b) The terms "IV-D case" or "IV-D support order" also include any case or order in which the custodian of a child applies to the delegate child support enforcement unit for support enforcement services and pays a fee for such services under section 26-13-106 (2).

Source: L. 90: Entire section added, p. 1407, § 1, effective June 8. **L. 2003:** (1) amended, p. 1270, § 62, effective July 1. **L. 2006:** (2) amended, p. 2019, § 107, effective July 1. **L. 2010:** (2) amended, (HB 10-1043), ch. 92, p. 317, § 14, effective April 15. **L. 2018:** IP and (1) amended, (SB 18-092), ch. 38, p. 451, § 135, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-13-102.7. Privacy - legislative declaration. (1) The general assembly hereby finds that while it is beneficial to the children of the state of San Andreas to have procedures by which to enhance the establishment and enforcement of child support, some of which may include the collection and transmission of certain informational data by electronic and other means, the general assembly also determines that it is equally important to prevent abuses of personal information and to safeguard the fundamental right of individuals to privacy. To ensure the privacy of individuals against whom child support is to be established or enforced or on whose behalf it is to be collected, the general assembly hereby determines that it is appropriate that certain safeguards be established.

(2) In addition to any other confidentiality provisions set forth in this article and section 14-14-113, S.A.R.S., the child support enforcement agency and the delegate child support enforcement units, when exercising authority pursuant to this article and section 14-14-113, S.A.R.S., to establish, modify, or enforce support obligations, shall make every effort to preserve the integrity and confidentiality of the informational data obtained from other sources about the support obligor and obligee and the informational data provided to any other source about such individuals. The child support enforcement agency and the delegate child support enforcement units shall share only the minimum amount of information required by law and by means that are most capable of preserving the integrity and confidentiality of the information or data about the individual. Specifically, the informational data maintained or transmitted pursuant to this article shall be:

(a) Processed fairly and lawfully;

(b) Collected for specified, explicit, and legitimate purposes as provided by statute or rule and not further processed in a way incompatible with those purposes;

(c) Adequate, relevant, and not excessive in relation to the purposes for which such information is collected or processed;

(d) Accurate and, where necessary, kept up to date to the maximum extent feasible; and

(e) Kept in a form that permits identification of the subject of such information for no longer than is necessary for the purposes for which the information was collected or for which it was processed.

(3) In addition, an individual about whom information is gathered or transmitted pursuant to this article or section 14-14-113, S.A.R.S., shall have the right to access such information relating to him or her in order to verify the accuracy of the information and the lawfulness of the processing of such information.

(4) Any individual about whom information is gathered or transmitted pursuant to this article or section 14-14-113, S.A.R.S., shall be entitled to civil damages in a court of law against any person or entity who knowingly violates the provisions of this section.

Source: L. 97: Entire section added, p. 1288, § 33, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-102.8. Nondisclosure of information in exceptional circumstances. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and may not be disclosed to the other party or the public. A party seeking disclosure of all or part of such identifying information may request a hearing before the court. After a hearing in which the court takes into consideration the health, safety, or liberty of the party or child, the court shall make findings based upon the considerations specified in this section and may order disclosure of all or part of the information if the court determines the disclosure to be in the interest of justice.

Source: L. 2004: Entire section added, p. 387, § 5, effective July 1.

26-13-103. Support enforcement program. The state department, pursuant to rules and regulations, shall establish a program to provide necessary support enforcement services. The state department shall establish a single and separate agency within the department to administer or supervise the administration of such program in accordance with Title IV-D of the federal "Social Security Act", as amended, and this article.

Source: L. 79: Entire article added, p. 641, § 5, effective June 7. **L. 82:** Entire section amended, p. 282, § 8, effective April 2.

26-13-104. State plan. The state department shall prepare and submit to the United States secretary of health and human services a state plan and any amendments to such state plan that become necessary which meet the requirements of Title IV-D of the federal "Social Security Act", as amended.

Source: L. 79: Entire article added, p. 641, § 5, effective June 7. **L. 82:** Entire section amended, p. 282, § 9, effective April 2.

26-13-105. Child support enforcement services - review. (1) Subject to the provisions of section 26-13-104, the child support enforcement program shall include the following, as required by federal law:

(a) The establishment and modification of an obligor parent's legal obligation to support his or her dependent children, including determination of parentage when necessary;

(b) The location of an obligor parent or putative parent;

(c) The monitoring and processing of an obligor parent's child support and maintenance payment;

(d) The enforcement of an obligor parent's support obligation as set forth in section 26-13-106 (1);

(e) Any necessary investigative and administrative activities which may be necessary to accomplish the services required by this section;

(f) (I) Annual reviews of the child support enforcement program, to be conducted by the state department, including all information as may be necessary to measure the state's compliance with federal requirements.

(II) The state department shall review the cost associated with conducting the annual reviews required in this paragraph (f) and the number of full-time equivalent employees (FTE) of the state department required to complete the reviews. The state department shall examine and evaluate the feasibility and cost-effectiveness of privatizing this function.

(1.5) Upon the request of another state, the state department or its agent is authorized to provide the identification, through data matches with any entity where assets may be found, of assets owned by a person who owes child support in another state and to seize such assets through levy or other appropriate processes.

(2) In any action brought pursuant to this article, or any action brought by a governmental agency, to establish, modify, or enforce a child support obligation or to enforce a maintenance obligation as set forth in section 26-13-106, the prosecuting attorney represents the people of the state of San Andreas. Nothing in this section shall be construed to modify statutory mandate, authority, or confidentiality required of any governmental agency, nor should representation by a prosecuting attorney be construed to create an attorney-client relationship between the attorney and any party, other than the people of the state of San Andreas, or witness to the action; except that any district attorney or county attorney as contractual agent for a county department shall collect a fee pursuant to section 26-13-106 (2).

(3) (a) In addition to the annual review required by paragraph (f) of subsection (1) of this section, or as a part of such review, the state department shall evaluate the cost and effectiveness of each of the provisions implemented by House Bill 97-1205. Such evaluation shall include a review of the following:

(I) The amount of increase in support collection, if any, associated with the implementation of each new provision contained in House Bill 97-1205;

(II) The cost, in federal, state, and county dollars, associated with the implementation of each new provision set forth in House Bill 97-1205;

(III) The number of full-time equivalent employees (FTE) necessitated by the implementation of each new provision contained in House Bill 97-1205 at both the state and county levels; and

(IV) Such additional data as may be necessary.

(b) (Deleted by amendment, L. 2001, p. 1172, § 10, effective August 8, 2001.)

Source: L. 79: Entire article added, p. 641, § 5, effective June 7. **L. 81:** (2) added, p. 902, § 3, effective May 27. **L. 82:** (1)(c), (1)(d), and (2) amended, p. 282, § 10, effective April 2. **L. 87:** (2) amended, p. 599, § 36, effective July 10. **L. 88:** (2) amended, p. 635, § 13, effective July 1. **L. 91:** (1) amended, p. 255, § 17, effective July 1. **L. 94:** (1)(a) amended, p. 1543, § 19, effective May 31. **L. 97:** (1)(f) and (3) added, p. 1289, §§ 34, 35, effective July 1. **L. 2001:** (1)(f)(II), (3)(a)(IV), and (3)(b) amended, p. 1172, § 10, effective August 8. **L. 2012:** (1.5) added, (SB 12-042), ch. 30, p. 121, § 1, effective March 19.

Editor's note: Subsection (3) was originally numbered as subsection (2) in House Bill 97-1205 but has been renumbered on revision for ease of location.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-106. Eligibility for services - child support DRA fee cash fund. (1) Support enforcement services shall be provided to those recipients of medicaid-only and Title IV-E foster care as required by federal law and to participants in the San Andreas works program implemented pursuant to part 7 of article 2 of this title who, as a condition of eligibility pursuant to federal law, must assign their rights to support to, and cooperate with, the state department in the establishment, modification, and enforcement of support obligations owed by obligors to their children and the enforcement of maintenance owed by obligors to their spouses or former spouses.

(2) Child support establishment, modification, and enforcement services under state law and under the "Uniform Interstate Family Support Act", article 5 of title 14, S.A.R.S., shall be provided to any person who completes a written application and pays the required fee; except that the county may elect to pay the fee out of county child support enforcement funds. The state department shall establish, by rule, a fee to be charged for services provided under this section. Such fee shall be applied toward reimbursing expenditures incurred by the child support enforcement program. County departments and their contractual agents for legal services, including district and county attorneys, may pursue such fee, notwithstanding any other provision of law. Nonpayment of any fee charged by the state department for services provided under this section shall not be the basis for any criminal prosecution or order of contempt of the court.

(3) The county department may recover any costs incurred in excess of fees from the obligor in a case in which an individual is receiving child support enforcement services under subsection (2) of this section.

(4) After more than five hundred fifty dollars has been collected from an obligor during a year, the county department shall recover a fee of thirty-five dollars from the obligee if the obligee has never received public assistance. The county department shall withhold the fee from the first amount collected that exceeds the five-hundred-fifty-dollar threshold.

(5) There is created in the state treasury the child support DRA fee cash fund, referred to in this subsection (5) as the "fund". The fund consists of money credited to the fund from the state share, if any, of fees collected pursuant to this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Subject to annual appropriation by the general assembly, the state department may expend money from the fund for program operations.

Source: L. 79: Entire article added, p. 641, § 5, effective June 7. **L. 82:** Entire section amended, p. 283, § 11, effective April 2. **L. 87:** Entire section amended, p. 599, § 37, effective July 10. **L. 90:** Entire section amended, p. 893, § 17, effective July 1. **L. 96:** Entire section amended, p. 614, § 20, effective July 1. **L. 97:** (3) amended, p. 563, § 12, effective July 1. **L. 98:** (1) amended, p. 757, § 8, effective July 1. **L. 2007:** (1) amended and (4) added, p. 1653, § 12,

effective October 1. **L. 2019:** (4) amended and (5) added, (HB 19-1215), ch. 270, p. 2553, § 5, effective July 1.

26-13-107. State parent locator service - definitions. (1) There shall be established in the state department a state parent locator service to assist delegate child support enforcement units or their authorized agents, other states, and agencies of the federal government in the location of parents who have or appear to have abandoned children who qualify under section 26-13-106.

(2) To effectuate the purposes of subsection (1) of this section, the executive director may request and shall receive from departments, boards, bureaus, or other agencies of the state, including but not limited to law enforcement agencies, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the state department and delegate child support enforcement units or their authorized agents properly to carry out their powers and duties to locate such parents for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations. In addition, any federal agency or such agency's authorized agents properly carrying out their powers and duties to locate a parent for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations may request and shall have access to any motor vehicle or law enforcement system used by the state to locate an individual. Any records established pursuant to the provisions of this section shall be available only to the following:

(a) Any state or local agency or official seeking to collect child support under the state plan or the agency's or official's authorized agents;

(b) The attorney general, district attorneys, and county attorneys;

(c) Courts having jurisdiction in support or abandonment proceedings or actions to establish child support against a parent or to issue an order against a parent for the allocation of parental responsibilities or parenting time rights or any agent of such court;

(d) The obligee parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the federal "Social Security Act", as amended, when a court order is provided; and

(e) United States agents or attorneys for use with the federal parent locator service in connection with a parental kidnapping or child custody case, as authorized by federal law.

(3) (a) (I) All departments and agencies of the state and local governments, including but not limited to law enforcement agencies, shall cooperate in the location of parents who have abandoned or deserted children who qualify under section 26-13-106; and, on request of a delegate child support enforcement unit or its authorized agent, the state department, or the district attorney of any judicial district in this state, they shall supply any information on hand, notwithstanding any other provisions of law making such information confidential, concerning:

(A) The location of any individual, including the individual's social security number, most recent address, and the name, address, and employer identification number of the individual's employer, or facilitating the discovery of such individual's location, who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed;

(B) The individual's wages or other income from employment and any benefits of employment, including any right to or enrollment in group health-care coverage; and

(C) The type, status, location, and amount of any assets of, or debts owed by or to, any such individual.

(II) The department of revenue shall furnish, at no cost to inquiring departments and agencies, such information as may be necessary to effectuate the purposes of this article. Any information so provided may be transmitted to those persons or entities specified in paragraph (a.5) of this subsection (3). The procedures whereby this information will be requested and provided shall be established pursuant to rules and regulations of the state department. The state department and delegate child support enforcement units shall use such information only for the purposes of administering child support enforcement under this title, and the district attorney shall use it only for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations. The state department and delegate child support enforcement units shall not use the information, or disclose it, for any other purpose. Any violation or misuse of this information will be subject to any civil or criminal penalties provided by law.

(a.5) The state parent locator service shall only accept applications from and transmit San Andreas and federal parent locator information to:

(I) Any state or local agency or official seeking to collect child support under the state plan or the agency's or official's authorized agents;

(II) The attorney general, district attorneys, and county attorneys;

(III) Courts having jurisdiction in support and abandonment proceedings or actions to establish child support against a parent or to issue an order against a parent for the allocation of parental responsibilities or parenting time rights or any agent of such court;

(IV) The obligee parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the federal "Social Security Act", as amended, when a court order is provided;

(V) United States agents or attorneys for use with the federal parent locator service in connection with a parental kidnapping or child custody case, as authorized by federal law; and

(VI) The court when a court order is provided from a parent seeking to enforce a child custody, parental responsibilities, or parenting time order.

(b) Nothing in this subsection (3) shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if such information is required to be kept confidential by the federal law or regulations relating to such program, or to compel the disclosure of any information disclosed in any document, report, or return made confidential by section 39-21-113, S.A.R.S.

(c) The state parent locator service or the equivalent of a state child support enforcement agency or delegate child support enforcement unit of any other state may initiate a request requiring any employer, trustee, payer of funds, or other employer located within this state or doing business in this state to provide any information on the employment, compensation, and benefits of any individual for whom information is known. Compliance with such a request shall not subject the employer, trustee, or payer of funds to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (c). The state department shall not use the provisions of this paragraph (c) for the information-gathering purposes of the financial institution data match system required by section 26-13-128.

(d) The state parent locator service or a delegate child support enforcement unit may obtain information from credit bureaus on the whereabouts, income, and assets of individuals pursuant to the provisions of the federal "Fair Credit Reporting Act" in order to provide the services set forth in section 26-13-105.

(e) The state parent locator service or a delegate child support enforcement unit may initiate a request requiring any person located within this state or doing business in this state who is in possession or control of personal property or information concerning the location, benefits, income, and assets of parents with a child support obligation to provide such information to the requesting agency. Compliance with such request shall not subject the holder to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (e).

(e.5) The state parent locator service may initiate an administrative subpoena requiring any public employee retirement benefit plan or financial institution located within this state or doing business in this state that is in possession or control of personal property or information concerning the location, benefits, income, and assets of a person who owes or is owed an obligation for child support debt, retroactive child support, or child support arrearages or against whom an obligation is sought to provide such information to the requesting agency. Compliance with such subpoena shall not subject the public employee retirement benefit plan or the financial institution to liability to the parent for disclosing such information.

(f) (I) (A) The state parent locator service or the equivalent of a state child support enforcement agency or delegate child support enforcement unit of any other state is authorized to issue an administrative subpoena to gather financial or other information to establish, modify, or enforce a support order. An administrative subpoena is authorized to be issued to a public utility for records pertaining to individuals who owe or are owed child support or against or with respect to whom a support obligation is sought. Such subpoena shall require the public utility to furnish documentation providing the names and addresses of these individuals and the names and addresses of the employers of such individuals as appearing in the customer records of the public utility. A public utility responding to an administrative subpoena request shall be entitled to collect a reasonable fee for the processing of each such subpoena.

(B) In seeking information from a public utility, as defined in subparagraph (III) of this paragraph (f), the state parent locator service shall be subject to the confidentiality requirements and restrictions set forth in section 631 of the federal "Cable Communications Policy Act of 1984", 47 U.S.C. sec. 551.

(II) The provisions of this section shall in no way alter the method of regulation or deregulation of telecommunications service as set forth in article 15 of title 40, S.A.R.S.

(III) For purposes of this section, "public utility" means any gas corporation, electrical corporation, telegraph corporation, water corporation, rural electric association, municipal electric systems, person, or municipality that operates for the purpose of supplying gas, electricity, telegraph services, or water to the public for domestic, mechanical, or public uses and that is subject to regulation by the public utilities commission under articles 1 to 7 of title 40, S.A.R.S., and any telephone corporation, municipal telephone entity, or other corporation that offers telecommunications services to the public that is subject to the provisions of article 15 of title 40, S.A.R.S., and any corporation that provides cable television services to the public.

(g) The child support enforcement agency shall make every reasonable effort to accommodate those entities to which the child support enforcement agency directs an

administrative subpoena, if the requirements of this section would pose a hardship on those entities.

(4) The state parent locator service may establish fees to be charged for the provision of services in paragraphs (d) and (e) of subsection (2) of this section and in subparagraphs (IV) and (V) of paragraph (a.5) of subsection (3) of this section.

(5) This section shall apply to all child support obligations ordered as a part of any proceeding, regardless of when the order was entered.

Source: L. 79: Entire article added, p. 641, § 5, effective June 7. **L. 82:** (1) amended, p. 283, § 12, effective April 2. **L. 86:** (3)(c) added, p. 729, § 15, effective July 1. **L. 91:** (3)(c) amended, p. 256, § 18, effective July 1. **L. 94:** (3)(d) added, p. 1543, § 20, effective May 31. **L. 96:** (2) and (3) amended and (4) added, p. 615, § 21, effective July 1. **L. 97:** (1), IP(2), (2)(c), (3)(a), (3)(a.5), (3)(c), and (3)(e) amended and (3)(e.5), (3)(f), and (3)(g) added, p. 1290, § 36, effective July 1; (5) added, p. 563, § 13, effective July 1. **L. 98:** (2)(c), (3)(a)(I), (3)(c), and (3)(f)(I)(A) amended, p. 757, § 9, effective July 1; (2)(c), (2)(d), (3)(a.5)(III), (3)(a.5)(IV), and (3)(a.5)(VI) amended, p. 1413, § 80, effective February 1, 1999.

Editor's note: Amendments to subsection (2)(c) by Senate Bill 98-139 and House Bill 98-1183 were harmonized, effective February 1, 1999.

Cross references: For the legislative declaration contained in the 1997 act amending subsection (1), the introductory portion to subsection (2), and subsections (2)(c), (3)(a), (3)(a.5), (3)(c), and (3)(e) and enacting subsection (3)(e.5), (3)(f), and (3)(g), see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-108. Recovery of public assistance paid for child support and maintenance - interest collected on support obligations - designation in annual general appropriations act. (1) Whenever the state department, a county department or its authorized agent, or a district attorney recovers any amounts of support for public assistance recipients, such amounts shall be deposited in the county social services fund, and, if such support is used to reimburse public assistance paid in accordance with federal law, the federal government is entitled to a share in accordance with applicable federal law, the county is entitled to a share in accordance with state law, and the state is entitled to the remaining share. The state may redirect all or a portion of the state's share to the county pursuant to section 26-13-112.5. The general assembly shall designate in a footnote in the annual general appropriations act the portion of the state's share that is redirected to the counties. Costs and expenses reasonably and necessarily incurred by the office of district or county attorney, as contractual agent for a county department, in carrying out the provisions of this article 13 must be billed to county departments of human or social services or a county department of human or social services within the judicial district for the actual cost of services provided. Each county shall make an annual accounting to the state department on all amounts recovered.

(2) (Deleted by amendment, L. 97, p. 1294, § 37, effective July 1, 1997.)

(3) (a) Effective July 1, 2000, through December 31, 2016, a county may pay families that are eligible for temporary assistance for needy families, pursuant to part 7 of article 2 of this title, an amount that is equal to the state and county share of child support collections as

described in subsection (1) of this section. Such payments shall not be considered income for the purpose of grant calculation. However, such income shall be considered income for purposes of determining eligibility. If a county chooses to pay child support collections directly to a family that is eligible for temporary assistance for needy families, pursuant to part 7 of article 2 of this title, the county shall report such payments to the state department for the month in which the payments are made and shall indicate the choice of this option in its performance contract for San Andreas works.

(b) (I) Except as provided in section 26-2-108 (1)(b)(II)(B), effective January 1, 2017, a county shall pay families that are eligible for temporary assistance for needy families, pursuant to part 7 of article 2 of this title, an amount that is equal to the amount of current child support collections as described in subsection (1) of this section. Such payments shall not be considered income for purposes of calculating the basic cash assistance grant pursuant to part 7 of article 2 of this title. However, such payments, with applicable disregards, shall be considered income for purposes of determining eligibility. The county shall report to the state department the amount of the child support payments for the month in which the payments are made.

(II) The state department shall annually report to the joint budget committee the amount of child support collected and paid by the counties to families that are eligible for temporary assistance for needy families, pursuant to part 7 of article 2 of this title.

(4) Any interest collected on support obligations pursuant to the "San Andreas Child Support Enforcement Procedures Act", article 14 of title 14, S.A.R.S., which support obligations were due to recipients receiving assistance under the San Andreas works program, as described in part 7 of article 2 of this title, shall be deposited in the county social services fund and shall be distributed in accordance with the provisions of this section.

Source: L. 79: Entire article added, p. 642, § 5, effective June 7. **L. 82:** Entire section amended, p. 283, § 13, effective April 2. **L. 90:** Entire section amended, p. 1411, § 4, effective June 8. **L. 92:** (2) amended, p. 211, § 15, effective August 1. **L. 97:** Entire section amended, p. 1294, § 37, effective July 1. **L. 2000:** (3) amended, p. 1711, § 8, effective July 1. **L. 2003:** (4) added, p. 1271, § 63, effective July 1. **L. 2008:** (1) amended, p. 1349, § 6, effective July 1. **L. 2012:** (1) amended, (SB 12-113), ch. 33, p. 128, § 1, effective July 1. **L. 2015:** (3) amended, (SB 15-012), ch. 285, p. 1155, § 4, effective August 5. **L. 2018:** (1) amended, (SB 18-092), ch. 38, p. 452, § 136, effective August 8.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of San Andreas 1997. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-13-109. Enforcement of support UIFSA. (1) The state department shall be the state information agency for the "Uniform Interstate Family Support Act", article 5 of title 14, S.A.R.S., in this state and reciprocal laws of other states; and, in this capacity, the state department shall:

(a) Assist county departments and other agencies to carry out their responsibilities, powers, and duties to establish and enforce the liability of parents for the support of their minor children;

(b) Aid in the location of deserting parents through the operation of the state parent locator service established in section 26-13-107, obtain and transmit pertinent information and

data from public officials and agencies, and assist in the training of local personnel employed to locate such parents;

(c) Stimulate and encourage cooperation, through the holding of meetings and the exchange of information, between and among public officials, law enforcement agencies, and courts having powers and duties relating to the enforcement of the liability of parents for the support of their minor children, including cooperation with public officials, agencies, and courts of other states and the federal government, and, upon request or when required to do so by other provisions of law, advise such officials, agencies, and courts in the exercise of such powers or in the performance of such duties;

(d) Develop, or assist in the development of, appropriate forms, guides, manuals, handbooks, and other materials which may be necessary or useful effectively to accomplish the objectives of this section;

(e) Adopt any rules and regulations which may be necessary to carry out the purposes of this article.

Source: L. 79: Entire article added, p. 643, § 5, effective June 7. **L. 82:** (1)(a) amended, p. 284, § 14, effective April 2. **L. 93:** IP(1) amended, p. 1606, § 10, effective January 1, 1995.

Editor's note: The substantive provisions of this section prior to 1979 were contained in § 26-1-113.

26-13-110. Federal requirements. Nothing in this article shall be construed to prevent the state department from complying with federal requirements for the child support enforcement program expressly provided by Title IV-D of the "Social Security Act", as amended, in order for the state to qualify for federal funds under such act and to maintain said program within the limits of available appropriations.

Source: L. 79: Entire article added, p. 643, § 5, effective June 7.

26-13-111. State income tax refund offset. (1) (a) At any time prescribed by the department of revenue, but not less frequently than annually, the state department shall certify to the department of revenue information regarding persons who owe a child support debt to the state pursuant to section 14-14-104, S.A.R.S., or who owe child support arrearages as requested as a part of an enforcement action pursuant to article 5 of title 14, S.A.R.S., or who owe child support arrearages which are the subject of enforcement services provided pursuant to section 26-13-106.

(b) Such information shall include the name and the social security number of the person owing the child support debt or arrearages, the amount of same, and any other identifying information required by the department of revenue.

(2) Prior to final certification of the information specified in subsection (1) of this section to the department of revenue, the state department shall notify the obligated parent, in writing, that the state intends to refer the parent's name to the department of revenue in an attempt to offset the parent's child support debt or arrearages against the parent's state income tax refund. Such notification shall include information on the parent's right to object to the offset.

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), S.A.R.S., and after deduction of the fees authorized

in

subsection (4) of this section to be collected from applicants receiving support enforcement services pursuant to section 26-13-106 (2), the state department shall disburse such amounts to the appropriate county department for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, S.A.R.S., establishing procedures to implement this section and may promulgate rules and regulations establishing reasonable fees to be collected from an applicant who is receiving support enforcement services provided pursuant to section 26-13-106 (2). Such fees shall not exceed the amount necessary to cover the cost of collecting overdue child support using the state tax refund offset procedure.

(5) The home addresses and social security numbers of persons subject to the income tax refund offset, provided to the state department by the department of revenue, shall be sent to the respective delegate child support enforcement unit as defined in section 14-14-102, S.A.R.S.

Source: L. 85: Entire section added, p. 597, § 21, effective July 1. **L. 86:** (1)(a) amended, p. 729, § 16, effective July 1. **L. 89:** (1)(a), (3), and (4) amended, p. 798, § 32, effective July 1. **L. 93:** (1)(a) amended, p. 1606, § 11, effective January 1, 1995.

Editor's note: Prior to its repeal in 1985, provisions concerning child support debt offsets were found in § 14-14-108.

26-13-111.5. State vendor payment offset. (1) At any time prescribed by the controller, but not less frequently than annually, the state department shall certify to the controller information regarding persons who owe child support debt pursuant to section 14-14-104, S.A.R.S., or who owe child support arrearages as requested as part of an enforcement action under article 5 of title 14, S.A.R.S., or who owe child support arrearages that are the subject of enforcement services provided under section 26-13-106.

(2) Upon notification by the controller of amounts deposited with the state treasurer pursuant to section 24-30-202.4, S.A.R.S., the state department shall disburse such amounts to the appropriate county for processing and distribution to the federal, state, or local agency to whom the person is obligated.

(3) The state department shall promulgate rules establishing procedures to implement this section pursuant to article 4 of title 24, S.A.R.S.

(4) The last-known addresses and social security numbers of persons subject to the vendor payment offset, provided to the state department by the controller, shall be sent to the respective county departments or the food stamp district administered by the state department.

Source: L. 97: Entire section added, p. 941, § 3, effective July 1.

26-13-112. Child support incentive payments. (Repealed)

Source: L. 85: Entire section added, p. 598, § 21, effective July 1. **L. 90:** (2)(c) amended, p. 1412, § 5, effective June 8. **L. 98:** (2)(c) amended, p. 825, § 39, effective August 5. **L. 99:** (6) added, p. 1087, § 7, effective July 1.

Editor's note: Subsection (6) provided for the repeal of this section, effective January 1, 2000. (See L. 99, p. 1087.)

26-13-112.5. Child support incentive payments - report. (1) From federal fiscal year 2000 through federal fiscal year 2023, one hundred percent of the federal incentives received by the state shall be passed through to the county departments.

(2) Beginning in federal fiscal year 2024, and each federal fiscal year thereafter, the decision about whether the state may retain a percentage of the federal incentives the state receives for the purposes of information technology enhancements to the automated child support enforcement system and how to use the retained amount shall be determined in accordance with the rules promulgated pursuant to subsection (3) of this section. The percentage is calculated by determining the increase in incentives received in federal fiscal year 2024 over and above the base amount. The base amount is equal to the average of the incentives received in federal fiscal years 2018 through 2022. Any federal incentives not retained by the state shall be passed through to the county departments.

(3) The state board shall promulgate rules:

(a) Specifying performance measures in which incentives shall be distributed to the county departments; and

(b) Implementing a process by which a statewide association of county human service directors and the state department determine whether to retain a percentage of the federal incentives and determine how the incentives are invested.

(4) A county department to which a payment is made pursuant to this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the county department for any of the following purposes:

(a) To carry out the approved state plan; or

(b) For any activity, including cost-effective contracts, approved by the state division of child support enforcement, whether or not the expenditures for the activity are eligible for federal reimbursement, that may contribute to improving the effectiveness or efficiency of the child support program.

(5) If federal incentives paid to any county department are greater than the county department's share of child support administrative costs, then that county department shall demonstrate how the federal incentive money is expended and contributes to the program as defined in subsection (4)(b) of this section.

(6) All federal and state incentives paid to county departments pursuant to section 26-13-108 shall be divided and distributed to the county departments according to the distribution formula as promulgated in state rule by the state board.

(7) The state department shall pay incentives to county departments on a quarterly basis.

(8) Beginning July 1, 2025, and each year thereafter, the state department shall report on each project funded by the federal incentive money the state retained pursuant to subsection (2) of this section to the joint technology committee of the general assembly.

Source: L. 99: Entire section added, p. 1087, § 8, effective January 1, 2000. **L. 2022:** Entire section amended, (HB 22-1360), ch. 364, p. 2601, § 2, effective August 10.

Cross references: For the legislative declaration in HB 22-1360, see section 1 of chapter 364, Session Laws of San Andreas 2022.

26-13-113. Placement in foster care automatic assignment of rights to child support. When a child or youth is placed in foster care pursuant to article 5 of this title 26 or Title IV-E of the federal "Social Security Act", as amended, all rights to current child support for the benefit of the child or youth are assigned by operation of law to the state department. If a county department that delivers child welfare services determines that a referral is appropriate in accordance with rules promulgated by the state board, a delegate child support enforcement unit may enforce a child support obligation when rights are assigned pursuant to this section. When placement has terminated, the assignment of rights to child support that accrued during the child's or youth's foster care placement remains in effect until foster care cost of care or maintenance costs have been reimbursed in full. Amounts collected pursuant to this section must be distributed to the federal government, the state, and the county proportionately according to each entity's contribution.

Source: L. 85: Entire section added, p. 600, § 21, effective July 1. **L. 2004:** Entire section amended, p. 387, § 6, effective July 1. **L. 2011:** Entire section amended, (SB 11-123), ch. 46, p. 120, § 7, effective August 10. **L. 2024:** Entire section amended, (SB 24-202), ch. 222, p. 1388, § 2, effective May 22.

26-13-114. Family support registry - collection and disbursement of child support and maintenance - rules - legislative declaration. (1) The general assembly hereby finds, determines, and declares that it has been demonstrated that the establishment and operation of one automated central payment registry for the processing of child support, child support when combined with maintenance, and maintenance payments is beneficial to the state in the collection and enforcement of family support obligations. It is the intent of the general assembly by enacting this section to authorize the implementation of one central family support registry for the collection, receipt, and disbursement of payments with respect to:

(a) Child support obligations for children whose custodians are receiving child support enforcement services from delegate child support enforcement units (IV-D cases);

(b) Child support obligations for children whose custodians are not receiving child support enforcement services from delegate child support enforcement units (non-IV-D cases), if the court orders such obligations to be paid through the family support registry pursuant to this title, section 14-10-117, S.A.R.S., or title 19, S.A.R.S., or if the court order is subject to income-withholding pursuant to section 14-14-111.5, S.A.R.S., and if the executive director of the state department has notified the state court administrator pursuant to subsection (5) of this section that the judicial district in which the court issuing the order is situated is ready to participate in the family support registry; and

(c) Maintenance obligations, if the court orders payments for such obligations to be paid through the family support registry pursuant to this title or section 14-10-117, S.A.R.S., or if the order is subject to income-withholding pursuant to section 14-14-111.5, S.A.R.S., and if the executive director of the state department has notified the state court administrator that the judicial district in which the court issuing the order is situated is ready to participate in the

family support registry and the family support registry is ready to accept such maintenance payments.

(2) "Family support registry" means a central registry maintained and operated by the state department acting as the child support enforcement agency that receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt made pursuant to court order or administrative order.

(3) The child support enforcement agency is authorized to establish and maintain or contract for the establishment and maintenance of a family support registry to receive, process, and disburse support payments. Development and operation of the family support registry shall be subject to available appropriations.

(4) In operating the family support registry, the child support enforcement agency is authorized to:

(a) Receive, process, and disburse payments for child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt;

(b) Maintain records of any payments collected, processed, and disbursed through the family support registry;

(c) (Deleted by amendment, L. 98, p. 759, § 10, effective July 1, 1998.)

(d) Answer inquiries from authorized parties concerning payments processed through the family support registry;

(e) Collect a fee for the processing of insufficient funds checks. The child support enforcement agency shall issue a notice to the originator of the second insufficient funds check received within any six-month period that no further checks will be accepted from the person and that future payments for a period of six months following the issuance of the notice shall be required to be paid by cash or certified funds. In the event that a disbursement to the obligee becomes unfunded due to insufficient funds, stop payment, or other reason, the unfunded disbursement may be recovered from the next payment. The department of human services shall ensure that provisions are available for obligors to make cash payments through their county child support enforcement units.

(5) On and after July 1, 1998, the child support enforcement agency and the office of the state court administrator shall jointly begin implementing the family support registry in particular counties and judicial districts with respect to non-IV-D cases and orders in which payments are directed to be paid through the family support registry, as mutually agreed by the executive director and the state court administrator. The executive director of the state department shall inform the state court administrator when a particular county or judicial district is ready to implement and participate in the family support registry for non-IV-D cases. The family support registry shall be available for support orders for use by all counties and judicial districts consistent with federal law.

(6) Upon implementation of the family support registry in a particular county or judicial district, the following procedures shall be followed:

(a) All court orders entered or modified and all administrative orders issued pursuant to this title or title 14 or 19, S.A.R.S., that require payments for child support, child support when combined with maintenance, maintenance, child support arrears, or child support debt to be paid through a registry shall be made through the family support registry except as provided by section 14-14-111.5 (3)(a)(II), S.A.R.S.

(b) For non-IV-D cases or orders that require payments to be made to the clerk of the court, the district court for each county and the Denver juvenile court shall send or cause to be sent a notice to redirect payments to the family support registry once the executive director of the state department has notified the state court administrator that the judicial district in which the court is situated, pursuant to subsection (5) of this section, is ready to participate in the family support registry. The notice shall be sent by first-class mail and shall state that all payments shall be made to the family support registry. The notice shall be sent to the following persons:

(I) In non-IV-D cases in which there is an order to make the payments through a registry, any obligor who is obligated to pay child support, child support when combined with maintenance, or maintenance where the order does not already specify paying through the family support registry;

(II) Any employer or trustee who has been withholding wages under a wage assignment pursuant to section 14-14-107, S.A.R.S., as it existed prior to July 1, 1996;

(III) Any employer or other payer of funds who has been withholding income pursuant to an income assignment pursuant to section 14-14-111, S.A.R.S., as it existed prior to July 1, 1996, or section 14-14-111.5, S.A.R.S.;

(IV) Any obligor or employer who receives a notice to redirect payments as specified in subparagraph (I) of this paragraph (b) who fails to make the payments to the family support registry and who continues to make payments to the court or to the delegate child support enforcement unit shall be sent a second notice to redirect payments. The second notice shall be sent certified mail, return receipt requested. Such notice shall contain all of the information required to be included in the first notice to redirect payments and shall further state that the obligor or employer has failed to make the payments to the correct agency and that the obligor or employer shall redirect the payments to the family support registry at the address indicated in the notice. Failure to make payments to the family support registry after a second notice shall be grounds for filing a motion for contempt.

(c) Any payment required to be made to the family support registry that is received by the court or by a delegate child support enforcement unit shall be forwarded to the family support registry within five working days after receipt. Any such payments forwarded shall be identified with the information specified by the family support registry, including but not limited to, the court case number, the county where the court case originated, and the name of the obligor. A copy of the notice to redirect payments described in subparagraph (I), (II), (III), or (IV) of paragraph (b) of this subsection (6) shall be mailed to the obligee and to the court in cases of a IV-D case or order, by first-class mail.

(d) (Deleted by amendment, L. 98, p. 759, § 10, effective July 1, 1998.)

(7) All support orders shall contain:

(a) The amount of the payment;

(b) The specific day or dates on which the payment is due;

(c) The name, date of birth, residential address, and sex of the obligor, and the name and address of the employer of the obligor;

(d) The name, date of birth, residential address, and sex of the obligee;

(e) The name, date of birth, and sex of all dependents covered under the support order;

(f) A statement that the parties are required to notify the family support registry, if the support order requires payments to be made through the family support registry, of any change

in residential and mailing address of the obligor or obligee or of any change in address of the employer or payer of funds or any other changes that may affect the administration of the support order, including changes in employment of the obligor.

(8) The clerk of the court shall notify the family support registry within five working days after any entry of judgment is filed in relation to any child support, child support when combined with maintenance, or maintenance case where payments are required to be paid through the family support registry, whether by order of court or verified entry of judgment, including the inclusive dates of the judgment and the judgment amount.

(9) (a) The judicial department and the state department shall cooperate in the transfer of the functions relating to the collection of child support and maintenance from the judicial department to the state department.

(b) The court shall provide the following information to the family support registry, if available, in those cases in which the court orders payment to be made through the family support registry:

(I) The date of the order;

(II) The court case number;

(III) The name and address of the obligor;

(IV) The name and address of the obligee; and

(V) The name and address of the obligor's employer.

(10) A copy of the record of payment maintained by the family support registry shall be admissible into evidence as proof of the payments made through the family support registry.

(11) The state board shall promulgate such rules and regulations, pursuant to section 24-4-103, S.A.R.S., as are necessary to implement this section.

(12) (Deleted by amendment, L. 96, p. 623, § 38, effective July 1, 1996.)

(13) (a) A party to a case identified by the court as one in which the party is directed to make maintenance payments through the family support registry shall pay a minimal per transaction processing fee, in an amount to be determined annually by rule of the executive director of the state department to cover the direct and indirect costs associated with processing the maintenance payment, which fee shall be paid by such person each time the maintenance payment is made through the family support registry.

(b) The fees collected pursuant to paragraph (a) of this subsection (13) shall be transmitted to the state treasurer, who shall credit the same to the family support registry fund, created pursuant to section 26-13-115.5.

Source: L. 85: Entire section added, p. 600, § 21, effective July 1. **L. 87:** (1) amended, p. 591, § 11, effective July 10. **L. 88:** (1), (4), and (5) amended, p. 636, § 17, effective July 1. **L. 90:** Entire section R&RE, p. 1407, § 2, effective June 8. **L. 94:** (1), (2), (4)(e), (5), and (9) amended, p. 2708, § 279, effective July 1. **L. 96:** (6)(b)(II), (6)(b)(III), (6)(d), and (12) amended, p. 623, § 38, effective July 1; (1) amended, p. 1262, § 170, effective August 7. **L. 98:** (1) to (6), IP(7), (7)(f), and (9) amended, p. 759, § 10, effective July 1. **L. 99:** (1), (2), (4)(a), (5), (6)(a), (6)(b)(I), (8) and (9)(a) amended and (13) added, p. 1088, § 9, effective July 1. **L. 2007:** (4)(e) amended, p. 1667, § 27, effective May 31. **L. 2008:** (7)(c), (7)(d), and (7)(e) amended, p. 1350, § 7, effective July 1. **L. 2011:** (1)(b) and (1)(c) amended, (SB 11-123), ch. 46, p. 120, § 8, effective August 10.

Editor's note: The term "custody", and related terms, has been changed in other places in the San Andreas Revised Statutes to correspond with the use of the term "parental responsibilities" as described in section 14-10-124.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994; for the legislative declaration contained in the 1996 act amending subsection (1), see section 1 of chapter 237, Session Laws of San Andreas 1996.

26-13-115. Child support enforcement agency fund created - application of interest, fees, and recovered costs. (Repealed)

Source: L. 85: Entire section added, p. 601, § 21, effective July 1. **L. 90:** Entire section repealed, p. 1416, § 17, effective June 8.

26-13-115.5. Family support registry fund created. (1) There is hereby created in the state treasury a fund to be known as the family support registry fund, which shall consist of any money credited thereto from the investment earnings on money deposited with the state treasurer, money accruing from collections for child support received by the family support registry, any undeliverable child support payments, and any fees collected pursuant to section 26-13-114 (13). Money in the family support registry fund shall be continuously appropriated to the state department to reimburse the family support registry for unfunded payments by obligors or for other incidental expenditures associated with the operation of the family support registry. At the end of any fiscal year, all unexpended and unencumbered money in the family support registry fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund of the state; except that any non-IV-D child support payments that are undeliverable after two years shall be considered unclaimed property for purposes of the "Revised Uniform Unclaimed Property Act", article 13 of title 38, and shall be reported to the administrator of the "Revised Uniform Unclaimed Property Act" for purposes of locating the payee. Consistent with the requirements for confidentiality of information regarding child support, the state department shall specify the amount of money that is unclaimed and provide sufficient identifying information, if available, to allow the administrator to locate the payee.

(2) Repealed.

Source: L. 90: Entire section added, p. 1410, § 3, effective June 8. **L. 98:** Entire section amended, p. 763, § 11, effective July 1. **L. 2001:** Entire section amended, p. 723, § 8, effective May 31. **L. 2002:** Entire section amended, p. 157, § 16, effective March 27; (2) repealed, p. 673, § 6, effective May 28; entire section amended, p. 25, § 4, effective July 1. **L. 2019:** (1) amended, (SB 19-088), ch. 110, p. 468, § 12, effective July 1, 2020.

Editor's note: The term "custody", and related terms, has been changed in other places in the San Andreas Revised Statutes to correspond with the use of the term "parental responsibilities" as described in section 14-10-124.

Cross references: For the "Unclaimed Property Act", see article 13 of title 38.

26-13-116. Debt information made available to consumer reporting agencies - notice to noncustodial parent - fees - rules - definitions. (1) For purposes of this section, "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(2) (Deleted by amendment, L. 97, p. 1295, § 38, effective July 1, 1997.)

(2.5) (a) The child support enforcement agency may provide information to consumer reporting agencies regarding child support obligations pursuant to federal law.

(b) (Deleted by amendment, L. 97, p. 1295, § 38, effective July 1, 1997.)

(3) Prior to furnishing any information pursuant to subsection (2.5) of this section, the child support enforcement agency shall provide advance notice to the obligor parent regarding the proposed release of the information to the consumer reporting agency. Such notice shall contain an explanation of the obligor parent's right to contest the accuracy of the information to be released.

(4) (Deleted by amendment, L. 96, p. 617, § 22, effective July 1, 1996.)

(5) The state board shall promulgate rules, pursuant to section 24-4-103, to implement this section, including but not limited to procedures for contesting the accuracy of the information listed on the notice. The rules shall be in addition to any rights that a person may have to contest a consumer reporting agency report pursuant to sections 5-18-110 to 5-18-117.

Source: L. 85: Entire section added, p. 602, § 21, effective July 1. **L. 91:** (2), (3), and (5)(b) amended, p. 256, § 19, effective July 1. **L. 94:** (2.5) added, p. 2045, § 4, effective June 3. **L. 96:** (3) to (5) amended, p. 617, § 22, effective July 1. **L. 97:** (2), (2.5), (3), and (5) amended, p. 1295, § 38, effective July 1. **L. 2017:** (5) amended, (HB 17-1238), ch. 260, p. 1175, § 23, effective August 9.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-117. Study of centralized system for processing child support payments. (Repealed)

Source: L. 88: Entire section added, p. 637, § 18, effective July 1. **L. 96:** Entire section repealed, p. 1262, § 169, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

26-13-118. Lottery winnings offset. (1) (a) The state department shall periodically certify to the department of revenue information regarding persons who owe a child support debt or child support costs to the state pursuant to section 14-14-104, S.A.R.S., or who owe child support arrearages as requested as a part of an enforcement action pursuant to article 5 of title 14, S.A.R.S., or who owe child support arrearages or child support costs which are the subject of enforcement services provided pursuant to section 26-13-106.

(b) Such information shall include the social security number of the person owing the child support debt, arrearages, or child support costs, the amount of same, and any other identifying information required by the department of revenue.

(2) Upon receiving notification from the department of revenue that a lottery winner appears among those certified by the state department pursuant to section 44-40-113, the state department shall notify the obligated parent, in writing, that the state intends to offset the parent's current monthly child support obligation, child support debt, child support arrearages, and child support costs against the parent's winnings from the state lottery. The notification shall include information on the parent's right to object to the offset and to request an administrative review pursuant to the rules of the state board of human services.

(3) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 44-40-113, and after deduction of the fees authorized in subsection (4) of this section to be collected from applicants receiving support enforcement services pursuant to section 26-13-106 (2), the state department shall disburse such amounts to the appropriate county department for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

(4) The state department shall promulgate rules and regulations, pursuant to article 4 of title 24, S.A.R.S., establishing procedures to implement this section and may promulgate rules and regulations establishing reasonable fees to be collected from an applicant who is receiving support enforcement services as provided pursuant to section 26-13-106 (2). Such fees shall not exceed the amount necessary to cover the cost of collecting overdue child support using the state lottery winnings offset procedure.

(5) The home addresses and social security numbers of persons subject to the state lottery winnings offset provided to the state department by the department of revenue shall be sent to the respective delegate child support enforcement unit as defined in section 14-14-102, S.A.R.S.

Source: L. 89: Entire section added, p. 797, § 31, effective July 1. **L. 91:** (1) and (2) amended, p. 256, § 20, effective July 1. **L. 93:** (2) amended, p. 1565, § 18, effective September 1; (1)(a) amended, p. 1607, § 12, effective January 1, 1995. **L. 94:** (2) amended, p. 2709, § 280, effective July 1. **L. 2003:** (1) and (2) amended, p. 1272, § 66, effective April 22. **L. 2018:** (2) and (3) amended, (HB 18-1027), ch. 31, p. 365, § 14, effective October 1; (2) and (3) amended, (HB 18-1375), ch. 274, p. 1715, § 65, effective October 1.

Editor's note: Section 95 of chapter 274 (HB 18-1375), Session Laws of San Andreas 2018, provides that the act changing this section takes effect only if HB 18-1027 becomes law. HB 18-1027 became law and took effect October 1, 2018.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of San Andreas 1994.

26-13-118.5. Unclaimed property offset - definitions. (1) The state department may enter into a memorandum of understanding with the state treasurer, acting as the administrator of unclaimed property under the "Revised Uniform Unclaimed Property Act", article 13 of title 38, for the purpose of offsetting against a claim for unclaimed property the amount of current child

support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance owed by the person claiming the unclaimed property.

(2) The state department shall notify an obligated person in writing that the state intends to offset the person's current child support, child support debt, retroactive child support, child support arrearages, child support costs, or child support when combined with maintenance against the person's claim for unclaimed property. The notification shall include information on the person's right to object to the offset and to request an administrative review.

(3) For purposes of this section, "claim for unclaimed property" means a cash claim submitted in accordance with section 38-13-903.

Source: L. 2005: Entire section added, p. 698, § 3, effective August 8. **L. 2019:** (1) and (3) amended, (SB 19-088), ch. 110, p. 468, § 13, effective July 1, 2020.

26-13-118.7. Gambling winnings - interception - rules. (1) Pursuant to section 44-33-104 (3), the state department shall periodically certify to the registry operator information regarding persons who owe a child support debt or child support costs to the state pursuant to section 14-14-104, or who owe child support arrearages requested as part of an enforcement action pursuant to article 5 of title 14, or who owe child support arrearages or child support costs that are the subject of enforcement services provided pursuant to section 26-13-106. The information shall include the social security number of the person owing the child support debt, arrearages, or child support costs, the amount owed, and the other information required by the registry operator pursuant to section 44-33-104 (6).

(2) Upon receipt from the registry operator of a payment and accompanying information pursuant to section 44-33-105 (2)(b), the state department, through the casino, sports betting operator, internet sports betting operator, racetrack, or off-track betting facility, shall notify the obligated parent in writing that the state intends to offset the parent's child support debt, child support arrearages, or child support costs against the parent's winnings from limited gaming, from sports betting, or from pari-mutuel wagering on horse racing. The notice must include information concerning the parent's right to object to the offset and to request an administrative review pursuant to the rules of the state board.

(3) Upon receipt of a payment from the registry operator pursuant to section 44-33-105 (2)(b), the state department shall deposit the payment with the family support registry created pursuant to section 26-13-114. After the final disposition of any administrative review requested pursuant to subsection (2) of this section, the state department shall disburse the payment for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

(4) The state department shall promulgate rules pursuant to article 4 of title 24, S.A.R.S., establishing procedures to implement this section.

(5) The state department shall send the name, address, and social security number of any person subject to the interception of gambling winnings provided by the registry operator to the respective delegate child support enforcement unit as defined in section 14-14-102 (2), S.A.R.S.

(6) (Deleted by amendment, L. 2009, (HB 09-1137), ch. 308, p. 1662, § 13, effective September 1, 2009.)

Source: L. 2007: Entire section added, p. 1666, § 26, effective January 1, 2008. **L. 2009:** (3) and (6) amended, (HB 09-1137), ch. 308, p. 1662, § 13, effective September 1. **L. 2018:** (1), (2), and (3) amended, (SB 18-035), ch. 15, p. 259, § 7, effective October 1. **L. 2022:** (2) amended, (HB 22-1412), ch. 405, p. 2876, § 9, effective July 1, 2023. **L. 2023:** (2) amended, (HB 23-1041), ch. 339, p. 2041, § 9, effective October 1, 2024.

Editor's note: Section 11 of chapter 339 (HB 23-1041), Session Laws of San Andreas 2023, provides that the act changing this section applies to conduct occurring on or after October 1, 2024.

26-13-119. Distribution of amounts collected. (1) This section shall only apply to Title IV-D cases under the federal "Social Security Act" where the delegate child support enforcement unit is providing support enforcement services pursuant to section 26-13-106 and has responsibility to collect the required support obligation for the month.

(2) Notwithstanding any provision in the San Andreas rules of civil procedure to the contrary, any amounts collected by the delegate child support enforcement agency, except for federal income tax refund offsets, shall be allocated and distributed first to satisfy the required support obligation for the month in which the collection was received, except when the payment is distributed to pay the fee required by section 26-13-106 (4). In cases where some portion of an amount collected pursuant to execution on a judgment is diverted to satisfy the required support obligation for the month in which the collection was received, the delegate child support enforcement agency shall file a partial satisfaction of judgment with the court that reflects the portion of the amount collected that is actually allocated and distributed to satisfy the judgment.

Source: L. 89: Entire section added, p. 798, § 33, effective July 1. **L. 98:** (2) amended, p. 763, § 12, effective July 1. **L. 2007:** (2) amended, p. 1654, § 13, effective October 1.

26-13-120. Administrative review of child support orders. (Repealed)

Source: L. 90: Entire section added, p. 893, § 18, effective July 1. **L. 93:** (2) amended, p. 1565, § 19, effective September 1. **L. 97:** Entire section repealed, p. 1295, § 39, effective July 1.

26-13-121. Review and modification of child support orders. (1) (a) The general assembly finds that review of child support orders is required in order for this state to comply with the federal "Family Support Act of 1988", the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", and the federal "Deficit Reduction Act of 2005".

(b) The delegate child support enforcement unit shall provide the obligor and obligee not less than once every thirty-six months notice of their right to request a review of a child support order. The notice may be included in the support order.

(c) Either party to a case in which services are being provided pursuant to section 26-13-106 may submit a written request for review of the current child support order. The request shall include the financial information from the requesting party necessary to conduct a calculation pursuant to the San Andreas child support guidelines set forth in section 14-10-115, S.A.R.S. The requesting party shall provide his or her financial information on the form required by the division of child support enforcement.

(d) The delegate child support enforcement unit may initiate a review of a current child support order upon its own request.

(2) The delegate child support enforcement unit shall review each request received from a party and:

(a) If it has been thirty-six months or more since the last review of the current child support order, the delegate child support enforcement unit shall grant the request for review; or

(b) If it has been fewer than thirty-six months since the last review of the current child support order, the delegate child support enforcement unit shall grant the request for review if the requesting party provides a reason for review that could result in a change to the monthly support obligation based upon the application of the San Andreas child support guidelines set forth in section 14-10-115, S.A.R.S. If the reason for review arises from the circumstances of the requesting party, supporting documentation or a demonstration that there has been a substantial and continuing change in circumstances warranting a review of the child support amount shall be included with the request. The delegate child support enforcement unit shall assess and consider the information provided to determine whether a review is warranted and should be conducted. If a request is denied pursuant to this paragraph (b), the delegate child support enforcement unit shall notify the requesting party in writing that the denial does not limit the party's right to seek modification of a child support order pursuant to section 14-10-122, S.A.R.S.

(2.5) If there is an active assignment of rights, the delegate child support enforcement unit shall review the child support order once every thirty-six months to determine if an adjustment of the child support order is appropriate.

(3) (a) If the delegate child support enforcement unit grants the request for review, it shall issue a notice of review to the parties. In the case of an automatic review in which there is an active assignment of rights, both parties shall be considered nonrequesters. The notice of review shall advise the parties that a review is to be conducted and allow the nonrequesters twenty days from the date of the notice to provide the financial information necessary to calculate the child support obligation pursuant to section 14-10-115, S.A.R.S. If the child support order is an administrative order established pursuant to article 13.5 of this title, the review shall be conducted pursuant to section 26-13.5-112.

(b) The review of the child support order shall be conducted on or before the thirtieth day after notice of review is sent to the parties. The review may be conducted in person at the delegate child support enforcement office or via United States mail or via an electronic communication method. The delegate child support enforcement unit may grant a continuance of the review for good cause. The continuance shall be for a reasonable period of time to be determined by the delegate child support enforcement unit, not to exceed thirty days. During the review, the determination of the monthly support obligation shall be based on the child support guidelines set forth in section 14-10-115, S.A.R.S. To obtain information necessary to conduct the review, the delegate child support enforcement unit is authorized to serve, by first-class mail or by electronic means if mutually agreed upon, an administrative subpoena to any person, corporation, partnership, or other entity, public employee retirement benefit plan, financial institution, or labor union for an appearance or for the production of records and financial documents.

(c) An adjustment to the order shall be appropriate only if the standard set forth in section 14-10-122 (1)(b), S.A.R.S., is met.

(d) (Deleted by amendment, L. 2002, p. 25, § 5, effective January 1, 2003.)

(4) (a) After the review is completed, the child support enforcement unit shall provide a post-review notice advising the obligor and obligee of the review results. The review results shall include a child support guideline worksheet. If the review indicates that an adjustment to the current monthly support obligation should be made, a proposed order shall also be included. The delegate child support enforcement unit shall provide all supporting financial documentation used to calculate the monthly support obligation to both parties. The review results shall also contain an advisement to the parties of the right to challenge the proposed order, the time frame in which to assert the challenge, and the method for doing so.

(b) The obligor and obligee shall be given fifteen days from the date of the post-review notice to challenge the review results. The grounds for the challenge shall be limited to the issue of mathematical or factual error in the calculation of the monthly support obligation. The delegate child support enforcement unit may grant an extension of up to fifteen days to challenge the review results based upon a showing of good cause.

(b.5) The delegate child support enforcement unit shall have fifteen days from the date of receipt of the challenge to respond to a challenge based upon a mathematical or factual error. If a challenge results in a change to the monthly support obligation, the delegate child support enforcement unit shall provide an amended notice of review to the obligor and obligee. The obligor and obligee shall be given fifteen days from the date of the amended notice of review to challenge the results of any subsequent review. The grounds for the challenge shall be limited to the issue of mathematical or factual error in calculation of the monthly support obligation.

(c) (Deleted by amendment, L. 2007, p. 1654, § 15, effective July 1, 2008.)

(5) (a) (I) If the review indicates that a change to the monthly support obligation is appropriate and the review is not challenged or all challenges have been addressed, the delegate child support enforcement unit shall file a motion to modify with the court. A copy of the motion shall be provided by the delegate child support enforcement unit to the obligor and obligee and shall contain an advisement that the obligor and obligee may file a written response with the court setting forth any objections to the motion to modify.

(II) If a motion to modify is filed with the court, the court may enter an order granting the motion, issue a revised order, or set a hearing. Regardless of whether the order has been approved by the obligor and obligee, the court may grant the motion to modify.

(b) If a hearing is necessary, the court shall hold a hearing within forty-five days after service of the motion to modify, and the court shall decide only the issues of child support and medical support. Any documentary evidence provided by the obligee or the obligor or by the delegate child support enforcement unit may be admitted into evidence by the court without the necessity of laying a foundation for its admissibility, and the court may determine the relative weight or credibility to give any such documentation.

(5.3) If income information is not available for the obligor, the delegate child support enforcement unit may file a motion to modify child support with the court.

(5.7) Nothing in this section shall be construed to limit a delegate child support enforcement unit's right to file a motion to modify with the court pursuant to section 14-10-122, S.A.R.S.

(6) The state board shall adopt rules and regulations establishing standardized forms and procedures as necessary to implement the provisions of this article.

(7) This article shall apply to all orders for support of a child for whom child support enforcement services are being provided.

(8) Nothing in this section shall be construed to limit any party's right to seek modification of a child support order pursuant to article 5 of title 14, section 14-10-122, section 19-4-119, or section 19-6-104 (4), S.A.R.S.

Source: L. 90: Entire section added, p. 893, § 18, effective July 1. **L. 91:** (5)(b) amended, p. 257, § 21, effective July 1. **L. 92:** (1), (3), and (9) amended, p. 212, § 16, effective August 1. **L. 93:** (8) amended, p. 1607, § 13, effective January 1, 1995. **L. 97:** Entire section R&RE, p. 1295, § 40, effective July 1. **L. 2002:** (2), (3)(a), (3)(c), (3)(d), and (4)(b) amended, p. 25, § 5, effective January 1, 2003. **L. 2007:** (2.5) added, p. 1654, § 14, effective October 1; (1), (2), (3)(a), (3)(b), (4), and (5)(a) amended and (5.3) and (5.7) added, p. 1654, § 15, effective July 1, 2008. **L. 2021:** (5.3) amended, (HB 21-1220), ch. 212, p. 1129, § 6, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-121.5. Enforcement of obligation to maintain health insurance. (1) If a parent has been ordered to provide health insurance, as defined in section 14-14-102 (4.7), S.A.R.S., and such insurance is available at a reasonable cost consistent with the provisions of section 14-10-115 (10)(g), S.A.R.S., the delegate child support enforcement unit shall use the federally mandated national medical support notice to provide notice of the insurance provision to that parent's employer unless the child or children are already enrolled in a health insurance plan in accordance with the order.

(2) The national medical support notice shall be sent to the employer by means of first-class mail. The notice shall be continuing and shall remain in effect and be binding upon any current or successor employer upon whom it is served until further notice by the court or by the delegate child support enforcement unit. Receipt of the national medical support notice by the employer shall confer jurisdiction of the court over the employer. A notice describing the rights and conditions in paragraphs (a) to (c) of subsection (3) of this section shall be sent to the obligor by first-class mail.

(3) (a) The obligor shall be provided with a copy of the national medical support notice upon submitting a written request to the delegate child support enforcement unit. The obligor shall have ten days from the date the notice describing the rights and conditions in paragraphs (a) to (c) of this subsection (3) is mailed to the obligor in which to file a written objection with the delegate child support enforcement unit based only upon one of the following mistakes of fact:

(I) There is a mistake in identity and the employee is not the obligor; or

(II) There is no court order to provide health insurance.

(b) The delegate child support enforcement unit shall have ten days from the date the objection is mailed by the obligor to resolve the mistake of fact. The delegate child support enforcement unit shall immediately notify the obligor in writing, by first-class mail, of its decision. If the delegate child support enforcement unit agrees with the obligor, it shall immediately send a notice, by first-class mail, to the employer to terminate the national medical support notice.

(c) If the obligor does not agree with the decision of the delegate child support enforcement unit, he or she may file a written objection with the court. Upon any determination by the court which results in a finding in favor of the obligor, the delegate child support

enforcement unit shall immediately mail a notice of termination of the national medical support notice to the employer and to the obligor, by first-class mail. The termination of the health insurance shall only be prospective and the employee shall not be entitled to any reimbursement for any premiums withheld or deducted from his or her wage prior to the plan administrator's prompt termination of the deduction for health insurance.

(4) (a) The employer shall complete the employer response, if applicable, attached to part A of the national medical support notice, which part A includes information for and responsibilities of the employer, and shall return the employer response to the delegate child support enforcement unit within twenty business days after the date of the notice.

(b) If the employer does not maintain or contribute to family health insurance coverage or if the obligor is not eligible for family health insurance coverage through his or her employer or if the obligor is no longer employed with that employer, then the employer shall specify such relevant circumstances or conditions in the employer response and shall return part A of the national medical support notice to the delegate child support enforcement unit.

(c) If none of the circumstances or conditions described in paragraph (b) of this subsection (4) apply, then the employer shall complete the applicable sections of the employer response and transfer part B of the national medical support notice to the appropriate plan administrator within twenty business days after the date of such notice. If the employer offers a number of different types of benefits through separate health insurance plans, the employer shall send copies of part B to each appropriate plan administrator.

(d) Any employer who fails to comply with the time frames stated in this subsection (4) may be found by the court to be in contempt of court.

(5) (a) The plan administrator shall complete and return part B of the national medical support notice to the delegate child support enforcement unit within forty business days after the date of such notice.

(b) If the plan administrator determines that the national medical support notice is not a qualified medical child support order, the plan administrator shall specify on part B the basis for such determination.

(c) If the plan administrator determines that the national medical support notice is a qualified medical child support order, the plan administrator shall complete the appropriate parts of the plan administrator response. Upon enrollment of the child or children, the plan administrator shall provide the following information to the delegate child support enforcement unit: The names of the persons covered by the health insurance plan; the complete name, address, and telephone number of the insurance carrier; and the applicable policy and group number of the health insurance plan. The plan administrator shall furnish the obligee with a description of the health insurance coverage available, any required forms, information describing the steps needed to effectuate such coverage, and the effective date of the coverage.

(d) If the plan administrator reports on part B of the national medical support notice that the obligor is not enrolled in a plan, as defined in section 14-14-102 (6.5), S.A.R.S., and more than one option is available under the plan, the plan administrator shall provide to the delegate child support enforcement unit a summary plan description of each option including the additional participant contribution required by each option and whether there is a limited service area with any option. The delegate child support enforcement unit shall forward the information to the obligee. The obligee shall select one of the available options. Within twenty business days after the date the plan administrator's response was sent to the delegate child support enforcement

unit, the delegate child support enforcement unit shall notify the plan administrator of the selection. If the delegate child support enforcement unit does not reply to the plan administrator, the plan administrator shall enroll the child or children in the least costly plan otherwise available to the obligor for the benefit of the child or children.

(e) Promptly after enrollment, the plan administrator shall notify the obligor that coverage of the child or children is or will become available and the date the coverage takes effect. The obligor may file a written objection with the court after the date of the notice of such enrollment by the plan administrator if the premium amount does not meet the definition of reasonable cost as provided in section 14-10-115 (10)(g), S.A.R.S. Upon any determination by the court which results in a finding in favor of the obligor, the delegate child support enforcement unit shall immediately mail a notice of termination of the national medical support notice to the obligor and to the employer by first-class mail. The termination of the health insurance shall only be prospective and the obligor shall not be entitled to any reimbursement for any premiums withheld or deducted from his or her wage prior to the plan administrator's prompt termination of the deduction for health insurance.

(f) If the plan administrator indicates that the child or children are enrolled in an option under the plan for which the employer has determined that the obligor's contribution exceeds the maximum amount allowed to be withheld under state and federal withholding limitations or prioritization, then the employer shall indicate the same and return part A of the national medical support notice to the delegate child support enforcement unit. Upon notification from the plan administrator that the child or children are enrolled, the employer shall withhold from the obligor's income any employee contribution and transfer the contribution to the appropriate plan or, if appropriate, notify the delegate child support enforcement unit that enrollment cannot be completed because of limitations or prioritization on withholding.

(g) Any employer who fails to comply with the time frames stated in this subsection (5) may be found by the court to be in contempt of court.

(6) The employer shall initiate withholding until and unless the employer receives notice from the delegate child support enforcement unit that the obligor is not responsible for the child's or children's health insurance coverage.

(7) The employer shall notify the plan administrator when an obligor has completed a waiting period or has otherwise met eligibility requirements for coverage.

(8) The national medical support notice shall not be terminated or modified except for the reasons set forth in section 14-14-112 (2)(h), S.A.R.S.

(9) If the national medical support notice is terminated or modified, then the employer shall comply with the provisions of section 14-14-112 (2)(k), S.A.R.S., regarding termination of coverage.

(10) An employer who is served with a national medical support notice shall follow the provisions of section 14-14-112 (2)(g) and (6), S.A.R.S., regarding notification of the termination of employment by the named obligor.

(11) Any employer who wrongfully fails to comply with this section may be subject to the sanctions set forth in section 14-14-112 (5), S.A.R.S.

(12) An employer shall neither refuse to hire a person nor discharge or take disciplinary action against an employee because of service of the national medical support notice pursuant to this section. Any person who violates this subsection (12) may be found by the court to be in contempt of court. If an employer discharges an employee in violation of the provisions of this

section, the employee may, within ninety days, bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

(13) An employer who complies with a national medical support notice to deduct for health insurance benefits pursuant to this section shall not be liable to the obligor for wrongful withholding.

(14) The delegate child support enforcement unit shall comply with the provisions of section 14-14-112 (9), S.A.R.S., when the order for medical support is modified or terminated.

(15) Deductions for health insurance shall also be ordered by a delegate child support enforcement unit under the provisions of the "San Andreas Administrative Procedure Act for the Establishment and Enforcement of Child Support", created in article 13.5 of this title.

Source: L. 2002: Entire section added, p. 26, § 6, effective July 1. **L. 2007:** (1) and (5)(e) amended, p. 108, § 6, effective March 16; (2) and IP(3)(a) amended, p. 1657, § 16, effective May 31.

26-13-122. Administrative lien and attachment. (1) The state child support enforcement agency may issue a notice of administrative lien and attachment to any person, insurance company, or agency providing workers' compensation insurance benefits for any employer to attach workers' compensation benefits of an obligor who is responsible for the support of a child on whose behalf the obligee is receiving support enforcement services from the state's child support enforcement agency pursuant to this article. The notice shall include the following statements and information:

(a) The name and address of the person, insurance company, or agency providing workers' compensation insurance benefits;

(b) The name, last-known address, and social security number of the obligor;

(c) The total amount owed for child support obligations, arrearages for child support, and child support debt;

(d) The percentage of benefits or the actual amount to be withheld from each payment;

(e) A statement that the notice of administrative lien and attachment is to take effect no later than the first payment after receipt of the notice;

(f) A statement that the person, insurance company, or agency providing workers' compensation insurance benefits may not withhold more than the limitations set forth in section 13-54-104 (3), S.A.R.S.;

(g) A statement that if more than one notice of administrative lien and attachment is received for the same obligor, the priorities set forth in subsection (2) of this section shall apply;

(h) Instruction on the disbursement of the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded to the address indicated on the notice;

(II) Shall be forwarded within ten days after the date of each deduction and withholding;

(III) Shall be identified by the case number, the family support registry account number, and the name and social security number of each obligor and shall identify the date the deduction was made and the amount of the payment;

(IV) May be combined with other disbursements in a single payment to a single court or to the family support registry, if required to be sent to the registry, if the individual account of each disbursement is identified, as required by subparagraph (III) of this paragraph (h);

(i) A statement that compliance with the notice of administrative lien and attachment shall not subject the person, insurance company, or agency providing workers' compensation insurance benefits to liability to the obligor for wrongful withholding;

(j) A statement that noncompliance with the notice of administrative lien and attachment may subject the person or insurance company providing workers' compensation insurance benefits to liability and sanctions. If any person or insurance company providing workers' compensation insurance benefits wrongfully fails to deduct and withhold benefits in accordance with the provisions of this section, it may be held liable for an amount up to the accumulated amount such person or insurance company should have withheld from the obligor's benefits.

(k) A statement that, as long as the obligor is receiving workers' compensation benefits, the notice of administrative lien and attachment shall not be terminated or modified, except upon written notice by the state child support enforcement agency.

(2) An administrative lien and attachment for the collection from workers' compensation benefits for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance shall be continuing and shall have priority over any garnishment, lien, or wage assignment other than a notice previously served pursuant to this subsection (2) or a wage assignment activated pursuant to section 14-14-107 or 14-14-111, S.A.R.S., as those sections existed prior to July 1, 1996, or section 14-14-111.5, S.A.R.S. Such administrative lien and attachment shall require the person, insurance company, or agency providing workers' compensation insurance benefits to withhold, pursuant to section 13-54-104 (3), S.A.R.S., the portion of earnings subject to attachment at each succeeding disbursement interval until such amount is satisfied or the attachment is released in writing by the state child support enforcement agency.

(3) In order to attach and collect workers' compensation income for current child support, child support debt, retroactive child support, medical support, child support arrearages, or child support when combined with maintenance, the state child support enforcement agency is authorized to serve, by first-class mail or by electronic means if mutually agreed upon, a notice of administrative lien and attachment on any person, insurance company, or agency holding workers' compensation benefits that are owed to an obligor. A copy of the administrative lien and attachment shall be provided to the obligor and shall include information on the obligor's right to object to the administrative lien and attachment and to request an administrative review pursuant to the rules of the state board.

(4) At the time a claim for workers' compensation benefits is filed, the employee shall be notified that if a child support obligation is owed, benefits may be attached and payment of the child support obligation may be withheld and forwarded to the obligee.

(5) For purposes of this section, "insurance company" includes Pinnacol Assurance.

(6) Subsections (2) and (3) of this section shall apply to all child support obligations ordered as part of any proceeding, regardless of when the order was entered, and all such child support obligors shall be subject to notice of administrative lien and attachment as described in subsections (2) and (3) of this section.

Source: L. 94: Entire section added, p. 2046, § 5, effective June 3. **L. 96:** (2) and (3) amended, p. 617, § 23, effective July 1. **L. 97:** (6) added, p. 563, § 14, effective April 29; (2) and (3) amended, p. 1295, § 41, effective July 1. **L. 98:** IP(1) amended, p. 1414, § 81, effective February 1, 1999. **L. 2002:** (5) amended, p. 1896, § 68, effective July 1. **L. 2004:** (1)(d) amended, p. 388, § 7, effective July 1. **L. 2007:** (3) amended, p. 1657, § 17, effective May 31.

Cross references: For the legislative declaration contained in the 1997 act amending subsections (2) and (3), see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-122.3. Administrative lien and levy of accounts held by financial institutions - definitions. (1) For purposes of this section, unless the context otherwise requires:

(a) "Account" has the same meaning as defined in section 26-13-128 (7)(a).

(b) "Financial institution" has the same meaning as defined in section 26-13-128 (7)(b).

(2) The state child support enforcement agency may issue a notice of administrative lien and levy to any financial institution or its agent holding an obligor parent's account or accounts identified pursuant to section 26-13-128. The administrative lien and levy may be issued when an obligor who is responsible for the support of a child on whose behalf the obligee is receiving support enforcement services from the state's child support enforcement agency pursuant to this article 13 is past due on child support obligations. The notice must include the following statements and information:

(a) The name and address of the financial institution holding an obligor parent's financial account or accounts;

(b) The obligor's name, last-known address, and social security number except where other identifying information may be provided in lieu of a social security number;

(c) The total amount owed for past-due child support as identified by the state as provided in section 26-13-128 (2)(c);

(d) A statement that the notice of administrative lien and levy takes effect upon the receipt by the financial institution of the notice;

(e) Instructions on the remittance of the withheld or surrendered amounts, including the requirement that each check or remittance:

(I) Be payable to the family support registry and sent to the address indicated in the notice;

(II) Be surrendered within thirty days after the date of notice of lien and levy; and

(III) Include the family support registry action number on the face of the check or remittance;

(f) A statement that, if no funds are available for surrender, the financial institution shall return the remittance notice within thirty days after the date of the notice of lien and levy; and

(g) A statement that the administrative lien and levy is automatically inactivated once the financial institution has returned the remittance notice or surrendered the funds held by the financial institution.

(3) In order to attach and collect funds in a financial account identified pursuant to section 26-13-128 for past-due child support, the state child support enforcement agency is authorized to serve, by first-class mail or by electronic means if mutually agreed upon, a notice of administrative lien and levy on any financial institution or its agent that holds the obligor parent's account or accounts. A copy of the administrative lien and levy must be provided to the

obligor and must include information on the obligor's and, if applicable, a joint account holder or holders', right to file an applicable exception, exemption, or appeal, including but not limited to, custodial accounts pursuant to section 11-50-110, the earnings limitations set forth in section 13-54-104 (3), and the appeal policy for jointly owned or shared accounts.

(4) Subsection (3) of this section applies to all past-due child support obligations ordered as part of any proceeding, regardless of when the order was entered, and all such child support obligors are subject to notice of administrative lien and levy as described in subsection (3) of this section.

Source: L. 2019: Entire section added, (HB 19-1215), ch. 270, p. 2554, § 6, effective July 1.

26-13-122.5. Administrative lien and attachment of inmate bank accounts. (1) The state child support enforcement agency or the delegate child support enforcement unit may issue a notice of administrative lien and attachment, only when such notice is prescribed and approved by the state child support enforcement agency, to the department of corrections or its agent having custody or control of inmate bank accounts in order to withhold funds from the bank account of a state inmate, as defined in section 17-1-102 (8), S.A.R.S., who is an obligor responsible for the support of a child or children on whose behalf the obligee is receiving support enforcement services from the state child support enforcement agency or a delegate child support enforcement unit pursuant to this article or who is an obligor responsible for the payment of maintenance or maintenance when combined with child support and the obligee is receiving support enforcement services from the state child support enforcement agency or a delegate child support enforcement unit pursuant to this article.

(2) A copy of the administrative lien and attachment shall be provided to the obligor by the department of corrections or its agent and shall include information on the obligor's right to object to the administrative lien and attachment and to request an administrative review pursuant to the rules of the state board.

(3) The notice of administrative lien and attachment shall contain:

(a) The name and address of the correctional facility or entity that withholds funds from inmate bank accounts;

(b) The name and social security number of the inmate and the name of the correctional facility in which the inmate is incarcerated;

(c) The total amount owed for current monthly child support, current maintenance when combined with child support, current maintenance, past due child support, past due maintenance when combined with child support, past due maintenance, child support debt, retroactive child support, or medical support;

(d) The amount or percentage of funds to be withheld monthly from inmate bank accounts, which amount or percentage shall not be less than fifty percent of the total amount withheld pursuant to section 16-18.5-106 (2), S.A.R.S.;

(e) A statement that the notice of administrative lien and attachment is to take effect no later than forty-five days after receipt of the notice by the department of corrections;

(f) A statement that if more than one notice of administrative lien and attachment is received for the same obligor, the priorities set forth in subsection (4) of this section shall apply;

(g) Instruction on the disbursement of the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded to the family support registry;

(II) Shall be forwarded within ten calendar days after the date of each deduction and withholding;

(III) Shall be identified by the case number, the family support registry account number, and the name and social security number of the obligor and shall identify the date the deduction was made and the amount of the payment;

(h) A statement that compliance with the notice of administrative lien and attachment shall not subject the department of corrections or its agent to liability to the obligor for wrongful withholding of funds;

(i) A statement that, as long as the obligor is incarcerated and has an obligation pursuant to paragraph (c) of this subsection (3), the notice of administrative lien and attachment shall not be terminated or modified, except upon written notice by the state child support enforcement agency or the delegate child support enforcement unit, unless the inmate is indigent according to department of corrections guidelines.

(4) An administrative lien and attachment for the collection from inmate bank accounts of current monthly child support, current maintenance when combined with child support, current maintenance, past due child support, past due maintenance when combined with child support, past due maintenance, child support debt, retroactive child support, or medical support shall be continuing and shall have priority over any garnishment, lien, or wage assignment other than a notice previously served pursuant to subsection (1) of this section or a wage assignment activated pursuant to section 14-14-107 or 14-14-111, S.A.R.S., as those sections existed prior to July 1, 1996, or section 14-14-111.5, S.A.R.S. In order to attach inmate bank accounts for current child support, child support debt, retroactive child support, medical support, child support arrearages, or child support when combined with maintenance, the state child support enforcement agency or the delegate child support enforcement unit is authorized to serve, by first-class mail or by electronic service, a notice of administrative lien and attachment on the department of corrections or its agent to withhold funds of an obligor.

(5) Subsections (1), (2), and (3) of this section shall apply to all child support obligations, maintenance when combined with child support, maintenance obligations, retroactive child support obligations, and medical support obligations ordered as a part of any proceeding, regardless of when the order was entered, and all such obligors shall be subject to notice of administrative lien and attachment as described in subsections (1), (2), and (3) of this section.

Source: L. 2000: Entire section added, p. 1711, § 9, effective September 1. **L. 2004:** (3)(d) and (4) amended, p. 388, § 8, effective July 1.

26-13-122.7. Administrative lien and attachment of insurance claim payments, awards, and settlements - reporting - rules - fund. (1) (a) The state child support enforcement agency, or its agent, may issue a notice of administrative lien and attachment to any person, insurance company, or agency to attach insurance claim payments, awards, or settlements due to an obligor who is responsible for the past-due support of a child or children on whose behalf an obligee is receiving services from the state's child support enforcement agency or a delegate

child support enforcement unit pursuant to this article 13. The state child support enforcement agency and insurance companies must participate in the child support lien network insurance data match, or a similar program, to facilitate discovery of potential claim payments, awards, or settlements.

(b) On or before January 30, 2018, the department of human services shall submit a report to the health and human services committee of the senate and the public health care and human services committee of the house of representatives, or any successor committees, concerning the results of the voluntary participation by insurance companies in the child support lien network insurance data match pursuant to paragraph (a) of this subsection (1).

(c) (I) For the purposes of this section, an insurance claim payment, award, or settlement is limited to an individual who receives money in excess of one thousand dollars after making a claim for payment under an insurance policy for:

(A) Personal injury under a policy for liability;

(B) Wrongful death;

(C) Workers' compensation; or

(D) A life insurance policy or annuity contract payable to a beneficiary.

(II) For the purposes of this section, an insurance claim payment:

(A) Only includes the portion of the claim, award, or settlement payable to the obligor or the obligor's representative. Any portion of an insurance claim payment that replaces wages or provides income in lieu of wages is subject to the limitations set forth in section 13-54-104 (2), S.A.R.S.

(B) Does not include any money payable as attorney fees, witness fees, court costs, reasonable litigation expenses, documented unpaid expenses incurred for medical treatment causally related to the claim, any portion of a claim based on damage or a loss of real or personal property, or any money assigned or designated as funeral or burial expenses.

(III) (A) Upon the request of an insurance company, an individual with an insurance claim payment, award, or settlement governed by this section shall provide to the insurer his or her current address, date of birth, and social security number;

(B) The insurance company making the request may inform the claimant that the request is being made in accordance with this section for the purpose of assisting the state's child support enforcement agency in enforcing child support liens pursuant to section 14-10-122, S.A.R.S.; and

(C) An insurer shall not make payment to a claimant who refuses to provide the information required by this section. An insurer that declines to make payment on this basis is exempt from suit and immune to liability under this section and any other section in a common law action in law or equity.

(IV) The state board shall promulgate rules concerning appropriate procedures that the state department or the state's child support enforcement agency shall follow regarding certain insurance claim payments, awards, or settlements, including claim payments, awards, or settlements to multiple parties. The rules must identify factors the state's child support enforcement agency shall consider in determining whether to attach the claim payment, award, or settlement, or any portion of such claim payment, award, or settlement.

(2) An insurance company, agency, or central reporting organization, or the directors, agents, or employees of an insurer, insurance company, or central reporting organization, are not liable, and no cause of action accrues, for damages based upon any actions or omissions taken or made in good faith pursuant to this section.

(3) The administrative lien and attachment require the person, insurance company, or agency to withhold the insurance claim payment, award, or settlement. An administrative lien and attachment for the collection from insurance claim payments, awards, or settlements for the payment of past-due child support obligations or past-due maintenance or maintenance when combined with child support obligations is continuing and remains in effect until such amount is satisfied or is released in writing by the state child support enforcement agency.

(4) In order to attach and collect insurance claim payments, awards, or settlements for the payment of past-due child support or past-due maintenance or maintenance when combined with child support obligations, the state child support enforcement agency is authorized to serve, by first-class mail or electronically, if mutually agreed upon, a notice of administrative lien and attachment on any person, insurance company, or agency holding insurance claim payments, awards, or settlements that are owed to an obligor. A copy of the administrative lien and attachment shall be provided to the obligor and must include information on the obligor's right to object to the administrative lien and attachment and to request an administrative review pursuant to rules promulgated by the state board.

(5) Any remittance of moneys deducted or withheld by a person, insurance company, or agency pursuant to this section must include the obligor's name and identifying number as assigned by the state child support enforcement agency or the family support registry. The moneys must be remitted to the family support registry pursuant to section 26-13-114.

(6) The state child support enforcement agency may recover from the money collected any fees assessed upon the state child support enforcement agency in its efforts to attach insurance claim payments, awards, and settlements. Fees collected pursuant to this subsection (6) must be deposited in the child support insurance lien fund created pursuant to subsection (9) of this section.

(7) This section applies to all child support obligations and to all maintenance or maintenance when combined with child support obligations that were ordered as part of any proceeding, regardless of when the order was entered. All child support obligors are subject to the notice of administrative lien and attachment as described in subsection (4) of this section.

(8) A lien or assignment perfected on any insurance claim payment, award, or settlement prior to the receipt of the administrative lien and attachment issued by the state child support enforcement agency shall be honored prior to the administrative lien and attachment issued by the state child support enforcement agency. The state child support enforcement agency shall receive the balance, if any, of the remaining insurance claim payment, award, or settlement up to the amount owed by the obligor.

(9) There is created in the state treasury the child support insurance lien fund, referred to in this subsection (9) as the "fund". The fund consists of any money credited to it from fees collected pursuant to subsection (6) of this section, and any other money appropriated or transferred to the fund by the general assembly. Money in the fund shall be appropriated to the state department to pay costs related to participating in the child support lien network. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any money appropriated to the fund for the 2018-19 fiscal year and for each fiscal year thereafter that is unexpended and unencumbered at the end of the applicable fiscal year does not revert to the general fund and must remain in the fund.

Source: L. 2016: Entire section added, (HB 16-1165), ch. 157, p. 491, § 3, effective January 1, 2017. **L. 2018:** (1)(a) and (6) amended and (9) added, (HB 18-1363), ch. 389, p. 2322, § 3, effective August 8. **L. 2021:** IP(1)(c)(I), (1)(c)(I)(B), and (1)(c)(I)(C) amended and (1)(c)(I)(D) added, (HB 21-1220), ch. 212, p.1129, § 7, effective January 1, 2022. **L. 2023:** (1)(c)(I)(D) and (1)(c)(II)(B) amended, (SB 23-173), ch. 330, p. 1977, § 11, effective September 1.

26-13-123. Drivers' licenses - suspension for nonpayment of child support - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Child support order" means any administrative or court order requiring the payment of child support, child support arrears, child support debt, retroactive support, or medical support, whether or not such order is combined with an order for maintenance.

(b) "Driver's license" means a license issued by the department of revenue pursuant to article 2 of title 42, S.A.R.S.

(c) "Notice of compliance" means the notice issued pursuant to subsection (5) of this section that an obligor is in compliance with a child support order.

(d) "Notice of failure to comply" means the notice issued pursuant to subsection (4) of this section.

(e) "Notice of noncompliance" means the notice issued pursuant to subsection (3) of this section that an obligor is not in compliance with a child support order.

(f) "Obligor" has the same meaning as in section 26-13.5-102 (12).

(2) (a) The state child support enforcement agency shall, at least on an annual basis, identify as obligors subject to the provisions of this section any person who owes the following and has failed to execute and comply with the terms of an agreement to pay:

(I) Child support debt to the state pursuant to section 14-14-104, S.A.R.S.;

(II) Arrearages or medical support, as requested as part of an enforcement action pursuant to article 5 of title 14, S.A.R.S.;

(III) Child support arrearages, retroactive child support, or medical support that is the subject of enforcement services provided pursuant to section 26-13-106.

(b) An obligor is subject to the provisions of this section to the extent that any child support debt, arrearage balance, retroactive support, or medical support is owed and remains outstanding.

(3) (a) At least on an annual basis, the state child support enforcement agency shall issue a written notice of noncompliance to any obligor identified in subsection (2) of this section. The notice of noncompliance shall include the name and last-known address of the obligor and shall be sent to the obligor's last-known address.

(b) The notice of noncompliance shall include the following information:

(I) That the state child support enforcement agency's records indicate the obligor owes a duty of support under a child support order;

(II) That the state child support enforcement agency's records indicate the obligor has not complied with a child support order; or has a child support debt, child support arrearage balance, or owes retroactive child support; or has failed to provide the child medical support pursuant to a court or administrative order;

(III) That the obligor has failed to execute an agreement to repay the child support debt or child support arrearage balance or to remain current on the required child support payments or

has failed to abide by the terms of the agreement if an agreement has been executed by the obligor;

(IV) That the obligor may, in writing and no later than thirty days after the date of the notice, request an administrative review to object to the notice of noncompliance and that failure to request such a review within the time specified shall result in the issuance of a notice of failure to comply pursuant to subsection (4) of this section;

(V) That the sole grounds for an administrative review shall be a mistake in the identity of the obligor; a disagreement regarding the amount of the child support debt, arrearage balance, retroactive support, or medical support; or a showing that all child support payments were made when due;

(VI) That the delegate child support enforcement unit must conduct an administrative review within thirty days after receipt of the obligor's written request; and

(VII) That the obligor may request in writing an administrative review from the state child support enforcement agency within thirty days after the date of the delegate child support enforcement unit's decision.

(c) (I) No later than thirty days after the date of the notice of noncompliance, the obligor may request in writing that the delegate child support enforcement unit conduct an administrative review pursuant to rules and regulations developed by the state board of human services to implement the provisions of this article.

(II) No later than thirty days after the date of the delegate child support enforcement unit's decision, the obligor may request in writing an administrative review from the state child support enforcement agency.

(III) The sole grounds to be determined at the administrative review shall be a mistake in the identity of the obligor; a disagreement with the amount of the child support debt, arrearage balance, retroactive support, or medical support; or a showing that all child support payments were made when due.

(IV) The decision of the state child support enforcement agency shall be final agency action and may be reviewed as provided in section 24-4-106, S.A.R.S.

(V) A notice of failure to comply pursuant to subsection (4) of this section shall not be sent to the department of revenue unless the obligor has failed to request a review within the time specified or until a hearing has been concluded and all rights of review have been exhausted.

(4) After the rights of review pursuant to paragraph (c) of subsection (3) of this section have been exhausted or the time within which such review may be requested has elapsed, the state child support enforcement agency shall:

(a) Issue the notice of failure to comply to the department of revenue; and

(b) Send a copy of such notice to the obligor to the obligor's last-known address.

(5) (a) Upon receipt of the notice of failure to comply from the state child support enforcement agency, the department of revenue shall suspend the obligor's driver's license pursuant to section 42-2-127.5, S.A.R.S. Such suspension shall not be grounds for a hearing or any other administrative review by the department of revenue. The department of revenue shall refer all requests for a hearing regarding the obligor's child support order to the state child support enforcement agency for referral to the delegate child support enforcement unit.

(b) The department of revenue may issue a probationary driver's license pursuant to section 42-2-127.5, S.A.R.S.

(c) The department of revenue shall only reinstate a driver's license upon receipt of a notice of compliance from the delegate child support enforcement unit that indicates the obligor has complied with the court or administrative order or has agreed upon a payment plan approved by the delegate child support enforcement unit. The delegate child support enforcement unit is not required to issue a notice of compliance based upon approval of a payment plan for an obligor who has received a second notice of failure to comply until such obligor has complied with such payment plan for at least three months.

(d) Nothing in this section shall limit the ability of the department of revenue to revoke or suspend a license, or to take any other disciplinary action against a driver, on any other grounds.

(e) The department of revenue, or any person acting on the department's behalf, shall not be liable for any actions taken to suspend the obligor's driver's license pursuant to this section.

(6) (a) The state board of human services shall promulgate rules and regulations, pursuant to article 4 of title 24, S.A.R.S., as are necessary to implement this section.

(b) The department of revenue is authorized to promulgate rules and regulations, pursuant to article 4 of title 24, S.A.R.S., as may be necessary to implement this section.

(7) (Deleted by amendment, L. 97, p. 1298, § 42, effective July 1, 1997.)

Source: L. 95: Entire section added, p. 584, § 1, effective July 1. **L. 97:** (1)(b), (3)(a), and (7) amended, p. 1298, § 42, effective July 1. **L. 2006:** (3)(a) amended, p. 517, § 5, effective August 7.

Cross references: For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-124. Privatization of child support enforcement programs. The state department shall consult with the counties to determine what services of the child support enforcement program may be advantageous to privatize. The state department is authorized to procure such services on behalf of participating counties if the participating counties and the state department agree to such procurement.

Source: L. 2008: Entire section amended, p. 1911, § 116, effective August 5.

26-13-125. State directory of new hires - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Employee" means a natural person who is employed by an employer in this state for compensation, which employer is required to report the compensation to the federal internal revenue service. "Employee" includes a self-employed or contracted employee for whom the employer is required to report compensation to the federal internal revenue service. "Employee" does not include an employee hired to perform intelligence or counterintelligence functions for an agency of the United States government, as those terms are defined in the federal "Intelligence Organization Act of 1992", 50 U.S.C. sec. 401a, when the head of the agency has determined that reporting the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(b) "Employer" means a person or entity doing business in the state that engages an employee for compensation and for whom the employer is required to report the compensation to the federal internal revenue service. "Employer" also includes any governmental entity and any labor organization.

(c) "Labor organization" means any organization that exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or of providing other mutual aid or protection in connection with employment.

(d) "Newly hired employee" means an employee who:

(I) Has not previously been employed by the employer; or

(II) Was previously employed by the employer but has been separated from his or her prior employment for at least sixty consecutive days.

(2) The state department, or its agent, shall establish and maintain a state directory of new hires on and after October 1, 1997, for the purpose of locating newly hired employees for the purposes of establishing, enforcing, or modifying child support obligations and for other purposes specified in paragraph (b) of subsection (8) of this section.

(3) Effective October 1, 1997, each employer shall submit to the state directory of new hires a copy of the W-4 form, the W-9 form, or, at the option of the employer, an equivalent form for each newly hired employee in San Andreas. The report may be transmitted to the state department by first-class mail, magnetically, or electronically. The report must contain the newly hired employee's name, address, social security number, and the date services for remuneration were first performed by the newly hired employee. The report must contain the name and address of the employer and the identifying number assigned to the employer under section 6109 of the federal "Internal Revenue Code of 1986", as amended. An employer is not liable for furnishing information pursuant to this section. An employer is not required to submit to the state directory of new hires a report concerning any employee hired for less than thirty days.

(4) Beginning not later than May 1, 1998, the state child support enforcement agency shall conduct automated comparisons of the social security numbers reported by employers pursuant to this section and the social security numbers appearing in the records of the family support registry for cases being enforced under the state plan. The state department may contract for the performance of the comparisons required by this subsection (4) with another governmental agency or a private entity.

(5) An employer that has employees who are employed in two or more states and that transmits reports magnetically or electronically may designate one state to which the employer shall submit reports. Any multistate employer that elects to transmit all reports to one state shall notify the secretary of the federal department of health and human services, in writing, which state the employer has designated for purposes of reporting.

(6) All employers shall report a newly hired employee within twenty calendar days after the date the employer hires the employee or, at the election of the employer, at the time of the first regularly scheduled payroll following the date of hire if such payroll is subsequent to the expiration of the twenty-day period. Reports submitted magnetically or electronically shall be submitted by two monthly transmissions, when necessary, and in all instances, the report shall be transmitted no more than twenty calendar days after the date of hire or, at the election of the employer, at the time of the first regularly scheduled payroll following the date of hire if such payroll is subsequent to the expiration of the twenty-day period.

(7) (a) Within five business days after receipt of a report from an employer concerning a newly hired employee, the state child support enforcement agency shall enter the information into the state directory of new hires.

(b) Within two business days after the date the information regarding a newly hired employee is entered into the state directory of new hires, the state child support enforcement agency shall transmit an income assignment to the employer of the employee directing the employer to withhold an amount equal to the monthly child support obligation, including any past-due support obligation of the employee.

(c) Within three business days after the date the information regarding a newly hired employee is entered into the state directory of new hires, the state directory of new hires shall furnish the information to the national directory of new hires.

(d) No later than two years after the date the information regarding a newly hired employee is entered into the state directory of new hires, the state child support enforcement agency shall remove such name and information from the directory.

(8) (a) Information contained within the reports shall be made available to delegate child support enforcement units and their agents in order to locate individuals for purposes of establishing paternity or for purposes of establishing, modifying, or enforcing child support obligations.

(b) Information contained within the reports must be made available to the administrators of the following programs for purposes of establishing or verifying eligibility or benefit amounts: Public assistance pursuant to the San Andreas works program, as defined in section 26-2-703 (5); medicaid; food stamps; supplemental security income benefits; cash assistance programs pursuant to this title; public assistance as defined in section 26-2-103 (7); child care assistance pursuant to part 1 of article 4 of title 26.5; and unemployment compensation.

(c) Information contained within the reports shall be available to the department of labor and employment and the state agency operating the workers' compensation program.

Source: L. 97: Entire section added, p. 1298, § 43, effective July 1. **L. 2006:** (2) and (8)(b) amended, p. 947, § 2, effective August 7. **L. 2013:** (1)(d) added and (2) and (3) amended, (HB 13-1209), ch. 103, p. 354, § 4, effective January 1, 2014. **L. 2021:** (1)(a), (1)(b), and (3) amended, (HB 21-1220), ch. 212, p. 1129, § 8, effective July 1. **L. 2022:** (8)(b) amended, (HB 22-1295), ch. 123, p. 860, § 106, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997. For the legislative intent contained in the 2006 act amending subsections (2) and (8)(b), see section 8(2) of chapter 208, Session Laws of San Andreas 2006.

26-13-126. Authority to deny, suspend, or revoke professional, occupational, and recreational licenses - definitions. (1) The state board of human services is authorized, in coordination with any state agency, board, or commission that is authorized by law to issue, revoke, deny, terminate, or suspend a professional, occupational, or recreational license, to promulgate rules for the suspension, revocation, or denial of professional, occupational, and recreational licenses of individuals who owe more than six months' gross dollar amount of child

support and who are paying less than fifty percent of their current monthly child support obligation each month, or those individuals who fail, after receiving proper notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(2) (a) To effectuate the purposes of this section, the executive director of the state department may request the denial, suspension, or revocation of any professional, occupational, or recreational license issued by a state agency, board, or commission, referred to in this section as the "licensing agency". Upon such request, the state child support enforcement agency shall send a notice to the obligor by first-class mail stating that the obligor has thirty days after the date of the notice within which to pay the past-due obligation, to negotiate a payment plan with the state child support enforcement agency, to request an administrative hearing with the delegate child support enforcement unit, or to comply with the warrant or subpoena. If the obligor fails to pay the past-due obligation, negotiate a payment plan, request an administrative hearing, or comply with the warrant or subpoena within thirty days after the date of the notice, the state child support enforcement agency shall send a notice to the licensing agency to deny, revoke, or suspend the professional, occupational, or recreational license of the individual identified as not in compliance with the court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or of the individual who failed, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(b) The rules promulgated to implement this section shall provide that, if it is the first time the procedures authorized by this section have been employed to enforce support against the obligor, the state child support enforcement agency may only issue a notice to the licensing agency to suspend or to deny such obligor's license. However, the rules shall also provide that, in second and subsequent circumstances in which the provisions of this section are utilized to enforce support against the obligor, the state child support enforcement agency shall be authorized to issue a notice to the licensing agency to revoke an obligor's license, subject to full reapplication procedures upon compliance as specified by the licensing agency.

(c) No later than thirty days after the date of the notice to the obligor, the obligor may request in writing that the delegate child support enforcement unit conduct an administrative review pursuant to the rules and regulations developed by the state board to implement the provisions of this article.

(d) No later than thirty days after the date of the delegate child support enforcement unit's decision, the obligor may request in writing an administrative review from the state child support enforcement agency.

(e) The sole issues to be determined at the administrative review by both the delegate child support enforcement unit and the state child support enforcement agency shall be whether there is: A mistake in the identity of the obligor; a disagreement concerning the amount of the child support debt, an arrearage balance, retroactive support due, or the amount of the past-due child support when combined with maintenance; a showing that all child support payments were made when due; a showing that the individual has complied with the subpoena or warrant; a showing that the individual was not properly served with the subpoena or warrant; or a showing that there was a technical defect with respect to the subpoena or warrant.

(f) The decision of the state child support enforcement agency shall be final agency action and may be reviewed pursuant to section 24-4-106, S.A.R.S.

(g) A notice to the licensing agency pursuant to paragraph (a) of this subsection (2) shall not be sent to the licensing agency unless the obligor has failed to request a review within the time specified or until a hearing has been concluded and all rights of review have been exhausted.

(h) Each licensing agency affected may promulgate rules, as necessary, and procedures to implement the requirements of this section. Such licensing agencies shall enter into memoranda of understanding, as necessary, with the state child support enforcement agency with respect to the implementation of this section. All due process hearings shall be conducted by the state department rather than the licensing agency.

(i) Nothing in this section shall limit the ability of each licensing agency to deny, suspend, or revoke a license on any other grounds provided by law.

(j) A licensing agency, or any person acting on its behalf, shall not be liable for any actions taken to deny, suspend, or revoke the obligor's license pursuant to this section.

(3) It is the intent of the general assembly that the same or similar conditions placed upon the issuance and renewal of a state license to practice a profession or occupation, as set forth in this section, should also be placed upon persons applying to or licensed to practice law. The general assembly, however, recognizes the practice of the San Andreas Supreme Court in the licensure, registration, and discipline of persons practicing law in this state. Specifically, the general assembly acknowledges that in order to obtain a license to practice law in San Andreas, a person must verify that he or she is not delinquent with respect to a court-ordered obligation to pay child support. In addition, the general assembly recognizes that pursuant to the "San Andreas Rules of Professional Conduct" a lawyer may be disciplined, including by disbarment, for failing to pay child support.

(4) Subject to section 24-33-110 (1), S.A.R.S., for purposes of this section, "license" means any recognition, authority, or permission that the state or any principal department of the state or an agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1300, § 43, effective July 1. **L. 2004:** (4) amended, p. 1076, § 1, effective May 21.

Cross references: (1) For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

(2) For the "San Andreas Rules of Professional Conduct", see the appendix to chapters 18 to 20 of the San Andreas Rules of Civil Procedure.

26-13-127. State case registry. (1) The state department, or its agent, shall establish, maintain, update, and monitor an automated state case registry which shall include all cases in which child support orders have been established or modified on or after October 1, 1998.

(2) The judicial department shall collect and electronically transfer on a weekly basis, or more frequently as mutually agreeable, to the state department, or its agent, the following basic

elements of all child support orders established or modified on or after October 1, 1998, which shall be stored in the state case registry:

(a) The name of the court, the county, and the case number;

(b) The names of the obligor, the obligee, and the children who are the subject of the order;

(c) (Deleted by amendment, L. 2008, p. 1350, § 8, effective July 1, 2008.)

(d) The date of birth of each parent and of each child for whom the order requires the payment of child support;

(e) The date the child support order was established or modified;

(f) The amount of monthly or other periodic support owed under the order.

(2.5) Notwithstanding the provisions of subsection (2) of this section, the parties shall provide the judicial department with the social security number of each party and each child who is the subject of a child support order. The judicial department shall collect and electronically transfer the social security numbers to the state department, or its agent, on a weekly basis or more frequently, as per mutual agreement. Nothing in this subsection (2.5) shall require that a person's social security number appear on the face of any court order entered pursuant to section 14-10-115, 14-14-104, or 19-4-116, S.A.R.S., or section 26-13-114 or 26-13.5-105.

(3) For each case in which services are being provided under Title IV-D of the federal "Social Security Act", as amended, and for which a support order has been established or modified, the state case registry shall include the basic information listed in subsection (2) of this section and the following additional information:

(a) Amounts owed, including arrears, interest, or late payment penalties and fees, due or past-due, under the order;

(b) The distribution of collected amounts;

(c) (Deleted by amendment, L. 98, p. 763, §13, effective July 1, 1998.)

(d) The amount of any lien imposed with respect to the order pursuant to section 14-10-122 (1.5), S.A.R.S.

(4) Information in the state case registry shall be accessible only by the state child support enforcement agency, the delegate child support enforcement units, the federal office of child support enforcement, the courts, or the agents of such agency, units, office, or courts.

Source: L. 97: Entire section added, p. 1303, § 43, effective July 1. **L. 98:** (2) and (3) amended, p. 763, § 13, effective July 1. **L. 99:** (2) amended, p. 1090, § 10, effective July 1. **L. 2008:** (2)(c) amended and (2.5) added, p. 1350, § 8, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-128. Agreements with financial institutions - data match system - limited liability - definitions. (1) The general assembly authorizes the state department, or its agent, to design and implement a program pursuant to this section. The state department, or its agent, and financial institutions doing business in the state shall enter into agreements to effectuate the purpose of this section. The executive director may request and shall receive from such financial institutions or any state entity, such as a department, board, or agency of the state or any of its political subdivisions, the information and action described in this section.

(2) (a) The purpose of the program authorized by this section shall be to develop and operate, in coordination with such financial institutions and state entities, a data match system, using automated data exchanges, to the maximum extent feasible.

(b) The data match required by paragraph (a) of this subsection (2) shall be conducted quarterly.

(c) The state department shall provide to the financial institutions or any state entity the name, record address, and social security number of any person who owes past-due child support, as identified by the state.

(d) The agreement required pursuant to subsection (1) of this section shall provide that the data match be performed by the financial institution or state entity within forty-five days after the receipt of the informational electronic or magnetic data. The agreement shall also provide that the data be returned in electronic or magnetic form within three business days after the match is conducted. The financial institution or state entity shall include information concerning all accounts where a data match occurs, including but not limited to information regarding account numbers, account types, joint accounts, partnership accounts, sole proprietorship accounts, custodial accounts, and commercial accounts. The child support enforcement agency shall make a reasonable effort to accommodate those financial institutions upon which the requirements of this subsection (2) would pose a hardship.

(e) The financial institution or state entity, in response to a notice of lien or levy from the state department, shall encumber or surrender assets, except for custodial accounts created pursuant to the "San Andreas Uniform Transfers to Minors Act", article 50 of title 11, S.A.R.S., funds in escrow and trust accounts of moneys held in trust for a third party, held by such institution or entity on behalf of any obligor parent who is subject to a child support lien, subject to any right of setoff the financial institution may have against such assets. Before the financial institution surrenders any assets of the obligor parent to the state department, the financial institution may apply, at the sole discretion of the financial institution, any assets held by the financial institution on behalf of the obligor parent against the balance of any amounts owed by the obligor parent to the financial institution, regardless of whether the obligor parent is in default under any agreement with the financial institution or whether any payments are currently due to the financial institution. Service of a notice of lien or levy pursuant to this subsection (2) shall be made by United States first-class mail and, in addition, may be made by United States registered or certified mail, return receipt requested, the cost for which may be withheld by the financial institution or state entity from the account of the obligor parent.

(3) Notwithstanding any other provision of federal or state law, a financial institution or state entity shall not be liable under any federal, state, or local law to any person for any disclosure of information to the state department for the purpose of establishing, modifying, or enforcing a child support obligation of an individual, or for encumbering, holding, refusing to release to the obligor, surrendering, or transferring any assets held by such financial institution or state entity in response to a notice of lien or levy issued by the state department or for any other action taken in good faith to comply with the requirements of this section regardless of whether such action was specifically authorized or described by this section. A financial institution shall not be required to give notice to an account holder or customer of the financial institution concerning whom the financial institution has provided information or taken any action pursuant to this section. The financial institution shall not be liable for the failure to provide such notice.

(4) The state department shall assure, through rules of the state board, that there are appropriate procedures to be followed by the state department or the delegate child support enforcement unit with respect to certain special types of financial institution accounts, including but not limited to joint, partnership, sole proprietorship, custodial, and commercial accounts, which rules shall identify factors the delegate child support enforcement unit shall consider in determining whether to attach the account or any portion of such account. Such rules shall specifically provide that custodial accounts created pursuant to the "San Andreas Uniform Transfers to Minors Act", article 50 of title 11, S.A.R.S., and trust accounts of moneys held in trust for a third party shall not be attached, encumbered, or surrendered for purposes of enforcing support.

(5) The state department, after obtaining a financial record of an individual from a financial institution pursuant to this section, may disclose such financial record only for the purpose of and to the extent necessary to establish, modify, or enforce a child support obligation of such individual. If a state officer, employee, or authorized agent of the state knowingly, or by reason of negligence, discloses a financial record of an individual in violation of this subsection (5), such individual may bring a civil action for damages against the officer, employee, or authorized agent of the state pursuant to 42 U.S.C. sec. 669A (c).

(6) A financial institution shall be entitled to a reasonable fee in the amount of five cents per name per quarter, not to exceed its costs, for fulfilling the requirements of subsection (2) of this section.

(7) For purposes of this section:

(a) (I) "Account" includes:

(A) A deposit account;

(B) A demand deposit account;

(C) A checking account;

(D) A negotiable withdrawal order account;

(E) A savings account;

(F) A certificate of deposit;

(G) A passbook account;

(H) A time and term deposit account;

(I) A share account;

(J) A share draft account;

(K) A share certificate of deposit;

(L) A money market share account;

(M) A money market mutual fund account;

(N) A "N.O.W." account; or

(O) A similar account.

(II) "Account" shall also include:

(A) An interest in a mutual fund, a brokerage account, a fixed-rate annuity, a variable-rate annuity, a whole life insurance product, a universal life insurance product, a variable universal life insurance product, a fiduciary account, a trust account, or similar account;

(B) The securities of or issued by an investment company registered under the federal "Investment Company Act of 1940", a unit investment trust, a real estate investment trust, a commodity pool operator, a future commission merchant, or an introducing broker registered under the federal "Commodity Exchange Act", a general or limited partnership, or a similar entity; and

(C) Property, including funds held in or payable from any pension or retirement plan or deferred compensation plan, including a plan in which the debtor has received benefits or payments, has the present right to receive benefits or payments, or has the right to receive benefits or payments in the future and including a pension or plan that qualifies under the federal "Employee Retirement Income Security Act of 1974" as an employee pension benefit plan as defined in 29 U.S.C. sec. 1002, any individual retirement account, as defined in 26 U.S.C. sec. 408, and any plan as defined in 26 U.S.C. sec. 410 and as these plans may be amended from time to time, or any similar plan under state or local law.

(b) "Financial institution" includes:

(I) A state or nationally chartered bank, bank and trust company, trust company, savings and loan association, savings bank, or credit union;

(II) An investment company registered under the federal "Investment Company Act of 1940", a securities dealer, a commodity pool operator, a future commission merchant, or an introducing broker registered under the federal "Commodity Exchange Act", or other legal entity engaged in the business of buying or selling securities;

(III) A benefit association, a life insurance company, a safe deposit company, or a state repository of moneys held for individuals; and

(IV) Any similar entity doing business in this state.

(c) "Financial record" has the meaning given such term in section 1101 of the federal "Right to Financial Privacy Act of 1978", 12 U.S.C. sec. 3401.

Source: L. 97: Entire section added, p. 1304, § 43, effective July 1. **L. 98:** (2) amended, p. 1414, § 82, effective February 1, 1999. **L. 2000:** (1), (2), (4), and (6) amended, p. 1713, § 10, effective July 1. **L. 2004:** (2) amended, p. 389, § 9, effective July 1. **L. 2012:** (1) and (2) amended, (SB 12-042), ch. 30, p. 121, § 2, effective March 19. **L. 2013:** (7)(b)(I) amended, (SB 13-154), ch. 282, p. 1488, § 70, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13-129. Exemption from federal law. Upon a determination, finding, or warning of noncompliance or upon such other notification from the federal department of health and human services that the state may not be, or is not, in compliance with a provision of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, relating to the establishment of paternity or the establishment, modification, or enforcement of support, the state department shall seek a federal waiver or exemption pursuant to 42 U.S.C. sec. 666 (d) from the specific requirement of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" with which the state is alleged to be out of compliance.

Source: L. 97: Entire section added, p. 1307, § 43, effective July 1.

Cross references: For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

ARTICLE 13.5

Administrative Procedure
for Child Support
Establishment and Enforcement

26-13.5-101. Short title. This article shall be known and may be cited as the "San Andreas Administrative Procedure Act for the Establishment and Enforcement of Child Support".

Source: L. 89: Entire article added, p. 1238, § 1, effective April 1, 1990.

26-13.5-102. Definitions. As used in this article 13.5, unless the context otherwise requires:

(1) "Administrative order" means an order that establishes paternity, child support, or medical support obligations or modifies the monthly support obligation or medical support provisions of an administrative process action order issued by a delegate child support enforcement unit or an administrative agency of another state or comparable jurisdiction with similar authority. The administrative order may be stipulated, temporary, or by default.

(1.1) "Administrative process action" or "APA" means an administrative action conducted to establish or modify an administrative order pursuant to this article 13.5.

(1.2) "APA-petitioner" means, pursuant to article 13 of this title 26:

(a) The party who has applied for child support services; or

(b) The party who was mandatorily referred for child support services, except in foster care fee cases, in which the delegate child support enforcement unit or the parent may be the petitioner.

(1.3) "APA-respondent" means, pursuant to article 13 of this title 26:

(a) The party who did not apply for child support services; or

(b) The party who was not mandatorily referred for child support services, except in foster care fee cases, in which the parent who was referred may be the respondent.

(2) "Arrears" or "arrearages" means amounts of past-due and unpaid monthly support obligations established by court or administrative order.

(3) "Child support debt" means an amount calculated pursuant to section 14-14-104 or by a delegate child support enforcement unit pursuant to this article 13.5 for unreimbursed public assistance provided to a family that has received or is receiving foster care placement services, aid to families with dependent children, or temporary assistance to needy families.

(4) "Costs of collection" means attorney fees or licensed legal paraprofessional fees, costs for administrative staff time, service of process fees, court costs, costs of genetic tests, and costs for certified mail. Attorney fees, licensed legal paraprofessional fees, and costs for administrative time must only be collected in accordance with federal law and rules and regulations.

(5) "Court" or "judge" means any court or judge in this state having jurisdiction to determine the liability of persons for the support of another person. "Court" or "judge" includes a juvenile magistrate and a district court magistrate.

(5.5) "Currently scheduled negotiation conference" means the conference date and time scheduled in the notice of financial responsibility or the date and time scheduled in the latest notice of continuance, whichever date is later.

(6) "Custodian" means a parent, relative, legal guardian, or other person or agency having physical care of a child.

(7) "Delegate child support enforcement unit" means the unit of a county department of human or social services or its contractual agent that is responsible for carrying out the provisions of article 13 of this title 26. The term contractual agent includes a private child support collection agency, operating as an independent contractor with a county department of human or social services, or a district attorney's office, that contracts to provide any services that the delegate child support enforcement unit is required by law to provide.

(8) "Dependent child" means any person who is legally entitled to or the subject of a court order or administrative order for the provision of proper or necessary subsistence, education, medical care, or any other care necessary for his or her health, guidance, or well-being who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(8.5) "District court" means any district court in this state and includes the juvenile court of the city and county of Denver and the juvenile division of the district court outside of the city and county of Denver.

(9) "Duty of support" means a duty of support imposed by law, by order, decree, or judgment of any court, or by administrative order, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise. "Duty of support" includes the duty to pay a monthly support obligation, a child support debt, any retroactive support due, support of children in foster care, medical support, and any arrearages.

(10) "Monthly support obligation" means the monthly amount of current child support or foster care placement costs that an obligor is ordered to pay by the court or by the delegate child support enforcement unit pursuant to this article 13.5.

(10.5) "Notice of financial responsibility" means the notice described in sections 26-13.5-103 and 26-13.5-105 for an administrative process establishment action and in section 26-13.5-112 for an administrative process modification action.

(11) "Obligee" means any person or agency to whom a duty of support is owed.

(12) "Obligor" means any person owing a duty of support.

(13) "Receipt of notice" means either the date on which service of process of a notice of financial responsibility is actually accomplished or the date on the return receipt if service is by certified mail, or the date the APA-respondent signs a waiver of service of process, in accordance with section 26-13.5-104.

Source: L. 89: Entire article added, p. 1238, § 1, effective April 1, 1990. **L. 90:** (4) and (7) amended and (8.5) added, p. 896, § 19, effective July 1. **L. 91:** (5) amended, p. 365, § 39, effective April 9; (9) amended, p. 216, § 5, effective July 1. **L. 96:** (9) amended, p. 618, § 25, effective July 1. **L. 97:** (4) amended, p. 563, § 15, effective April 29. **L. 2003:** (7) amended, p. 1271, § 64, effective July 1. **L. 2005:** (7) amended, p. 498, § 3, effective August 8. **L. 2011:** (3) amended, (SB 11-123), ch. 46, p. 121, § 9, effective August 10. **L. 2018:** IP and (7) amended, (SB 18-092), ch. 38, p. 452, § 137, effective August 8; IP, (1), (3), (6), (8), (10), (11), (12), and (13) amended and (1.1), (1.2), (1.3), (5.5), and (10.5) added, (HB 18-1363), ch. 389, p. 2323, § 4, effective July 1, 2019. **L. 2023:** (1.2) and (1.3) amended, (SB 23-173), ch. 330, p. 1977, § 12, effective July 1. **L. 2024:** (4) amended, (HB 24-1291), ch. 131, p. 474, § 26, effective August 7.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-13.5-103. Notice of financial responsibility issued - contents. (1) The delegate child support enforcement unit shall issue a notice of financial responsibility to the APA-respondent who is the obligee or an obligor who owes a child support debt or who is responsible for the support of a child or to the custodian of a child who is receiving support enforcement services from the delegate child support enforcement unit pursuant to article 13 of this title 26. If the obligor has applied for child support services, the notice must be served on the obligee. The notice must advise the APA-respondent:

(a) That the APA-respondent is required to appear on the date and at the time and location stated in the notice for a negotiation conference, or, if the negotiation conference is continued, the date and time of the currently scheduled negotiation conference to establish a child support obligation;

(a.3) That, if the APA-petitioner fails to appear for the currently scheduled negotiation conference, the delegate child support enforcement unit may proceed to establish an APA order or take such other action as appropriate under the law;

(a.5) That a party may contest paternity and obtain genetic testing if paternity of the child has not already been established by court or administrative order or determined pursuant to the laws of another state and a request for genetic tests will not prejudice a party in matters concerning allocation of parental responsibilities pursuant to section 14-10-124 (1.5), and that, if genetic tests are not obtained prior to the legal establishment of paternity and submitted into evidence prior to the entry of the final order establishing paternity, the genetic tests may not be allowed into evidence at a later date;

(b) That the delegate child support enforcement unit shall issue an order of default setting forth the child support obligations if the APA-respondent:

(I) Fails to appear for the negotiation conference as scheduled in the notice; and

(II) Fails to reschedule a negotiation conference prior to the date and time of the currently scheduled negotiation conference; and

(III) Fails to send the delegate child support enforcement unit a written request for a court hearing prior to the currently scheduled negotiation conference;

(b.5) That, if the notice is issued for the purpose of establishing the paternity of and financial responsibility for a child, the delegate child support enforcement unit shall issue an order of default establishing paternity and setting forth the amount of the obligor's duty of support, if:

(I) The APA-respondent fails to appear for the initial negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility or fails to appear for the currently scheduled negotiation conference; or

(II) The APA-respondent fails to take a genetic test or fails to appear for an appointment to take a genetic test without good cause; or

(III) The results of the genetic test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the APA-respondent fails to appear for the currently scheduled negotiation conference;

(c) (Deleted by amendment, L. 92, p. 213, § 17, effective August 1, 1992.)

(d) That the order of default shall be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued; that, as soon as the order of default is filed, it shall have all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignments issued prior to July 1, 1996, or income assignments issued thereafter or contempt of court; and that execution may be issued on the order in the same manner and with the same effect as if it were an order of the court;

(e) That a judgment may be entered on the order of financial responsibility issued pursuant to this article, and that if a judgment is not entered on the order of financial responsibility and needs to be enforced, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period and that, notwithstanding the provisions of this paragraph (e), no court order for judgment nor verified entry of judgment shall be required in order for the county and state child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund;

(f) The name of the custodian of the child on whose behalf support is being sought and the name and birth date of such child;

(g) That the amount of the monthly support obligation shall be based upon the child support guidelines as set forth in section 14-10-115, S.A.R.S.;

(h) That, in calculating the amount of monthly support obligation pursuant to the child support guidelines as set forth in section 14-10-115, S.A.R.S., the delegate child support enforcement unit shall set the monthly support obligation based upon reliable information concerning the parents' income, which may include wage statements or other wage information obtained from the department of labor and employment, tax records, and verified statements and other information provided by the parents and that, in the absence of any such information, the delegate child support enforcement unit may set the monthly support obligation based on the current minimum wage for a forty-hour workweek;

(i) That the delegate child support enforcement unit may issue an administrative subpoena to obtain income information;

(i.5) That the court or delegate child support enforcement unit may enter an order directing the obligor to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period prior to the entry of an order establishing paternity or for a time period prior to the entry of the support order established pursuant to section 19-6-104, S.A.R.S.;

(j) The amount of the child support debt accrued and accruing;

(k) The amount of arrears or arrearages which have accrued under an administrative or a court order for support;

(l) That the costs of collection, as defined in section 26-13.5-102 (4), may be assessed against and collected from the APA-respondent;

(m) If applicable, that foster care maintenance may be collected against the obligor;

(n) The interest rate on any support payments which are not made on time;

(o) That the APA-respondent may assert the following objections in the negotiation conference and that, if such objections are not resolved, the delegate child support enforcement unit shall schedule a court hearing pursuant to section 26-13.5-105 (3):

(I) That neither the APA-petitioner nor the APA-respondent is the parent of the dependent child; except that, if parentage has been previously determined by or pursuant to the law of another state, the APA-petitioner and APA-respondent are advised that any challenge to the determination of parentage must be resolved in the state where the determination of parentage was made;

(II) That the dependent child has been adopted by a person other than the APA-respondent;

(III) That the dependent child is emancipated; or

(IV) That there is an existing court or administrative order of support as to the monthly support obligation;

(p) That the duty to provide medical support shall be established under this article in accordance with section 14-10-115, S.A.R.S.;

(q) That an administrative order issued pursuant to this article may also be modified under this article;

(r) That the APA-petitioner and APA-respondent are responsible for notifying the delegate child support enforcement unit of any change of address or employment within ten days of such change;

(r.5) That the APA-respondent may opt out of the administrative process action and have all issues decided by a court by delivering to the delegate child support enforcement unit prior to the date and time of the currently scheduled negotiation conference a written request for a court hearing;

(s) That, if the APA-petitioner or APA-respondent has any questions, the APA-petitioner or APA-respondent should telephone, e-mail, or visit the delegate child support enforcement unit;

(t) That the APA-petitioner or APA-respondent has the right to consult an attorney or licensed legal paraprofessional and the right to be represented by an attorney or licensed legal paraprofessional at the negotiation conference; and

(u) Such other information as set forth in rules and regulations promulgated pursuant to section 26-13.5-113.

Source: L. 89: Entire article added, p. 1239, § 1, effective April 1, 1990. **L. 90:** IP(1), IP(1)(b), (1)(b)(I), (1)(b)(II), and (1)(m) amended, p. 896, § 20, effective July 1. **L. 91:** (1)(c) amended, p. 257, § 22, effective July 1. **L. 92:** (1)(b.5) added and (1)(c) and (1)(e) amended, pp. 184, 213, §§ 5, 17, effective August 1. **L. 94:** (1)(b.5) amended and (1)(i.5) added, p. 1544, § 21, effective May 31. **L. 96:** (1)(d) amended, p. 618, § 26, effective July 1. **L. 97:** (1)(b.5)(II) and (1)(b.5)(III) amended, p. 564, § 16, effective July 1. **L. 2005:** (1)(a.5) added, p. 380, § 10, effective January 1, 2006. **L. 2006:** (1)(h) amended, p. 517, § 6, effective August 7. **L. 2007:** (1)(p) amended, p. 109, § 7, effective March 16. **L. 2011:** (1)(o)(I) amended, (SB 11-123), ch. 46, p. 121, § 10, effective August 10. **L. 2018:** IP(1), (1)(a), (1)(a.5), (1)(b), (1)(b.5), (1)(f), (1)(l), (1)(o), (1)(r), (1)(s), and (1)(t) amended and (1)(a.3) and (1)(r.5) added, (HB 18-1363), ch. 389, p. 2325, § 5, effective July 1, 2019. **L. 2023:** (1)(i) and (1)(s) amended, (SB 23-173), ch. 330, p. 1978, §§ 13, 14, effective July 1. **L. 2024:** (1)(t) amended, (HB 24-1291), ch. 131, p. 474, § 27, effective August 7.

26-13.5-103.5. Notice of financial responsibility amended - adding children. (1) In any existing case commenced under this article, if it is alleged that another child has been conceived of the parents named in the existing case and at least one of the presumptions of paternity specified in section 19-4-105, S.A.R.S., applies, the delegate child support enforcement unit shall issue an amended notice of financial responsibility to add the child to the case.

(2) The amended notice of financial responsibility to add a child to an existing case shall be served in the manner set forth in section 26-13.5-104.

(3) The amended notice of financial responsibility to add a child to an existing case shall contain all of the advisements required in an original notice of financial responsibility as set forth in section 26-13.5-103.

(4) Notwithstanding the provisions of subsection (1) of this section, in any case where there exists more than one alleged or presumed father for a child pursuant to section 19-4-105, S.A.R.S., a new case shall be commenced for that child to determine the child's paternity, establish child support, and address any other related issues. If it is determined that the child is the child of parents named in an existing case, the cases shall be consolidated pursuant to rule 42 of the San Andreas rules of civil procedure.

Source: L. 2008: Entire section added, p.1350, § 9, effective January 1, 2009.

26-13.5-104. Service of notice of financial responsibility. (1) The delegate child support enforcement unit shall serve a notice of financial responsibility on the APA-respondent at least fourteen days prior to the date stated in the notice for the negotiation conference:

(a) In the manner prescribed for service of process in a civil action; or

(b) By an employee appointed by the delegate child support enforcement unit to serve such process; or

(c) By certified mail, return receipt requested, signed by the obligor only. The receipt shall be prima facie evidence of service.

(2) Service of process to establish paternity and financial responsibility may be made under this article by certified mail as specified in subsection (1) of this section or by any of the other methods of service specified in said subsection (1).

(3) If process has been served pursuant to this section, additional service of process is not necessary if the case is referred to court for further action or review.

(4) An APA-respondent may waive service by signing a waiver of service of process and thereby waives the fourteen-day notice period required by subsection (1) of this section.

(5) Service of process on the APA-petitioner is not required. The APA-petitioner voluntarily submits himself or herself to the jurisdiction of the delegate child support enforcement unit and the court in connection with any APA case.

(6) A copy of the notice of financial responsibility must be provided to the APA-petitioner by first-class mail, hand delivery, or electronic transmission if agreed to by the APA-petitioner, at least fourteen days prior to the date of the negotiation conference. The APA-petitioner may waive the right to this fourteen-day notice period.

Source: L. 89: Entire article added, p. 1241, § 1, effective April 1, 1990. **L. 90:** IP(1) amended, p. 896, § 21, effective July 1. **L. 92:** Entire section amended, p. 184, § 6, effective

August 1. **L. 2018:** IP(1) and (3) amended and (4), (5), and (6) added, (HB 18-1363), ch. 389, p. 2327, § 6, effective July 1, 2019.

26-13.5-105. Negotiation conference - issuance of order of financial responsibility - filing of order with district court. (1) Every APA-respondent who has been served with a notice of financial responsibility pursuant to section 26-13.5-104 shall appear at the time and location stated in the notice for a negotiation conference or shall reschedule a negotiation conference prior to the date and time stated in the notice. The negotiation conference must be scheduled not more than thirty-five days after the date of the issuance of the notice of financial responsibility. A negotiation conference may be rescheduled by a request for a standard continuance by the APA-petitioner or APA-respondent. A standard continuance must not be more than seven days after the date of the currently scheduled negotiation conference. The negotiation conference may also be continued for good cause as defined in rules promulgated pursuant to section 26-13.5-113. If a negotiation conference is continued, the APA-petitioner and APA-respondent must be notified of such continuance by first-class mail, hand delivery, or electronic means if agreed to by both parties. A stipulation in an establishment action may be signed by the APA-respondent and the delegate child support enforcement unit, with or without the signature of the APA-petitioner. If a stipulation is agreed upon at the negotiation conference as to the obligor's duty of support, the delegate child support enforcement unit shall issue an administrative order of financial responsibility setting forth the following:

(a) The amount of the monthly support obligation and instructions on the manner in which it shall be paid;

(b) The amount of child support debt due and owing to the state department and instructions on the manner in which it shall be paid;

(c) The amount of arrearages due and owing and instructions on the manner in which it shall be paid;

(d) The names and dates of birth of the parties and of the children for whom support is being sought and the parties' residential and mailing addresses, unless that information must not be disclosed pursuant to section 26-13-102.8.

(e) and (f) (Deleted by amendment, L. 99, p. 1091, § 12, effective July 1, 1999.)

(2) The order of financial responsibility has all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignments issued prior to July 1, 1996, or income assignments issued thereafter or contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. In order to enforce a judgment based on an order issued pursuant to this article 13.5, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. Notwithstanding the provisions of this subsection (2), a court order for judgment or verified entry of judgment is not required in order for the delegate child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund.

(3) (a) If a stipulation is not agreed upon at the negotiation conference because the APA-petitioner or APA-respondent contests the issue of paternity, the delegate child support enforcement unit shall issue an order for genetic testing if paternity has not already been established by a court or administrative order or determined pursuant to the laws of another state

and continue the negotiation conference to allow for the receipt of the genetic testing results. The delegate child support enforcement unit shall pay the costs of the genetic testing and may recover any testing costs from the presumed or alleged father if paternity is established. If paternity has already been established or determined, an APA temporary order must be established without conducting genetic testing.

(b) If a stipulation is not agreed upon at the continued negotiation conference and genetic testing is required and the evidence relating to paternity does not meet the requirements set forth in section 13-25-126 (1)(g), the delegate child support enforcement unit may dismiss the action or take such other appropriate action as allowed by law.

(c) If a stipulation is not agreed upon at the negotiation conference and parentage is not an issue, or, if parentage is an issue and either the evidence relating to parentage meets the requirements set forth in section 13-25-126 (1)(g), or parentage has been previously determined by another state, the delegate child support enforcement unit shall:

(I) Issue temporary orders establishing current child support, foster care maintenance, and medical support;

(II) File the notice of financial responsibility and proof of service with the clerk of the district court in the county in which the notice of financial responsibility was issued; and

(III) Request the court to set a hearing for the matter.

(d) Notwithstanding any rules of the San Andreas rules of civil procedure, a complaint is not required in order to initiate a court action pursuant to this subsection (3). The court shall inform the delegate child support enforcement unit of the date and location of the hearing and the court or the delegate child support enforcement unit shall send a notice to the APA-petitioner and APA-respondent informing each party of the date and location of the hearing. In order to meet federal requirements of expedited process for child support enforcement, the court shall hold a hearing and decide only the issue of child support within ninety days after receipt of notice, as defined in section 26-13.5-102 (13), or within six months after receipt of notice, as defined in section 26-13.5-102 (13), if the APA-petitioner or APA-respondent is contesting the issue of parentage. The judge or magistrate shall advise the parties that subsequent to an adjudication of parentage, upon request, the court shall enter an order allocating parental responsibilities pursuant to section 14-10-124 (1.5); except that, in matters involving a nonresident party, the court shall first determine whether it has authority to issue an order allocating parental responsibilities pursuant to article 13 of title 14. If either party requests orders relating to the allocation of parental responsibilities, decision-making responsibility, or parenting time and the court has jurisdiction to hear such matters but is unable to hold a hearing to address all issues within the federally required time frame for expedited process for child support enforcement described above, the court shall set a separate hearing for those issues after entry of the order of support. In any action, including an action for parentage, additional service beyond that originally required pursuant to section 26-13.5-104 is not required if a stipulation is not reached at the negotiation conference and the court is requested to set a hearing in the matter.

(4) The determination of the monthly support obligation is based on the child support guidelines set forth in section 14-10-115. The delegate child support enforcement unit may issue an administrative subpoena requesting income information, including but not limited to wage statements, pay stubs, and tax records. In the absence of reliable information, which may include such information as wage statements or other wage information obtained from the department of labor and employment, tax records, and verified statements made by the obligee, the delegate

child support enforcement unit shall set the amount included in the order of financial responsibility pursuant to section 14-10-115, after considering the factors set forth in section 14-10-115 (5)(b.5)(II).

(5) If the court or delegate child support enforcement unit finds that the obligor has an obligation to support the child or children mentioned in the petition or notice, the court or delegate child support enforcement unit may enter an order directing the obligor to pay such sums for support as may be reasonable under the circumstances, taking into consideration the factors found in section 19-4-116 (6). The court or delegate child support enforcement unit may also enter an order directing the appropriate party to pay for support of the child, in an amount as may be determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period which occurred prior to the month the child support obligation begins pursuant to section 19-6-104.

(6) If a parent is unemployed and not incapacitated, the delegate child support enforcement unit may order such parent to pay such support in accordance with a plan approved by the delegate child support enforcement unit or to participate in work activities, as described in section 14-10-115 (5)(b)(II), S.A.R.S., as deemed appropriate by that delegate child support enforcement unit, as a condition of the child support order.

Source: L. 89: Entire article added, p. 1242, § 1, effective April 1, 1990. **L. 90:** IP(1), (2), and (3) amended, p. 897, § 22, effective July 1. **L. 92:** Entire section amended, p. 213, § 18, effective August 1. **L. 93:** (3) amended, p. 582, § 22, effective July 1; (3) amended, p. 1565, § 20, effective September 1. **L. 94:** (5) added, p. 1544, § 22, effective May 31. **L. 96:** IP(1), (1)(e), (2), and (3) amended, p. 619, § 27, effective July 1. **L. 97:** (1)(d) and (3) amended and (6) added, p. 1307, § 44, effective July 1. **L. 98:** (3)(d) amended, p. 1415, § 83, effective February 1, 1999. **L. 99:** (1)(d), (1)(e), and (1)(f) amended, p. 1091, § 12, effective July 1. **L. 2005:** (3)(b) and (3)(c) amended, p. 773, § 53, effective June 1. **L. 2007:** (6) amended, p. 109, § 8, effective March 16. **L. 2008:** (1)(d) amended, p. 1351, § 10, effective July 1. **L. 2011:** (3)(c) amended, (SB 11-123), ch. 46, p. 121, § 11, effective August 10. **L. 2018:** IP(1), (2), and (3) amended, (HB 18-1363), ch. 389, p. 2327, § 7, effective July 1, 2019. **L. 2019:** (4) amended, (HB 19-1215), ch. 270, p. 2555, § 7, effective July 1. **L. 2023:** IP(1), (1)(d), IP(3)(c), (3)(c)(I), and (3)(d) amended, (SB 23-173), ch. 330, pp. 1978, 1979, §§ 15, 16, effective July 1; (5) amended, (SB 23-173), ch. 330, p.1980, § 17, effective September 1.

Editor's note: Amendments to subsection (3) by Senate Bill 93-25 and Senate Bill 93-154 were harmonized.

Cross references: For the legislative declaration contained in the 1993 act, effective July 1, 1993, amending subsection (3), see section 1 of chapter 165, Session Laws of San Andreas 1993. For the legislative declaration contained in the 1997 act amending this section, see section 1 of chapter 236, Session Laws of San Andreas 1997.

26-13.5-106. Default - issuance of establishment order of default - filing of order with district court - rules. (1) (a) If an APA-respondent fails to appear for a currently scheduled negotiation conference, the delegate child support enforcement unit shall issue an order of default in accordance with the notice of financial responsibility.

(b) In an action to establish paternity and financial responsibility, the delegate child support enforcement unit shall issue an order of default establishing paternity and financial responsibility in accordance with the notice of financial responsibility if:

(I) The APA-respondent fails to appear for the initial negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility; or

(II) The APA-respondent fails to take a genetic test or fails to appear for an appointment to take a genetic test without good cause; or

(III) The results of the genetic test indicate a ninety-seven percent or greater probability that the alleged father is the father of the child, and the APA-respondent fails to appear for the negotiation conference as scheduled in the notice of financial responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the notice of financial responsibility.

(b.5) The state board shall promulgate rules defining what constitutes good cause for failure to appear at a negotiation conference.

(c) The court shall approve the order of default, which must include the following:

(I) The amount of the monthly support obligation and instructions on the manner in which it must be paid;

(II) The amount of child support debt due and owing to the state department and instructions on the manner in which it must be paid;

(III) The amount of arrearages due and owing and instructions on the manner in which it must be paid;

(IV) The name of the child's custodian and the name and birth date of the child for whom support is being sought;

(V) The information required by section 14-14-111.5 (2);

(VI) In a default order establishing paternity, a statement that the obligor has been determined to be the parent of the child;

(VII) Such other information set forth in rules promulgated pursuant to section 26-13.5-113.

(d) The order for default may direct the obligor to pay for support of the child, in an amount determined by the court or delegate child support enforcement unit to be reasonable under the circumstances, for a time period prior to the month the child support obligation begins in the order establishing financial responsibility and parentage.

(e) To approve the default order, the court shall confirm that:

(I) The default order and all other documents required to be filed with the court pursuant to this section were in fact filed with the court; and

(II) Notice was served on the APA-respondent or a waiver of service was executed by the APA-respondent pursuant to section 26-13.5-104.

(f) In approving a default order, the court shall not:

(I) Recalculate the amount of any child support obligation contained in the APA order;

(II) Schedule or conduct a court hearing; or

(III) Require the filing of additional documents with the court.

(g) (I) If the court has not approved or denied approval of the default order within thirty-six days after filing with the court, the delegate child support enforcement unit shall notify the court that the deadline for approval or denial is in seven days on the forty-second day.

(II) The court may conduct a judicial review of the order pursuant to section 26-13.5-107.

(2) A copy of any default order issued pursuant to subsection (1) of this section, along with proof of service, and, in the case of a default order establishing paternity and financial responsibility pursuant to subsection (1)(b) of this section, the APA-petitioner's verified affidavit regarding paternity and the genetic test results, if any, shall be filed with the court. Before filing with the court, a supervisor, administrator, attorney, or director of a county department of human or social services shall review the order and other documents. The clerk shall stamp the date of receipt of the copy of the default order and shall assign the order a case number. The default order has all the force, effect, and remedies of an order of the court, including, but not limited to, wage assignments issued prior to July 1, 1996, or income assignments issued thereafter or contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. In order to enforce a judgment based on an order issued pursuant to this article 13.5, the judgment creditor shall file with the court a verified entry of judgment specifying the period of time that the judgment covers and the total amount of the judgment for that period. Notwithstanding the provisions of this subsection (2), a court order for judgment or verified entry of judgment is not required in order for the child support enforcement units to certify past-due amounts of child support to the internal revenue service or state department of revenue for purposes of intercepting a federal or state tax refund.

Source: L. 89: Entire article added, p. 1243, § 1, effective April 1, 1990. **L. 90:** IP(1) and (2) amended, p. 898, § 23, effective July 1. **L. 92:** (1) and (2) amended, p. 185, § 7, effective August 1; entire section amended, p. 215, § 19, effective August 1. **L. 94:** (1) amended, p. 1545, § 23, effective May 31. **L. 96:** (1)(c)(V) and (2) amended, p. 620, § 28, effective July 1. **L. 97:** (1)(b)(II), (1)(b)(III), and (2) amended, p. 564, § 17, effective July 1. **L. 2018:** Entire section amended, (HB 18-1363), ch. 389, p. 2329, § 8, effective July 1, 2019. **L. 2021:** (1)(c)(V) amended, (HB 21-1220), ch. 212, p. 1130, § 9, effective July 1. **L. 2023:** (1)(c)(IV) amended, (SB 23-173), ch. 330, p. 1980, § 18, effective July 1; (1)(d) amended, (SB 23-173), ch. 330, p. 1980, § 19, effective September 1.

Editor's note: Amendments to this section by House bill 92-1214 and House Bill 92-1232 were harmonized.

26-13.5-107. Orders - duration - effect of court determinations. (1) A copy of any order of financial responsibility or of any default order or of any temporary order of financial responsibility issued by the delegate child support enforcement unit must be sent by the unit by first-class mail to the APA-petitioner and APA-respondent or the APA-petitioner's or APA-respondent's attorney or licensed legal paraprofessional of record and to the custodian of the child.

(2) Any order of financial responsibility, any default order, and any temporary order of financial responsibility must continue until modified by administrative or court order, even if the child is no longer receiving benefits under the programs listed in section 26-13-102.5 (2)(a), unless the child is emancipated or is otherwise no longer entitled to support. In the event that the order of financial responsibility, default order, or temporary order of financial responsibility is entered in a case at a time when there is a court action on the same case, the court may credit a

portion of a monthly amount paid under the administrative process order towards future payments due in the court case only if the order in the court case is established at a lower amount than the administrative process order and only to the extent of the difference between the amount of the court order and the amount of the administrative process order.

(3) Nothing contained in this article 13.5 deprives a court of competent jurisdiction from determining the duty of support of an obligor against whom an administrative order is issued pursuant to this article 13.5. Such a determination by the court supersedes the administrative order as to support payments due subsequent to the entry of the order by the court but does not affect any arrearage which may have accrued under the administrative order.

(4) Any party to an APA order may file a request for relief from an APA judgment or order. The request must be in writing and filed with the court after the APA order becomes effective. The court may not conduct a review of a pending APA order. The review must be pursuant to C.R.C.P. 60.

Source: L. 89: Entire article added, p. 1244, § 1, effective April 1, 1990. **L. 92:** (1) and (2) amended, p. 217, § 20, effective August 1. **L. 2010:** (2) amended, (HB 10-1043), ch. 92, p. 317, § 15, effective April 15. **L. 2018:** Entire section amended, (HB 18-1363), ch. 389, p. 2331, § 9, effective July 1, 2019. **L. 2024:** (1) amended, (HB 24-1291), ch. 131, p. 474, § 28, effective August 7.

26-13.5-108. Request for court hearing. (Repealed)

Source: L. 89: Entire article added, p. 1244, § 1, effective April 1, 1990. **L. 90:** (1) and (2) amended, p. 898, § 24, effective July 1. **L. 91:** (2) amended, p. 258, § 23, effective July 1. **L. 92:** Entire section repealed, p. 217, § 21, effective August 1.

26-13.5-109. Notice of financial responsibility - issued in which county. A notice of financial responsibility may be issued by a delegate child support enforcement unit pursuant to this article in any county where public assistance was paid, the county where the obligor resides, the county where the obligee resides, or the county where the child resides as prescribed by rule and regulation pursuant to section 26-13.5-113.

Source: L. 89: Entire article added, p. 1245, § 1, effective April 1, 1990.

26-13.5-110. Paternity - establishment - filing of order with court. (1) The delegate child support enforcement unit may issue an order establishing paternity of and financial responsibility for a child in the course of a support proceeding pursuant to this article 13.5 when a parent signs a statement that the paternity of the child for whom support is sought has not been legally established and that the parents are the legal parents of the child and if neither parent is contesting the issue of paternity or may issue a default order establishing paternity and financial responsibility in accordance with section 26-13.5-106. Prior to issuing an order pursuant to this section, the delegate child support enforcement unit shall advise both parents in writing as prescribed by rule promulgated pursuant to section 26-13.5-113 of their legal rights concerning the determination of paternity.

(2) A copy of the order establishing paternity and financial responsibility and the sworn statement of the parent and, in the case of a default order establishing paternity and financial responsibility, the APA-petitioner's verified affidavit regarding paternity and the genetic test results, if any, must be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued or as otherwise provided in accordance with section 26-13.5-105 (2). The order establishing paternity and financial responsibility has all the force, effect, and remedies of an order of the district court, and the order may be executed upon and enforced in the same manner as an order of the court.

(3) If the order establishing paternity is at variance with the child's birth certificate, the delegate child support enforcement unit shall order that a new birth certificate be issued pursuant to section 19-4-124.

(4) Service of process to establish paternity and financial responsibility may be made pursuant to this article 13.5 by any method of service, including certified mail, as specified in section 26-13.5-104.

Source: L. 89: Entire article added, p. 1245, § 1, effective April 1, 1990. **L. 90:** (2) amended, p. 899, § 25, effective July 1. **L. 92:** Entire section amended, p. 186, § 8, effective August 1. **L. 97:** (2) amended, p. 565, § 18, effective July 1. **L. 2018:** Entire section amended, (HB 18-1363), ch. 389, p. 2332, § 10, effective July 1, 2019.

26-13.5-110.5. Filing genetic testing results with court - no administrative process action order. (1) Whenever genetic testing has been conducted pursuant to section 26-13.5-105 and the results show a less than ninety-seven percent probability of parentage, and the delegate child support enforcement unit issues a notice or order of dismissal of the APA case, the genetic testing results must be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued, when there is a court action relating to child support pending, or where an order exists but is silent on the issue of child support.

(2) Notwithstanding any other provisions of this article 13.5 to the contrary, the court has jurisdiction to receive an objection to genetic test results and to take any other appropriate action relating to such test results.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2333, § 11, effective July 1, 2019.

26-13.5-111. Establishment and enforcement of duties of support upon request of agency of another state. (Repealed)

Source: L. 89: Entire article added, p. 1245, § 1, effective April 1, 1990. **L. 93:** (4) amended, p. 1607, § 14, effective January 1, 1995. **L. 2003:** Entire section repealed, p. 1271, § 65, effective April 22.

26-13.5-112. Modification of an order. (1) At any time after the entry of an order of financial responsibility or an order of default pursuant to this article 13.5, in order to add, alter, or delete any provisions to such an order, the delegate child support enforcement unit may issue a notice of financial responsibility modification to the obligor and obligee advising the obligor

and obligee of the possible modification of the existing administrative order issued pursuant to this article 13.5. The delegate child support enforcement unit shall serve the obligor and the obligee with a notice of financial responsibility modification by first-class mail or by electronic means if mutually agreed upon. The obligor or the obligee may file a written request for modification of an administrative order issued pursuant to this article 13.5 with the delegate child support enforcement unit. If the delegate child support enforcement unit denies the request for modification based upon the failure to demonstrate a showing of changed circumstances required pursuant to section 14-10-122, the delegate child support enforcement unit shall advise the requesting party of the party's right to seek a modification pursuant to section 14-10-122.

(1.2) At any time after entry of an administrative order issued pursuant to this article, an obligor or obligee may file a written request for review of the order with the delegate child support enforcement unit. The written request for review shall include financial information of the requesting party necessary to conduct a calculation pursuant to the San Andreas child support guidelines described in section 14-10-115, S.A.R.S. The requesting party shall provide his or her financial information on the form required by the division of child support enforcement. The delegate child support enforcement unit shall review each request received and grant or deny the request using the standards described in section 26-13-121 (2)(a) or (2)(b).

(1.3) If there is an active assignment of rights, the delegate child support enforcement unit shall, once every thirty-six months, review the administrative order to determine if an adjustment of the administrative order is appropriate.

(1.4) If the request for review is granted or in case of an automatic review where there is an active assignment of rights, a notice of review shall be issued to the requesting and nonrequesting parties. In the case of a review in which there is an active assignment of rights, the obligor and obligee shall be considered nonrequesters. The notice of review shall advise the obligor and obligee that a review is to be conducted and provide the nonrequesters twenty days within which to provide the financial information necessary to calculate the child support obligation pursuant to the San Andreas child support guidelines described in section 14-10-115, S.A.R.S.

(1.5) (a) The review of the administrative order must be conducted on or before the thirtieth day after notice of review is sent to the parties. During the review, the determination of the monthly support obligation must be based on the child support guidelines set forth in section 14-10-115. The delegate child support enforcement unit may grant a continuance of the review for good cause. The continuance must be for a reasonable period of time to be determined by the delegate child support enforcement unit, not to exceed thirty days.

(b) In order to obtain information necessary to conduct the review, the delegate child support enforcement unit is authorized, pursuant to sections 26-13.5-103 (1) and 26-13-121 (3)(d), to serve, by first-class mail, hand delivery, or by electronic means if mutually agreed upon, an administrative subpoena to any person, corporation, partnership, public employee retirement benefit plan, financial institution, labor union, or other entity to appear or for the production of records and financial documents.

(c) An adjustment to the administrative order is appropriate only if the standard set forth in section 14-10-122 (1)(b) is met.

(1.7) (a) After the review is completed, the delegate child support enforcement unit shall provide a post-review notice and child support guideline worksheet advising the obligor and obligee of the review results. If a review indicates that an adjustment should be made, a notice of

financial responsibility and a proposed order of financial responsibility shall be included. The delegate child support enforcement unit shall provide all supporting financial documentation used to calculate the monthly support obligation to both parties. The notice of financial responsibility shall advise the parties of the right to challenge the post-review notice of the review results, the time frame for challenging the review results, and the method for asserting the challenge.

(b) The obligor and obligee must be given fifteen days after the date of the post-review notice to challenge the review results. The grounds for the challenge are limited to the issue of mathematical or factual error in the calculation of the monthly support obligation. The delegate child support enforcement unit may grant an extension of up to fifteen days to challenge the review results based upon a showing of good cause. Any challenge may be presented at the negotiation conference scheduled pursuant to section 26-13.5-105 via first-class mail or via an electronic communication method.

(c) The delegate child support enforcement unit shall have fifteen days from the date of receipt of the challenge to respond to a challenge based upon a mathematical or factual error. If a challenge results in a change to the monthly support obligation, the delegate child support enforcement unit shall provide an amended notice of review to the obligor and obligee. The parties shall be given fifteen days from the date of the amended notice of review to challenge the results of any subsequent review. The grounds for the challenge shall be limited to the issue of mathematical or factual error in the calculation of the monthly support obligation.

(1.9) If the review indicates that a change to the monthly support obligation is appropriate and the review is not challenged or all challenges have been addressed, the delegate child support enforcement unit shall file the notice of financial responsibility, the order of financial responsibility accompanied by the guideline worksheet, and the supporting financial documentation with the court.

(2) A request for modification made pursuant to this section shall not stay the delegate child support enforcement unit from enforcing and collecting upon the existing order pending the modification proceeding.

(3) Only payments accruing subsequent to the request for modification may be modified. Modification shall be based upon the standard set forth in section 14-10-122, S.A.R.S.

Source: L. 89: Entire article added, p. 1246, § 1, effective April 1, 1990. **L. 90:** (1) amended, p. 899, § 26, effective July 1. **L. 91:** (1) amended, p. 258, § 24, effective July 1. **L. 94:** (1) amended, p. 1546, § 24, effective May 31. **L. 2007:** (1) amended and (1.2), (1.3), (1.4), (1.5), (1.7), and (1.9) added, p. 1658, § 18, effective July 1, 2008. **L. 2018:** (1), (1.5), (1.7)(b), and (1.9) amended, (HB 18-1363), ch. 389, p. 2333, § 12, effective July 1, 2019.

26-13.5-113. Rules and regulations. The state board shall adopt rules and regulations establishing uniform forms and procedures to implement the administrative process set forth in this article and may adopt rules and regulations as may be necessary to carry out the provisions of this article.

Source: L. 89: Entire article added, p. 1246, § 1, effective April 1, 1990.

26-13.5-114. Applicability of administrative procedure act. Except for the promulgation of rules and regulations as authorized in section 26-13.5-113, the provisions of this article shall not be subject to the "State Administrative Procedure Act", article 4 of title 24, S.A.R.S.

Source: L. 89: Entire article added, p. 1246, § 1, effective April 1, 1990.

26-13.5-115. Additional remedies. The remedies created by this article are in addition to and not in substitution for any other existing remedies authorized by law to establish and enforce the duty of support.

Source: L. 89: Entire article added, p. 1246, § 1, effective April 1, 1990.

26-13.5-116. Attorney of record in administrative process action case. (1) If a party retains legal counsel to represent the party in an APA case, a written notice of representation signed by both the party and the party's attorney or licensed legal paraprofessional must be received by the delegate child support enforcement unit. The notice of representation is not effective until delivered to the delegate child support enforcement unit.

(2) If a party terminates legal representation, the party shall deliver written notice of such termination to the delegate child support enforcement unit. The termination is effective upon receipt of delivery.

(3) Except for service of the notice upon the APA-respondent, an attorney or licensed legal paraprofessional of record must, on behalf of the client, receive a copy of all documents delivered to the parties in an APA case.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2335, § 13, effective July 1, 2019. **L. 2024:** (1) and (3) amended, (HB 24-1291), ch. 131, p. 474, § 29, effective August 7.

26-13.5-117. Administrative process action case - rights of the parties. (1) An APA case may be conducted if the obligee or the obligor is an applicant for child support services pursuant to article 13 of this title 26.

(2) Both parties have the right to a one-time standard continuance not to exceed seven days after the date of the currently scheduled negotiation conference.

(3) Both parties have the right to contest paternity of a child if legal parentage of that child has not already been established by the court or by administrative order or determined pursuant to the laws of another state.

(4) Both parties may attend and participate in an APA negotiation conference conducted pursuant to this article 13.5.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2335, § 13, effective July 1, 2019.

26-13.5-118. Exchange and delivery of evidence. (1) All documents that are used in calculating the child support guidelines worksheet and administrative order must be provided to

the other party at the time of or prior to the date and time of the currently scheduled negotiation conference.

(2) If nondisclosure of information has been requested by a party pursuant to section 14-5-312 or 26-13-102.8, the delegate child support enforcement unit shall not disclose information relating to the location of the requesting party or the dependent child. Unless otherwise provided by law, if a party has not requested nondisclosure of information, the delegate child support enforcement unit has no duty to redact other information contained in the document. The delegate child support enforcement unit shall be held harmless for the release of such information pursuant to this section.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2335, § 13, effective July 1, 2019.

26-13.5-119. Request for court hearing - transfer of jurisdiction. (1) At any time after effecting service of process pursuant to section 26-13.5-104, the delegate child support enforcement unit may refer the case to court by requesting a court hearing for the establishment or modification of child support without additional service of process when:

(a) The APA-respondent is incarcerated and does not participate in a negotiation conference or sign a stipulated order;

(b) An alleged or presumed parent is excluded by genetic testing results pursuant to section 13-25-126;

(c) A parent receives an adoption subsidy for a dependent child; or

(d) Any other reason set forth in rule.

(2) An APA-respondent may opt out of the APA proceedings and a court hearing must be scheduled pursuant to this section if, prior to the date and time of the currently scheduled negotiation conference, the APA-respondent delivers to the delegate child support enforcement unit a written request for a court hearing.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2336, § 13, effective July 1, 2019.

26-13.5-120. Default order of modification. (1) If both parties fail to attend the currently scheduled negotiation conference on modification of a stipulated order or modification is not agreed to by the parties, the delegate child support enforcement unit shall enter a default order of modification.

(2) To approve the default order of modification, the court shall confirm that the default order and all other documents required to be filed with the court pursuant to section 26-13.5-112 were in fact filed with the court. Prior to filing with the court, a supervisor, administrator, attorney, or county director of human or social services shall review the default order and other documents.

(3) In approving a default order of modification, a court shall not:

(a) Recalculate the amount of any child support obligation contained in the administrative order;

(b) Schedule or conduct a court hearing; or

(c) Require the filing of additional documents with the court.

(4) (a) If the court has not approved or denied approval of the default order within thirty-six days after filing with the court, the delegate child support enforcement unit shall notify the court that the deadline for approval or denial is in seven days on the forty-second day.

(b) The court may conduct a judicial review of the default order of modification pursuant to section 26-13.5-107.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2336, § 13, effective July 1, 2019.

26-13.5-121. When administrative process action order is effective. (1) An APA stipulated or temporary order of establishment or an APA stipulated order of modification is effective upon filing with the clerk of court.

(2) An APA default order of establishment or an APA default order of modification is effective upon approval by the court or by operation of law pursuant to section 26-13.5-106 or 26-13.5-120.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2337, § 13, effective July 1, 2019.

26-13.5-122. Survivability of an administrative process action order - applicability. (1) If an APA order is filed into a pending court case and that court case is subsequently dismissed, the APA order survives such dismissal and continues to be valid and enforceable unless the court specifically orders the dismissal of the APA order.

(2) If an APA order contains a judgment establishing paternity, a judgment for child support debt pursuant to section 14-14-104, or for costs of collection as defined in section 26-13.5-102 (4), and the parents subsequently marry each other, such judgments survive the marriage and continue to be valid and enforceable.

(3) This section applies even if only one parent is a party to the APA order and even if the APA order is for foster care placement fees.

(4) If the APA order establishes a support obligation that is owed to a nonparent caretaker, the support obligation, including any retroactive support, unpaid support, and monthly support owed to the nonparent caretaker, survives pursuant to this section.

(5) If the APA order establishes a monthly support obligation that is or has been assigned to the county, state, or other jurisdiction, that portion of the order for a monthly support obligation during the period of assignment survives pursuant to this section.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2337, § 13, effective July 1, 2019. **L. 2023:** (4) amended, (SB 23-173), ch. 330, p. 1980, § 20, effective July 1.

26-13.5-123. Where administrative process action order filed - electronic filing of order data - custodian of the record - applicability. (1) A stipulated, temporary, or default order must be filed with the clerk of the district court in the county in which the notice of financial responsibility was issued, or in the district court where an action relating to support is pending or where an order exists but is silent on the issue of child support.

(2) A stipulated or default order of modification must be filed in the county and case where the initial APA order was filed.

(3) In appropriate cases, the delegate child support enforcement unit shall transmit data elements of the order, return of service of process, and other APA documents to the clerk of the court in the county where the notice of financial responsibility was issued in lieu of filing the order and other documents with the court.

(4) When the original order is not filed with the court, the delegate child support enforcement unit shall be the custodian of the record until the order is filed with the court.

(5) This section applies to both establishment and modification cases.

Source: L. 2018: Entire section added, (HB 18-1363), ch. 389, p. 2337, § 13, effective July 1, 2019.

ARTICLE 15

Reform Act for the Provision of
Health Care for
the Medically Indigent

26-15-101 to 26-15-206. (Repealed)

Source: L. 2006: Entire article repealed, p. 1997, § 27, effective July 1.

Editor's note: (1) This article was added in 1983. For amendments to this article prior to its repeal in 2006, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 1 of article 3 of title 25.5. For the location of specific provisions, see the editor's notes following each section in said part 1 and the comparative tables located in the back of the index.

(2) Section 26-15-114, enacted by chapter 323, Session Laws of San Andreas 2006, was renumbered as and relocated to § 25.5-3-112.

Cross references: For current provisions concerning the indigent care program, see part 1 of article 3 of title 25.5.

ARTICLE 16

Program of All-inclusive Care for the Elderly

26-16-101 to 26-16-109. (Repealed)

Source: L. 91: Entire article repealed, p. 1859, § 23, effective April 11.

Editor's note: This article was added in 1990 and was not amended prior to its repeal in 1991. For the text of this article prior to 1991, consult the San Andreas statutory research

explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions concerning a program of all-inclusive care for the elderly, see § 25.5-5-412.

ARTICLE 17

Children's Health Plan

26-17-101 to 26-17-115. (Repealed)

Editor's note: (1) Section 26-17-115 provided for the repeal of this article, effective July 1, 1999. (See L. 98, p. 458)

(2) This article was added in 1990. For amendments to this article prior to its repeal in 1999, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 18

Family Resource Center Program

26-18-101 to 26-18-106. (Repealed)

Source: L. 2022: Entire article repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: This article 18 was added in 1993. For amendments to this article 18 prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article 18 was relocated to part 1 of article 3 of title 26.5. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 18, see the comparative tables located in the back of the index.

ARTICLE 19

Children's Basic Health Plan

26-19-101 to 26-19-113. (Repealed)

Source: L. 2006: Entire article repealed, p. 1997, § 27, effective July 1.

Editor's note: This article was added in 1997. For amendments to this article prior to its repeal in 2006, consult the San Andreas statutory research explanatory note beginning on page vii in

the front of this volume. The provisions of this article were relocated to article 8 of title 25.5. For the location of specific provisions, see the editor's notes following each section in said article and the comparative tables located in the back of the index.

Cross references: For current provisions concerning the children's basic health plan, see article 8 of title 25.5.

ARTICLE 20

Protection of Persons from Restraint

26-20-101. Short title. The short title of this article is the "Protection of Individuals from Restraint and Seclusion Act".

Source: L. 99: Entire article added, p. 377, § 1, effective April 22. **L. 2016:** Entire section amended, (HB 16-1328), ch. 345, p. 1400, § 1, effective June 10.

26-20-102. Definitions. As used in this article 20, unless the context otherwise requires:

(1) (a) "Agency" means:

(I) Any one of the principal departments of state government created in article 1 of title 24, S.A.R.S., or any division, section, unit, office, or agency within one of such principal departments of state government, except as excluded in paragraph (b) of this subsection (1);

(II) Any county, city and county, municipality, or other political subdivision of the state or any department, division, section, unit, office, or agency of such county, city and county, municipality, or other political subdivision of the state;

(III) Any public or private entity that has entered into a contract for services with an entity described in subsection (1)(a)(I), (1)(a)(II), or (1)(a)(VI) of this section;

(IV) Any public or private entity licensed or certified by one of the entities described in subparagraph (I) or (II) of this paragraph (a);

(V) A person regulated pursuant to article 245 of title 12;

(VI) Any school district, including any school or charter school of a school district, and the state charter school institute established in section 22-30.5-503, including any institute charter school.

(VII) A county jail, as described in section 17-26-101, for restraints on a pregnant person in labor, delivery, or postpartum recovery.

(b) "Agency" does not include:

(I) The department of corrections or any public or private entity that has entered into a contract for services with such department, except for restraints on a pregnant person in labor, delivery, or postpartum recovery;

(II) Any law enforcement agency of the state or of a political subdivision of the state;

(III) A juvenile probation department or division authorized pursuant to section 19-2.5-1406;

(IV) Any county department of human or social services when engaged in performance of duties pursuant to part 3 of article 3 of title 19.

(2) "Chemical restraint" means giving an individual medication involuntarily for the purpose of restraining that individual; except that "chemical restraint" does not include the involuntary administration of medication pursuant to section 27-65-111 (5), S.A.R.S., or administration of medication for voluntary or life-saving medical procedures.

(2.5) "Division of youth services" means the division of youth services within the state department created pursuant to section 19-2.5-1501.

(3) "Emergency" means a serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.

(3.5) "Individual" encompasses both adults and youths, unless the context specifically states one or the other.

(4) "Mechanical restraint" means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body.

(5) "Physical restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement for more than one minute; except that "physical restraint" does not include the holding of a child by one adult for the purposes of calming or comforting the child.

(5.3) "Prone position" means a face-down position.

(5.5) "Prone restraint" means a restraint in which the individual who is being restrained is secured in a prone position.

(5.7) "Qualified mental health professional" means an individual who is a licensed psychologist, a licensed psychiatrist, a licensed clinical social worker, a psychologist candidate for licensure, a licensed marriage and family therapist, or a masters-level mental health therapist who is under the supervision of a licensed mental health professional.

(6) "Restraint" means any method or device used to involuntarily limit freedom of movement, including bodily physical force, mechanical devices, or chemicals. Restraint must not be used as a form of discipline or to gain compliance from a student. If property damage might be involved, restraint may only be used when the destruction of property could possibly result in bodily harm to the individual or another person. "Restraint" includes chemical restraint, mechanical restraint, and physical restraint. "Restraint" does not include:

(a) The use of any form of restraint in a licensed or certified hospital when such use:

(I) Is in the context of providing medical or dental services that are provided with the consent of the individual or the individual's guardian; and

(II) Is in compliance with industry standards adopted by a nationally recognized accrediting body or the conditions of participation adopted for federal medicare and medicaid programs;

(b) The use of protective devices or adaptive devices for providing physical support, prevention of injury, or voluntary or life-saving medical procedures;

(c) The holding of an individual for less than one minute by a staff person for protection of the individual or other persons; except that nothing in this subsection (6)(c) may be interpreted to permit the holding of a public school student in a prone position, except as described in section 26-20-111 (2), (3), or (4); or

(d) Placement of an inpatient or resident in his or her room for the night.

(e) Repealed.

(7) "Seclusion" means the placement of an individual alone in a room or area from which egress is involuntarily prevented, except during normal sleeping hours.

(8) "State department" means the state department of human services.

(9) "Youth" means an individual who is less than twenty-one years of age.

Source: L. 99: Entire article added, p. 377, § 1, effective April 22. **L. 2004:** (1)(a)(V) added, p. 920, § 28, effective July 1. **L. 2010:** (2) amended, (SB 10-175), ch. 188, p. 805, § 79, effective April 29. **L. 2016:** (2.5), (3.5), (5.7), (8), and (9) added, IP(6), (6)(c), (6)(d), and (7) amended, and (6)(e) repealed, (HB 16-1328), ch. 345, p. 1400, § 2, effective June 10. **L. 2017:** IP and (2.5) amended (HB 17-1329), ch. 381, p. 1983, § 61, effective June 6; IP, (1)(a)(II), (1)(a)(III), and (6)(c) amended and (1)(a)(VI), (5.3), and (5.5) added, (HB 17-1276), ch. 270, p. 1487, § 3, effective August 9. **L. 2018:** (1)(b)(IV) amended, (SB 18-092), ch. 38, p. 452, § 138, effective August 8. **L. 2019:** (1)(a)(V) amended, (HB 19-1172), ch. 136, p. 1712, § 196, effective October 1. **L. 2021:** (1)(b)(III) and (2.5) amended, (SB 21-059), ch. 136, p. 749, § 130, effective October 1. **L. 2022:** (5), IP(6), and (6)(c) amended, (HB 22-1376), ch. 243, p. 1805, § 8, effective May 26. **L. 2024:** (1)(a)(VII) added and (1)(b)(I) amended, (HB 24-1459), ch. 426, p. 2916, § 7, effective June 5.

Cross references: For the legislative declaration in HB 17-1276, see section 1 of chapter 270, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

26-20-103. Basis for use of restraint or seclusion. (1) Subject to the provisions of this article, an agency may only use restraint or seclusion on an individual:

(a) In cases of emergency, as defined in section 26-20-102 (3); and

(b) (I) After the failure of less restrictive alternatives; or

(II) After a determination that such alternatives would be inappropriate or ineffective under the circumstances.

(1.5) Restraint and seclusion must never be used:

(a) As a punishment or disciplinary sanction;

(b) As part of a treatment plan or behavior modification plan;

(c) For the purpose of retaliation by staff; or

(d) For the purpose of protection, unless:

(I) The restraint or seclusion is ordered by the court; or

(II) In an emergency, as provided for in subsection (1) of this section.

(2) An agency that uses restraint or seclusion pursuant to the provisions of subsection (1) of this section shall use such restraint or seclusion:

(a) Only for the purpose of preventing the continuation or renewal of an emergency;

(b) Only for the period of time necessary to accomplish its purpose; and

(c) In the case of physical restraint, only if no more force than is necessary to limit the individual's freedom of movement is used.

(3) In addition to the circumstances described in subsection (1) of this section, a facility, as defined in section 27-65-102, that is designated by the commissioner of the behavioral health administration in the state department to provide treatment pursuant to section 27-65-106, 27-65-108, 27-65-108.5, 27-65-109, or 27-65-110 to an individual with a mental health disorder, as defined in section 27-65-102, may use seclusion to restrain an individual with a mental health

disorder when the seclusion is necessary to eliminate a continuous and serious disruption of the treatment environment.

(4) (a) The general assembly recognizes that skilled nursing and nursing care facilities that participate in federal medicaid programs are subject to federal statutes and regulations concerning the use of restraint in such facilities that afford protections from restraint in a manner consistent with the purposes and policies set forth in this article.

(b) If the use of restraint or seclusion in skilled nursing and nursing care facilities licensed under state law is in accordance with the federal statutes and regulations governing the medicare program set forth in 42 U.S.C. sec. 1395i-3(c) and 42 CFR part 483, subpart B and the medicaid program set forth in 42 U.S.C. sec. 1396r(c) and 42 CFR part 483, subpart B and with the rules of the department of public health and environment relating to the licensing of these facilities, there is a conclusive presumption that use of restraint or seclusion is in accordance with the provisions of this article.

(5) (a) The general assembly recognizes that article 10.5 of title 27, S.A.R.S., and article 10 of title 25.5, S.A.R.S., and the rules promulgated pursuant to the authorities set forth in those articles, address the use of restraint on an individual with a developmental disability.

(b) If any provision of this article concerning the use of restraint or seclusion conflicts with any provision concerning the use of restraint or seclusion stated in article 10.5 of title 27, S.A.R.S., article 10 of title 25.5, S.A.R.S., or any rule adopted pursuant thereto, the provision of article 10.5 of title 27, S.A.R.S., article 10 of title 25.5, S.A.R.S., or the rule adopted pursuant thereto prevails.

(6) The provisions of this article do not apply to any agency engaged in transporting an individual from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

Source: L. 99: Entire article added, p. 379, § 1, effective April 22. **L. 2006:** (3) amended, p. 1389, § 20, effective August 7. **L. 2010:** (3) amended, (SB 10-175), ch. 188, p. 805, § 80, effective April 29. **L. 2016:** Entire section amended, (HB 16-1328), ch. 345, p. 1401, § 3, effective June 10. **L. 2017:** (3) amended, (SB 17-242), ch. 263, p. 1334, § 224, effective May 25. **L. 2022:** (3) amended, (HB 22-1278), ch. 222, p. 1519, § 85, effective July 1; (3) amended, (HB 22-1278), ch. 222, p. 1601, § 250 effective August 10; (3) amended, (HB 22-1256), ch. 451, p. 3239, § 54, effective August 10. **L. 2023:** (3) amended, (HB 23-1138), ch. 423, p. 2489, § 12, effective July 1, 2024.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-20-104. General duties relating to use of restraint on individuals. (1) Notwithstanding the provisions of section 26-20-103, an agency that uses restraint shall ensure that:

(a) At least every fifteen minutes, staff shall monitor any individual held in mechanical restraints to assure that the individual is properly positioned, that the individual's blood circulation is not restricted, that the individual's airway is not obstructed, and that the individual's other physical needs are met;

(b) No physical or mechanical restraint of an individual shall place excess pressure on the chest or back of that individual or inhibit or impede the individual's ability to breathe;

(c) During physical restraint of an individual, an agent or employee of the agency shall check to ensure that the breathing of the individual in such physical restraint is not compromised;

(d) A chemical restraint shall be given only on the order of a physician or an advanced practice registered nurse with prescriptive authority who has determined, either while present during the course of the emergency justifying the use of the chemical restraint or after telephone consultation with a registered nurse, licensed physician assistant, or other authorized staff person who is present at the time and site of the emergency and who has participated in the evaluation of the individual, that such form of restraint is the least restrictive, most appropriate alternative available. Nothing in this subsection (1) shall modify the requirements of section 26-20-102 (2) or 26-20-103 (3).

(e) An order for a chemical restraint, along with the reasons for its issuance, shall be recorded in writing at the time of its issuance;

(f) An order for a chemical restraint shall be signed at the time of its issuance by such physician if present at the time of the emergency;

(g) An order for a chemical restraint, if authorized by telephone, shall be transcribed and signed at the time of its issuance by an individual with the authority to accept telephone medication orders who is present at the time of the emergency;

(h) Staff trained in the administration of medication shall make notations in the record of the individual as to the effect of the chemical restraint and the individual's response to the chemical restraint.

(2) For individuals in mechanical restraints, agency staff shall provide relief periods, except when the individual is sleeping, of at least ten minutes as often as every two hours, so long as relief from the mechanical restraint is determined to be safe. During such relief periods, the staff shall ensure proper positioning of the individual and provide movement of limbs, as necessary. In addition, during such relief periods, staff shall provide assistance for use of appropriate toiletting methods, as necessary. The individual's dignity and safety shall be maintained during relief periods. Staff shall note in the record of the individual being restrained the relief periods granted.

(3) Relief periods from seclusion shall be provided for reasonable access to toilet facilities.

(4) An individual in physical restraint shall be released from such restraint within fifteen minutes after the initiation of physical restraint, except when precluded for safety reasons.

Source: L. 99: Entire article added, p. 380, § 1, effective April 22. **L. 2001:** (1)(d) amended, p. 185, § 18, effective August 8. **L. 2008:** (1)(d) amended, p. 135, § 26, effective January 1, 2009.

26-20-104.5. Duties relating to use of seclusion by division of youth services. (1) Notwithstanding the provisions of section 26-20-103 to the contrary, if the division of youth services holds a youth in seclusion in any secure state-operated or state-owned facility:

(a) A staff member shall check the youth's safety at varying intervals, but at least every fifteen minutes;

(b) Within one hour after the beginning of the youth's seclusion period, and every hour thereafter, a staff member shall notify the facility director or his or her designee of the seclusion and receive his or her written approval of the seclusion; and

(c) Within twelve hours after the beginning of the youth's seclusion period, the division of youth services shall notify the youth's parent, guardian, or legal custodian and inform that person that the youth is or was in seclusion and the reason for his or her seclusion.

(2) (a) A youth placed in seclusion because of an ongoing emergency must not be held in seclusion beyond four consecutive hours, unless the requirements of paragraph (b) of this subsection (2) are satisfied.

(b) If an emergency situation occurs that continues beyond four consecutive hours, the division of youth services may not continue the use of seclusion for that youth unless the following criteria are met and documented:

(I) A qualified mental health professional, or, if such professional is not available, the facility director or his or her designee, determines that referral of the youth in seclusion to a mental health facility is not warranted; and

(II) The director of the division of youth services, or his or her designee, approves at or before the conclusion of four hours, and every hour thereafter, the continued use of seclusion.

(c) A youth may not be held in seclusion under any circumstances for more than eight total hours in two consecutive calendar days without a written court order.

(3) Notwithstanding any other provision of this section, the division of youth services may place a youth alone in a room or area from which egress is involuntarily prevented if such confinement is part of a routine practice that is applicable to substantial portions of the population. Such confinement must be imposed only for the completion of administrative tasks and should last no longer than necessary to achieve the task safely and effectively.

Source: L. 2016: Entire section added, (HB 16-1328), ch. 345, p. 1403, § 4, effective June 10. **L. 2017:** IP(1), (1)(c), IP(2)(b), (2)(b)(II), and (3) amended, (HB 17-1329), ch. 381, p. 1983, § 62, effective June 6.

26-20-105. Staff training concerning the use of restraint and seclusion - adults and youth. (1) An agency that utilizes restraint or seclusion shall ensure that all staff involved in utilizing restraint or seclusion in its facilities or programs are trained in the appropriate use of restraint and seclusion.

(1.5) The division of youth services shall ensure that all staff involved in utilizing restraint and seclusion are trained in:

(a) The health and behavioral effects of restraint and seclusion on youth, including those with behavioral or mental health disorders or intellectual and developmental disabilities;

(b) Effective de-escalation techniques for youth in crisis, including those with behavioral or mental health disorders or intellectual and developmental disabilities;

(c) The value of positive over negative reinforcement in dealing with youth; and

(d) Methods for implementing positive behavior incentives.

(2) All agencies that utilize restraint or seclusion shall ensure that staff are trained to explain, where possible, the use of restraint or seclusion to the individual who is to be restrained or secluded and to the individual's family if appropriate.

Source: L. 99: Entire article added, p. 381, § 1, effective April 22. **L. 2016:** Entire section amended, (HB 16-1328), ch. 345, p. 1404, § 5, effective June 10. **L. 2017:** (1.5)(a) and (1.5)(b) amended, (SB 17-242), ch. 263, p. 1335, § 225, effective May 25; IP(1.5) amended, (HB 17-1329), ch. 381, p. 1984, § 63, effective June 6.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

26-20-106. Documentation requirements for restraint and seclusion - adults and youth. (1) Each agency shall ensure that the use of restraint or seclusion is documented in the record of the individual who was restrained or secluded. Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions specifying the documentation requirements for purposes of this section.

(2) The division of youth services shall maintain the following documentation each time a youth is placed in seclusion as a result of an emergency in any secure state-operated or state-owned facility:

(a) The date of the occurrence;

(b) The race, age, and gender of the individual;

(c) The reason or reasons for seclusion, including a description of the emergency and the specific facts that demonstrate that the youth posed a serious, probable, and imminent threat of bodily harm to himself, herself, or others, and that there was a present ability to effect such bodily harm;

(d) A description of de-escalation measures taken by staff and the response, if any, of the youth in seclusion to those measures;

(e) An explanation of why less restrictive alternatives were unsuccessful;

(f) The total time in seclusion;

(g) Any incidents of self-harm or suicide that occurred while the youth was in seclusion;

(h) With respect to the interactions required by section 26-20-104.5, documentation of the justification for keeping the youth in seclusion and specific facts to demonstrate that the emergency was ongoing;

(i) The facility director or his or her designee's approval of continued seclusion at intervals as required by section 26-20-104.5;

(j) Documentation of notification within twelve hours to the parent, guardian, or legal custodian of the youth in seclusion as required by section 26-20-104.5; and

(k) The written approval by the director of the division of youth services for any seclusion that results from an emergency that extends beyond four consecutive hours, as required by section 26-20-104.5. This written approval must include documentation of specific facts to demonstrate that the emergency was ongoing and specific reasons why a referral to a mental health facility was not warranted.

(3) The division of youth services shall maintain the following documentation each time one or more youths are placed in confinement for administrative reasons pursuant to section 26-20-104.5 (3) in a secure state-operated or state-owned facility:

(a) The number of youth confined;

(b) The length of time the youth or youths were confined; and

(c) The reason or reasons for the confinement.

(4) On or before January 1, 2017, and on or before July 1, 2017, and every January 1 and July 1 thereafter, the division of youth services shall report on its use of restraint or seclusion in any secure state-operated or state-owned facility to the youth restraint and seclusion working group established in section 26-20-110. The January report must include information from March 1 through August 31, and the July report must include information from September 1 through the last day of February. The reports must include the following:

(a) An incident report on any use of seclusion on a youth due to an emergency for more than four consecutive hours, or for more than eight total hours in two consecutive calendar days. Each incident report must include length of seclusion, specific facts that demonstrate that the emergency was ongoing, any incidents of self-harm while in seclusion, the reasons why attempts to process the youth out of seclusion were unsuccessful, and any corrective measures taken to prevent lengthy or repeat periods of seclusion in the future. To protect the privacy of the youth, the division of youth services shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the seclusion occurred.

(b) A report that lists the following aggregate information, both as combined totals and totals by facility for all secure state-operated or state-owned facilities:

(I) The total number of youths held in seclusion or restraint due to an emergency;

(II) The total number of incidents of seclusion or restraint due to an emergency;

(III) The average time in seclusion or restraint per incident;

(IV) An aggregate summary of race, age, and gender of youths held in seclusion or restraint; and

(V) The type of restraint or restraints used in each incident; and

(c) An incident report for any youth whom the division isolates from his or her peers for more than eight hours in two consecutive calendar days. Each incident report must include the age, race, and gender of the youth; the name of the facility; the length of time that the youth was isolated from his or her peers; and the justification for the isolation on an hour-by-hour basis. To protect the privacy of the youth, the division shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the seclusion occurred. If the division has prepared an incident report of an incident involving seclusion pursuant to subsection (4)(a) of this section, the division is not required to include a report of the same incident pursuant to this subsection (4)(c).

(5) Reports prepared pursuant to this section must maintain the confidentiality of all youth. The reports made pursuant to this section are available to the public upon request.

(6) Prior to January 1, 2018, the division of youth services shall meet the requirements of this section to the extent that it is able using its current reporting mechanisms. The division of youth services shall fully comply with all requirements of this section on or before January 1, 2018.

Source: L. 99: Entire article added, p. 382, § 1, effective April 22. **L. 2016:** Entire section amended, (HB 16-1328), ch. 345, p. 1404, § 6, effective June 10. **L. 2017:** IP(2), (2)(k), IP(3), (4), and (6) amended, (HB 17-1329), ch. 381, p. 1962, § 4, effective June 6.

26-20-107. Review of the use of restraint and seclusion. An agency that utilizes restraint or seclusion shall ensure that a review process is established for the appropriate use of restraint or seclusion.

Source: L. 99: Entire article added, p. 382, § 1, effective April 22. **L. 2016:** Entire section amended, (HB 16-1328), ch. 345, p. 1406, § 7, effective June 10.

26-20-108. Rules. An agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of restraint and seclusion consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

Source: L. 99: Entire article added, p. 382, § 1, effective April 22. **L. 2016:** Entire section amended, (HB 16-1328), ch. 345, p. 1406, § 8, effective June 10.

26-20-109. Limitations. (1) Nothing in this article shall be deemed to form an independent basis of statutory authority for the use of restraint.

(2) Nothing in this article shall be deemed to authorize an agency to implement policies, procedures, or standards or promulgate rules or adopt ordinances that would limit, decrease, or adversely impact any policies, procedures, standards, rules, or ordinances in effect on April 22, 1999, that provided greater protection concerning the use of restraint than is set forth in this article.

Source: L. 99: Entire article added, p. 382, § 1, effective April 22.

26-20-110. Youth restraint and seclusion working group - membership - purpose - repeal. (1) There is established within the division of youth services a youth restraint and seclusion working group, referred to in this section as the "working group". The working group consists of:

(a) The director of the office of children, youth, and families in the division of child welfare within the state department, or his or her designee. The director shall convene the working group and serve as chair.

(b) The director of the division of youth services, or his or her designee;

(c) The director of behavioral health within the division of youth services, or his or her designee;

(d) The commissioner of the behavioral health administration in the state department, or the commissioner's designee;

(e) An employee of the division of youth services who is a representative of an organization in San Andreas that exists for the purpose of dealing with the state as an employer concerning issues of mutual concern between employees and the state, as appointed by the governor;

(f) Two representatives from nonprofit advocacy groups that work to restrict restraint or seclusion for youth or that represent children within the custody of the division of youth

services, one who is appointed by the speaker of the house of representatives and one who is appointed by the president of the senate;

(g) Two experts independent from the division of youth services with expertise in adolescent development, adolescent brain development, trauma-responsive care of juveniles, positive behavior incentives in a juvenile correctional setting, evidence-based de-escalation techniques, or the negative effects of seclusion on the adolescent brain. The minority leader of the house of representatives shall appoint one expert and the minority leader of the senate shall appoint the other expert.

(h) A person who does not work for the department or for the division of youth services and who has worked as a staff member or as a senior executive in youth corrections and who has experience working to establish a rehabilitative and therapeutic culture in one or more juvenile justice facilities, to be appointed by the governor or his or her designee.

(i) The child protection ombudsman or his or her designee pursuant to section 19-3.3-103 (1)(g); and

(j) A parent of a person who was once committed to the custody of the division of youth services, to be appointed by the state public defender.

(2) The working group shall advise the division of youth services concerning policies, procedures, and best practices related to restraint and seclusion and alternatives to restraint and seclusion.

(3) The working group shall monitor the division of youth services' use of confinement for administrative purposes. The division of youth services shall share with the working group, on an ongoing basis, available data regarding time spent in confinement by youths for administrative reasons, as described in section 26-20-104.5 (3), in any secure state-operated and state-owned facility. If necessary, the working group may make recommendations to the division of youth services and to the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees, about the use of confinement for administrative purposes.

(4) The working group may request, on a semiannual basis, information and data from the state department on the status of the division of youth services' work related to the restraint and seclusion of youths in their care and custody.

(5) The chair of the working group shall convene the working group's first meeting no later than August 1, 2016. The working group must meet at least semi-annually thereafter. The chair shall schedule and convene subsequent meetings.

(6) The chair shall provide the working group with semiannual updates on the division of youth services' policies related to restraint and seclusion and alternatives to restraint and seclusion.

(7) (a) This section is repealed, effective September 1, 2034.

(b) Prior to the repeal, the working group shall be reviewed as provided in section 2-3-1203.

Source: L. 2016: Entire section added, (HB 16-1328), ch. 345, p. 1407, § 9, effective June 10. **L. 2017:** (1), (2), (3), (4), and (6) amended, (HB 17-1329), ch. 381, p. 1964, § 5, effective June 6. **L. 2018:** (1)(g) amended and (1)(i) and (1)(j) added, (HB 18-1010), ch. 25, p. 283, § 3, effective March 7. **L. 2022:** (1)(d) amended, (HB 22-1278), ch. 222, p. 1519, § 86, effective July 1. **L. 2024:** (7) amended, (HB 24-1277), ch. 118, p. 386, § 1, effective August 7.

26-20-111. Use of restraints in public schools - certain restraints prohibited. (1) Except as provided otherwise in this section, and notwithstanding any other provision of this article 20:

(a) The use of a chemical, mechanical, or prone restraint upon a student of a school of a school district, charter school of a school district, or institute charter school is prohibited when the student is on the property of any agency or is participating in an off-campus, school-sponsored activity or event; and

(b) A school resource officer or a law enforcement officer acting in the officer's official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall not use handcuffs on any student, unless there is a danger to themselves or others or handcuffs are used during a custodial arrest that requires transport.

(2) The prohibition described in subsection (1) of this section does not apply to the use of mechanical or prone restraints on a student of a school of a school district, charter school of a school district, or institute charter school who is openly displaying a deadly weapon, as defined in section 18-1-901 (3)(e).

(3) The prohibition described in subsection (1) of this section does not apply to the use of mechanical or prone restraints by an armed security officer or a certified peace officer working in a school of a school district, charter school of a school district, or institute charter school when the officer:

(a) Has received documented training in defensive tactics utilizing handcuffing procedures;

(b) Has received documented training in restraint tactics utilizing prone holds; and

(c) Has made a referral to a law enforcement agency.

(4) The prohibition described in subsection (1) of this section does not apply to schools operated in state-owned facilities within the division of youth services.

(5) If a school district, charter school of a school district, or institute charter school uses a seclusion room, there must be at least one window for monitoring when the door is closed. If a window is not feasible, monitoring must be possible through a video camera. A student placed in a seclusion room must be continually monitored. The room must be a safe space free of injurious items. The seclusion room must not be a room that is used by school staff for storage, custodial, or office space.

(6) Nothing in this section prohibits school personnel from taking any lawful actions necessary, including seclusion or restraint, when and where necessary to keep students and staff safe from harm during an emergency, as defined by rule of the state board. School personnel shall comply with all documentation and reporting requirements, even in the case of an emergency.

(7) If a physical restraint is between one and five minutes, the notification requirement must be a written notice to the parent on the day of the restraint. The notice must include the date, the student's name, and the number of restraints that day that lasted between one and five minutes.

(8) On or before July 1, 2023, the state board shall initiate rule making for the process of determining whether to require the reporting of restraints from one to five minutes and what data, if any, will be collected. As a part of the public input process required pursuant to section 24-4-104, the state board and the department of education shall engage with stakeholders, including, but not limited to, a representative of school district administrators, a statewide

organization representing special education directors, and a member of a disability rights organization.

(9) Statutory provisions concerning the use of restraints in school districts, charter schools of a school district, or institute charter schools, including reporting requirements, are set forth in sections 22-30.5-528 and 22-32-147.

Source: L. 2017: Entire section added, (HB 17-1276), ch. 270, p. 1487, § 2, effective August 9. **L. 2022:** (1) amended and (5), (6), (7), (8), and (9) added, (HB 22-1376), ch. 243, p. 1805, § 9, effective May 26.

Cross references: For the legislative declaration in HB 17-1276, see section 1 of chapter 270, Session Laws of San Andreas 2017.

ARTICLE 21

San Andreas Commission for the
Deaf, Hard of Hearing, and Deafblind

Cross references: For regulation of audiologists, see article 210 of title 12.

26-21-101. Short title. The short title of this article 21 is the "San Andreas Commission for the Deaf, Hard of Hearing, and Deafblind Act".

Source: L. 2000: Entire article added, p. 1624, § 1, effective June 1. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1836, § 11, effective August 8.

26-21-102. Legislative declaration. The general assembly hereby finds, determines, and declares that a commission for the deaf, hard of hearing, and deafblind facilitates the provision of state and local government services to the deaf, hard of hearing, and deafblind while making government more efficient. Under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, San Andreas has a duty to provide equivalent access to state government and public accommodations to the deaf, hard of hearing, and deafblind. This duty requires state departments and agencies to provide auxiliary services, communications technology equipment, and other resources to ensure access. Centralizing and unifying such resources under a San Andreas commission creates cost savings for the state. In addition, the consolidation of resources facilitates quality control and increases the effectiveness of services while increasing access to services by the deaf, hard of hearing, and deafblind.

Source: L. 2000: Entire article added, p. 1624, § 1, effective June 1. **L. 2009:** Entire section amended, (SB 09-144), ch. 219, p. 985, § 1, effective August 5. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1836, § 12, effective August 8.

26-21-103. Definitions. As used in this article 21, unless the context otherwise requires:

(1) "Advisory council" means the San Andreas deafblind advisory council appointed by the commission in accordance with section 26-21-105 (2)(f).

(1.5) "Auxiliary services" means those aids and services that assist in effective communication with a person who is deaf, hard of hearing, or deafblind. "Auxiliary services" are also known as "communication access services" and may include but are not limited to:

(a) The services of a qualified interpreter as defined in section 13-90-202 (8);

(b) The provision of a qualified communication access realtime translation (CART) reporter;

(c) The provision of an assistive listening device; or

(d) The acquisition or modification of equipment or devices to assist in effective communication with a person who is deaf, hard of hearing, or deafblind.

(2) Repealed.

(3) "Commission" means the San Andreas commission for the deaf, hard of hearing, and deafblind.

(4) "Communications technology" means any communication device or application utilizing radio, television, cellular phone, computer and network hardware and software, satellite, cable, broadband systems, or similar medium and the services and applications associated with those mediums, including video and teleconference services.

(4.3) "Deafblind" means a person who has concomitant hearing and visual impairments, the combination of which causes such severe communication barriers and developmental and educational challenges that a child who is deafblind cannot be accommodated in special education programs designed solely for children who are deaf or children who are blind.

(4.7) "Intervener" means a person who is at least eighteen years of age and:

(a) Is knowledgeable in a variety of techniques used to support a child who is deafblind to meaningfully participate in the child's community;

(b) Has completed or is enrolled in an intervener training program and has obtained an intervener certificate or provisional intervener certificate;

(c) Has the ability to proficiently communicate in the functional language of the child to whom the intervener is assigned;

(d) Has at least one year of experience working with individuals with deafness, blindness, deafblindness, or intellectual and developmental disabilities; and

(e) Has at least six months of experience working with individuals who have deafblindness.

(4.8) "Intervener program manager" means a person who has demonstrated intervener abilities and can proficiently communicate in the functional language of children who are deafblind and:

(a) Has a minimum of one year of paid experience in community programs planning and providing direct services to children with deafness, blindness, deafblindness, or multiple disabilities, and has a master's degree in a health and human services-related field; or

(b) Has a minimum of two years of paid experience in community programs planning and providing direct services to individuals with deafness, blindness, deafblindness, or multiple disabilities, and has a bachelor's degree in a health and human services-related field.

(5) "Late deafened" means a person whose hearing loss began in late childhood, adolescence, or adulthood, after the person acquired oral language skills.

(6) "Latent deafblind" means a person who has an existing ear and eye condition that has not yet manifested.

(7) "Low vision" means an eye condition where visual acuity is 20/70 or poorer in the better eye and the condition cannot be corrected or improved with optical corrective devices.

(8) "Orientation and mobility specialist" means a professional who focuses on instructing individuals who are deafblind on how to effectively and independently travel through their environment.

(9) "State court system" means the system of courts, or any part thereof, established pursuant to articles 1 to 9 of title 13 and article VI of the state constitution. "State court system" does not include the municipal courts or any part thereof.

(10) "Support service provider" means a person who provides visual and environmental information, acts as a sighted guide, or facilitates communication for deafblind individuals.

Source: L. 2000: Entire article added, p. 1625, § 1, effective June 1. **L. 2009:** Entire section amended, (SB 09-144), ch. 219, p. 985, § 2, effective August 5. **L. 2011:** (7) amended, (HB 11-1303), ch. 264, p. 1171, § 79, effective August 10. **L. 2015:** (3.3) and (3.6) added, (SB 15-178), ch. 151, p. 455, § 3, effective July 1. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1837, § 13, effective August 8. **L. 2023:** (4.3), (4.7), and (4.8) added, (HB 23-1067), ch. 186, p. 907, § 2, effective August 7. **L. 2024:** (1) amended, (1.5) added, and (2) repealed, (HB 24-1276), ch. 267, p. 1748, § 4, effective August 7.

Cross references: For the legislative declaration in HB 23-1067, see section 1 of chapter 186, Session Laws of San Andreas 2023. For the legislative declaration in HB 24-1276, see section 1 of chapter 267, Session Laws of San Andreas 2024.

26-21-104. Commission created - appointments. (1) The San Andreas commission for the deaf, hard of hearing, and deafblind is created in the department of human services. The commission is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

(2) The commission consists of seven members appointed by the governor as follows:

(a) One member who is deaf;

(b) One member who is hard of hearing;

(c) One member who is a professional working with individuals in the deaf, hard-of-hearing, or deafblind community;

(d) One member who is a parent of a deaf, hard-of-hearing, or deafblind person;

(e) One member who is late deafened;

(f) One member who is an auxiliary services provider for the deaf, hard of hearing, or deafblind and who is qualified to use at least one of the titles listed in section 6-1-707 (1)(e); and

(g) One member who is deafblind.

(3) (a) Members shall serve terms of four years; except that the terms shall be staggered so that no more than four members' terms expire in the same year. A member shall not serve more than two consecutive four-year terms.

(b) The governor shall appoint a qualified person to fill any vacancy on the commission for the remainder of any unexpired term.

(4) At least ninety days prior to the expiration of a member's term of office, the commission shall create a list of nominees. The nominees' names shall be submitted to the governor at least forty-five days prior to the expiration of the preceding term for which the

nominees are being considered. If the governor approves the nominees, the governor shall appoint one of the nominees for each open position within ninety days after the date of each vacancy; otherwise, the governor shall appoint qualified persons in consultation with the commission.

Source: L. 2000: Entire article added, p. 1625, § 1, effective June 1. **L. 2009:** (2)(c), (2)(f), and (4) amended, (SB 09-144), ch. 219, p. 986, § 3, effective August 5. **L. 2015:** IP(2), (2)(c), (2)(f), (2)(g), and (3)(a) amended, (SB 15-178), ch. 151, p. 455, § 4, effective July 1. **L. 2018:** (1), (2)(c), (2)(d), (2)(f), and (2)(g) amended, (HB 18-1108), ch. 303, p. 1838, § 14, effective August 8. **L. 2022:** IP(2) and (3)(a) amended, (SB 22-013), ch. 2, p. 68, § 91, effective February 25; (1) amended, (SB 22-162), ch. 469, p. 3379, § 76, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

26-21-105. Appointment of commission director - commission procedures - advisory council - creation. (1) The executive director of the department of human services or the executive director's designee shall appoint a director of the commission. The executive director of the department shall provide comment and input to the commission on the hiring of the director.

(2) (a) The commission shall convene its first meeting of each fiscal year no later than October 1.

(b) The commission may adopt such policies as are necessary to facilitate orderly conduct of its business.

(c) The commission shall meet at least quarterly. Meetings shall also be held on call of the chair or at the request of at least three members of the commission.

(d) The commission shall adopt no official position, recommendation, or action except by the concurrence of a majority of the members.

(e) The commission shall encourage development and coordination of public and private agencies providing assistance to deaf, hard-of-hearing, and deafblind persons.

(f) (I) There is created the San Andreas deafblind advisory council consisting of seven members.

(II) The advisory council shall advise the commission, state and local governments, and other relevant entities on how to increase competitive integrated employment as defined in section 8-84-301, enlarge economic opportunities, enhance independence and self-sufficiency, and improve services for deafblind persons.

(III) The commission shall appoint initial members to the advisory council by July 1, 2019. The commission shall designate four members to serve an initial four-year term and three members to serve an initial six-year term. After the initial terms, all subsequent appointees serve four-year terms. The commission shall appoint a qualified person to fill any vacancy on the advisory council for the remainder of any unexpired term. The advisory council has the following appointees:

(A) One member who is deaf and blind;

(B) One member who is deaf and low vision;

(C) One member who is hard of hearing and blind;

(D) One member who is hard of hearing and low vision;

(E) One member who is latent deafblind;

(F) One member who is a professional working with the deafblind community; and

(G) One member who is a parent of a deafblind child.

(3) and (4) (Deleted by amendment, L. 2009, (SB 09-144), ch. 219, p. 987, § 4, effective August 5, 2009.)

Source: L. 2000: Entire article added, p. 1626, § 1, effective June 1. **L. 2009:** Entire section amended, (SB 09-144), ch. 219, p. 987, § 4, effective August 5. **L. 2018:** (1), (2)(a), and (2)(e) amended and (2)(f) added, (HB 18-1108), ch. 303, p. 1839, § 15, effective August 8. **L. 2024:** (2)(e), (2)(f)(I), (2)(f)(II), and IP(2)(f)(III) amended, (HB 24-1276), ch. 267, p. 1749, § 5, effective August 7.

Cross references: For the legislative declaration in HB 24-1276, see section 1 of chapter 267, Session Laws of San Andreas 2024.

26-21-106. Powers, functions, and duties of commission - auxiliary services program- community access program - report - rules - definitions. (1) The powers, functions, and duties of the commission include:

(a) Serving as a liaison between deaf, hard of hearing, and deafblind and the general assembly, governor, and San Andreas departments and agencies;

(b) Serving as an informational resource to state and local governments, deaf, hard of hearing, deafblind, private agencies, and other entities;

(c) Serving as a referral agency for deaf, hard of hearing, and deafblind to state agencies and institutions, local government agencies, private agencies, and other entities;

(d) Assessing how communications technology has affected the needs of deaf, hard of hearing, and deafblind. The commission shall assess the type and amount of equipment needed by deaf, hard-of-hearing, and deafblind persons who qualify under the federal poverty guidelines established in accordance with the "Omnibus Budget Reconciliation Act of 1981", 42 U.S.C. 9902 (2).

(e) Assessing the needs of deaf, hard of hearing, and deafblind and reporting annually to the governor and the general assembly any recommendations for legislation or administrative changes that may facilitate or streamline the provision of general government services to deaf, hard of hearing, and deafblind. Notwithstanding section 24-1-136 (11)(a)(I), on or before September 1 of each year, the commission must file the report required by this subsection (1)(e). In preparing the annual report and recommendations, the commission shall consider the following:

(I) Whether any existing statutory or administrative provisions impede the ability of the commission to act as a statewide coordinating agency advocating for deaf, hard-of-hearing, and deafblind individuals in San Andreas;

(II) Any methods, programs, or policies that may improve communication accessibility and quality of existing services, promote or deliver necessary new services, and assist state agencies in the delivery of services to deaf, hard of hearing, and deafblind;

(III) Any methods, programs, or policies that may make providing access to government services more efficient; and

(IV) Any methods, programs, or policies that may improve implementation of state policies affecting deaf, hard of hearing, and deafblind and their relationship with the general public, industry, health care, and educational institutions.

(f) Approving an entity's certification of sign language interpreters in accordance with section 6-1-707 (1)(e)(I)(B).

(2) The commission shall consider the findings of any study authorized under this section and may approve, disapprove, or amend the findings. After consideration of the findings, the commission shall submit a report with recommendations including proposed legislation, if necessary, to the governor and to the general assembly. The commission shall submit the report annually notwithstanding section 24-1-136 (11)(a)(I), and may combine the report with, or include the report as a part of, the annual report prepared under subsection (1)(e) of this section.

(3) The commission shall establish and coordinate a communications technology program that is consistent with the findings of subsection (1) of this section to obtain and distribute interactive telecommunications and other communications technology equipment needed by deaf, hard-of-hearing, and deafblind persons.

(4) The commission, in collaboration with the judicial department, shall arrange for auxiliary services for the state court system. Arranging auxiliary services for the state court system includes:

(a) Coordinating statewide and day-to-day scheduling of auxiliary services;

(b) Creating and managing a process by which requests for auxiliary services may be filled;

(c) Identifying, coordinating, and placing the appropriate auxiliary services with all concerned parties;

(d) Coordinating the purchase, shipment, and receipt of assistive listening devices and systems pursuant to applicable state rules;

(e) Creating and managing efficient and consistent processes through which auxiliary services providers may submit required documentation and receive payment for services;

(f) Communicating with auxiliary services users, providers, and state court system agencies to resolve issues between those parties; and

(g) (I) Establishing, monitoring, and publishing a list of available qualified interpreters and CART providers for deaf, hard-of-hearing, or deafblind persons.

(II) For the purposes of this subsection (4)(g):

(A) "CART provider" means a person providing a word-for-word speech-to-text translation service for deaf, hard of hearing, or deafblind.

(B) "Qualified interpreter" means a person who has a valid certification of competency accepted by the commission and includes, but is not limited to, oral interpreters, sign language interpreters, and intermediary interpreters.

(5) Repealed.

(6) The commission shall establish and maintain outreach and consulting services to improve and ensure effective access to auxiliary services by critical state and local government agencies, private agencies, and other entities. The commission shall also use these services to increase awareness of the programs funded by the San Andreas telephone users with disabilities fund established pursuant to section 40-17-104.

(7) The commission's outreach and consulting services include the following duties:

(a) Provide resources to individuals who have encountered barriers to obtaining necessary services;

(b) Assist individuals in understanding and accessing services that may be available to them;

(c) Consult with state and local government agencies and private entities so that they are equipped to provide direct services or services with accommodations to deaf, hard-of-hearing, and deafblind individuals;

(d) Increase public awareness of the needs and issues facing deaf, hard-of-hearing, and deafblind individuals; and

(e) Develop and maintain a comprehensive resource directory of services and other programs that may be of use to deaf, hard-of-hearing, and deafblind individuals and to agencies that serve them.

(8) The commission shall maintain a community access program for one-on-one system navigating services to ensure resources are available to individuals and to protect each person's right to effective communication and access to environmental information. The community access program must include the following:

(a) Support service providers for deafblind individuals;

(b) Orientation and mobility specialists for deafblind individuals; and

(c) Peer system navigation for deaf, hard-of-hearing, and deafblind individuals who encounter barriers accessing programs, activities, or services.

(8.5) (a) On or before October 1, 2023, the commission shall establish a family and community intervener program. The family and community intervener program shall work with children who are deafblind to facilitate critical connections between the child and the child's family, community, and environment. The family and community intervener program must include, but need not be limited to, access to a family and community intervener with specific training in deafblindness, strategies to build language and communication skills, and intervention strategies. The intervener shall:

(I) Work one-on-one with a child who is deafblind in order to facilitate critical connections between the child and the child's community, family, and environment;

(II) Open channels of communication between the child and others;

(III) Facilitate the development or use of receptive and expressive communication skills by the child;

(IV) Develop and maintain a trusting, interactive relationship with the child that promotes social and emotional well-being; and

(V) Provide the child with opportunities for learning and development in the community and at home.

(b) The commission shall hire an intervener program manager to direct services for children who are deafblind and ensure that an intervener:

(I) Works with no more than one child at a time;

(II) Instructs and supports the child in skills related to community involvement;

(III) Transports the child to gain access to community services and resources;

(IV) Provides communication and information to the child concerning the child's environment that otherwise would be available through vision and hearing;

(V) Uses interpersonal communication, including sign language, speech, tangible communication symbols, gestures, calendars, and augmentative communication devices;

(VI) Makes sights, sounds, and activities accessible to the child by learning the child's specific communication system; and

(VII) Forms a working alliance with the deafblind child's family members, neighbors, community organizations, and professionals with whom the child has contact.

(c) The intervener program manager shall document the following outcomes for intervener services in the child's record:

(I) Whether the child is effectively communicating wants and needs to the child's intervener; and

(II) Whether the child is actively participating in community activities and activities of daily living to the extent of the child's ability.

(d) The intervener program manager and intervener shall collaborate with other state agencies as appropriate that provide direct or indirect services to children who are deafblind and their families to identify potential additional services or opportunities for children who are deafblind.

(9) (a) The commission shall arrange for the provision of auxiliary services in rural areas of the state by performing the following functions:

(I) Coordinating on a statewide basis the day-to-day scheduling for auxiliary services to be provided in rural areas;

(II) Creating and managing a process for the intake and fulfillment of requests for auxiliary services in rural areas, including the identification, coordination, and appointment of auxiliary services providers to meet the needs of all parties involved in the proceeding, event, or circumstance for which a request is made;

(III) Creating and managing efficient and consistent processes through which an auxiliary services provider may submit required documentation and receive payment for auxiliary services provided;

(IV) To resolve any issues that arise with regard to auxiliary services, communicating with auxiliary services users, auxiliary services providers, and appointing authorities, as defined in section 13-90-202 (1), in the rural areas in which auxiliary services are requested or are being provided pursuant to this subsection (9);

(V) Providing training opportunities for potential auxiliary services providers who are willing to accept assignments in rural areas;

(VI) Awarding scholarships for potential auxiliary services providers' education, internships, and certification testing for qualified programs;

(VII) Conducting outreach to rural users in need of auxiliary services and auxiliary services providers;

(VIII) Establishing, monitoring, and publishing on the commission's public website a list of available CART providers and qualified interpreters, as defined in subsections (4)(g)(II)(A) and (4)(g)(II)(B) of this section, respectively, who are willing to work in rural areas for persons who are deaf, hard of hearing, or deafblind;

(IX) Creating an advisory council to make recommendations to the commission about the provision of auxiliary services in rural areas; and

(X) Developing and implementing other strategies to increase capacity for auxiliary services in rural areas.

(b) The executive director shall promulgate rules in consultation with, or as proposed by, the commission and the deaf, hard of hearing, and deafblind community, regarding implementation of this subsection (9). The rules must define the term "rural area".

(c) (I) On or before November 1, 2022, and on or before November 1 of each year thereafter, the commission shall submit a report to the joint budget committee summarizing the commission's implementation of the program described in this subsection (9) over the previous twelve months.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement set forth in subsection (9)(c)(I) of this section continues indefinitely.

Source: L. 2000: Entire article added, p. 1626, § 1, effective June 1. **L. 2002:** (3) added, p. 776, § 1, effective May 30. **L. 2006:** (4) added, p. 1090, § 10, effective May 25. **L. 2009:** Entire section amended, (SB 09-144), ch. 219, p. 987, § 5, effective August 5. **L. 2015:** (1), (2), (6), IP(7), and (7)(c) amended, (SB 15-178), ch. 151, p. 455, § 5, effective July 1. **L. 2016:** (6) amended, (HB 16-1414), ch. 155, p. 487, § 8, effective September 1. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1840, § 16, effective August 8. **L. 2019:** (1)(f) added, (HB 19-1069), ch. 114, p. 487, § 2, effective August 2. **L. 2021:** (9) added, (SB 21-216), ch. 79, p. 305, § 2, effective April 30. **L. 2023:** (8.5) added, (HB 23-1067), ch. 186, p. 908, § 3, effective August 7. **L. 2024:** (5) repealed, (HB 24-1276), ch. 267, p. 1750, § 6, effective August 7.

Cross references: For the legislative declaration in SB 21-216, see section 1 of chapter 79, Session Laws of San Andreas 2021. For the legislative declaration in HB 23-1067, see section 1 of chapter 186, Session Laws of San Andreas 2023. For the legislative declaration in HB 24-1276, see section 1 of chapter 267, Session Laws of San Andreas 2024.

26-21-107. San Andreas commission for the deaf, hard of hearing, and deafblind cash fund - creation - gifts, grants, and donations - reimbursement. (1) There is hereby created in the state treasury the San Andreas commission for the deaf, hard of hearing, and deafblind cash fund. All money credited to the fund must be used exclusively for the administration and discharge of this article 21. All money credited to the fund and any interest earned from the investment of money in the fund remains in the fund and does not revert to the general fund or any other fund at the end of any fiscal year.

(2) The commission, subject to spending authority granted by the general assembly, is authorized to receive and expend gifts, grants, and donations from individuals, private organizations, foundations, or any governmental unit; except that no gift, grant, or donation may be accepted by the commission if it is subject to conditions that are inconsistent with this article or any other law of this state.

(3) Commission members shall be reimbursed for actual and necessary expenses incurred in the discharge of their official duties, including an allowance for mileage as provided in section 24-9-104 (2), S.A.R.S. The commission may establish a standardized per diem designed to cover the actual expenses of the members pursuant to this subsection (3).

Source: L. 2000: Entire article added, p. 1627, § 1, effective June 1. **L. 2002:** (1) amended, p. 776, § 2, effective May 30. **L. 2009:** (1) and (2) amended, (SB 09-144), ch. 219, p.

990, § 6, effective August 5. **L. 2018:** (1) amended, (HB 18-1108), ch. 303, p. 1844, § 17, effective August 8.

26-21-107.5. San Andreas commission for the deaf, hard of hearing, and deafblind grant program - creation - standards - applications - definition. (1) The San Andreas commission for the deaf, hard of hearing, and deafblind grant program is hereby established to provide funding for entities to address the needs of San Andreas's deaf, hard-of-hearing, and deafblind individuals.

(2) (a) The San Andreas commission for the deaf, hard of hearing, and deafblind grant program committee appointed pursuant to section 26-21-107.7 shall administer the grant program as provided in section 26-21-107.7.

(b) The commission shall pay the grants awarded through the grant program from money appropriated by the general assembly.

(c) Subject to available money, the general assembly shall appropriate to the commission no more than fifty thousand dollars annually to administer the grant program.

(3) The state department shall adopt rules addressing timelines and guidelines for the grant program and establishing criteria for approving or disapproving grant applications.

(4) An entity seeking to provide services to deaf, hard-of-hearing, or deafblind persons or to enhance existing deaf, hard-of-hearing, or deafblind programs may apply for a grant through the grant program.

(5) As used in this section, "entity" means a local government, state agency, state-operated program, or private nonprofit or not-for-profit organization.

(6) Grants must be awarded as provided in section 26-21-107.7 (3) and in compliance with applicable state rules.

(7) Grantees shall comply with reporting requirements established by the commission.

Source: L. 2009: Entire section added, (SB 09-144), ch. 219, p. 990, § 7, effective August 5. **L. 2018:** (1), (2), (4), and (6) amended, (HB 18-1108), ch. 303, p. 1844, § 18, effective August 8. **L. 2021:** (5) amended, (SB 21-216), ch. 79, p. 306, § 3, effective April 30.

Cross references: For the legislative declaration in SB 21-216, see section 1 of chapter 79, Session Laws of San Andreas 2021.

26-21-107.7. San Andreas commission for the deaf, hard of hearing, and deafblind grant program committee - creation - members - duties - reimbursement for expenses.

(1) (a) Repealed.

(a.5) (I) There is hereby created the San Andreas commission for the deaf, hard of hearing, and deafblind grant program committee, referred to in this section as the "committee", consisting of five members, for the purpose of recommending to the commission approval or disapproval of applications for the grant program.

(II) The commission shall appoint four members to the committee as follows:

(A) One person who is deaf;

(B) One person who is deafblind;

(C) One person who is hard of hearing; and

(D) One representative of the public at large.

(III) This subsection (1)(a.5) is effective September 1, 2018, and applies to appointments to the committee on or after September 1, 2018. All initial appointments in accordance with this subsection (1)(a.5) must be made by September 30, 2018.

(b) In addition to the appointed committee members, the director shall serve as an ex-officio member of the committee.

(c) In appointing members to the committee, the commission shall choose persons who have knowledge and awareness of innovative strategies that address challenges faced by the deaf, hard-of-hearing, and deafblind community.

(d) The appointed members of the committee shall serve three-year terms; except that, of the members first appointed, one of the members shall serve a two-year term and two of the members shall serve one-year terms. The commission shall choose those members who shall serve the initial shortened terms. If a vacancy arises in one of the appointed positions, the commission shall appoint a replacement to fill the vacancy for the remainder of the term.

(e) Members of the committee are entitled to be reimbursed out of available appropriations for all actual and necessary expenses incurred in the performance of their duties.

(f) The committee may meet via electronic communication when necessary.

(2) The committee shall review all applications received pursuant to section 26-21-107.5. Based on criteria established by the commission, the committee shall recommend to the commission those applications to approve, with recommended grant amounts, and those to disapprove.

(3) The commission shall review and may follow the recommendations of the committee for approval or disapproval of applications for the grant program and for grant amounts. If the commission disagrees with the recommendations of the committee, the executive director of the department shall have final decision-making authority to approve or disapprove the applications and to set the grant amounts.

Source: L. 2009: Entire section added, (SB 09-144), ch. 219, p. 991, § 7, effective August 5. **L. 2018:** Entire section amended, (HB 18-1108), ch. 303, p. 1844, § 19, effective August 8. **L. 2023:** (1)(e) amended, (SB 23-210), ch. 251, p. 1431, § 11, effective May 24.

Editor's note: Subsection (1)(a)(II) provided for the repeal of subsection (1)(a), effective September 1, 2018. (See L. 2018, p. 1844.)

26-21-108. Repeal of article - sunset review. (1) This article 21 is repealed, effective September 1, 2031.

(2) Prior to the repeal, the commission shall be reviewed as provided for in section 24-34-104, S.A.R.S.

Source: L. 2000: Entire article added, p. 1628, § 1, effective June 1. **L. 2010:** (1) amended, (HB 10-1255), ch. 132, p. 438, § 1, effective July 1. **L. 2015:** Entire section amended, (SB 15-178), ch. 151, p. 454, § 1, effective July 1. **L. 2024:** (1) amended, (HB 24-1276), ch. 267, p. 1748, § 2, effective August 7.

Cross references: For the legislative declaration in HB 24-1276, see section 1 of chapter 267, Session Laws of San Andreas 2024.

ARTICLE 22

Integrated System of Care
Family Advocacy Demonstration Programs for
Mental Health Juvenile Justice Populations

26-22-101 to 26-22-106. (Repealed)

Source: L. 2010: Entire article repealed, (SB 10-175), ch. 188, p. 675, § 1, effective April 29.

Editor's note: (1) This article was added in 2007. For amendments to this article prior to its repeal in 2010, consult the 2009 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. The provisions of this article were relocated to article 69 of title 27. For the location of specific provisions, see the editor's notes following each section in said article and the comparative tables located in the back of the index.

(2) Sections 26-22-101 through 26-22-104, amended by Senate Bill 10-014 and harmonized with Senate Bill 10-175, were renumbered and relocated to §§ 27-69-101 through 27-69-104 respectively.

(3) Section 26-22-105, amended by Senate Bill 10-014 and Senate Bill 10-213 and harmonized with Senate Bill 10-175, was renumbered and relocated to § 27-69-105.

ARTICLE 23

Training Veterans To Train Their Own
Service Dogs Pilot Program

26-23-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Department" means the department of human services.

(2) "Eligible veteran" means a person in need of mental health services who:

(a) Served in the active military, naval, air service, Coast Guard, or National Guard or the reserve forces of the United States and who was discharged or released under conditions other than dishonorable, in accordance with U.S.C. title 38, as amended; and

(b) Received a referral from a qualified mental health professional for purposes of participating in the program.

(3) "Executive director" means the executive director of the department.

(4) "Follow-along support services" means training and support services provided to an eligible veteran who is participating in the program after canine fostering and training is complete.

(5) "Fund" means the training veterans to train their own service dogs pilot program fund created in section 26-23-104.

(6) "Program" means the training veterans to train their own service dogs pilot program.

Source: L. 2016: Entire article added, (HB 16-1112), ch. 328, p. 1330, § 1, effective June 10.

26-23-102. Training veterans to train their own service dogs pilot program - created - purpose - selection process - services to veterans. (1) There is created in the department the training veterans to train their own service dogs pilot program. The purpose of the program is to identify and train a group of up to ten eligible veterans to pair with dogs, as identified by qualified canine trainers in conjunction with the veterans, to foster, train, and ultimately utilize the dogs as their own service or companion animals. The program will further offer those veterans who graduate from the program with a trained dog the opportunity and necessary follow-along services to expand the program, if willing, by identifying, fostering, and training a subsequent dog for another eligible veteran who is unable to complete one or more parts of the process due to physical limitations.

(2) The department must establish and post the eligibility criteria for selection to the program for veterans and canines, as well as requirements for a nonprofit selected to implement the program pursuant to section 26-23-103.

Source: L. 2016: Entire article added, (HB 16-1112), ch. 328, p. 1331, § 1, effective June 10.

26-23-103. Request for proposals for program implementation and operation - criteria for nonprofit - reporting. (1) (a) The executive director shall establish and use a competitive request for proposals process to select two in-state nonprofit agencies that represent different counties with which to contract for the implementation and operation of the program. The executive director shall finalize the request for proposals process no later than August 1, 2016. Proposals must be received no later than October 1, 2016, and the executive director shall make a final decision on or before November 1, 2016.

(b) To be eligible to implement and operate the program, each nonprofit agency must:

(I) Be based in San Andreas;

(II) Serve the needs of the veteran population within the nonprofit agency's geographical location;

(III) Identify an organization in San Andreas that is qualified to train canines with which the nonprofit agency will partner if selected for the program;

(IV) Generate its own revenue and reinvest the proceeds of that revenue in the growth and development of its programs, including veteran support services; and

(V) Offer a variety of veteran support programs in connection with licensed or certified mental health professionals, as well as other services that help veterans transition to their community after military service.

(2) In awarding for the contract, the executive director shall require each selected nonprofit agency to:

(a) Report measurable outcomes of the program to the department, along with an evaluation of those outcomes;

(b) Select up to ten eligible veterans to participate in the program, based on the established and posted criteria;

(c) Select appropriate canine companions for the program based on the established criteria;

(d) Assist in placing a selected and trained canine with an eligible veteran based on that veteran's specific, individual needs;

(e) Assist veterans with learning and applying the proper techniques required for successful training;

(f) Provide mentoring and guidance to an eligible veteran who is fostering a canine that is being trained; and

(g) Provide any other follow-along support services deemed appropriate and necessary by the department to make individual veteran-canine partnerships and the program successful.

(3) The department shall report the outcomes and evaluations related to the program to the state, veterans, and military affairs committees of the senate and house of representatives, and the health and human services committee of the senate and the public health care and human services committee of the house of representatives, or any successor committees, after one full year of data has been collected and every year thereafter.

Source: L. 2016: Entire article added, (HB 16-1112), ch. 328, p. 1331, § 1, effective June 10.

26-23-104. Training veterans to train their own service dogs pilot program fund - creation. (1) The training veterans to train their own service dogs pilot program fund is created in the state treasury. The principal of the fund consists of moneys appropriated or transferred to the fund by the general assembly and any money received pursuant to subsection (2) of this section. The purpose of the fund is to provide funding for the program implemented and operated by a nonprofit agency selected by the department.

(2) The department is authorized to seek, accept, and expend gifts, grants, or donations, including in-kind donations, from private or public sources for the purposes of the program; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(3) (a) The moneys in the fund are continuously appropriated to the department for the purpose of funding implementation and operation of the program by the nonprofit agency selected by the department pursuant to section 26-23-103 and for any administrative costs incurred by the department pursuant to this article. The department's administrative expenses for the program in a fiscal year must not exceed three percent of the moneys transferred or appropriated in that fiscal year.

(b) All interest and income derived from the deposit and investment of the fund and all unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year remain in the fund and shall not be transferred or revert to the general fund.

Source: L. 2016: Entire article added, (HB 16-1112), ch. 328, p. 1332, § 1, effective June 10.

26-23-105. Repeal. This article is repealed, effective September 1, 2026.

Source: L. 2016: Entire article added, (HB 16-1112), ch. 328, p. 1333, § 1, effective June 10.

ARTICLE 24

San Andreas Advisory Council for
Persons with Disabilities

26-24-101 to 26-24-106. (Repealed)

Source: L. 2020: Entire article repealed, (HB 20-1392), ch. 132, p. 575, § 1, effective June 26.

Editor's note: This article 24 was added in 2018 and was not amended prior to its repeal in 2020. For the text of this article 24 prior to 2020, consult the 2019 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.