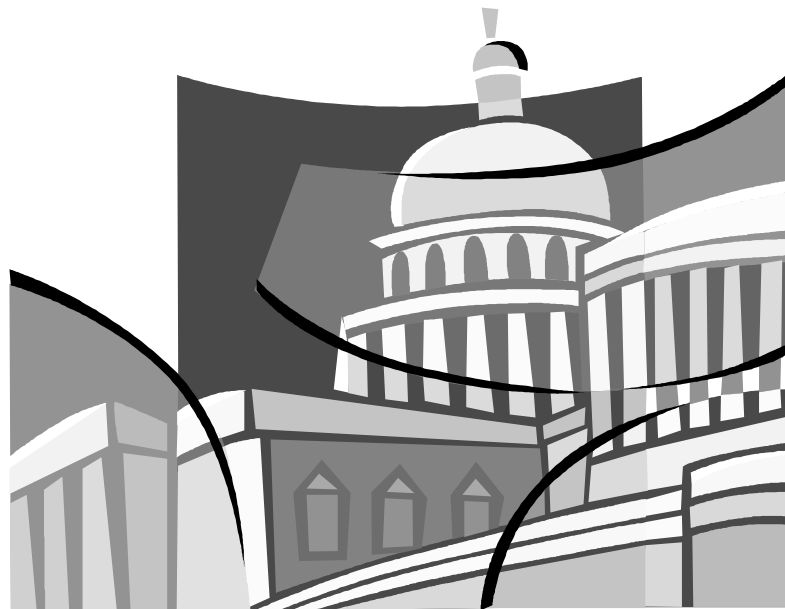




CWDA

County Welfare Directors Association Legislative Report

**Chaptered & Vetoed Legislation
2004 Legislative Session**



October 8, 2004

County Welfare Directors Association

2004 Chaptered & Vetoed Legislation Report

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Adult Services



AB 20 (Lieber)
Chapter 823

Victims of Crime. Adds provisions to the Penal, Evidence and Welfare and Institutions codes to protect the rights of developmentally disabled persons and other dependent persons who are witnesses in criminal cases and to ensure that those persons are given equal access to the criminal justice system.

AB 464 (Levine)
Chapter 105

Adult Day Health Care Centers. Prohibits ADHCs from requiring family members to attend or assist the participant with activities of daily living. Also prohibits discrimination on the basis of race, color, creed, national origin, sex, sexual orientation or physical or mental disabilities.

AB 1470 (Ridley-Thomas)
Chapter 826

In-Home Supportive Services: Direct Deposit Wage Payments. Requires the Department of Social Services and the State Controller to arrange for direct deposit with one or more financial institutions in order to allow IHSS workers to choose to receive payments for services to be directly deposited into their personal accounts with financial institutions. The bill requires the two departments to assess the costs of implementing the direct-deposit program and to collect these costs from a non-governmental third-party contractor, from an outside organization or entity (such as a labor union), or from the individual requesting direct deposit.

AB 1994 (Berg)
Chapter 633

California Senior Legislature. Provides for the statutory separation of the California Commission on Aging and the California Senior Legislature (CSL), and increases the term length for CSL members from two to four years.

AB 2611 (Simitian)
Chapter 886

Elder and Dependent Adult Abuse. Increases criminal penalties related to elder and dependent adult abuse and makes them apply when a person "knows or reasonably should know" that the potential victim is an elder or dependent adult. In addition, this bill separates financial abuse from the current statute providing enhanced civil remedies to victims of elder or dependent adult abuse, and applies a "preponderance of evidence" standard of proof for financial abuse, instead of the prior "clear and convincing evidence" standard.

AB 2791 (Simitian)
Chapter 270

Skilled Nursing and Intermediate Care Facilities: Training. Requires skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) to train staff on preventing, recognizing, and reporting residents' rights violations.

AB 2820 (Daucher)
Chapter 632

Adult Day Health Care: Administration. Authorizes the Department of Health Services to temporarily suspend the license of an adult day health care provider in order to protect the health and safety of the participants. The bill also makes clarifying changes and deletes duplicative agency responsibilities regarding an adult day health care centers, acting as a clean-up measure for a 2003 budget trailer bill.

Adult Services, Cont.

SB 1845 (Perata)
Chapter 797

Adult Day Health Care. (1) Deletes the requirement that an ADHC provide services only to participants living within its service area. (2) Requires providers serving a substantial number of participants of a particular racial or ethnic group, or whose primary language is not English, to employ staff who can meet the participants' cultural and linguistic needs. (3) Deletes the requirement that DHS conduct reviews prior to approving renewal of Medi-Cal certification, vesting this function exclusively with the Department of Aging.

Budget & Appropriations



AB 2747 (Garcia)
Chapter 315

Local Revenue Fund: Sales Tax Growth Account: Caseload Subaccount. Requires the Department of Finance to recommend to the Legislature a means for expediting the payments to county social services realignment accounts.

SB 1103 (Committee on Budget and Fiscal Review)
Chapter 228

Budget Act of 2004: Omnibus Health Trailer Bill. Makes necessary statutory changes to health programs in order to implement the *2004-05 Budget Act*.

SB 1104 (Committee on Budget and Fiscal Review)
Chapter 229

Budget Act of 2004: Omnibus Human Services Trailer Bill. Makes necessary statutory changes to human services programs in order to implement the *2004-05 Budget Act*.

SB 1113 (Committee on Budget and Fiscal Review)
Chapter 208

Budget Act of 2004-05.

CalWORKs and Food Stamps



AB 1796 (Leno) Chapter 932

Food Stamps: Eligibility. Permits persons with felony convictions for possession or use of drugs to qualify for Food Stamp benefits if they certify that they have completed or are enrolled in a drug treatment program, or can demonstrate that their drug use has ceased.

SB 1639 (Alarcon) Chapter 668

CalWORKs Recipients: Education and Training. (1) Includes intensive English language proficiency training and immersion among programs to be offered to CalWORKs participants by community colleges, to the extent funding is provided in the Budget Act. (2) Encourages higher education institutions to disseminate information to foster care agencies regarding admissions requirements and financial aid, and requests university administrators to explore methods of using the admissions-by-exemption category to help foster youth make the transition to four-year colleges. (3) Adds access to information regarding educational options to the foster child bill of rights. (4) Encourages DSS and county welfare departments to work with the Student Aid Commission, the University of California, California State University and California community colleges regarding educational options for foster youth.



Child Care

AB 72 (Bates) Chapter 358

Child Care Providers. Requires that within two days of receiving notice of a license revocation, suspension or probation order, a child care resource and referral (R&R) network shall remove the child day care facility from its referral list and notify alternative payment providers (APPs) and entities arranging or providing child care services to California Work Opportunity and Responsibility to Kids (CalWORKs) participants of the order. Requires APPs and entities arranging or providing CalWORKs child care to terminate payments to the facility and notify parents and the facility within two business days of notification by the R&R agency.

Child Care, Cont.

AB 379 (Mullin)
Chapter 897

Family Child Care Home Education Networks. Defines a Family Child Care Home Education Network and requires that these entities support educational objectives for children in home-based child care programs that serve families eligible for subsidized child care. These networks are defined as local education or governmental agencies or non-profit organizations that contract with SDE to make payments to family child care home providers and provides education support services to parents and providers that serve state-subsidized families.

AB 2205 (Oropeza)
Chapter 555

California Helping Heroes Child Care Network. Creates the California Helping Heroes Child Care Program to provide child care to families with one or more parents deployed in Iraq by the armed forces, subject to the availability of federal funding.

Childrens Services



AB 129 (Cohn)
Chapter 468

Juvenile Court: Dual-Status Children. At county option, authorizes the county probation department and child welfare services department to create a protocol which would permit a minor who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court. Requires counties opting to create a dual-status system to choose either an "on-hold" or "lead court/lead agency" system to ensure that there is no simultaneous or duplicative case management or services provided by the departments while the child is a dual-status child.

AB 1240 (Mullin)
Chapter 653

Care Facilities: Criminal Record Clearances. Permits the sharing of clearance and exemption information by the Department of Social Services and the counties. Requires the Department of Justice to process requests for subsequent arrest notification by a different requesting entity (e.g., a different county) when the request relates to the same type of facility for which the original clearance or exemption was obtained. This avoids the necessity of requiring duplicative fingerprinting in designated situations when such information has already been gathered and is readily accessible.

Childrens Services, Cont.

AB 1858 (Steinberg)

Chapter 914

Foster Children: Education. Places new requirements on nonpublic schools (NPS) that provide special education to foster youth who reside in licensed children's institutions (LCIs) and foster family homes (FFHs). Among other requirements, the bill: (1) Prohibits LCIs or community care facilities from requiring that children be identified as special education students as a condition of residential placement; (2) requires that, when a special education student residing in an LCI or FFH is placed in an NPS, the placing agency conduct an annual evaluation, through the individualized education program (IEP) process, of whether the placement is the least restrictive environment for that student; and (3) requires, if an individual with exceptional needs residing in an LCI or FFH is placed in an NPS, the NPS must report regularly to the placing agency regarding the pupil's progress towards the goals and objectives in his or her IEP.

AB 1913 (Cohn)

Chapter 373

Foster Care Providers: Criminal Background Checks. Clarifies existing statute governing criminal background checks by (1) making it clear that counties can place with relative caregivers and extended family members based on a clean check of the California Law Enforcement Telecommunications System (CLETS) and (2) authorizing counties to approve criminal record exemptions based on CLETS results. These amendments to current law make no changes to the list of crimes that are exemptible and nonexemptible, nor do they remove the requirement that counties follow up all CLETS checks with fingerprint checks.

AB 1986 (Wolk)

Chapter 298

Placement of Children: Background Checks. Existing state law allows the director of the Department of Social Services to delegate to counties the authority to process exemption requests for prospective relative caregivers who have certain exemptible convictions on their criminal records. This bill extends the sunset date on this provision of law from January 1, 2005 to January 1, 2010.

AB 2005 (Aghazarian)

Chapter 656

Community Care Facilities: Group Home Programs. Prohibits the Department of Social Services from establishing a rate for a new group home program or new location for an existing provider unless the host county makes specified findings, including (a) the program is needed by that county; (b) the provider is capable of effectively and efficiently operating that program; (c) the provider is willing and able to accept foster care children for placement; and (d) if the statement of findings is not issued by the host county, the primary placing county has notified the host county of its intention to issue the statement and the host county was given the opportunity to respond to this notification and to discuss options with the primary placing county.

Childrens Services, Cont.

AB 2026 (Hancock)
Chapter 134

Youth Pilot Program: Extension. Extends the children's services pilots originally created by AB 1741 (Bates) from July 1, 2004 to January 1, 2009. The law authorizes six pilots to test whether local communities can better serve children and families if categorical funds are blended and counties are allowed to use alternative methods for meeting state statutory and regulatory requirements. Participating counties are Alameda, Contra Costa, Fresno, Marin, Placer and San Diego.

AB 2139 (Maze)
Chapter 420

Vehicles: Child Restraint Systems. Provides clarification and clean-up for the law requiring children to ride in approved restraint systems until they are either 6 years of age or weigh 60 pounds.

AB 2149 (Longville)
Chapter 833

Group Homes: Foster Care. Enables counties in which group homes are located to access information regarding substantiated complaints and incident reports on all children placed within the county. Establishes steps for group homes, counties and the state to follow when incidents occur

AB 2228 (Garcia)
Chapter 574

Minors: Release of Information. Amends current law to enable Family Court evaluators and investigators to access Dependency Court records for children who also have been involved in the child welfare system. Similar provisions are added for Probate Court investigators working on guardianship proceedings. Additionally, the Dependency Court can access information from Family Court and Probate Court, as appropriate.

AB 2292 (Wolk)
Chapter 301

Visitation: Former Legal Guardians. Authorizes the Family Court or Probate Court, as appropriate, to grant reasonable visitation rights to a person who has previously served as the legal guardian of a child if visitation by the former legal guardian is determined to be in the best interest of the child and the child is not the subject of a dependency proceeding.

AB 2492 (La Suer)
Chapter 128

Adoption: Preplacement Agreements. Authorizes the use of an out-of-state licensed private or public adoption agency to certify through a preplacement evaluation that prospective adoptive parents who live outside the state of California are suitable to be adoptive parents.

AB 2496 (Shirley Horton)
Chapter 168

Child Welfare Services Program Improvement Fund. Establishes the Child Welfare Services Program Improvement Fund in the State Treasury in order to allow for private grants, gifts, or bequests to be made to the state for child welfare services improvements. The legislation requires the state to use moneys in the fund as a match to obtain federal participation in the cost of eligible activities and to augment federal, state, and county funds made available for the child welfare services program.

Childrens Services, Cont.

AB 2531 (Bates)
Chapter 762

Child Abuse Reporting. Requires In-Home Supportive Services providers caring for minor children to report suspected abuse or neglect of the children for whom they care, after they have received instructional materials or training on their reporting duty and the identification of child abuse and neglect.

AB 2674 (Leno)
Chapter 306

Adoption: Relinquishment. Seeks to clarify the procedures for voluntary relinquishment of a child for purposes of adoption. The bill: (1) requires that a licensed adoption agency send to the Department of Social Services a certified copy of the relinquishment either by certified mail or overnight courier or messenger at the close of business following the signing; and (2) provides that relinquishment is final 10 business days after DSS receives the certified copy, unless a longer period is necessary due to pending court action or other cause beyond the control of DSS.

AB 2749 (Dutton)
Chapter 292

Child Abuse and Neglect Investigations: Child Welfare Training Program. Conforms state law to federal law regarding child welfare worker training. The legislation establishes a new training requirement for persons who investigate child abuse or neglect, requiring that they be trained on their legal duties. It also specifies that individuals who are being investigated must be informed of the complaints or allegations against them in a manner that is consistent with laws protecting the identity of the person who reported the suspected abuse or neglect.

AB 2795 (Wolk)
Chapter 332

Child Welfare Services: Case Plans and Family Maintenance Services. Extends the time period for completion of a written child welfare case plan to a maximum of 60 days. Also allows for the continuation of Family Maintenance services for a longer period of time than under current law if a county believes that the case plan goals can be met if additional time is allowed for these services.

AB 2807 (Steinberg)
Chapter 810

AB 408 Clean-Up Legislation. Last year, then-Gov. Davis signed AB 408, a bill designed to improve and maintain relationships between foster children and caring adults. Among other things, the bill required that children over the age of 10 who are placed in group homes be asked about adults who are important to them, and that the courts and counties attempt to preserve those relationships, as appropriate. As they began working to implement the bill, county child welfare staff noticed some inconsistent language and identified several areas where clarification was necessary. AB 2807 contains this technical clean-up language.

AB 2873 (Garcia)
Chapter 350

Child Abuse Prevention: Citizen Review Panels. Conforms state law to federal law regarding the establishment and duties of a child abuse and prevention citizen review panel.

Childrens Services, Cont.

- SB 382 (Oller)**
Chapter 120
- Community Care Facilities: Notice.** Makes technical changes to current law regarding notice provisions for community care facilities. The bill specifies that the planning agency of a city receive notice prior to approval of any application for a new residential care facility located in the city.
- SB 855 (Machado)**
Chapter 664
- Community Care Facilities: Crisis Nurseries.** Creates a separate community care licensing category for crisis nurseries in designated counties, establishes conditions and requirements for operation of these facilities, and authorizes temporary placement of a limited number of children referred by the counties' child welfare services programs.
- SB 1178 (Kuehl)**
Chapter 841
- Dependent Children: Parenting.** Requires county child welfare agencies, to the greatest extent possible, to support whole-family placements in foster care for dependent minor parents and their children. Encourages the Department of Social Services and local child welfare agencies, in consultation with interested stakeholders, to collect information to be used to develop a more cost-effective infant supplemental payment rate structure that more adequately reimburses caregivers for the costs of infant care and teen parent mentoring.
- SB 1313 (Kuehl)**
Chapter 842
- Child Abuse Reporting.** Enacts numerous reforms recommended in a March 2004 report by the Child Abuse and Neglect Reporting Act Task Force.
- SB 1357 (Scott)**
Chapter 858
- Foster Care and Adoption.** Makes numerous changes to current law governing independent adoptions, post-adoption contact agreements, and the ability of foster parents and relative caregivers to participate at various stages of a juvenile dependency case.
- SB 1413 (Brulte)**
Chapter 103
- Abandoned Newborns: Safe Surrender: Liability.** Immunizes from civil damages a person who assists another person to voluntarily surrender physical custody of a newborn under the Safe Surrender law, provided that person is not compensated, renders the assistance in good faith, and believes in good faith that the person being assisted is a parent or a person otherwise having lawful custody of the newborn.
- SB 1612 (Speier)**
Chapter 845
- Foster Care and Child Welfare Services: Funding.** (1) Restores \$17.1 million in state funding vetoed from the *2004-05 Budget Act* for child welfare services; (2) restores language vetoed from the *2004-05 Budget Act* that has historically enabled counties to access SB 2030 child welfare services augmentation funding without a match requirement as long as they have fully spent their base allocations; and (3) enables counties to draw down federal matching funds in order to provide child care subsidies for foster parents.

Childrens Services, Cont.

- SB 1764 (Speier)**
Chapter 259
- Immunization Information Systems.** Existing law authorizes local health officers to operate immunization systems in conjunction with the

Immunization Branch of DHS. Health care providers are allowed to disclose patient-identifying information from a patient's medical record to local health departments' countywide immunization information and reminder systems, and to DHS. Among other changes, this bill: (1) permits local health departments and DHS to disclose individually identifying information related to immunizations to foster care agencies in assessing and providing medical care for children in foster care; (2) permits foster care agencies to disclose identifying information from a child's medical record to local health departments operating immunization information and reminder systems and to DHS; and (3) requires foster care agencies to maintain the confidentiality of immunization information in the same manner as other client information that they possess.

SB 1895 (Burton)
Chapter 493

Special Education: Mental Health Services. Provides clarification and accountability regarding the funds provided in the 2004-05 Budget Act for mental health services for individuals with special needs as required by AB 3632 (Brown, Statutes of 1984).

SB 1912 (Ashburn)
Chapter 846

Pupil Health: Self-Administration of Medication. Permits pupils to carry and self-administer inhaled asthma or auto-injectable epinephrine medication at school if the school district receives a written statement from the pupil's physician and parent, foster parent, or guardian.

Health Care



SB 29 (Figueroa)
Chapter 148

Medi-Cal: Accelerated Enrollment. Requires the Department of Health Services to implement the Prenatal Gateway and the Newborn Hospital Gateway within 12 months after the date upon which required funding and staffing levels have been met, as required under the statute that created these Gateway programs.

SB 1196 (Cedillo)
Chapter 729

Health Care Applications. This bill contains clean-up amendments to the author's AB 59 (Statutes of 2001), which created the Express Lane Eligibility program for children receiving benefits from the National School Lunch Program. This bill: (1) authorizes the sharing of the National School Lunch Program application for purposes of determining eligibility for the Healthy Families program and any other county- or local-sponsored health insurance program when the child does not meet eligibility requirements for Medi-Cal, with consent of the parent or guardian; (2) permits a county, with the consent of a the parent or guardian, to notify the school the names and contact information of children who are in jeopardy of losing accelerated Medi-Cal coverage because the parent or guardian has not provided required follow-up information to the county; and (3) prohibits schools from processing a school lunch program application for accelerated enrollment when the school is aware that the child already has an active Medi-Cal or Healthy Families program case.

Miscellaneous

AB 1881 (Berg)
Chapter 655

Integrated Health and Human Services Systems. Specifies that Humboldt, Mendocino and Alameda counties and any additional county or counties that meet specified criteria and are named by the Secretary of Health and Human Services may implement an integrated county health and human services system. Implementation of a pilot program pursuant to this chapter must occur no later than January 1, 2009.

Vetoed Legislation

AB 366 (Mullin) Child Care: Substitute Employee Registry. Would have required the Department of Social Services to operate the Child Care Substitute Employee Registry Pilot Program until January 1, 2008, funded by a combination of licensing fees charged to participating registries and the reallocation of unearned child care contract funds. The Governor indicated that he vetoed the bill because the licensing fees it provided would not have adequately funded the implementation.

AB 824 (Matthews) In-Home Supportive Services: Wage and Benefit Increases. Would have allowed the four counties that have named themselves as the IHSS employer of record to receive the same state participation in wage and benefit increases as counties that have established public authorities. While the Governor noted that this change was not supportable at this time because it was not funded in the 2004-05 budget, he expressed a willingness to consider the issue in future fiscal years.

AB 1895 (Nation) Immigrant Children. Would have required the appointment of immigration counsel for immigrant children who are dependents of the court, who are not lawful permanent residents of the country, and who are unable to reunify with their parents. The bill would have exempted counties that already provide these services to immigrant children. The Governor cited a number of concerns in his veto message, including (1) the Department of Social Services has taken steps to minimize this potential problem for foster youth by recently developing regulations that require a Transitional Independent Living Plan to be completed for each child in foster care. This plan includes a variety of issues, including addressing immigration status. (2) Current law already requires the court to appoint an attorney to represent the child in dependency proceedings. (3) Counties already have the option of appointing an attorney to assist in resolving the immigration status of a child. Finally, the Governor indicated that the bill would have applied "an overbroad solution to all counties" without regard to the needs of each jurisdiction.

AB 2145 (Ridley-Thomas) In-Home Supportive Services: Direct Deposit Wage Payments. The Governor vetoed this legislation, which would have required a direct-deposit system be established for IHSS providers, citing unfunded costs. However, he later signed an amended version of the bill into law (see AB 1470 by the same author in the Adult Services section of this report).

AB 2783 (Simitian) Recording Fees: Elder and Dependent Adult Financial Abuse Prevention Trust Fund. Would have allowed counties to establish a new recording fee on all real estate transactions, the proceeds of which could be used for activities related to the prevention, investigation, and prosecution of elder financial abuse. The Governor indicated that he believed the bill was premature given his recent Executive Order requesting the Office of Emergency Services to conduct a comprehensive review of existing programs intended to protect the elderly from all types of abuse and to ensure programs provide more efficient and effective methods for fighting financial crimes against seniors, including potential funding sources to carry out this objective.

- AB 2832 (Lieber)** **Minimum Wage.** Would have raised the state minimum wage to \$7.25 as of January 1, 2005, and \$7.75 as of January 1, 2006. In his veto message, the Governor indicated that he believed the bill would harm the state's business climate and reverse the economy's momentum.
- AB 2989 (Corbett)** **CalWORKs Eligibility: Work Activities.** Would have allowed Alameda County CalWORKs participants attending registered nursing programs to participate in educational programs for 48 months, instead of the current 18 to 24 months. Given the elimination of the 18-24 month time clock in the 2004-05 Omnibus Health Services Trailer Bill, SB 1104, the Governor indicated that he believed the bill was no longer necessary. He also expressed concern that enacting legislation to establish different program requirements for residents in only one county raises legal questions pertaining to the Federal Equal Protection Clause and the state constitution.
- AB 3056 (Vargas)** **IHSS: Modes of Benefits Delivery.** Would have required a County Board of Supervisors to make specified findings prior to discontinuing a mode of service delivery in the In-Home Supportive Services program. In his veto message, the Governor noted: "The bill would limit counties' flexibility to operate the In-Home Supportive Services program efficiently and effectively by preventing them from making needed program changes in a timely and appropriate manner. The counties already have the correct authority to do this if they so choose. The bill would also delay and possibly prevent future General Fund savings"
- SB 1343 (Escutia)** **Child Care: Infant and Toddler Care Master Plan.** Would have required the Superintendent of Public Instruction to establish a task force to develop an Infant and Toddler Care Master Plan. The Governor indicated in his veto message that current law already requires the Department of Education to develop a master plan for child care and development, and infant and toddler care can be included in this process, avoiding a possible duplication of efforts.
- SB 1475 (Vasconcellos)** **Elder and Dependent Abuse Prevention and Prosecution Coordination Council.** Would have required the Attorney General to convene an Elder and Dependent Adult Abuse Prevention and Prosecution Coordinating Council with representatives of the public entities responsible for reporting, investigating, and prosecuting elder and dependent adult abuse cases. In his veto message, the Governor stated his concern that this council would not be the most effective method of coordinating the entities responsible for prevention, investigation, and prosecution of elder abuse. The Governor also noted that he recently issued an Executive Order requesting the Office of Emergency Services to conduct a comprehensive review of existing programs intended to protect the elderly from all types of abuse and to ensure programs provide more efficient and effective methods for fighting financial crimes against seniors, including potential funding sources to carry out this objective.
- SB 1644 (Romero)** **Elder Death Review Teams: Access to Vital Records Information.**

Would have required local registrars of deaths, upon request of a county elder death review team, to make certificate-of-death information available to the team and help with the electronic transfer of this information to the team. In vetoing the bill, the Governor indicated that he found no evidence that the information currently provided to the elder death review teams is inadequate to assist in identifying and reviewing suspicious elder deaths.

SB 1897 (Burton)

Child Care Reform. Would have enacted child care reforms in four areas: assessment of supply and demand for subsidized care; workforce development; reimbursement rate pilot projects; and organization of family day care providers for specified purposes. The Governor expressed concern that the bill had the potential to add significant fiscal pressure to the state's current budget deficit by establishing new reimbursement methodologies likely to increase rates and facilitating the organization of child care providers by labor unions, and that these increased costs could reduce the overall availability of child care slots.