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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL**NO. 1461****Introduced by Assembly Member Reyes****February 19, 2021**

An act to amend Sections 13283, 14005.2, and 18945 of the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1461, Reyes. Human services: noncitizen victims.

Under existing law, noncitizen victims of trafficking, domestic violence, and other serious crimes, as defined, are eligible for certain public social services and health care services to the same extent as individuals who are admitted to the United States as refugees. Existing law requires that those services discontinue if there is a final administrative denial of a visa application, as specified. Existing law requires that benefits and services under those provisions be paid from state funds to the extent federal funding is unavailable.

This bill would prohibit the discontinuance of those services due to the denial of a visa application if the individual is eligible for those services on another basis. The bill would also expand those services to noncitizen victims of parental maltreatment, noncitizen children who have been abused, neglected, or abandoned, and noncitizens who fear persecution. The bill would add to the categories of eligible noncitizen victims for the services individuals who have filed a formal application or petition with the appropriate federal agency for status or relief under the federal Violence Against Women Act, for special immigrant juvenile status, for asylum status, or for parole as family members of victims of severe trafficking, as specified. The bill would also make nonsubstantive conforming changes. By increasing duties for counties to administer and determine eligibility for public social services and health care services, the bill would create a state-mandated local program.

The bill would require the Director of Social Services to adopt regulations, which may be emergency regulations, to implement these provisions no later than July 1, 2022. The bill would authorize the State Department of Social Services to implement and

administer these provisions through an all-county letter or similar instructions from the director until regulations are adopted.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13283 of the Welfare and Institutions Code is amended to read:

13283. Notwithstanding any other law, the department shall ensure that noncitizen victims of trafficking, domestic violence, parental maltreatment, and other serious crimes, noncitizen children who have been abused, neglected, or abandoned, and noncitizens who fear persecution, as defined in subdivision (b) of Section 18945, have access to refugee cash assistance, and refugee social services set forth in this chapter, to the same extent as individuals who are admitted to the United States as refugees under Section 1157 of Title 8 of the United States Code. These individuals shall be subject to the same work requirements and exemptions as other participants, provided that compliance with these requirements is authorized by law. An exemption from these requirements shall be available if physical or psychological trauma related to or arising from the victimization impedes their ability to comply. Assistance and services under this section shall be paid from state funds to the extent federal funding is unavailable.

SEC. 2. Section 14005.2 of the Welfare and Institutions Code is amended to read:

14005.2. Unless otherwise specified in this chapter, the eligibility of a person eligible under the Cuban-Haitian Entrant Program or the Refugee Resettlement Program for health care services under Section 14005 shall be determined by applying the same income and resource methodologies and standards and all other eligibility criteria established pursuant to this chapter that are applied by the department in determining the eligibility of a medically needy family person, except for those criteria that establish categorical relatedness, and only as long as federal funds are available. Noncitizen victims of trafficking, domestic violence, parental maltreatment, and other serious crimes, noncitizen children who have been abused, neglected, or abandoned, and noncitizens who fear persecution, as defined in subdivision (b) of Section 18945, shall be eligible for these services to the same extent as individuals who are admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code. Services under this subdivision shall be paid from state funds to the extent federal funding is unavailable.

SEC. 3. Section 18945 of the Welfare and Institutions Code is amended to read:

18945. (a) Noncitizen victims of trafficking, domestic violence, parental maltreatment, and other serious crimes, noncitizen children who have been abused, neglected, or abandoned, and noncitizens who fear persecution, as defined in subdivision (b), shall be eligible for public social services under this division, and health care services under Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, to the same extent as individuals who are admitted to the United States as refugees under Section 1157 of Title 8 of the United States Code. These services shall discontinue if there is a final administrative denial of an application for T nonimmigrant status under Section 1101 (a)(15)(T)(i) or (ii) of, a petition for U nonimmigrant status under Section 1101 (a)(15)(U)(i) or (ii) of, a petition for special immigrant juvenile status under Section 1101 (a)(27)(J) of, or an application for asylum status under Section 1158 of, Title 8 of the United States Code, or of a visa petition or application for relief under the federal Violence Against Women Act (Title IV of Public Law 103-322 and any subsequent amendments thereto), unless the individual is eligible for the services on another basis. For trafficking victims on behalf of whom law enforcement officials have not yet filed for continued presence or who have not yet filed an application for a visa, benefits issued pursuant to this subdivision shall be available for up to one year, and shall continue after that date only if an application for continued presence, or an application for a visa, is filed within the one-year period. Benefits and services under this subdivision shall be paid from state funds to the extent federal funding is unavailable.

(b) For purposes of this section, "noncitizen victims of trafficking, domestic violence, parental maltreatment, and other serious crimes, noncitizen children who have been abused, neglected, or abandoned, and noncitizens who fear persecution" shall be defined to include all of the following:

(1) Noncitizen victims of a severe form of trafficking in persons, who have been subjected to an act or practice described in Section 7102 (8) or (9) of Title 22 of the United States Code or Section 236.1 of the Penal Code, and who have filed an I-914 application for T Nonimmigrant status with the appropriate federal agency, are preparing to file an application for status under

Section 1101 (a)(15)(T)(i) or (ii) of Title 8 of the United States Code, or otherwise are taking steps to meet the conditions for federal benefits eligibility under Section 7105 of Title 22 of the United States Code.

(2) Individuals who have filed a petition with the appropriate federal agency for status under Section 1101 (a)(15)(U)(i) or (ii) of Title 8 of the United States Code.

(3) Individuals who have filed a formal application with the appropriate federal agency for status or relief under the federal Violence Against Women Act, including, but not limited to, all of the following:

(A) Individuals who have filed a self-petition with the appropriate federal agency for status or relief under the federal Violence Against Women Act, as described in Section 1101(a)(51) of the Title 8 of the United States Code, or pursuant to Section 1154 (a) (1)(A)(iii) to (vii), inclusive, of, or Section 1154 (a)(1)(B)(ii) to (v), inclusive, of, Title 8 of the United States Code.

(B) Individuals who have filed a formal application for cancellation of removal with the appropriate federal agency under the special rule for battered spouses and children pursuant to Section 1229b (b)(2) of Title 8 of the United States Code.

(C) Individuals who have filed a formal application for parole as parents and children of battered noncitizens under Section 1229b (b)(4) of Title 8 of the United States Code.

(4) Individuals who have filed an application for parole as family members of victims of severe trafficking under Section 1229b (b) (6) of Title 8 of the United States Code.

(5) Individuals who have filed a petition with the appropriate federal agency for status under Section 1101 (a)(27)(J) of Title 8 of the United States Code.

(6) Individuals who have filed an application with the appropriate federal agency for status under Section 1158 of Title 8 of the United States Code.

(c) After one year from the date of application for public social services, noncitizen victims of a severe form of trafficking, as defined in paragraph (1) of subdivision (b), shall be ineligible for state-funded services if a visa application has not been filed until under Section 1101 (a)(15)(T)(i) or (ii) of Title 8 of the United States Code.

(d) A noncitizen victim of a severe form of trafficking, as defined in paragraph (1) of subdivision (b), who is issued a visa shall be removed from the state-funded program and provided federally funded public social services benefits under the provisions of Section 1522 of Title 8 of the United States Code, or another federal program for which the noncitizen victim may be eligible.

(e) For purposes of this section, Section 13283, and Section 14005.2:

(1) In determining whether an applicant for public social services has been a victim of a severe form of human trafficking, as defined in Section 7102 (8) or (9) of Title 22 of the United States Code, or Section 236.1 of the Penal Code, the state or local agency shall consider all relevant and credible evidence. A sworn statement by a victim, or a representative if the victim is not able to competently swear, shall be sufficient if at least one item of additional evidence is also provided, including, but not limited to, any of the following:

(A) Police, government agency, or court records or files.

(B) News articles.

(C) Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime.

(D) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

(E) Physical evidence.

(F) A copy of a completed visa application.

(G) Written notice from the federal agency of receipt of the visa application.

(2) If the victim cannot provide additional evidence, then the sworn statement shall be sufficient if the county or state agency makes a determination documented in the case file that the applicant is credible.

SEC. 4. (a) The Director of Social Services shall adopt regulations, as otherwise necessary, to implement the applicable provisions of this act no later than July 1, 2022. Emergency regulations to implement the applicable provisions of the act may be adopted by the director in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Emergency regulations shall be exempt from review by the Office of

Administrative Law and shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(b) Notwithstanding the Administrative Procedure Act, the State Department of Social Services may implement and administer the applicable provisions of this act through an all-county letter or similar instructions from the director until regulations are adopted.

SEC. 5. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of implementing this act.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.