

Date of Hearing: June 27, 2023

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Jesse Gabriel, Chair

SB 462 (Wahab) – As Amended March 23, 2023

PROPOSED CONSENT

SENATE VOTE: 36-0

SUBJECT: General assistance

SYNOPSIS

The current misalignment in privacy protections between county general assistance or general relief (GA/GR) programs and other social services programs creates compliance issues related to the implementation of a federally required statewide automated case management system, which requires that information be accessible to other proper users of the system for purposes directly connected with the administration of applicable programs. The bill seeks to align the privacy protections between these programs by amending the GA/GR privacy statute to allow sharing of confidential information for purposes directly connected with the administration of the GA/GR programs in counties.

The primary question before the Committee is whether or not the erosion of privacy protections proposed in this legislation is outweighed by the benefits associated with allowing personal information about applicants for county funded programs to be shared between counties. It appears that the benefits associated with this proposal outweigh the impact on the privacy rights of applicants.

However, this bill does raise policy questions that would benefit from future analysis and discussion. While the author and bill supporters seek to better align the privacy protections for people who are seeking support from a public social services program, regardless of whether the funding is provided by the federal government, the state general fund, or county fund, a number of inconsistencies in the privacy laws remain. In addition, for a number of these programs, the current privacy protections enshrined in state law are over 60 years old and others have not been updated in over 40 years. With the development of increasingly sophisticated technology and the growing market for personal information, it may be that the current protections are inadequate.

This bill is sponsored by the County of Santa Clara and supported by the County Welfare Directors Association. It has no recorded opposition.

The measure was previously heard by the Assembly Human Services Committee, where it passed on consent.

SUMMARY: Provides that restrictions related to the sharing of the personal information of people applying for or receiving county general assistance or general relief (GA/GR) do not prohibit the sharing of that information for purposes directly connected with the administration of GA/GR in any county or for purposes directly connected with the administration of public social services, as defined in current law.

EXISTING LAW:

- 1) Provides, pursuant to the California Constitution, that all people are by nature free and independent and have inalienable rights. Among these the fundamental right to privacy. (Cal. Const. art. I, § 1.)
- 2) States that the “right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them.” Further states these findings of the Legislature:
 - a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.
 - b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.
 - c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits. (Civ. Code § 1798.1.)
- 3) Defines “public social services” as activities and functions of state and local government administered or supervised by the California Department of Social Services (CDSS) or the California Department of Health Care Services (DHCS) and involved in providing aid or services or both, including health care services and medical assistance, to those people of the state who, because of their economic circumstances or social condition, are in need thereof and may benefit thereby. (Welf. & Inst. Code § 10051.)
- 4) Declares that the administration of public social services is a county function and responsibility; requires each county to establish a department or agency to administer and promote public understanding of the public services. (Welf. & Inst. Code § 10800.)
- 5) Requires every county to provide support for “all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein,” when those individuals have no other means of support. (Welf. & Inst. Code § 17000.)
- 6) Requires the board of supervisors of every county as a board to investigate every application for county funded general assistance or general relief (GA/GR), to supervise by periodic visitation every person receiving that aid, to devise ways and means for bringing persons unable to maintain themselves to self-support, and to keep full and complete records of the investigation, supervision, relief, and rehabilitation, as specified. (Welf. & Inst. Code § 17006(a).)
- 7) Requires that county GA/GR records are to be confidential and to not be open to examination or inspection, except by the grand jury of the county or by a board or an officer of the state or the county charged with the supervision or direction of that relief or with the control or expenditure of funds applicable to that relief. (Welf. & Inst. Code § 17006(a).)

- 8) Allows any “citizen” to demand and receive from the county welfare department “a statement of the amount, character, and value of the relief received by any person” who has applied for or received GA/GR benefits. (Welf. & Inst. Code § 17006 (a).)
- 9) Allows for the disclosure of confidential information regarding a GA/GR applicant or recipient to a state or local law enforcement agency for purposes of an investigation related to a criminal act committed in a welfare department office, against any county or state welfare worker, or witnessed by any county or state welfare worker while involved in the administration of public social services. (Welf. & Inst. Code § 17006(b)(1).)
- 10) Limits the disclosure of confidential information for the purposes of 9) to the applicant’s name, physical description, and address. (Welf. & Inst. Code § 17006(b)(3).)
- 11) Notwithstanding 8), 9), and 10) above, allows anyone who has custody of the county GA/GR records to disclose the following confidential information to any law enforcement agency that has an arrest warrant for the commission of any felony or misdemeanor:
 - a) Name.
 - b) Address.
 - c) Date of birth.
 - d) Social security number.
 - e) Physical description.
 - f) Physical whereabouts. (Welf. & Inst. Code § 17006.5)
- 12) Provides that all applications and records concerning any individual made or kept by a public officer or agency in connection with the administration of any form of public social services, including protective services provided through public social services agencies, for which funding is received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of that program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of that program. (Welf. & Inst. Code § 10850(a).)
- 13) Authorizes, to the extent it is allowable by federal law, the county welfare department to disclose the following confidential information about a public social services applicant to any law enforcement agency that has an arrest warrant for the commission of any felony or misdemeanor:
 - a) Name.
 - b) Address.
 - c) Date of birth.
 - d) Social security number.

- e) Physical description. (Welf. & Inst. Code § 10850.31 (a).)
- 14) Requires a county welfare department to provide the address, social security number, and, if available, photograph of any CalWORKs or CalFresh applicant or recipient upon request to any federal, state, or local law enforcement officer if the officer furnishes the county welfare department with the name of the applicant or recipient and notifies the county welfare department that any one of the following applies:
- a) The applicant or recipient is fleeing to avoid prosecution, custody, or confinement after conviction, for a crime that, under the law of the place the applicant is fleeing, is a felony, or, in the case of New Jersey, a high misdemeanor.
 - b) The applicant or recipient is violating a condition of probation or parole imposed under state or federal law.
 - c) The applicant or recipient has information that is necessary for the officer to conduct an official duty related to those issues stated in (a) or (b).
 - d) Locating or apprehending the applicant or recipient is an official duty of the law enforcement officer.
 - e) The request is being made in the proper exercise of an official duty. (Welf. & Inst. Code § 10850.3.)
- 15) Provides that all types of information, whether written or oral, concerning a person, made or kept by any public officer or agency in connection with the administration of health care services and for which the funding is received by this state from the United States government pursuant to Title XIX of the Social Security Act is confidential, and is not open to examination other than for purposes directly connected with the administration of the Medi-Cal program. (Welf. & Inst. Code § 14100.2(a).)
- 16) Creates the statewide automated welfare case management system. (Welf. & Inst. Code §§ 10816-10824.5.)
- 17) Requires the Office of Systems Integration to implement a statewide automated welfare system for the following public assistance programs:
- a) The CalWORKs program.
 - b) CalFresh.
 - c) The Medi-Cal program.
 - d) The foster care program.
 - e) The refugee program.
 - f) County medical services programs. (Welf. & Inst. Code § 10823 (a)(1).)
- 18) Provides the following goals for the California Statewide Automated Welfare System (CalSAWS) program:

- a) Prompt and accurate verification of eligibility.
- b) Accurate computation and timely disbursement of benefits for such public assistance programs.
- c) Equitable, timely, and consistent treatment of recipients within each program.
- d) Reduction of administrative complexity.
- e) Strict enforcement of management and fiscal controls.
- f) Collection of management information. (Welf. & Inst. Code § 10816.)

FISCAL EFFECT: As currently drafted this bill is keyed non-fiscal.

COMMENTS:

1) **Background.** *State and federally funded public social services.* California provides various public assistance programs aimed at uplifting individuals in poverty. These programs include healthcare, food assistance, housing, and cash assistance. Many federally funded safety net programs are housed within the California Department of Social Services (DSS) or the Department of Health Care Services (DHCS) and then administered by each county, including:

- The California Work Opportunity and Responsibility to Kids (CalWORKs) program (federally known as the Temporary Assistance for Needy Families or TANF), which provides cash assistance and other benefits to qualified low-income families and individuals.
- The CalFresh program (federally known as the Supplemental Nutrition Assistance Program or SNAP), which provides supplemental nutrition assistance benefits to eligible low-income individuals, including immigrants.
- The Medi-Cal program (federally known as Medicaid), which offers free and low-cost healthcare, vision, dental, and long-term care benefits to low-income individuals in California, including families with children, seniors, persons with disabilities, foster care, pregnant women, and undocumented individuals.

County-Funded, state-mandated general assistance or general relief (GA/GR) programs. Not all persons are eligible for public social services through the state or federal government. As such, counties are required to establish further assistance to bridge the gap. Pursuant to current law, each county is required to establish and fund a GA/GR program to provide aid to disadvantaged adults who are not supported by their own means, other public funds, or other assistance programs.

As the state is not involved, each county has flexibility in how it chooses to administer the program, including determining eligibility requirements, time limits, its own benefits, and payment levels. Since the program varies among each of California's 58 counties, there is no statewide standard. The populations GA/GR programs serve vary by locality. Populations served include individuals that are deemed "unemployable" because they are disabled, elderly, and/ or individuals substantially responsible for the continuous care of a family member; and individuals that are deemed "employable," which includes families with children and employable individuals

without children. Some counties require recipients to use employment services to find, secure, and maintain a job, unless a recipient is designated as “unemployable.”

While it is common for counties to have time limits for “employable” individuals, most counties have no time limits for individuals who are deemed “unemployable.” Overall, most counties offer GA/GR for three months, but some offer as much as nine months of benefits for every qualified recipient.

According to the Assembly Human Services Committee analysis, some counties provide cash grants or in-kind benefits to individuals and families, such as direct payments for housing, utilities, or medical expenses, or a combination of cash grants and in-kind grants to meet general needs. Other counties, like Colusa, Marin, Napa, and Orange, consider benefits as a “loan” and require recipients to pay the county back for benefits received if the recipient has enough income to do so, gets a job, or gets approved for Social Security Disability Insurance or Supplemental Security Income disability benefits. For example, Sacramento County requires all GA/GR applicants to sign a Repayment Agreement and Lien on Real Property to reimburse the county for all GA/GR benefits received. Some counties have opted to waive repayment as a condition of receiving GA/GR benefits, including Santa Clara County. Other benefits may include transportation costs, substance use disorder treatment referrals, emergency food, and cash or vouchers and are typically available for individuals not otherwise eligible for state and federal assistance programs.

The Human Services Committee analysis further notes that GA/GR benefit levels are typically very low and are calculated based on a person’s marital status, housing situation, disabilities, ability to work, and ability to apply for other public benefits programs. According to a 2020 report by the Center on Budget and Policy Priorities, while benefit levels vary by county, California’s maximum monthly allowance is \$221 for those deemed “unemployable” or “employable,” which has not changed in at least a decade and has significantly depreciated in value over time.

California Statewide Automated Welfare System. CalSAWS is the statewide case management system for assisting in the administration of public benefits—including services for which grants-in-aid are received by the state, such as CalFresh, CalWORKs, and Medi-Cal, and for county-funded GA/GR programs—that California must implement by the end of 2023 to maintain federal funding. Under CalSAWS, all counties are required to retire their current public safety systems as they phase in to BenefitsCal to accept applications for public social services programs. As counties transition to exclusively use CalSAWS for eligibility determinations, benefits calculations and issuance, and case and information management, the migration of personal information from counties into the statewide system will need to take place.

2) **Author’s statement.** According to the author:

Counties are required to retire their current public benefit systems and exclusively use the new statewide system for administering public benefits, known as CalSAWS. However, the statute that is applicable to county-funded General Assistance restricts sharing of information in a manner that is significantly out of alignment with all other public benefit privacy provisions (e.g., Medi-Cal, CalFresh, CalWORKs) that allow sharing of information for purposes directly connected to the administration of the public benefit program. Without a change in the legal framework, some information for General Assistance clients technically cannot be added to CalSAWS because there is no legal authority to share it with other

counties. This conflicts with the very purpose of a statewide system for administering public benefits. SB 462 enables technical and legal compliance in the implementation of CalSAWS by aligning the General Assistance privacy statute with other related privacy restrictions.

3) **What this bill does.** This bill adds language to the statutes governing county GA/GR programs that allows personal information from applicants and recipients of GA/GR to be shared with other counties for purposes of administering the program. One of the primary benefits of this policy change would be to allow counties to more easily determine if someone is receiving benefits in more than one county simultaneously.

4) **Analysis.** The current misalignment in privacy protections, according to supporters of the bill, creates compliance issues related to the implementation of CalSAWS, which is predicated on information being accessible to other proper users of the system for purposes directly connected with the administration of applicable programs. The bill seeks to align these privacy protections by amending the GA/GR privacy statute to add language based on the existing statutory language governing its federal counterparts, thereby enabling legal and technical compliance in the implementation of CalSAWS.

The primary question before this Committee is whether or not the erosion of privacy protections proposed in this legislation is outweighed by the benefits associated with allowing personal information about applicants for county funded programs to be shared between counties. Notwithstanding the outstanding issues related to the misalignment of privacy protections discussed below, the benefits associated with allowing counties to share information about people seeking benefits with other counties in order to more easily administer their GA/GR programs appears to outweigh the erosion of the privacy rights of applicants.

5) **Issues for future consideration.** The author and bill supporters seek to better align privacy protections for people who are seeking support from a public social services program, regardless of whether the funding is provided by the federal government, the state general fund, or county funds. While this bill addresses one inconsistency, others remain. In addition, for a number of these programs, the current privacy protections enshrined in state law are over 60 years old and others have not been updated in over 40 years. With the development of increasingly sophisticated technology and the growing market for personal information, it may be that the current protections are inadequate.

Differences in privacy protections among the programs remains. One of the primary reasons for this bill, according to the author, is the creation of a single statewide automated case management system. Counties are required to retire their current public benefit systems and exclusively use CalSAWS for eligibility determinations, benefits computations and delivery, and case and information management. This process entails the migration of personal information protected under two different frameworks—one governing the federally-funded programs and the other governing GA/GR programs—from counties into the statewide system. Case management systems are designed to create one single case file for an individual or family. Therefore, when people receive more than one type of assistance, as most do, all of their personal information and assistance information is contained in one file. The information is not maintained in discrete files for each type of assistance. As a result, managing the personal information of individuals and families in different programs with different privacy protections requirements is difficult. Examples of the remaining contradictory privacy protections include:

1. The requirement to disclose the personal information of people on CalWORKs, CalFresh and GA/GR caseloads if any law enforcement agency presents the county welfare department with an arrest warrant for a misdemeanor or felony crime contradicts the strict privacy requirements for people receiving Medi-Cal benefits.
2. The personal information of people receiving GA/GR must be turned over to a county grand jury. However, the same is not true for individuals receiving assistance from the other programs.
3. If presented with a warrant for a person receiving GA/GR benefits, the county welfare department is required to include the whereabouts of the individual along with other identifying information, for CalFresh recipients, they are not authorized to provide that information.

These inconsistencies between the social safety net programs likely result in confusion and disparate treatment of people depending on their county of residence since it is unclear which law trumps when it comes to sharing the personal information of someone receiving multiple types of assistance.

Protecting the privacy of those who are most vulnerable. Since the time the privacy protections for people applying for and/or receiving support from a safety net program were originally enshrined in state law, in some cases over 50 years ago, concerns about protecting people's fundamental right to privacy have increased significantly.

Importantly, under the current governing statutes for GA/GR, any "citizen" is entitled to demand and receive from the county welfare department "a statement of the amount, character, and value of the relief received by any person" (Welf. & Inst. Code § 17006 (a)). Therefore, people who do not have any other means of support and are applying for either a very small cash grant or in-kind services through GA/GR are required to give up a significant amount of privacy in exchange by allowing any United States citizen who presents the individual's name to a county welfare office to receive a detailed accounting of the assistance that has been provided to them, regardless of whether or not they have a legitimate reason for requesting the information. Beyond the offensive nature of restricting this ability to obtain information only to United States citizens, our understanding of the government's obligation to provide support to people who need help without stigmatizing or punishing them has evolved considerably in the last half century bringing into question why the state would continue to allow this information to be disclosed.

In addition, this year the Committee has prioritized ensuring that all Californians, and those coming from out of state, are protected from punitive and discriminatory, draconian laws attacking the LGBTQ+ community and criminalizing people seeking abortion and gender affirming care. It is also a priority of the Committee to ensure that the state's laws protect our immigrant neighbors from federal policies that make them vulnerable to being separated from their families, imprisoned, and ultimately returned to countries that many were forced to flee for their own safety. In order to achieve these goals, the Committee has reviewed every piece of legislation with an eye toward protecting personal information from disclosure, especially when it pertains to sharing with federal and out-of-state law enforcement officials. It is worth reviewing and updating the privacy protections in place for everyone who is applying for or receiving services from county welfare departments to ensure that the cost of needing assistance is not a loss of their fundamental right to privacy or placing them in danger. Currently, they are

vulnerable to having that information disclosed to any law enforcement agency in the country, simply on the basis of a warrant.

6) **Related legislation.** AB 435 (Cervantes, 2023) would have required CalSAWS to accept and process qualified applicants of Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI), the Trafficking and Crime Victim Assistance Program (TCVAP), and Refugee Cash Assistance (RCA) to the current list of automated applications. AB 435 was held on the Assembly Appropriations Committee suspense file.

AB 525 (Ting, 2023) would have required CDSS to work with the County Welfare Directors Association of California (CWDA) and CalSAWS to develop and implement the necessary system changes to implement a housing supplement. AB 525 was held on the Assembly Appropriations Committee suspense file.

AB 1112 (McKinnor, 2023) would require CDSS to work with CWDA and CalSAWS to develop and implement the necessary system changes to implement a clothing allowance payment. AB 1112 is currently pending in Senate Human Services Committee.

AB 991 (Alvarez, 2023) would have required state and county agencies to accept information from public social service applicants and recipients in any form. AB 991 was held on the Assembly Appropriations Committee suspense file.

AB 1054 (Ochoa Bogh, Chap. 506, Stats. 2022) clarified provisions regarding the sharing of confidential information by multi-disciplinary teams that provide child and adult protective services.

ARGUMENTS IN SUPPORT. According to the sponsor of the bill, the County of Santa Clara:

The privacy framework governing the federally-funded programs is readily adaptable to CalSAWS because it allows for confidential information to be disclosed for purposes “directly connected with the administration of that program.” This appropriately allows for information to be shared with other counties for purposes of streamlining eligibility determinations and identifying duplicative applications, as well as with community-based organizations that connect eligible applicants with benefits.

By contrast, the privacy statute governing GA programs is more restrictive, making information accessible only for “examination or inspection, ... by the grand jury of the county or by a board or an officer of the state or the county charged with the supervision or direction of that relief or with the control or expenditure of funds applicable to that relief,” or in connection with investigations of criminal acts. This misalignment in privacy frameworks creates compliance issues related to the implementation of CalSAWS, which is predicated on information being accessible to other proper users of the system for purposes directly connected with the administration of applicable programs.

In addition, the County Welfare Directors Association argues as follows in support of the bill:

CalSAWS is the single statewide case management system for assisting in the administration of public benefits—including services for which grants-in-aid are received by the state, such as CalFresh, CalWORKs, and Medi-Cal, and for county-funded General Assistance (GA) programs—that California must implement by the end of 2023 to maintain federal funding.

Counties are required to retire their current public benefit systems and exclusively use CalSAWS for eligibility determinations, benefits computations and delivery, and case and information management. This process entails the migration of confidential information protected under two principal frameworks—one governing the federally-funded programs and the other governing GA programs—from counties into the statewide system.

[. . .]

SB 462 would align the GA privacy statute with its federal counterparts, thereby enabling legal and technical compliance in the implementation of CalSAWS.

REGISTERED SUPPORT / OPPOSITION:

Support

County of Santa Clara (sponsor)
County Welfare Directors Association of California (CWDA)

Opposition

None on file

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