

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

Adoption of 9550, Title 9, California Code of Regulations

Offender Treatment Program

Finding of Emergency

INFORMATIVE DIGEST

This emergency regulatory action will adopt Section 9550, Title 9, of the California Code of Regulations to implement, interpret, and make specific Health and Safety Code (HSC) Section 11999.30. This regulatory action will establish standards for the Offender Treatment Program (OTP). HSC 11999.30 established the OTP, charged the Department of Alcohol and Drug Programs (ADP) with administration of the OTP, and authorized ADP to distribute state funds to counties to augment their Substance Abuse and Crime Prevention Act of 2000 (SACPA) programs. Section 9550 will establish a process for distributing funds to enhance services for individuals sentenced to drug treatment in lieu of incarceration services under SACPA. OTP funds will be used to enhance drug treatment services, increase the proportion of sentenced offenders who enter, remain in, and complete treatment, and reduce delays in availability of appropriate treatment.

The new regulation being adopted was originally numbered as Section 9545, Title 9, CCR, and identified that way in the 5-day notice of emergency filing. After the 5-day notice was mailed out ADP realized that Section 9545 was already in use and made a nonsubstantive change renumbering the new section as Section 9550. No other changes were made to the new regulation.

SPECIFIC FACTS AND SUBSTANTIAL EVIDENCE DEMONSTRATING THE EXISTENCE OF AN EMERGENCY AND THE NEED FOR IMMEDIATE ACTION

ADP finds that an emergency exists and that the subject regulatory changes are necessary for the immediate preservation of the public peace, health, safety, and general welfare.

HSC Section 11999.30(i) authorizes this regulation to be adopted as an emergency regulation which shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

This regulation is needed on an emergency basis to protect public peace, health, safety, and general welfare by enhancing alcohol and drug treatment services to offenders sentenced to alcohol and other drug treatment programs in lieu of incarceration pursuant to SACPA.

This regulation is also needed on an emergency basis to protect public peace, health, safety, and general welfare by increasing the proportion of sentenced offenders who enter, remain in, and complete treatment, and reducing delays in availability of appropriate treatment.

If this regulation is not adopted on an emergency basis, public peace, health, safety, and general welfare could be jeopardized by delays in treatment, fewer offenders in treatment, less effective treatment, and an increase in recidivism.

EXPLANATION OF WHY THE PROPOSED REGULATIONS CANNOT BE ADOPTED THROUGH THE NON EMERGENCY REGULATORY PROCESS

HSC 11999.30(i) originally authorized ADP to implement the OTP by all-county letters for Fiscal Year (FY) 2006-07. The Budget Trailer Bill for FY 2007-08 amended HSC 11999.30(i) to extend that authority through FY 2007-08. Unless the statute is amended for 2008-09 to allow implementation by all-county letters in lieu of rulemaking, this regulation will be needed as early as possible after the Budget Act is signed in order to continue implementation of the OTP for FY 2008-09. This regulation merely codifies existing policy in regulation. If this regulation is not adopted in a timely manner, counties will not receive OTP funds for FY 2008-09 in time to use them within the fiscal year and will have to reduce services to accommodate reductions in funding. As a result, counties may be less able to provide effective drug treatment services through SACPA, resulting in recidivism and public health, welfare, and safety problems related to drug abuse.

STATUTORY AUTHORITY AND REFERENCE CITATIONS

These regulations are being adopted pursuant to HSC Section 11755. The statutory reference for this regulatory action is HSC Section 11999.30.

FISCAL IMPACT STATEMENTS

Anticipated costs or savings to federal funding to the state:

None because no federal funding is involved and this regulatory action merely codifies existing policy.

Anticipated costs or savings to state agencies:

None because this regulatory action merely codifies existing policy.

Anticipated costs or savings to county or local government:

None because this regulatory action merely codifies existing policy.

Anticipated fiscal or economic impact on business:

None because this regulatory action merely codifies existing policy. ADP has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the ability of California businesses to compete with businesses in other states, as other states already require certification of AOD counselors. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Anticipated fiscal or economic impact on small businesses:

This regulatory action will impact small businesses, since most AOD programs are small businesses. However this regulatory action will not result in any negative impact or cost to small businesses because it merely codifies existing policy.

Impact on Representative Private Persons or Businesses:

ADP is not aware of any costs impacts that a representative private person or business will necessarily incur in reasonable compliance with the proposed regulatory action.

Other Non-discretionary Costs or Savings Imposed upon Local Agencies:

None.

Impact on Housing Costs:

ADP does not anticipate that this regulatory action will impact housing costs in any way.

LOCAL MANDATE DETERMINATION

ADP has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

OPPOSITION AND SUPPORT FOR EMERGENCY ADOPTION

Unknown opposition. Counties and provider organizations will support emergency adoption.

INDIVIDUALS OR GROUPS WHO HAVE PREVIOUSLY INDICATED SUPPORT OF OPPOSITION TO THIS EMERGENCY ADOPTION

None.