

December 2, 1980

MEMO

TO: MEMBERS, BOARD OF GOVERNORS

FROM: COMMITTEE ON HUMAN RIGHTS

RE: RECOMMENDATION TO AMEND HEALTH & SAFETY CODE §11797 AND 11810 AND TO ADD §11964 TO HEALTH & SAFETY CODE TO REQUIRE A PARITY OF SERVICES TO WOMEN UNDER THE ALCOHOL & DRUG ABUSE PROGRAMS. CONFERENCE OF DELEGATES RESOLUTION 7-1-80.

I. BACKGROUND

In 1979, the Legislature established state funding for county administered alcohol and drug abuse programs.

Statistics used by counties to ascertain the needs of their communities have been primarily criminal justice statistics, possibly because of the alternative to license suspension provided a convicted drunk driver of attending county alcohol treatment programs (§11837 et. seq.), and because narcotic/alcohol-related problems appear in the criminal justice system most often.

Since the greater number of those accused and/or convicted of driving under the influence of alcohol are men, services to the alcohol abuser have been directed at men. The amendments would add provisions that use of funds reflect that a parity of funds be used for services for women.

II. RECOMMENDATION:

The Resolutions Committee Report recommended approval in principle, with the qualification that "parity" be defined.

The Committee on Human Rights is in agreement with the proponents on the grounds that the current funding formulas are based on criminal justice statistics, which do not include a reasonable representation of female abusers. The Legal Services Section recommends disapproval on the grounds that the Legislature is deferring to counties in the areas of administration, coordination and priority setting for the abuse programs and that each county can best determine its own needs.

RECOMMENDATION TO AMEND HEALTH & SAFETY CODE AND TO ADD TITLE TO HEALTH & SAFETY CODE TO PROVIDE A BARIETY OF SERVICES TO WOMEN ABUSED BY ALCOHOL & DRUG ABUSE PROGRAMS. CONSENT OF THE BOARD OF GOVERNORS.

BACKGROUND

In 1979, the Department established state-wide county-administered alcohol and drug abuse programs. Statistics used by counties to describe the needs of their communities have been primarily of a clinical nature. It is possible because of the increasing incidence of alcohol and drug abuse that a coordinated effort of community-based alcohol and drug abuse programs (ADAP) and county-administered alcohol and drug abuse programs (CADAP) would be more effective in providing services to women who are abused by alcohol and drug abusers. The Department would like to encourage the development of such programs and to provide technical assistance to counties in the development of such programs.

RECOMMENDATION

The Department's Technical Report recommends approval in principle, with the understanding that the Department will continue to provide technical assistance to counties in the development of such programs. The Department on Human Rights is in agreement with the Department's recommendation that the current funding formula be maintained. The Department also recommends that the Department include a reasonable representation of family needs in the annual budget section recommendations. The Department also recommends that the Department be authorized to coordinate the activities of the Department, including the Department's activities for the abuse program and that each county should have a representative on the Department's advisory committee.

III. DISCUSSION

The proponents of this amendment and addition to the Health & Safety Code, Women Lawyer's Association of Los Angeles, notes that traditional criminal justice statistics, such as those gathered on narcotics arrests and drunk driving arrests, have formed the basis for determining needs under the substance abuse programs. Since these statistics indicate that male abusers outnumber female by three or four to one, the funding for abuse programs has reflected that ratio. However, recent studies have indicated that the ratio is more likely 50-50. The difficulty lies in statistic gathering.

A closer look at the Health and Safety Code §11760, et. seq. shows that not only did the Legislature intend to fund county operated programs for treatment of abusers, but also to provide a mandate for research and for coordination with other county agencies than the criminal justice system. In other words, the Legislature has left the door open for statistic gathering. For example, §11770 provides that the state Department of Alcohol & Drug Programs cooperate with other community resources such as health and social services (§11778(k)). It is clear that the Legislature intended that counties cooperate within their jurisdiction to seek out other volunteer and county agencies (§11810).

Additionally, the Legislature recognized the importance of research (§11785) and authorized counties to enter into contracts with universities for research (§11786, 11787).

Thus, the Legislature encourages each county to cooperate with agencies within its borders. Surely statistics available from county hospitals and social and human services agencies on the incidence of drug and alcohol abuse among females could be readily available to counties for their community outreach in order for the county to determine the ratio of male to female substance abusers. Combining criminal justice system statistics with other county and volunteer agency statistics would give a much fairer indication of the extend of alcohol and drug abuse among women, and would not create any severe burden on the county administrator of the program.

A strong mandate for equality of program services under the drunk driving program under §11837 is made. The Legislature has stated that the alternative rehabilitation program for the convicted drunk driver shall be required to provide appropriate services to ethnic minorities and women. (§11837.4)

Surely a statement from the Legislature that the entire county drug and alcohol abuse program reflect a commitment to provide services to all citizens is not undue interference in the business of each county, but simply a more forceful statement of a Legislative intent that discrimination not be fostered by its program.

The difficulty is with language. The proponent of the Resolution has used the words "funds received or expended by the county pursuant to this chapter shall reflect a parity of services for women." (See attached Appendix for text of affected Health & Safety Code sections and the additional amendment.)

Concern over the meaning of "parity" has been expressed by the Resolutions Committee. The Committee on Human Rights believes that in this case, an equivalence of services is necessary. "Parity" suggests that county services must be made available outside the criminal justice system, to be certain state funds reach women.

This means that counties must reorder their funding priorities to some extent, ascertaining where funding could be re-allocated from criminal justice system programs to programs geared toward women. The Legislature would not be interfering in county programs by mandating parity, but merely charging each county to search its priorities more thoroughly. For example, if 75% of the users of a so-called "diversion" plan for drug offenders are males, then the county must use an equivalent sum of money for a program where 75% of the users are female. An alternative might be to fund with the same amount of money used in a diversion program, a fetal alcohol syndrome clinic. Health & Safety Code §11760 illustrates that the Legislative intent is to fund programs specific for women, in that §11760(e) suggests the risk of fetal alcohol syndrome is a significant area of concern. A mandate of parity in funding would underline that concern.

Since each county is required to submit a plan for its funding to the Department, such a plan under these amendments to the H & S Code, would be required to show a parity, or equivalence, of services to women. A county would be required to collect statistics, already existing in most urban areas, from hospitals and social service agencies, showing where female substance abusers are and structure their plans in accordance with the statistics.

There would be no fiscal impact on the State Bar, and no fiscal impact on the State. The impact on equality for women under the drug program would be to include the female in an area of social services she has yet to receive much benefit from.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to amend Health & Safety Code §§ 11797 and 11810, and to add Health & Safety Code § 11964 as follows:

1 §11797

2 Funds allocated to the county pursuant to this part shall be used
3 exclusively for the development, support, and expansion of alcohol services
4 pursuant to the provisions of this part and such funds shall be separately
5 identified and accounted for. Funds received or expended by the county
6 pursuant to this part shall reflect a parity of services for women.
7

8 §11810

9 Counties that elect to apply for state funds under the provisions of
10 this part shall determine their own priorities for alleviating problems re-
11 lated to inappropriate alcohol use in their communities and for provision
12 of alcohol services pursuant to the planning process described in this
13 article, except that such priorities and provisions for services shall
14 reflect a parity of services for women.

15 The Legislature recognizes the difficulty in balancing the justifica-
16 tion for statewide standards that should be applied to every county's
17 proposed application to the state for funds under this part and the values
18 inherent in local community control. The Legislature emphasizes the need for
19 a representative advisory board established pursuant to Section 11805 and a
20 qualified alcohol program administrator appointed pursuant to Section 11800
21 who will reach out to the community to seek a diversity of opinions so as
22 to assure that the county plan reflects as much as possible the needs of the
23 community to alleviate the problems related to inappropriate alcohol use.
24

25 §11964

26 Funds received or expended by the county pursuant to this chapter
27 shall reflect a parity of services for women.

(Proposed new language underlined; language to be deleted stricken)

