

AMENDED IN SENATE AUGUST 18, 2008

AMENDED IN SENATE AUGUST 20, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 978

Introduced by Assembly Member Benoit

February 22, 2007

An act to amend Sections 1523.2, 1530.5, 1534, 1546, 1548, 1568.07, 1568.0822, 1569.33, 1569.48, 1569.49, 1596.98, 1596.99, ~~1597.09, 1597.55a~~, 1597.56, and 1597.62 of, and to add Sections 1534.1, 1550.7, 1558.3, 1568.0715, 1568.0825, 1568.094, 1569.351, 1569.510, 1569.595, 1596.818, 1596.8867, 1596.8899, and 1597.58 to, the Health and Safety Code, and to amend Section 18285 of the Welfare and Institutions Code, relating to community care facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 978, as amended, Benoit. Care facilities.

(1) Existing law, the California Community Care Facilities Act, and the California Residential Care Facilities for the Elderly Act, provide for the licensure and regulation of community care facilities and residential care facilities for the elderly respectively and requires every licensed community care facility and residential care facility for the elderly to be subject to unannounced visits by the State Department of Social Services.

Existing law authorizes the department to levy civil penalties upon community care facilities licensed pursuant to the act, licensed residential care facilities for persons with chronic, life-threatening

illness, licensed residential care facilities for the elderly, and licensed day care centers, whereby the nature or seriousness of the violation warrants a higher penalty or an immediate assessment.

This bill would, among other things, provide that serious violations include specified situations. It would also require the department to assess an immediate civil penalty, as prescribed, for any of those specified serious violations, and would require that moneys collected from those civil penalties *imposed for those specified serious violations* be expended by the department for specified purposes, upon appropriation by the Legislature.

(2) Existing law, the California Child Day Care Facilities Act, provides for the licensure and regulation of child day care facilities, including day care centers and family day care homes, by the State Department of Social Services.

The bill would, among other things, require the department to specify in its licensing report all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of children in care. The bill would impose additional inspection requirements upon child day care facilities, including day care centers and family day care homes, and would require the department to ensure that a licensee’s plan of correction is verifiable and measurable.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 that the effective and efficient collection of civil penalties imposed
- 3 for violations of state law and regulations is a means to ensure
- 4 compliance with the laws protecting the health and safety of
- 5 vulnerable populations in licensed community care facilities.
- 6 (b) It is the intent of the Legislature to do all of the following:
- 7 (1) Ensure that vulnerable persons in licensed facilities are
- 8 protected from threats to health and safety, especially from
- 9 violations of law where the nature or seriousness of the violation
- 10 or the frequency of the violation warrants immediate action.
- 11 (2) Ensure that civil penalties are in addition to, and are not
- 12 intended to supplant, other remedies available to the State

1 Department of Social Services, such as suspension, revocation, or
2 temporary suspension orders.

3 (3) Ensure overall program integrity in the operation of facilities
4 licensed by the State Department of Social Services.

5 SEC. 2. Section 1523.2 of the Health and Safety Code is
6 amended to read:

7 1523.2. (a) Beginning with the 1996–97 fiscal year, there is
8 hereby created in the State Treasury the Technical Assistance
9 Fund, from which money, upon appropriation by the Legislature
10 in the Budget Act, shall be expended by the department to fund
11 administrative and other activities in support of the licensing
12 program.

13 ~~(b) In each fiscal year, fees collected by the department pursuant~~
14 ~~to Sections 1523.1, 1568.05, 1569.185, and 1596.803 and civil~~
15 ~~penalties collected pursuant to Sections 1522, 1536, 1547, 1548,~~
16 ~~1568.0821, 1568.0822, 1568.09, 1569.17, 1569.485, and 1569.49,~~
17 ~~shall be expended by the department for the purpose of ensuring~~
18 ~~the health and safety of all individuals provided care and~~
19 ~~supervision by licensees and to support activities of the licensing~~
20 ~~program, including, but not limited to, monitoring facilities for~~
21 ~~compliance with applicable laws and regulations.~~

22 ~~(c) Notwithstanding any other provision of law, the department~~
23 ~~may, upon appropriation by the Legislature for these purposes,~~
24 ~~expend any amount from the civil penalties collected pursuant to~~
25 ~~Sections 1522, 1536, 1547, 1548, 1568.0821, 1568.0822, 1568.09,~~
26 ~~1569.17, 1569.485, and 1569.49, exclusively for the technical~~
27 ~~assistance, training, and education of licensees.~~

28 *(b) In each fiscal year, fees collected by the department pursuant*
29 *to Sections 1523.1, 1568.05, 1569.185, and 1596.803 shall be*
30 *deposited into the Technical Assistance Fund created pursuant to*
31 *subdivision (a) and shall be expended by the department for the*
32 *purpose of ensuring the health and safety of all individuals*
33 *provided care and supervision by licensees and to support activities*
34 *of the licensing program, including, but not limited to, monitoring*
35 *facilities for compliance with applicable laws and regulations.*

36 *(c) Notwithstanding any other provision of law, revenues*
37 *received by the department from payment of civil penalties imposed*
38 *on licensed facilities pursuant to Sections 1522, 1536, 1547, 1548,*
39 *1568.0821, 1568.0822, 1568.09, 1569.17, 1569.485, and 1569.49*
40 *shall be deposited into the Technical Assistance Fund created*

1 *pursuant to subdivision (a), and shall be expended by the*
2 *department exclusively for the technical assistance, training, and*
3 *education of licensees.*

4 SEC. 3. Section 1530.5 of the Health and Safety Code is
5 amended to read:

6 1530.5. (a) The department, in establishing regulations,
7 including provisions for periodic inspections, under this chapter
8 for foster family homes and certified family homes of foster family
9 agencies, shall consider these homes as private residences, and
10 shall establish regulations for these foster family homes and
11 certified family homes of foster family agencies as an entirely
12 separate regulation package from regulations for all other
13 community care facilities. Certified family homes of foster family
14 agencies shall not be subject to civil penalties pursuant to this
15 chapter. Foster family homes shall not be subject to civil penalties
16 pursuant to Section 1548, except for violations of a serious nature
17 described in subdivision (b) of that section. Foster family homes
18 also shall be subject to civil penalties pursuant to Sections 1522
19 and 1547. The department, in adopting and amending regulations
20 for these foster family homes and certified family homes of foster
21 family agencies, shall consult with foster parent and foster family
22 agency organizations in order to ensure compliance with the
23 requirement of this section.

24 (b) This section shall not apply to small family homes or foster
25 family agencies as defined in Section 1502.

26 ~~SEC. 4. Section 1534 of the Health and Safety Code is amended~~
27 ~~to read:~~

28 ~~1534. (a) (1) Every licensed community care facility shall be~~
29 ~~subject to unannounced visits by the department. The department~~
30 ~~shall visit these facilities as often as necessary to ensure the quality~~
31 ~~of care provided.~~

32 ~~(A) The department shall conduct an annual unannounced visit~~
33 ~~to a facility under any of the following circumstances:~~

- 34 ~~(i) When a license is on probation.~~
- 35 ~~(ii) When the terms of agreement in a facility compliance plan~~
36 ~~require an annual evaluation.~~
- 37 ~~(iii) When an accusation against a licensee is pending.~~
- 38 ~~(iv) When a facility requires an annual visit as a condition of~~
39 ~~receiving federal financial participation.~~

1 ~~(v) In order to verify that a person who has been ordered out of~~
2 ~~a facility by the department is no longer at the facility.~~

3 ~~(B) (i) The department shall conduct annual unannounced visits~~
4 ~~to no less than 20 percent of facilities not subject to an evaluation~~
5 ~~under subparagraph (A). These unannounced visits shall be~~
6 ~~conducted based on a random sampling methodology developed~~
7 ~~by the department.~~

8 ~~(ii) Except for the 2007-08 fiscal year, if the total citations~~
9 ~~issued by the department exceed the previous year's total by 10~~
10 ~~percent, the following year the department shall increase the~~
11 ~~random sample by an additional 10 percent of the facilities not~~
12 ~~subject to an evaluation under subparagraph (A). The department~~
13 ~~may request additional resources to increase the random sample~~
14 ~~by 10 percent.~~

15 ~~(C) Under no circumstance shall the department visit a~~
16 ~~community care facility less often than once every five years.~~

17 ~~(D) In order to facilitate direct contact with group home clients,~~
18 ~~the department may interview children who are clients of group~~
19 ~~homes at any public agency or private agency at which the client~~
20 ~~may be found, including, but not limited to, a juvenile hall,~~
21 ~~recreation or vocational program, or a nonpublic school. The~~
22 ~~department shall respect the rights of the child while conducting~~
23 ~~the interview, including informing the child that he or she has the~~
24 ~~right not to be interviewed and the right to have another adult~~
25 ~~present during the interview.~~

26 ~~(2) The department shall notify the community care facility in~~
27 ~~writing of all deficiencies in its compliance with the provisions of~~
28 ~~this chapter and the rules and regulations adopted pursuant to this~~
29 ~~chapter, and shall set a reasonable length of time for compliance~~
30 ~~by the facility.~~

31 ~~(3) Reports on the results of each inspection, evaluation, or~~
32 ~~consultation shall be kept on file in the department, and all~~
33 ~~inspection reports, consultation reports, lists of deficiencies, and~~
34 ~~plans of correction shall be open to public inspection.~~

35 ~~(b) (1) Nothing in this section shall limit the authority of the~~
36 ~~department to inspect or evaluate a licensed foster family agency,~~
37 ~~a certified family home, or any aspect of a program where a~~
38 ~~licensed community care facility is certifying compliance with~~
39 ~~licensing requirements.~~

1 ~~(2) Upon a finding of noncompliance by the department, the~~
2 ~~department may require a foster family agency to deny or revoke~~
3 ~~the certificate of approval of a certified family home, or take other~~
4 ~~action the department may deem necessary for the protection of a~~
5 ~~child placed with the family home. The family home shall be~~
6 ~~afforded the due process provided pursuant to this chapter.~~

7 ~~(3) If the department requires a foster family agency to deny or~~
8 ~~revoke the certificate of approval, the department shall serve an~~
9 ~~order of denial or revocation upon the certified or prospective~~
10 ~~foster parent and foster family agency that shall notify the certified~~
11 ~~or prospective foster parent of the basis of the department's action~~
12 ~~and of the certified or prospective foster parent's right to a hearing.~~

13 ~~(4) Within 15 days after the department serves an order of denial~~
14 ~~or revocation, the certified or prospective foster parent may file a~~
15 ~~written appeal of the department's decision with the department.~~
16 ~~The department's action shall be final if the certified or prospective~~
17 ~~foster parent does not file a written appeal within 15 days after the~~
18 ~~department serves the denial or revocation order.~~

19 ~~(5) The department's order of the denial or revocation of the~~
20 ~~certificate of approval shall remain in effect until the hearing is~~
21 ~~completed and the director has made a final determination on the~~
22 ~~merits.~~

23 ~~(6) A certified or prospective foster parent who files a written~~
24 ~~appeal of the department's order with the department pursuant to~~
25 ~~this section shall, as part of the written request, provide his or her~~
26 ~~current mailing address. The certified or prospective foster parent~~
27 ~~shall subsequently notify the department in writing of any change~~
28 ~~in mailing address, until the hearing process has been completed~~
29 ~~or terminated.~~

30 ~~(7) Hearings held pursuant to this section shall be conducted in~~
31 ~~accordance with Chapter 5 (commencing with Section 11500) of~~
32 ~~Division 3 of Title 2 of the Government Code. In all proceedings~~
33 ~~conducted in accordance with this section the standard of proof~~
34 ~~shall be by a preponderance of the evidence.~~

35 ~~(8) The department may institute or continue a disciplinary~~
36 ~~proceeding against a certified or prospective foster parent upon~~
37 ~~any ground provided by this section, enter an order denying or~~
38 ~~revoking the certificate of approval, or otherwise take disciplinary~~
39 ~~action against the certified or prospective foster parent,~~
40 ~~notwithstanding any resignation, withdrawal of application,~~

1 ~~surrender of the certificate of approval, or denial or revocation of~~
2 ~~the certificate of approval by the foster family agency.~~

3 ~~(9) A foster family agency's failure to comply with the~~
4 ~~department's order to deny or revoke the certificate of employment~~
5 ~~by placing or retaining children in care shall be grounds for~~
6 ~~disciplining the licensee pursuant to Section 1550.~~

7 *SEC. 4. Section 1534 of the Health and Safety Code is amended*
8 *to read:*

9 1534. (a) (1) Every licensed community care facility shall be
10 subject to unannounced visits by the department. The department
11 shall visit these facilities as often as necessary to ensure the quality
12 of care provided.

13 (A) The department shall conduct an annual unannounced visit
14 to a facility under any of the following circumstances:

15 (i) When a license is on probation.

16 (ii) When the terms of agreement in a facility compliance plan
17 require an annual evaluation.

18 (iii) When an accusation against a licensee is pending.

19 (iv) When a facility requires an annual visit as a condition of
20 receiving federal financial participation.

21 (v) In order to verify that a person who has been ordered out of
22 a facility by the department is no longer at the facility.

23 (B) (i) The department shall conduct annual unannounced visits
24 to no less than 20 percent of facilities not subject to an evaluation
25 under subparagraph (A). These unannounced visits shall be
26 conducted based on a random sampling methodology developed
27 by the department.

28 (ii) If the total citations issued by the department exceed the
29 previous year's total by 10 percent, the following year the
30 department shall increase the random sample by an additional 10
31 percent of the facilities not subject to an evaluation under
32 subparagraph (A). The department may request additional resources
33 to increase the random sample by 10 percent.

34 (C) Under no circumstance shall the department visit a
35 community care facility less often than once every five years.

36 (D) In order to facilitate direct contact with group home clients,
37 the department may interview children who are clients of group
38 homes at any public agency or private agency at which the client
39 may be found, including, but not limited to, a juvenile hall,
40 recreation or vocational program, or a nonpublic school. The

1 department shall respect the rights of the child while conducting
2 the interview, including informing the child that he or she has the
3 right not to be interviewed and the right to have another adult
4 present during the interview.

5 (2) The department shall notify the community care facility in
6 writing of all deficiencies in its compliance with the provisions of
7 this chapter and the rules and regulations adopted pursuant to this
8 chapter, and shall set a reasonable length of time for compliance
9 by the facility.

10 (3) Reports on the results of each inspection, evaluation, or
11 consultation shall be kept on file in the department, and all
12 inspection reports, consultation reports, lists of deficiencies, and
13 plans of correction shall be open to public inspection ~~in the county~~
14 ~~in which the facility is located.~~

15 (b) (1) Nothing in this section shall limit the authority of the
16 department to inspect or evaluate a licensed foster family agency,
17 a certified family home, or any aspect of a program where a
18 licensed community care facility is certifying compliance with
19 licensing requirements.

20 (2) Upon a finding of noncompliance by the department, the
21 department may require a foster family agency to deny or revoke
22 the certificate of approval of a certified family home, or take other
23 action the department may deem necessary for the protection of a
24 child placed with the family home. The family home shall be
25 afforded the due process provided pursuant to this chapter.

26 (3) If the department requires a foster family agency to deny or
27 revoke the certificate of approval, the department shall serve an
28 order of denial or revocation upon the certified or prospective
29 foster parent and foster family agency that shall notify the certified
30 or prospective foster parent of the basis of the department's action
31 and of the certified or prospective foster parent's right to a hearing.

32 (4) Within 15 days after the department serves an order of denial
33 or revocation, the certified or prospective foster parent may file a
34 written appeal of the department's decision with the department.
35 The department's action shall be final if the certified or prospective
36 foster parent does not file a written appeal within 15 days after the
37 department serves the denial or revocation order.

38 (5) The department's order of the denial or revocation of the
39 certificate of approval shall remain in effect until the hearing is

1 completed and the director has made a final determination on the
2 merits.

3 (6) A certified or prospective foster parent who files a written
4 appeal of the department's order with the department pursuant to
5 this section shall, as part of the written request, provide his or her
6 current mailing address. The certified or prospective foster parent
7 shall subsequently notify the department in writing of any change
8 in mailing address, until the hearing process has been completed
9 or terminated.

10 (7) Hearings held pursuant to this section shall be conducted in
11 accordance with Chapter 5 (commencing with Section 11500) of
12 Division 3 of Title 2 of the Government Code. In all proceedings
13 conducted in accordance with this section the standard of proof
14 shall be by a preponderance of the evidence.

15 (8) The department may institute or continue a disciplinary
16 proceeding against a certified or prospective foster parent upon
17 any ground provided by this section, enter an order denying or
18 revoking the certificate of approval, or otherwise take disciplinary
19 action against the certified or prospective foster parent,
20 notwithstanding any resignation, withdrawal of application,
21 surrender of the certificate of approval, or denial or revocation of
22 the certificate of approval by the foster family agency.

23 (9) A foster family agency's failure to comply with the
24 department's order to deny or revoke the certificate of employment
25 by placing or retaining children in care shall be grounds for
26 disciplining the licensee pursuant to Section 1550.

27 SEC. 5. Section 1534.1 is added to the Health and Safety Code,
28 to read:

29 1534.1. (a) The department shall ensure that the licensee's
30 plan of correction is verifiable and measurable. The plan of
31 correction shall specify what evidence is acceptable to establish
32 that a deficiency has been corrected. This evidence shall be
33 included in the department's facility file.

34 (b) The department shall specify in its licensing report all
35 violations that, if not corrected, will have a direct and immediate
36 risk to the health, safety, or personal rights of clients in care.

37 (c) The department shall complete all complaint investigations
38 and place a note of final conclusion in the department's facility
39 file, consistent with the confidentiality provisions in subdivision

1 (c) of Section 1538, regardless of whether the licensee voluntarily
2 surrendered the license.

3 SEC. 6. Section 1546 of the Health and Safety Code is amended
4 to read:

5 1546. The department may require not more than 50 percent
6 of each penalty assessed pursuant to Section 1548 to be transmitted
7 to the department for use by the Community Care Licensing
8 Division of the state department to establish an emergency resident
9 relocation fund to be utilized for the relocation and care of residents
10 when a facility's license is revoked or temporarily suspended,
11 when appropriated by the Legislature. The money in the fund shall
12 cover costs, including but not limited to, transportation expenses,
13 expenses incurred in notifying family members, and any other
14 costs directly associated with providing continuous care to the
15 residents. The department shall seek the advice of providers in
16 developing a state plan for emergency resident relocation.

17 SEC. 7. Section 1548 of the Health and Safety Code is amended
18 to read:

19 1548. (a) In addition to the suspension, temporary suspension,
20 or revocation of a license issued under this chapter, the department
21 may levy a civil penalty.

22 (b) The amount of the civil penalty shall not be less than
23 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
24 for each violation of this chapter except where the nature or
25 seriousness of the violation or the frequency of the violation
26 warrants a higher penalty or an immediate civil penalty assessment,
27 or both, as determined by the department. In no event, shall a civil
28 penalty assessment exceed one hundred fifty dollars (\$150) per
29 day per violation.

30 (c) Notwithstanding Section 1534, the department shall assess
31 an immediate civil penalty of one hundred fifty dollars (\$150) per
32 day per violation for any of the following serious violations:

33 (1) (A) Fire clearance violations, including, but not limited to,
34 overcapacity, ambulatory status, inoperable smoke alarms, and
35 inoperable fire alarm systems. *The civil penalty shall not be*
36 *assessed if the licensee has done either of the following:*

37 (i) *Requested the appropriate fire clearance based on*
38 *ambulatory, nonambulatory, or bedridden status, and the decision*
39 *is pending.*

40 (ii) *Initiated eviction proceedings.*

1 (B) A licensee denied a clearance for bedridden residents may
2 appeal to the fire authority, and, if that appeal is denied, may
3 subsequently appeal to the Office of the State Fire Marshal, and
4 shall not be assessed an immediate civil penalty until the final
5 appeal is decided, or after 60 days has passed from the date of the
6 citation, whichever is earlier.

7 (2) Absence of supervision, as required by statute or regulation.

8 (3) Accessible bodies of water when prohibited in this chapter
9 or regulations adopted pursuant to this chapter.

10 (4) Accessible firearms, ammunition, or both.

11 (5) Refused entry to a facility or any part of a facility in violation
12 of Section 1533, 1534, or 1538.

13 (6) The presence of an excluded person on the premises.

14 (d) Notwithstanding Section 1534, any facility that is cited for
15 repeating the same violation of this chapter within 12 months of
16 the first violation is subject to an immediate civil penalty of one
17 hundred fifty dollars (\$150) and fifty dollars (\$50) for each day
18 the violation continues until the deficiency is corrected.

19 (e) Any facility that is assessed a civil penalty pursuant to
20 subdivision (d) which repeats the same violation of this chapter
21 within 12 months of the violation subject to subdivision (d) is
22 subject to an immediate civil penalty of one hundred fifty dollars
23 (\$150) for each day the violation continues until the deficiency is
24 corrected.

25 (f) The department shall adopt regulations implementing this
26 section.

27 (g) As provided in Section 11466.31 of the Welfare and
28 Institutions Code, the department may offset civil penalties owed
29 by a group home against moneys to be paid by a county for the
30 care of minors after the group home has exhausted its appeal of
31 the civil penalty assessment. The department shall provide the
32 group home a reasonable opportunity to pay the civil penalty before
33 instituting the offset provision.

34 SEC. 8. Section 1550.7 is added to the Health and Safety Code,
35 to read:

36 1550.7. (a) The department shall conduct an unannounced
37 visit to a facility within 30 days after the effective date of a
38 temporary suspension of a license in order to ensure that the facility
39 is nonoperational, unless the department previously has verified
40 that the facility is nonoperational.

1 (b) The department shall conduct an unannounced visit to a
2 facility within 30 days after the effective date of a revocation of a
3 license, in order to ensure that the facility is nonoperational, unless
4 the department previously has verified that the facility is
5 nonoperational.

6 SEC. 9. Section 1558.3 is added to the Health and Safety Code,
7 to read:

8 1558.3. The department shall conduct an unannounced visit to
9 a facility within 30 days after the department serves an order of
10 immediate exclusion from the facility upon the licensee or a person
11 subject to immediate removal or exclusion from the facility
12 pursuant to paragraph (3) of subdivision (c) of Section 1522 and
13 subdivision (c) of Section 1558 and in order to ensure that the
14 excluded person is not within the facility, unless the department
15 previously has verified that the excluded person is not within the
16 facility.

17 SEC. 9.2. Section 1568.07 of the Health and Safety Code is
18 amended to read:

19 1568.07. (a) (1) Within 90 days after a facility accepts its
20 first resident for placement following its initial licensure, the
21 department shall inspect the facility to evaluate compliance with
22 rules and regulations and to assess the facility's continuing ability
23 to meet regulatory requirements. The licensee shall notify the
24 department, within five business days after accepting its first
25 resident for placement, that the facility has commenced operating.

26 (2) The department may take appropriate remedial action as
27 provided for in this chapter.

28 (b) (1) Every licensed residential care facility shall be
29 periodically inspected and evaluated for quality of care by a
30 representative or representatives designated by the director.
31 Evaluations shall be conducted at least annually and as often as
32 necessary to ensure the quality of care being provided.

33 (2) During each licensing inspection the department shall
34 determine if the facility meets regulatory standards, including, but
35 not limited to, providing residents with the appropriate level of
36 care based on the facility's license, providing adequate staffing
37 and services, updated resident records and assessments, and
38 compliance with basic health and safety standards.

39 (3) If the department determines that a resident requires a higher
40 level of care than the facility is authorized to provide, the

1 department may initiate a professional level of care assessment by
2 an assessor approved by the department. An assessment shall be
3 conducted in consultation with the resident, the resident's physician
4 and surgeon, and the resident's case manager, and shall reflect the
5 desires of the resident, the resident's physician and surgeon, and
6 the resident's case manager. The assessment also shall recognize
7 that certain illnesses are episodic in nature and that the resident's
8 need for a higher level of care may be temporary.

9 (4) The department shall notify the residential care facility in
10 writing of all deficiencies in its compliance with this chapter and
11 the rules and regulations adopted pursuant to this chapter, and shall
12 set a reasonable length of time for compliance by the facility.

13 (5) Reports on the results of each inspection, evaluation, or
14 consultation shall be kept on file in the department, and all
15 inspection reports, consultation reports, lists of deficiencies, and
16 plans of correction shall be open to public inspection.

17 (c) Any duly authorized officer, employee, or agent of the
18 department may, upon presentation of proper identification, enter
19 and inspect any place providing personal care, supervision, and
20 services, at any time, with or without advance notice, to secure
21 compliance with, or to prevent a violation of, this chapter.

22 (d) No licensee shall discriminate or retaliate in any manner
23 against any person receiving the services of the facility of the
24 licensee, or against any employee of the facility, on the basis, or
25 for the reason, that a person or employee or any other person has
26 initiated or participated in an inspection pursuant to Section
27 1568.071.

28 (e) Any person who, without lawful authorization from a duly
29 authorized officer, employee, or agent of the department, informs
30 an owner, operator, employee, agent, or resident of a residential
31 care facility, of an impending or proposed inspection or evaluation
32 of that facility by personnel of the department, is guilty of a
33 misdemeanor and upon conviction thereof shall be punished by a
34 fine not to exceed one thousand dollars (\$1,000), by imprisonment
35 in the county jail for a period not to exceed 180 days, or by both
36 a fine and imprisonment.

37 SEC. 10. Section 1568.0715 is added to the Health and Safety
38 Code, to read:

39 1568.0715. (a) The department shall ensure that the licensee's
40 plan of correction is verifiable and measurable. The plan of

1 correction shall specify what evidence is acceptable to establish
2 that a deficiency has been corrected. This evidence shall be
3 included in the department's facility file.

4 (b) The department shall specify in its licensing report all
5 violations that, if not corrected, will have a direct and immediate
6 risk to the health, safety, or personal rights of residents in care.

7 (c) The department shall complete all complaint investigations
8 and place a note of final conclusion in the department's facility
9 file, regardless of whether the licensee voluntarily surrendered the
10 license.

11 SEC. 11. Section 1568.0822 of the Health and Safety Code is
12 amended to read:

13 1568.0822. (a) In addition to the suspension, temporary
14 suspension, or revocation of a license issued under this chapter,
15 the department may levy a civil penalty. The department shall
16 adopt regulations setting forth the appeal procedures for
17 deficiencies.

18 (b) The amount of the civil penalty shall not be less than
19 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
20 for each violation of this chapter, except where the nature or
21 seriousness of the violation or the frequency of the violation
22 warrants a higher penalty or an immediate civil penalty assessment,
23 or both, as determined by the department. In no event shall a civil
24 penalty assessment exceed one hundred fifty dollars (\$150) per
25 day per violation.

26 (c) Notwithstanding Section 1568.07, the department shall assess
27 an immediate civil penalty of one hundred fifty dollars (\$150) per
28 day per violation for any of the following serious violations:

29 (1) (A) Fire clearance violations, including, but not limited to,
30 overcapacity, ambulatory status, inoperable smoke alarms, and
31 inoperable fire alarm systems. *The civil penalty shall not be*
32 *assessed if the licensee has done either of the following:*

33 (i) *Requested the appropriate fire clearance based on*
34 *ambulatory, nonambulatory, or bedridden status, and the decision*
35 *is pending.*

36 (ii) *Initiated eviction proceedings.*

37 (B) *A licensee denied a clearance for bedridden residents may*
38 *appeal to the fire authority, and, if that appeal is denied, may*
39 *subsequently appeal to the Office of the State Fire Marshal, and*
40 *shall not be assessed an immediate civil penalty until the final*

1 *appeal is decided, or after 60 days has passed from the date of the*
2 *citation, whichever is earlier.*

3 (2) Absence of supervision, as required by statute and regulation.

4 (3) Accessible bodies of water, when prohibited in this chapter
5 or regulations adopted pursuant to this chapter.

6 (4) Accessible firearms, ammunition, or both.

7 (5) Refused entry to a facility or any part of a facility in violation
8 of Section 1568.07 or 1568.071.

9 (6) The presence of an excluded person on the premises.

10 (d) Notwithstanding Section 1568.07, any residential care
11 facility that is cited for repeating the same violation of this chapter
12 within 12 months of the first violation is subject to an immediate
13 civil penalty of one hundred fifty dollars (\$150) and fifty dollars
14 (\$50) for each day the violation continues until the deficiency is
15 corrected.

16 (e) Any residential care facility that is assessed a civil penalty
17 pursuant to subdivision (d) which repeats the same violation of
18 this chapter within 12 months of the violation subject to subdivision
19 (d) shall be assessed an immediate civil penalty of one thousand
20 dollars (\$1,000) and one hundred dollars (\$100) for each day the
21 violation continues until the deficiency is corrected, provided that
22 the violation is a serious violation.

23 (f) The department shall adopt regulations implementing this
24 section.

25 SEC. 12. Section 1568.0825 is added to the Health and Safety
26 Code, to read:

27 1568.0825. (a) The department shall conduct an unannounced
28 visit to a facility within 30 days after the effective date of a
29 temporary suspension of a license in order to ensure that the facility
30 is nonoperational, unless the department previously has verified
31 that the facility is nonoperational.

32 (b) The department shall conduct an unannounced visit to a
33 facility within 30 days after the effective date of a revocation of a
34 license in order to ensure that the facility is nonoperational, unless
35 the department previously has verified that the facility is
36 nonoperational.

37 SEC. 13. Section 1568.094 is added to the Health and Safety
38 Code, to read:

39 1568.094. The department shall conduct an unannounced visit
40 to a facility within 30 days after the department serves an order of

1 immediate exclusion from the facility upon the licensee or a person
2 subject to immediate removal or exclusion from the facility
3 pursuant to paragraph (4) of subdivision (c) of Section 1568.09
4 and subdivision (c) of Section 1568.092 in order to ensure that the
5 excluded person is not within the facility, unless the department
6 previously has verified that the excluded person is not within the
7 facility.

8 ~~SEC. 13.2. Section 1569.33 of the Health and Safety Code is~~
9 ~~amended to read:~~

10 ~~1569.33. (a) Every licensed residential care facility for the~~
11 ~~elderly shall be subject to unannounced visits by the department.~~
12 ~~The department shall visit these facilities as often as necessary to~~
13 ~~ensure the quality of care provided.~~

14 ~~(b) The department shall conduct an annual unannounced visit~~
15 ~~of a facility under any of the following circumstances:~~

- 16 ~~(1) When a license is on probation.~~
- 17 ~~(2) When the terms of agreement in a facility compliance plan~~
18 ~~require an annual evaluation.~~
- 19 ~~(3) When an accusation against a licensee is pending.~~
- 20 ~~(4) When a facility requires an annual visit as a condition of~~
21 ~~receiving federal financial participation.~~
- 22 ~~(5) In order to verify that a person who has been ordered out of~~
23 ~~the facility for the elderly by the department is no longer at the~~
24 ~~facility.~~

25 ~~(c) (1) The department shall conduct annual unannounced visits~~
26 ~~to no less than 20 percent of facilities not subject to an evaluation~~
27 ~~under subdivision (b). These unannounced visits shall be conducted~~
28 ~~based on a random sampling methodology developed by the~~
29 ~~department.~~

30 ~~(2) Except for the 2007-08 fiscal year, if the total citations~~
31 ~~issued by the department exceed the previous year's total by 10~~
32 ~~percent, the following year the department shall increase the~~
33 ~~random sample by an additional 10 percent of the facilities not~~
34 ~~subject to an evaluation under paragraph (1). The department may~~
35 ~~request additional resources to increase the random sample by 10~~
36 ~~percent.~~

37 ~~(d) Under no circumstance shall the department visit a residential~~
38 ~~care facility for the elderly less often than once every five years.~~

39 ~~(e) The department shall notify the residential care facility for~~
40 ~~the elderly in writing of all deficiencies in its compliance with the~~

1 provisions of this chapter and the rules and regulations adopted
2 pursuant to this chapter, and shall set a reasonable length of time
3 for compliance by the facility.

4 (f) Reports on the results of each inspection, evaluation, or
5 consultation shall be kept on file in the department, and all
6 inspection reports, consultation reports, lists of deficiencies, and
7 plans of correction shall be open to public inspection.

8 (g) As a part of the department's evaluation process, the
9 department shall review the plan of operation, training logs, and
10 marketing materials of any residential care facility for the elderly
11 that advertises or promotes special care, special programming, or
12 a special environment for persons with dementia to monitor
13 compliance with Sections 1569.626 and 1569.627.

14 *SEC. 13.2. Section 1569.33 of the Health and Safety Code is*
15 *amended to read:*

16 1569.33. (a) Every licensed residential care facility for the
17 elderly shall be subject to unannounced visits by the department.
18 The department shall visit these facilities as often as necessary to
19 ensure the quality of care provided.

20 (b) The department shall conduct an annual unannounced visit
21 of a facility under any of the following circumstances:

22 (1) When a license is on probation.

23 (2) When the terms of agreement in a facility compliance plan
24 require an annual evaluation.

25 (3) When an accusation against a licensee is pending.

26 (4) When a facility requires an annual visit as a condition of
27 receiving federal financial participation.

28 (5) In order to verify that a person who has been ordered out of
29 the facility for the elderly by the department is no longer at the
30 facility.

31 (c) (1) The department shall conduct annual unannounced visits
32 to no less than 20 percent of facilities not subject to an evaluation
33 under subdivision (b). These unannounced visits shall be conducted
34 based on a random sampling methodology developed by the
35 department.

36 (2) If the total citations issued by the department exceed the
37 previous year's total by 10 percent, the following year the
38 department shall increase the random sample by 10 percent of the
39 facilities not subject to an evaluation under subdivision (b). The

1 department may request additional resources to increase the random
2 sample by 10 percent.

3 (d) Under no circumstance shall the department visit a residential
4 care facility for the elderly less often than once every five years.

5 (e) The department shall notify the residential care facility for
6 the elderly in writing of all deficiencies in its compliance with the
7 provisions of this chapter and the rules and regulations adopted
8 pursuant to this chapter, and shall set a reasonable length of time
9 for compliance by the facility.

10 (f) Reports on the results of each inspection, evaluation, or
11 consultation shall be kept on file in the department, and all
12 inspection reports, consultation reports, lists of deficiencies, and
13 plans of correction shall be open to public inspection ~~in the county~~
14 ~~in which the facility is located.~~

15 (g) As a part of the department's ~~annual~~ evaluation process, the
16 department shall review the plan of operation, training logs, and
17 marketing materials of any residential care facility for the elderly
18 that advertises or promotes special care, special programming, or
19 a special environment for persons with dementia to monitor
20 compliance with Sections 1569.626 and 1569.627.

21 SEC. 14. Section 1569.351 is added to the Health and Safety
22 Code, to read:

23 1569.351. (a) The department shall ensure that the licensee's
24 plan of correction is verifiable and measurable. The plan of
25 correction shall specify what evidence is acceptable to establish
26 that a deficiency has been corrected. This evidence shall be
27 included in the department's facility file.

28 (b) The department shall specify in its licensing report all
29 violations that, if not corrected, will have a direct and immediate
30 risk to the health, safety, or personal rights of residents in care.

31 (c) The department shall complete all complaint investigations
32 and place a note of final conclusion in the department's facility
33 file, regardless of whether the licensee voluntarily surrendered the
34 license.

35 SEC. 15. Section 1569.48 of the Health and Safety Code is
36 amended to read:

37 1569.48. A fund may be established to which not more than
38 50 percent of each penalty assessed pursuant to Section 1569.49
39 is transmitted to the department for use by the Community Care
40 Licensing Division of the department to establish an emergency

1 resident relocation fund to be utilized for the relocation and care
2 of residents when a facility's license is revoked or temporarily
3 suspended, when appropriated by the Legislature. The money in
4 the fund shall cover costs, including, but not limited to,
5 transportation expenses, expenses incurred in notifying family
6 members, and any other costs directly associated with providing
7 continuous care to the residents. The department shall seek the
8 advice of providers in developing a state plan for emergency
9 resident relocation.

10 SEC. 16. Section 1569.49 of the Health and Safety Code is
11 amended to read:

12 1569.49. (a) In addition to the suspension, temporary
13 suspension, or revocation of a license issued under this chapter,
14 the department may levy a civil penalty. The department shall
15 adopt regulations setting forth the appeal procedures for
16 deficiencies.

17 (b) The amount of the civil penalty shall not be less than
18 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
19 for each violation of this chapter except where the nature or
20 seriousness of the violation or the frequency of the violation
21 warrants a higher penalty or an immediate civil penalty assessment,
22 or both, as determined by the department. In no event, shall a civil
23 penalty assessment exceed one hundred fifty dollars (\$150) per
24 day per violation.

25 (c) Notwithstanding Section 1569.33, the department shall assess
26 an immediate civil penalty of one hundred fifty dollars (\$150) per
27 day per violation for any of the following serious violations:

28 (1) (A) Fire clearance violations, including, but not limited to,
29 overcapacity, ambulatory status, inoperable smoke alarms, and
30 inoperable fire alarm systems. *The civil penalty shall not be*
31 *assessed if the licensee has done either of the following:*

32 (i) *Requested the appropriate fire clearance based on*
33 *ambulatory, nonambulatory, or bedridden status, and the decision*
34 *is pending.*

35 (ii) *Initiated eviction proceedings.*

36 (B) *A licensee denied a clearance for bedridden residents may*
37 *appeal to the fire authority, and, if that appeal is denied, may*
38 *subsequently appeal to the Office of the State Fire Marshal, and*
39 *shall not be assessed an immediate civil penalty until the final*

1 *appeal is decided, or after 60 days has passed from the date of the*
2 *citation, whichever is earlier.*

3 (2) Absence of supervision as required by statute or regulation.

4 (3) Accessible bodies of water, when prohibited in this chapter
5 or regulations adopted pursuant to this chapter.

6 (4) Accessible firearms, ammunition, or both.

7 (5) Refused entry to a facility or any part of a facility in violation
8 of Section 1569.32, 1569.33, or 1569.35.

9 (6) The presence of an excluded person on the premises.

10 (d) Notwithstanding Section 1569.33, any residential care
11 facility for the elderly that is cited for repeating the same violation
12 of this chapter within 12 months of the first violation is subject to
13 an immediate civil penalty of one hundred fifty dollars (\$150) and
14 fifty dollars (\$50) for each day the violation continues until the
15 deficiency is corrected.

16 (e) Any residential care facility for the elderly that is assessed
17 a civil penalty pursuant to subdivision (d) which repeats the same
18 violation of this chapter within 12 months of the violation subject
19 to subdivision (d) shall be assessed an immediate civil penalty of
20 one thousand dollars (\$1,000) and one hundred dollars (\$100) for
21 each day the violation continues until the deficiency is corrected.

22 (f) The department shall adopt regulations implementing this
23 section.

24 SEC. 17. Section 1569.510 is added to the Health and Safety
25 Code, to read:

26 1569.510. (a) The department shall conduct an unannounced
27 visit to a facility within 30 days after the effective date of a
28 temporary suspension of a license in order to ensure that the facility
29 is nonoperational, unless the department previously has verified
30 that the facility is nonoperational.

31 (b) The department shall conduct an unannounced visit to a
32 facility within 30 days after the effective date of a revocation of a
33 license in order to ensure that the facility is nonoperational, unless
34 the department previously has verified that the facility is
35 nonoperational.

36 SEC. 18. Section 1569.595 is added to the Health and Safety
37 Code, to read:

38 1569.595. The department shall conduct an unannounced visit
39 to a facility within 30 days after the department serves an order of
40 immediate exclusion from the facility upon the licensee or a person

1 subject to immediate removal or exclusion from the facility
2 pursuant to paragraph (3) of subdivision (c) of Section 1569.17
3 and subdivision (c) of Section 1569.58 in order to ensure that the
4 excluded person is not within the facility, unless the department
5 previously has verified that the excluded person is not within the
6 facility.

7 SEC. 19. Section 1596.818 is added to the Health and Safety
8 Code, to read:

9 1596.818. (a) The department shall specify in its licensing
10 report all violations that, if not corrected, will have a direct and
11 immediate risk to the health, safety, or personal rights of children
12 in care.

13 (b) The department shall complete all complaint investigations
14 and place a note of final conclusion in the department's facility
15 file, consistent with the confidentiality requirements of Section
16 1596.853, regardless of whether the licensee voluntarily
17 surrendered his or her license.

18 SEC. 20. Section 1596.8867 is added to the Health and Safety
19 Code, to read:

20 1596.8867. (a) The department shall conduct an unannounced
21 visit to a facility within 30 days after the effective date of a
22 temporary suspension of a license, in order to ensure that the
23 facility is nonoperational, unless the department has previously
24 verified that the facility is nonoperational.

25 (b) The department shall conduct an unannounced visit to a
26 facility within 30 days after the effective date of a revocation of a
27 license in order to ensure that the facility is nonoperational, unless
28 the department has previously verified that the facility is
29 nonoperational.

30 SEC. 21. Section 1596.8899 is added to the Health and Safety
31 Code, to read:

32 1596.8899. The department shall conduct an unannounced visit
33 to a facility within 30 days after the department serves an order of
34 immediate exclusion from the facility upon the licensee or a person
35 subject to immediate removal or exclusion from the facility
36 pursuant to paragraph (2) of subdivision (c) of Section 1596.871
37 or subdivision (c) of Section 1596.8897 in order to ensure that the
38 excluded person is not within the facility, unless the department
39 previously has verified that the excluded person is not within the
40 facility.

1 SEC. 22. Section 1596.98 of the Health and Safety Code is
2 amended to read:

3 1596.98. (a) The department shall notify the day care center
4 in writing of all deficiencies in its compliance with this chapter
5 and the rules and regulations adopted pursuant to this chapter, and
6 shall set a reasonable length of time for compliance by the center.
7 Upon a finding of noncompliance, the department may levy a civil
8 penalty which shall be paid to the department each day until the
9 department finds the center in compliance.

10 (b) In developing a plan of correction both the licensee and the
11 department shall give due consideration to the following factors:

12 (1) The gravity of the violation.

13 (2) The history of previous violations.

14 (3) The possibility of a threat to the health or safety of any child
15 in the facility.

16 (4) The number of children affected by the violation.

17 (5) The availability of equipment or personnel necessary to
18 correct the violation, if appropriate.

19 (c) The department shall ensure that the licensee's plan of
20 correction is verifiable and measurable. The plan of correction
21 shall specify what evidence is acceptable to establish that a
22 deficiency has been corrected. This evidence shall be included in
23 the department's facility file.

24 (d) The department shall adopt regulations establishing
25 procedures for the imposition of civil penalties under this section.

26 SEC. 23. Section 1596.99 of the Health and Safety Code is
27 amended to read:

28 1596.99. (a) In addition to the suspension, temporary
29 suspension, or revocation of a license issued under this chapter or
30 Chapter 3.4 (commencing with Section 1596.70), the department
31 may levy a civil penalty.

32 (b) The amount of the civil penalty shall not be less than
33 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
34 for each violation of this chapter except where the nature or
35 seriousness of the violation or the frequency of the violation
36 warrants a higher penalty or an immediate civil penalty assessment,
37 or both, as determined by the department. In no event shall a civil
38 penalty assessment exceed one hundred fifty dollars (\$150) per
39 day per violation.

1 (c) Notwithstanding Sections 1596.893a, 1596.893b, and
2 1596.98, the department shall assess an immediate civil penalty
3 of one hundred fifty (\$150) per day per violation for any of the
4 following serious violations:

5 (1) Fire clearance violations, including, but not limited to,
6 overcapacity, inoperable smoke alarms, and inoperable fire alarm
7 systems.

8 (2) Absence of supervision, including, but not limited to, a child
9 left unattended, supervision of a child by a person under 18 years
10 of age, and lack of supervision resulting in a child wandering away.

11 (3) Accessible bodies of water.

12 (4) Accessible firearms, ammunition, or both.

13 (5) Refused entry to a facility or any part of a facility in violation
14 of Section 1596.852, 1596.853, or 1597.09.

15 (6) The presence of an excluded person on the premises.

16 (d) Notwithstanding Sections 1596.893a, 1596.893b, and
17 1596.98, any day care center that is cited for repeating the same
18 violation of this chapter or Chapter 3.4 (commencing with Section
19 1596.70), within 12 months of the first violation is subject to an
20 immediate civil penalty of one hundred fifty dollars (\$150) for
21 each day the violation continues until the deficiency is corrected.

22 (e) Any day care center that is assessed a civil penalty under
23 subdivision (d) and that repeats the same violation of this chapter
24 within 12 months of the violation subject to subdivision (d) shall
25 be assessed an immediate civil penalty of one hundred fifty dollars
26 (\$150) for each day the violation continues until the deficiency is
27 corrected.

28 (f) Notwithstanding any other provision of law, revenues
29 received by the state from the payment of civil penalties imposed
30 on licensed child care centers pursuant to this chapter or Chapter
31 3.4 (commencing with Section 1596.70), shall be deposited in the
32 Child Health and Safety Fund, created pursuant to Chapter 4.6
33 (commencing with Section 18285) of Part 6 of Division 9 of the
34 Welfare and Institutions Code, and shall be expended, upon
35 appropriation by the Legislature, pursuant to subdivision (f) of
36 Section 18285 of the Welfare and Institutions Code exclusively
37 for the technical assistance, orientation, training, and education of
38 licensed day care center providers.

39 ~~SEC. 23.2. Section 1597.09 of the Health and Safety Code is~~
40 ~~amended to read:~~

1 ~~1597.09.— (a) Each licensed child day care center shall be~~
2 ~~subject to unannounced visits by the department. The department~~
3 ~~shall visit these facilities as often as necessary to ensure the quality~~
4 ~~of care provided.~~
5 ~~(b) The department shall conduct an annual unannounced visit~~
6 ~~to a licensed child day care center under any of the following~~
7 ~~circumstances:~~
8 ~~(1) When a license is on probation.~~
9 ~~(2) When the terms of agreement in a facility compliance plan~~
10 ~~require an annual evaluation.~~
11 ~~(3) When an accusation against a licensee is pending.~~
12 ~~(4) In order to verify that a person who has been ordered out of~~
13 ~~a child day care center by the department is no longer at the facility.~~
14 ~~(c) (1) The department shall conduct an annual unannounced~~
15 ~~visit to no less than 20 percent of facilities not subject to an~~
16 ~~evaluation under subdivision (b). These unannounced visits shall~~
17 ~~be conducted based on a random sampling methodology developed~~
18 ~~by the department.~~
19 ~~(2) Except for the 2007–08 fiscal year, if the total citations~~
20 ~~issued by the department exceed the previous year’s total by 10~~
21 ~~percent, the following year the department shall increase the~~
22 ~~random sample by an additional 10 percent of the facilities not~~
23 ~~subject to an evaluation under paragraph (1). The department may~~
24 ~~request additional resources to increase the random sample by 10~~
25 ~~percent.~~
26 ~~(d) Under no circumstance shall the department visit a licensed~~
27 ~~child day care center less often than once every five years.~~
28 ~~SEC. 23.3.— Section 1597.55a of the Health and Safety Code is~~
29 ~~amended to read:~~
30 ~~1597.55a.— Every family day care home shall be subject to~~
31 ~~unannounced visits by the department as provided in this section.~~
32 ~~The department shall visit these facilities as often as necessary to~~
33 ~~ensure the quality of care provided.~~
34 ~~(a) The department shall conduct an announced site visit prior~~
35 ~~to the initial licensing of the applicant.~~
36 ~~(b) The department shall conduct an annual unannounced visit~~
37 ~~to a facility under any of the following circumstances:~~
38 ~~(1) When a license is on probation.~~
39 ~~(2) When the terms of agreement in a facility compliance plan~~
40 ~~require an annual evaluation.~~

1 ~~(3) When an accusation against a licensee is pending.~~

2 ~~(4) In order to verify that a person who has been ordered out of~~
3 ~~a family day care home by the department is no longer at the~~
4 ~~facility.~~

5 ~~(e) (1) The department shall conduct annual unannounced visits~~
6 ~~to no less than 20 percent of facilities not subject to an evaluation~~
7 ~~under subdivision (b). These unannounced visits shall be conducted~~
8 ~~based on a random sampling methodology developed by the~~
9 ~~department.~~

10 ~~(2) Except for the 2007-08 fiscal year, if the total citations~~
11 ~~issued by the department exceed the previous year's total by 10~~
12 ~~percent, the following year the department shall increase the~~
13 ~~random sample by an additional 10 percent of the facilities not~~
14 ~~subject to an evaluation under paragraph (1). The department may~~
15 ~~request additional resources to increase the random sample by 10~~
16 ~~percent.~~

17 ~~(d) Under no circumstance shall the department visit a licensed~~
18 ~~family day care home less often than once every five years.~~

19 ~~(e) A public agency under contract with the department may~~
20 ~~make spot checks if it does not result in any cost to the state.~~
21 ~~However, spot checks shall not be required by the department.~~

22 ~~(f) The department or licensing agency shall make an~~
23 ~~unannounced site visit on the basis of a complaint and a followup~~
24 ~~visit as provided in Section 1596.853.~~

25 ~~(g) An unannounced site visit shall adhere to both of the~~
26 ~~following conditions:~~

27 ~~(1) The visit shall take place only during the facility's normal~~
28 ~~business hours or at any time family day care services are being~~
29 ~~provided.~~

30 ~~(2) The inspection of the facility shall be limited to those parts~~
31 ~~of the facility in which family day care services are provided or~~
32 ~~to which the children have access.~~

33 ~~(h) The department shall implement this section during periods~~
34 ~~that Section 1597.55b is not being implemented in accordance~~
35 ~~with Section 18285.5 of the Welfare and Institutions Code.~~

36 SEC. 24. Section 1597.56 of the Health and Safety Code is
37 amended to read:

38 1597.56. (a) The department shall notify a family day care
39 home in writing of all deficiencies in its compliance with this act
40 and the rules and regulations adopted pursuant to this act, and shall

1 set a reasonable length of time for compliance by the family day
 2 care home. Upon a finding of noncompliance with a plan of
 3 correction, the department may levy a civil penalty that shall be
 4 paid to the department each day until the department finds the
 5 family day care home in compliance.

6 (b) In developing a plan of correction, both the licensee and
 7 the department shall give due consideration to the following
 8 factors:

- 9 (1) The gravity of the violation.
- 10 (2) The history of previous violations.
- 11 (3) The possibility of a threat to the health or safety of any child
 12 in the facility.
- 13 (4) The number of children affected by the violation.
- 14 (5) The availability of equipment or personnel necessary to
 15 correct the violation, if appropriate.

16 (c) The department shall ensure that the licensee’s plan of
 17 correction is verifiable and measurable. The plan of correction
 18 shall specify what evidence is acceptable to establish that a
 19 deficiency has been corrected. This evidence shall be included in
 20 the department’s facility file.

21 (d) The department shall adopt regulations establishing
 22 procedures for the imposition of civil penalties under this section.

23 SEC. 25. Section 1597.58 is added to the Health and Safety
 24 Code, to read:

25 1597.58. (a) In addition to the suspension, temporary
 26 suspension, or revocation of a license issued under this chapter,
 27 the department may levy a civil penalty.

28 (b) The amount of the civil penalty shall not be less than
 29 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
 30 for each violation of this chapter except where the nature or
 31 seriousness of the violation or the frequency of the violation
 32 warrants a higher penalty or an immediate civil penalty assessment
 33 or both, as determined by the department. In no event shall a civil
 34 penalty assessment exceed one hundred fifty dollars (\$150) per
 35 day per violation.

36 (c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
 37 and 1597.62 the department shall assess an immediate civil penalty
 38 of one hundred fifty dollars (\$150) per day per violation for any
 39 of the following serious violations:

1 (1) Any violation that results in the injury, illness, or death of
2 a child.

3 (2) Absence of supervision, including, but not limited to, a child
4 left unattended, a child left alone with a person under 18 years of
5 age, and lack of supervision resulting in a child wandering away.

6 (3) Accessible bodies of water.

7 (4) Accessible firearms, ammunition, or both.

8 (5) Refused entry to a facility or any part of a facility in violation
9 of Sections 1596.852, 1596.853, 1597.55a and 1597.55b.

10 (6) The presence of an excluded person on the premises.

11 (d) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56
12 and 1597.62, any family day care home that is cited for repeating
13 the same violation of this chapter or Chapter 3.4 (commencing
14 with Section 1596.70), within 12 months of the first violation is
15 subject to an immediate civil penalty assessment of up to one
16 hundred fifty dollars (\$150) and may be assessed up to fifty dollars
17 (\$50) for each day the violation continues until the deficiency is
18 corrected.

19 (e) Any family day care home that is assessed a civil penalty
20 under subdivision (d) that repeats the same violation of this chapter
21 within 12 months of the violation subject to subdivision (d) shall
22 be assessed an immediate assessment of up to one hundred fifty
23 dollars (\$150) and may be assessed up to one hundred fifty dollars
24 (\$150) for each day the violation continues until the deficiency is
25 corrected.

26 (f) Notwithstanding any other provision of law, revenues
27 received by the state from the payment of civil penalties imposed
28 on licensed family day care homes pursuant to this chapter or
29 Chapter 3.4 (commencing with Section 1596.70), shall be deposited
30 in the Child Health and Safety Fund, created pursuant to Chapter
31 4.6 (commencing with Section 18285) of Part 6 of Division 9 of
32 the Welfare and Institutions Code, and shall be expended, upon
33 appropriation by the Legislature, pursuant to subdivision (f) of
34 Section 18285 of the Welfare and Institutions Code exclusively
35 for the technical assistance, orientation, training, and education of
36 licensed family day care home providers.

37 SEC. 25.2. Section 1597.62 of the Health and Safety Code is
38 amended to read:

39 1597.62. (a) The department may impose civil penalties of
40 not less than twenty-five dollars (\$25) and not more than fifty

1 dollars (\$50) per day per violation for uncorrected violations that
2 present an immediate or potential risk to the health and safety of
3 children in care. The penalties shall be imposed in accordance with
4 Sections 1596.893b and 1597.56.

5 (b) The department shall implement this section only to the
6 extent funds are available in accordance with Section 18285.5 of
7 the Welfare and Institutions Code.

8 SEC. 26. Section 18285 of the Welfare and Institutions Code
9 is amended to read:

10 18285. (a) There is hereby created in the State Treasury the
11 Child Health and Safety Fund for the purposes specified in this
12 section.

13 (b) Moneys for this fund shall be derived from the license plate
14 program provided for pursuant to Section 5028 of the Vehicle
15 Code and from civil penalties on child day care facility providers.

16 (c) Moneys in the fund shall be expended, upon appropriation
17 by the Legislature, for the purposes specified in subdivisions (d),
18 (e) and (f).

19 (d) Fifty percent of moneys derived from the license plate
20 program pursuant to Section 5072 of the Vehicle Code shall be
21 available, upon appropriation, to the State Department of Social
22 Services for the purpose of administering provisions of Sections
23 1596.816, 1596.87, 1596.872b, 1596.893b 1596.895, 1596.95,
24 1597.091, 1597.54, 1597.541, 1597.542, 1597.55b and 1597.62
25 of the Health and Safety Code. The State Department of Social
26 Services shall allocate these special funds according to the
27 following priorities:

28 (1) Site visits performed pursuant to Sections 1597.091 and
29 1597.55b of the Health and Safety Code.

30 (2) The monitoring responsibility of the child care advocate
31 program.

32 (3) Training for investigative and licensing field staff.

33 (4) Other aspects of the child care advocate program performed
34 pursuant to Section 1596.872b of the Health and Safety Code.

35 (5) The salary of the chief of the child care licensing branch.

36 In order to implement the list of priorities set forth in this
37 subdivision, and to complete implementation of subdivision (a) of
38 Section 1596.816 of the Health and Safety Code, the State
39 Department of Social Services may, as necessary, fund appropriate
40 administrative support costs.

1 (e) Fifty percent of moneys derived from the license plate
2 program pursuant to Section 5072 of the Vehicle Code shall be
3 available, upon appropriation, for programs which address any of
4 the following child health and safety concerns and that are either
5 to be carried out within a two-year period or whose implementation
6 is dependent upon one-time initial funding:

7 (1) Child abuse prevention, except that not more than 25 percent
8 of the moneys in this fund shall be used for this purpose. Ninety
9 percent of the 25 percent shall be deposited in the county children's
10 trust fund, established pursuant to Section 18966 of the Welfare
11 and Institutions Code, for the support of child abuse prevention
12 services in the community, and 10 percent of the 25 percent shall
13 be deposited in the State Children's Trust Fund, established
14 pursuant to Section 18969, for public education, training, and
15 technical assistance.

16 (2) Vehicular safety, including restraint warnings and education
17 programs.

18 (3) Drowning prevention.

19 (4) Playground safety standards.

20 (5) Bicycle safety.

21 (6) Gun safety.

22 (7) Fire safety.

23 (8) Poison control and safety.

24 (9) In-home safety.

25 (10) Childhood lead poisoning.

26 (11) Sudden infant death syndrome.

27 (f) Moneys derived from civil penalties imposed on child day
28 care facility providers shall be made available, upon appropriation,
29 to the State Department of Social Services exclusively for the
30 technical assistance, orientation, training, and education of child
31 day care facility providers.

32 SEC. 27. The department may, with input from stakeholders,
33 adopt emergency regulations necessary to implement this act. The
34 adoption of these regulations shall be deemed to be an emergency
35 and necessary for the immediate preservation of the public peace,
36 health and safety, and general welfare. The regulations shall
37 become effective immediately upon filing with the Secretary of
38 State. The regulations shall not remain in effect more than 180
39 days, unless the adopting agency complies with all the provisions
40 of Chapter 3.5 (commencing with Section 11340) of Part 1 of

1 Division 3 of Title 2 of the Government Code, as required by
2 subdivision (e) of Section 11346.1 of the Government Code.

3 SEC. 28. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 The need to provide, at the earliest possible time, that all facilities
8 licensed by the State Department of Social Services are subject to
9 immediate civil penalties for a violation of a serious nature and to
10 ensure that language exists and is consistent for all facility
11 categories.

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