Assembly Bill No. 1279

CHAPTER 759

An act to amend Sections 8206.1, 8222, 8223, 8357, and 8447 of, and to add Section 8275.5 to, the Education Code, to amend Sections 9205, 17560, and 17706 of, and to amend, repeal, and add Sections 8807, 8808, 8810, and 8820 of, the Family Code, to amend Sections 1522, 1596.871, 11758.42, 11758.421, and 11758.46 of the Health and Safety Code, and to amend Sections 10082, 10823, 11320.32, 11402.6, 11453, 12201, 12305.82, 12317, 14021.6, 14124.93, and 18939 of, to add Sections 10080.5 and 10553.15 to, to add Chapter 10.1 (commencing with Section 15525) to Part 3 of Division 9 of, and to repeal Section 10083 of, the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, Committee on Budget. Human services.

The Child Care and Development Services Act, administered by the State Department of Education, provides that children up to 13 years of age are eligible, with certain requirements, for child care and development services. Existing law provides for child care alternative payment programs, the purpose of which is to provide for parental choice in child care. Under existing law, payments by alternative payment programs to licensed child care providers cannot exceed the applicable market rate ceiling. Existing law requires an alternative payment program to reimburse a child care provider in accordance with an annual market survey, to be conducted by an entity contracting with the department, at a rate not to exceed ceilings prescribed by statute.

Existing law contains requirements governing the provision of child care services to recipients of the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Under these provisions, the above-described reimbursement mechanism applicable to the alternative payment programs is also used for providers of child care to CalWORKs recipients.

This bill would, instead, require, commencing March 1, 2009, the regional market rate ceilings to be established at the 85th percentile of the 2007 regional market rate survey for that region, and would make conforming changes. The bill would require the market rate surveys to be conducted on a biennial rather than annual basis. The bill would prohibit a family receiving CalWORKs cash aid from being charged a family fee.

Existing law requires reimbursement for alternative payment programs to include the cost of child care, plus administrative and support services.

Under existing law, the total cost for administrative and support services is not permitted to exceed 23.4567% of the direct cost of care payments to child care providers.

This bill would instead provide that the administrative and support services costs would not be permitted to exceed 19% of the total contract amount.

Existing law requires the Superintendent of Public Instruction to collaborate with the Secretary for Education and the Secretary of Health and Human Services, with the advice and assistance of the Child Development Programs Advisory Committee, in the development of the state plan required pursuant to the federal Child Care and Development Fund, prior to submitting or reporting on that plan to the federal Secretary of Health and Human Services.

This bill would require the State Department of Education to develop an expenditure plan, the Child Care Development Fund (CCDF) Plan that sets forth the final priorities for child care, as specified. The bill would require the department to release a draft of the CCDF Plan by February 1 of the year the plan is due to the federal government, and to commence a 30-day comment period that would include at least one hearing and the opportunity for written comments. The bill would require the department to provide the revised CCDF Plan to designated committees of the Legislature, prior to the May budget revisions.

This bill would require the State Department of Education to promote full utilization of child care and development funds and match available unused funds with identified service needs. The bill would require the department to arrange interagency adjustments between different contractors with the same type of contract under specified circumstances.

Existing law governs independent adoptions, which are defined to mean adoptions in which neither the State Department of Social Services nor an agency licensed by that department is a party to or joins in the adoption petition. Existing law defines an adoption service provider and a delegated county adoption agency for purposes of these provisions and sets forth the duties of these entities with respect to independent adoptions. Among other duties, an adoption service provider advises each birth parent of his or her rights and, if it is desired, provides counseling. In addition, existing law requires the department or the delegated county adoption agency to investigate proposed adoptions, accept the consent of and information provided by birth parents to the adoption, and file specified reports with the court.

Existing law governing independent adoptions authorizes certain persons to adopt a child by filing a petition, pursuant to provisions, as specified, including interviews by the department of the petitioners and all persons from whom consent is required and whose addresses are known. When a petition for the adoption of a child is filed under the provisions governing independent adoptions, existing law requires the petitioner to pay a nonrefundable fee to the department or the delegated county adoption agency for the cost of investigating the adoption petition.

Existing law prescribes the use of the revenues produced by the fees collected and authorizes the department or the delegated county adoption agency to waive or reduce those fees under certain conditions.

This bill, commencing October 1, 2008, would revise the time frame for interviews in an independent adoption. It would also revise the provision requiring the payment of a fee in connection with an adoption petition, as described above, to require 50% of the fee to be paid at the time the petition is filed with the court, and the balance to be paid no later than a date determined by the department or delegated county adoption agency. The bill would also increase the applicable fee amounts, and revise related provisions with respect to investigative reports by the department and delegated county adoption agencies, and appeals by birth parents or petitioners. The bill would also revise the provisions authorizing the department or the delegated county adoption agency to waive or reduce the fees associated with filing the adoption petition, to delete the department's authority to waive the fee in its entirety, and to limit the amount to which the fee may be reduced, to $500, if the prospective adoptive parents are very low income.

This bill would authorize the State Department of Social Services to implement the provisions of the bill relating to independent adoptions by all county letters, pending the adoption of emergency regulations.

Existing law contains various provisions, which became effective January 1, 2007, relating to the disclosure of personal information between adoptees and their biological siblings.

This bill would delay implementation of the above provisions until July 1, 2010. The bill would declare the intent of the Legislature that counties already implementing some or all of these provisions continue to do so, to the extent possible.

This bill would require the State Department of Social Services to meet with stakeholders prior to legislative subcommittee hearings in 2009 to determine ways that the process for the Independent Adoptions Program can be simplified and streamlined, and provide an update on those discussions during the 2009 subcommittee hearings, as specified. The bill would require the department to provide an update during the 2009 legislative subcommittee hearings regarding the degree to which fee collections have improved as a result of the statutory changes made by the bill.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program under which, through a combination of state and county funds and federal funds received through the TANF program, each county provides cash assistance and other benefits to qualified low-income families.

Existing law requires the Department of Child Support Services to create a program establishing an arrears collection enhancement process, until July 1, 2008, pursuant to which the department may accept offers in compromise of child support arrears and accrued interest owed to the state for

reimbursement of aid paid under the CalWORKs program. Under existing law, the Director of Child Support Services is authorized to delegate to the administrator of a local child support agency the authority to compromise child support arrears, up to $5,000, as specified.

This bill would revise the arrears collection enhancement process by, among other things, designating it as a compromise of arrears program, and revising the powers and duties of the director with respect to the operation of the program. The bill would require the director to allow a local child support agency administrator to compromise an amount of child support up to $5,000, and would permit the director to delegate additional authority to compromise up to an amount determined by the director to support the effective administration of the program. This bill would also eliminate related consultation and reporting requirements. The bill would eliminate the termination date of the program extending it indefinitely, thereby increasing county duties and imposing a state-mandated local program.

Existing law requires the Department of Child Support Services, beginning July 1, 2000, to pay to each county a child support incentive for child support collections. Additionally, effective July 1, 2000, existing law provides that the 10 counties with the best performance standards shall receive an additional 5% of the state's share of the counties' collections that are used to reduce or repay aid that is paid under the CalWORKs program. Existing law requires the counties to use the additional funds for specified child support related activities. Existing law suspends the payment of this additional 5% for the 2002–03 to 2007–08, inclusive, fiscal years.

This bill would extend the suspension of the 5% payment through the 2011–12 fiscal year.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified low-income persons receive health care services. Existing law requires the Department of Child Support Services to provide payments to the local child support agency of $50 per case for obtaining 3rd-party health coverage or insurance of beneficiaries, to the extent that funds are appropriated in the Budget Act. Under existing law, these payments are suspended for the 2003–04 to 2007–08, inclusive, fiscal years.

This bill would extend the suspension of payments to local child support agencies through the 2011–12 fiscal year.

This bill would require the Department of Child Support Services to provide more comprehensive data from the state hearing pilot project that demonstrates that the pilot has reduced reduce state hearings, a breakdown of how the pilot's revised hearing process results in the estimated savings to state hearing costs, and trailer bill language to codify the new hearing process.

Under existing law, the State Department of Social Services regulates the licensure and operation of community care facilities, residential care facilities for the elderly, child day care centers, and family day care homes. Existing law requires the department to conduct annual unannounced visits to these facilities under designated circumstances. Existing law further requires the

department to conduct annual unannounced visits to no less than 20% of the remaining facilities, based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's by 10%, existing law requires the department to increase the random sample by 10% the following year for years after the 2007–08 fiscal year, and authorizes the department to request additional resources for this purpose.

This bill would suspend the requirement that the department increase these random samples by 10% for the 2008–09 and 2009–10 fiscal years, and would require the department to submit trailer bill language to the Legislature on or before February 1, 2010, to reflect appropriate indicators to trigger an increase in unannounced random sample visits, as specified.

Existing law requires a criminal record check of applicants for a license, special permit, or certificate of approval for a foster family home or certified family home, and other persons, including nonclients who reside in those homes and staff and employees. Existing law imposes similar requirements with respect to issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. Under these provisions, an application is required to be denied, unless the Director of Social Services grants an exemption, if it is found that the applicant or any of the other designated persons has been convicted of prescribed crimes. Existing law prohibits the Department of Justice or the State Department of Social Services, except during specified fiscal years, from charging a fee for fingerprinting an applicant to provide foster care or child care services to 6 or fewer children or to obtain a family day care license in connection with these criminal record check provisions.

This bill would extend the exemption from the prohibition against charging a fee for fingerprinting applicants, through the 2008–09 and 2009–10 fiscal years.

Existing law requires the State Department of Alcohol and Drug Programs to establish a narcotic replacement therapy dosing fee for methadone and levoalphacetylmethadol (LAAM), and requires narcotic treatment programs to be reimbursed for the ingredient costs of methadone and LAAM dispensed to beneficiaries under the Medi-Cal program. Existing law requires reimbursement for narcotic replacement therapy dosing and ancillary services to be based on a per capita uniform monthly reimbursement rate for each individual patient, as established by the department, in consultation with the State Department of Health Care Services.

This bill would, instead, require this rate to be determined on a daily rather than monthly basis, as specified, and would make various conforming changes.

Existing law makes the Department of Child Support Services, through the Franchise Tax Board as its agent, responsible for procuring, developing, implementing, and maintaining the operation of the California Child Support Automation System in all California counties. Existing law gives the Franchise Tax Board various responsibilities in this regard.

This bill would transfer all duties and authority of the Franchise Tax Board with respect to the California Child Support Automation System to the Department of Child Support Services, as specified. It would, however, permit the department to enter into an interagency agreement with the board to continue to have the board perform any services necessary for support of the system, on January 1, 2009, or upon federal notification that the California Child Support Automation System is implemented in all jurisdictions, whichever is later.

Existing law authorizes the Director of Social Services to enter into an agreement, in accordance with specified federal law, with any California Indian tribe or any out-of-state Indian tribe regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings. Under existing law, these agreements include provision of child welfare services and Aid to Families with Dependent Children-Foster Care (AFDC-FC) payments, as specified.

This bill, in addition, would authorize the director to provide funding to Indian health clinics to provide substance abuse and mental health services, and other related services authorized under the CalWORKs program to CalWORKs applicants and recipients and Tribal TANF applicants and recipients living in California.

Existing law requires the Office of Systems Integration in the State Department of Social Services to implement a statewide automated welfare system for 6 specified public assistance programs, and requires statewide implementation of the system to be achieved through 4 designated county consortia.

This bill, notwithstanding existing requirements, would require the office to migrate the 35 counties that currently use the Interim Statewide Automated Welfare System into the C-IV system, in accordance with a specified timeline.

Existing law requires the State Department of Social Services to administer a voluntary Temporary Assistance Program (TAP), to provide cash assistance and other benefits to specified current and future CalWORKs recipients who meet the exemption criteria for participation in welfare-to-work activities, and are not single parents who have a child under one year of age. Existing law requires that the TAP commence on or before April 1, 2009.

This bill would postpone initial implementation of the TAP to April 1, 2010.

Existing law establishes the schedule of maximum aid payments under the CalWORKs program, and provides for the annual adjustment of these payments, as specified. Existing law provides that the adjustment to the maximum aid payment would be effective October 1, 2008, for the 2008–09 fiscal year, and would take effect on July 1, 2009, for the 2009–10 fiscal year.

This bill would delete the provisions establishing the effective dates for the adjustment to the maximum aid payment in the 2008–09 and 2009–10

fiscal years, and instead would suspend the adjustment in the 2008–09 fiscal year.

Existing law, under the AFDC-FC program, requires foster care providers licensed as group homes to have rates established by the State Department of Social Services only if the group home is organized and operated on a nonprofit basis, except as specified. Existing law permits certain children with developmental disabilities or other special needs to be placed in for-profit facilities, under specified conditions.

This bill would delay implementation of the provisions authorizing placement of those children in for-profit facilities, until July 1, 2010.

Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to make payments to SSP recipients to supplement supplemental security income (SSI) payments made available pursuant to the federal Social Security Act. Under existing law, benefit payments under the SSP program are calculated by establishing the maximum level of nonexempt income and federal SSI and state SSP benefits for each category of eligible recipient. The state SSP payment is the amount, when added to the nonexempt income and SSI benefits available to the recipient, which would be required to provide the maximum benefit payment.

Existing state law provides, except in certain calendar years, for the annual adjustment of the total level of combined state and federal benefits as established by statutory schedule to reflect changes in the cost of living, as defined. Existing law provides that, for the 2008 calendar year, the annual adjustment would be effective October 1, 2008, and commencing with the 2009 calendar year and thereafter, the annual adjustment would be effective June 1 of that calendar year, and further provides that in any calendar year in which no cost-of-living adjustment is made to the payment schedules, there shall be a pass along of any cost-of-living increases in federal SSI benefits.

This bill would, instead, suspend the annual cost-of-living adjustment for the 2008 and 2009 calendar years.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law authorizes the State Department of Health Care Services to investigate fraud in the provision or receipt of supportive services, and requires counties to refer instances of suspected fraud to that department for investigation.

This bill, notwithstanding any other provision of law, would authorize a county to investigate suspected fraud in connection with the provision or

receipt of supportive services, with respect to an overpayment of $500 or less.

Under existing law, personal care services provided to a qualified individual who is eligible for Medi-Cal benefits are a Medi-Cal covered benefit. Personal care services are also a covered benefit under the In-Home Supportive Services program.

Existing law requires the State Department of Social Services to procure and implement a new Case Management Information and Payrolling System (CMIPS) for the IHSS program and Personal Care Services Program, establishes the components of the new system, and requires the state to begin a fair and open competitive procurement for the new system by August 31, 2004.

This bill would additionally require the new CMIPS to strengthen fraud prevention and detection, as well as to reduce overpayments. The bill would provide that program requirements shall include, but shall not be limited to, the ability to readily identify out-of-state providers, recipient hospital stays that are 5 days or longer, and excessive hours paid to a single provider, and to match recipient information with death reports. The bill would provide that this functionality shall be available by April 1, 2010, and implemented statewide by July 1, 2011.

Existing law authorizes the State Department of Alcohol and Drug Programs to enter into a Medi-Cal Drug Treatment Program contract with each county for the provision of services within the county service area. Existing law requires the State Department of Alcohol and Drug Programs to prepare amendments to the Medi-Cal state plan to obtain reimbursement for Drug Medi-Cal services and provides for the computation of the maximum allowable rates for the Medi-Cal Drug Treatment Program.

This bill would make technical revisions to the provisions relating to the Medi-Cal Drug Treatment Program reimbursement rates, as specified.

Existing law provides for the Food Stamp Program, under which food stamps are allocated by each county in accordance with federal requirements. Under existing law, the Food Stamp Program is administered at the state level by the State Department of Social Services.

This bill would require the State Department of Social Services to establish a Work Incentive Nutritional Supplement (WINS) program, under which each county would be required to provide a $40 monthly additional food assistance benefit for each eligible food stamp household, as defined. The bill would require the state to pay the counties 100% of the cost of WINS benefits, using funds that qualify for the state's TANF maintenance of effort requirements, as specified. The bill would prohibit WINS benefits from being paid before October 1, 2009, and would require full implementation of the program on or before April 1, 2010.

The bill would authorize the director to implement the WINS program by all-county letters, pending the adoption of emergency regulations.

The bill would require the department to convene a workgroup on or before December 1, 2008, comprised of designated representatives, to consider the progress of the WINS automation effort in tandem with a

pre-assistance employment readiness system (PAERS) program and any other program options that may provide offsetting benefits to the caseload reduction credit in the CalWORKs program. The bill would prohibit full implementation of the WINS program until the workgroup is convened.

By requiring counties to perform additional duties, this bill would impose a state-mandated local program.

Existing law requires the State Department of Social Services to establish and supervise a county- or county consortia-administered program to provide cash assistance to aged, blind, and disabled legal immigrants who are not citizens and who successfully complete an application process. Existing law requires any person found by the department to be eligible for federal Supplemental Security Income (SSI) benefits to be required to apply for those benefits. Existing law, until July 1, 2009, requires the department to require counties with a base caseload of 70 or more, and to encourage other counties, to establish an advocacy program to assist applicants and recipients of aid under these provisions in applying for SSI benefits, as provided.

This bill would extend operation of the advocacy program to July 1, 2011. By extending county duties, the bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 8206.1 of the Education Code is amended to read:

8206.1. (a) The Superintendent of Public Instruction shall collaborate with the Secretary for Education and the Secretary of Health and Human Services, with the advice and assistance of the Child Development Programs Advisory Committee, in the development of the state plan required pursuant to the federal Child Care and Development Fund, prior to submitting or reporting on that plan to the federal Secretary of Health and Human Services.

(b) (1) For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

(2) For the purposes of this section, "collaborate" means to cooperate with and to consult with.

(c) As required by federal law, the State Department of Education shall develop an expenditure plan that sets forth the final priorities for child care. The department shall coordinate with the State Department of Social Services, the California Children and Families Commission, and other

stakeholders, including the Department of Finance, to develop the Child Care and Development Fund (CCDF) Plan. On or before February 1 of the year that the CCDF Plan is due to the federal government, the department shall release a draft of the plan. The department shall then commence a 30-day comment period that shall include at least one hearing and the opportunity for written comments. Prior to the May budget revision, the department shall provide the revised CCDF Plan to the chairs of the committees of each house of the Legislature that consider appropriations, and shall provide a report on the plan to the committees in each house of the Legislature that consider the annual Budget Act appropriation.

SEC. 2. Section 8222 of the Education Code is amended to read:

8222. (a) Payments made by alternative payment programs shall not exceed the applicable market rate ceiling. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year shall not exceed the assigned reimbursable amount as established by the contract for the year. No agency may make payments in excess of the rate charged to full-cost families. This section does not preclude alternative payment programs from using the average daily enrollment adjustment factor for children with exceptional needs as provided in Section 8265.5.

(b) Alternative payment programs shall reimburse licensed child care providers in accordance with a biennial market rate survey pursuant to Section 8447, at a rate not to exceed the ceilings established pursuant to Section 8357.

(c) An alternative payment program shall reimburse a licensed provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the provider for prospective nonsubsidized families. A licensed child care provider shall submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged, and the provider's discount or scholarship policies, if any, along with a statement signed by the provider confirming that the rates charged for a subsidized child are equal to or less than the rates charged for a nonsubsidized child.

(d) An alternative payment program shall maintain a copy of the rate sheet and the confirmation statement.

(e) A licensed child care provider shall submit to the local resource and referral agency a copy of the provider's rate sheet listing rates charged, and the provider's discount or scholarship policies, if any, and shall self-certify that the information is correct.

(f) Each licensed child care provider may alter rate levels for subsidized children once per year and shall provide the alternative payment program and resource and referral agency with the updated information pursuant to subdivisions (c) and (e), to reflect any changes.

(g) A licensed child care provider shall post in a prominent location adjacent to the provider's license at the child care facility the provider's rates and discounts or scholarship policies, if any.

(h) An alternative payment program shall verify provider rates no less frequently than once a year by randomly selecting 10 percent of licensed child care providers serving subsidized families. The purpose of this verification process is to confirm that rates reported to the alternative payment programs reasonably correspond to those reported to the resource and referral agency and the rates actually charged to nonsubsidized families for equivalent levels of services. It is the intent of the Legislature that the privacy of nonsubsidized families shall be protected in implementing this subdivision.

(i) The department shall develop regulations for addressing discrepancies in the provider rate levels identified through the rate verification process in subdivision (h).

SEC. 3. Section 8223 of the Education Code is amended to read:

8223. The reimbursement for alternative payment programs shall include the cost of child care paid to child care providers plus the administrative and support services costs of the alternative payment program. The total cost for administration and support services shall not exceed an amount equal to 19 percent of the total contract amount. The administrative costs shall not exceed the costs allowable for administration under federal requirements.

SEC. 4. Section 8275.5 is added to the Education Code, to read:

8275.5. The State Department of Education shall promote full utilization of child care and development funds and match available unused funds with identified service needs. Notwithstanding the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, the department shall arrange interagency adjustments between different contractors with the same type of contract when both agencies mutually agree to a temporary transfer of funds for the balance of the fiscal year.

SEC. 5. Section 8357 of the Education Code is amended to read:

8357. (a) The cost of child care services provided under this article shall be governed by regional market rates. Recipients of child care services provided pursuant to this article shall be allowed to choose the child care services of licensed child care providers or child care providers who are, by law, not required to be licensed, and the cost of that child care shall be reimbursed by counties or agencies that contract with the State Department of Education if the cost is within the regional market rate. For purposes of this section, “regional market rate” means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. Beginning March 1, 2009, the regional market rate ceilings shall be established at the 85th percentile of the 2007 regional market rate survey for that region. For the 2008–09 and 2009–10 fiscal years, the 85th percentile ceilings of the 2007 regional market rate survey for that region shall remain in effect.

(b) Reimbursement to child care providers shall not exceed the fee charged to private clients for the same service.

(c) Reimbursement shall not be made for child care services when care is provided by parents, legal guardians, or members of the assistance unit.

(d) A child care provider located on an Indian reservation or rancheria and exempted from state licensing requirements shall meet applicable tribal standards.

(e) For purposes of this section, "reimbursement" means a direct payment to the provider of child care services, including license exempt-providers. If care is provided in the home of the recipient, payment may be made to the parent as the employer, and the parent shall be informed of his or her concomitant legal and financial reporting requirements. To allow time for the development of the administrative systems necessary to issue direct payments to providers, for a period not to exceed six months from the effective date of this article, a county or an alternative payment agency contracting with the State Department of Education may reimburse the cost of child care services through a direct payment to a recipient of aid rather than to the child care provider.

(f) Counties and alternative payment programs shall not be bound by the rate limits described in subdivision (a) when there are, in the region, no more than two child care providers of the type needed by the recipient of child care services provided under this article.

SEC. 6. Section 8447 of the Education Code is amended to read:

8447. (a) The Legislature hereby finds and declares that greater efficiencies may be achieved in the execution of state subsidized child care and development program contracts with public and private agencies by the timely approval of contract provisions by the Department of Finance, the Department of General Services, and the State Department of Education and by authorizing the State Department of Education to establish a multiyear application, contract expenditure, and service review as may be necessary to provide timely service while preserving audit and oversight functions to protect the public welfare.

(b) (1) The Department of Finance and the Department of General Services shall approve or disapprove annual contract funding terms and conditions, including both family fee schedules and regional market rate schedules that are required to be adhered to by contract, and contract face sheets submitted by the State Department of Education not more than 30 working days from the date of submission, unless unresolved conflicts remain between the Department of Finance, the State Department of Education, and the Department of General Services. The State Department of Education shall resolve conflicts within an additional 30 working day time period. Contracts and funding terms and conditions shall be issued to child care contractors no later than June 1. Applications for new child care funding shall be issued not more than 45 working days after the effective date of authorized new allocations of child care moneys.

(2) Notwithstanding paragraph (1), for the 2008–09 fiscal year, the State Department of Education shall implement the regional market rate schedules based upon the county aggregates, as determined by the Regional Market survey conducted in 2007.

(3) Notwithstanding paragraph (1), for the 2006–07 fiscal year, the State Department of Education shall update the family fee schedules by family

size, based on the 2005 state median income survey data for a family of four. The family fee schedule used during the 2005–06 fiscal year shall remain in effect. However, the department shall adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits. The family fees shall not exceed 10 percent of the family's monthly income.

(4) It is the intent of the Legislature to fully fund the third stage of child care for former CalWORKs recipients.

(c) With respect to subdivision (b), it is the intent of the Legislature that the Department of Finance annually review contract funding terms and conditions for the primary purpose of ensuring consistency between child care contracts and the child care budget. This review, shall include evaluating any proposed changes to contract language or other fiscal documents to which the contractor is required to adhere, including those changes to terms or conditions that authorize higher reimbursement rates, that modify related adjustment factors, that modify administrative or other service allowances, or that diminish fee revenues otherwise available for services, to determine if the change is necessary or has the potential effect of reducing the number of full-time equivalent children that may be served.

(d) Alternative payment child care systems, as set forth in Article 3 (commencing with Section 8220), shall be subject to the rates established in the Regional Market Rate Survey of California Child Care Providers for provider payments. The State Department of Education shall contract to conduct and complete a Regional Market Rate Survey no more frequently than once every two years, consistent with federal regulations, with a goal of completion by March 1.

(e) By March 1 of each year, the Department of Finance shall provide to the State Department of Education the State Median Income amount for a four-person household in California based on the best available data. The State Department of Education shall adjust its fee schedule for child care providers to reflect this updated state median income.

(f) Notwithstanding the June 1 date specified in subdivision (b), changes to the regional market rate schedules and fee schedules may be made at any other time to reflect the availability of accurate data necessary for their completion, provided these documents receive the approval of the Department of Finance. The Department of Finance shall review the changes within 30 working days of submission and the State Department of Education shall resolve conflicts within an additional 30 working day period. Contractors shall be given adequate notice prior to the effective date of the approved schedules. It is the intent of the Legislature that contracts for services not be delayed by the timing of the availability of accurate data needed to update these schedules.

(g) Notwithstanding any other provision of law, no family receiving CalWORKs cash aid may be charged a family fee.

SEC. 7. Section 8807 of the Family Code is amended to read:

8807. (a) Except as provided in subdivisions (b) and (c), within 180 days after the filing of the petition, the department or delegated county

adoption agency shall investigate the proposed independent adoption and submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition.

(b) If the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption, the report shall be filed immediately.

(c) In its discretion, the court may allow additional time for the filing of the report, after at least five days' notice to the petitioner or petitioners and an opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(d) If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the department or delegated county adoption agency, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.

(e) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 8. Section 8807 is added to the Family Code, to read:

8807. (a) Except as provided in subdivisions (b) and (c), within 180 days after receiving 50 percent of the fee, the department or delegated county adoption agency shall investigate the proposed independent adoption and, after the remaining balance of the fee is paid, submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition.

(b) If the investigation establishes that there is a serious question concerning the suitability of the petitioners, the care provided to the child, or the availability of the consent to adoption, the report shall be filed immediately.

(c) In its discretion, the court may allow additional time for the filing of the report, after at least five days' notice to the petitioner or petitioners and an opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(d) If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the department or delegated county adoption agency, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.

(e) This section shall become operative on October 1, 2008.

SEC. 9. Section 8808 of the Family Code is amended to read:

8808. The department or delegated county adoption agency shall interview the petitioners and all persons from whom consent is required and whose addresses are known as soon as possible and, in the case of residents of this state, within 45 working days, excluding legal holidays, after the filing of the adoption petition. The interview with the placing parent or parents shall include, but not be limited to, discussion of any concerns or problems that the parent has with the placement and, if the placing parent was not interviewed as provided in Section 8801.7, the content required in that interview. At the interview, the agency shall give the parent an opportunity to sign either a statement revoking the consent, or a waiver of the right to revoke consent, as provided in Section 8814.5. In order to facilitate these interviews, at the same time the petition is filed with the court, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with the names, addresses, and telephone numbers of all parties to be interviewed, if known.

This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 10. Section 8808 is added to the Family Code, to read:

8808. (a) The department or delegated county adoption agency shall interview the petitioners within 45 working days, excluding legal holidays, after the filing of the adoption petition.

(b) The department or delegated county adoption agency shall interview all persons from whom consent is required and whose addresses are known as soon as 50 percent of the fee has been paid to the department or delegated county adoption agency. The interview with the placing parent or parents shall include, but not be limited to, discussion of any concerns or problems that the parent has with the placement and, if the placing parent was not interviewed as provided in Section 8801.7, the content required in that interview. At the interview, the agency shall give the parent an opportunity to sign either a statement revoking the consent, or a waiver of the right to revoke consent, as provided in Section 8814.5.

(c) In order to facilitate the interview described in this section, at the same time the petition is filed with the court, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with 50 percent of the fee, and the names, addresses, and telephone numbers of all parties to be interviewed, if known.

(d) This section shall become operative on October 1, 2008.

SEC. 11. Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the department or to the delegated county adoption agency for the cost of investigating the adoption petition. Payment shall be made to the department or delegated county adoption agency, within 40 days of the filing of the petition, for an amount as follows:

(1) For petitions filed on and after July 1, 2003, two thousand nine hundred fifty dollars ($2,950).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, seven hundred seventy-five dollars ($775) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may only waive, or reduce the fee when the prospective adoptive parents are low income, according to the income limits published by the Department of Housing and Community Development, and making the required payment would be detrimental to the welfare of an adopted child. The department shall develop additional guidelines to determine the financial criteria for waiver or reduction of the fee under this subdivision.

(d) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 12. Section 8810 is added to the Family Code, to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the department or to the delegated county adoption agency for the cost of investigating the adoption petition. Fifty percent of the payment shall be made to the department or delegated county adoption agency at the time the adoption petition is filed, and the remaining balance shall be paid no later than the date determined by the department or the delegated county adoption agency in an amount as follows:

(1) For petitions filed on and after October 1, 2008, four thousand five hundred dollars ($4,500).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, one thousand five hundred fifty dollars ($1,550) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may reduce the fee, to no less than five hundred dollars ($500) when the prospective adoptive parents are very low income, according to the income limits published by the Department of Housing and Community Development, and making the required payment would be detrimental to the welfare of an adopted child.

The department shall develop additional guidelines regarding income and assets to determine the financial criteria for reduction of the fee under this subdivision.

(d) This section shall become operative on October 1, 2008.

SEC. 13. Section 8820 of the Family Code is amended to read:

8820. (a) The birth parent or parents or the petitioner may appeal in either of the following cases:

(1) If for a period of 180 days from the date of filing the adoption petition or upon the expiration of any extension of the period granted by the court, the department or delegated county adoption agency fails or refuses to accept the consent of the birth parent or parents to the adoption.

(2) In a case where the consent of the department or delegated county adoption agency is required by this chapter, if the department or agency fails or refuses to file or give its consent to the adoption.

(b) The appeal shall be filed in the court in which the adoption petition is filed. The court clerk shall immediately notify the department or delegated county adoption agency of the appeal and the department or agency shall, within 10 days, file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the birth parent or parents.

(c) After the filing of the report by the department or delegated county adoption agency, the court may, if it deems that the welfare of the child will be promoted by that adoption, allow the signing of the consent by the birth parent or parents in open court or, if the appeal is from the refusal of the department or delegated county adoption agency to consent thereto, grant the petition without the consent.

(d) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 14. Section 8820 is added to the Family Code, to read:

8820. (a) The birth parent or parents or the petitioner may appeal in either of the following cases:

(1) If for a period of 180 days from the date of paying 50 percent of the fee, or upon the expiration of any extension of the period granted by the court, the department or delegated county adoption agency fails or refuses to accept the consent of the birth parent or parents to the adoption.

(2) In a case where the consent of the department or delegated county adoption agency is required by this chapter, if the department or agency fails or refuses to file or give its consent to the adoption after full payment has been received.

(b) The appeal shall be filed in the court in which the adoption petition is filed. The court clerk shall immediately notify the department or delegated county adoption agency of the appeal and the department or agency shall, within 10 days, file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the birth parent or parents.

(c) After the filing of the report by the department or delegated county adoption agency, the court may, if it deems that the welfare of the child will

be promoted by that adoption, allow the signing of the consent by the birth parent or parents in open court or, if the appeal is from the refusal of the department or delegated county adoption agency to consent thereto, grant the petition without the consent.

(d) This section shall become operative on October 1, 2008.

SEC. 15. Section 9205 of the Family Code is amended to read:

9205. (a) Notwithstanding any other law, the department or adoption agency that joined in the adoption petition shall release the names and addresses of siblings to one another if both of the siblings have attained 18 years of age and have filed the following with the department or agency:

(1) A current address.

(2) A written request for contact with any sibling whose existence is known to the person making the request.

(3) A written waiver of the person's rights with respect to the disclosure of the person's name and address to the sibling, if the person is an adoptee.

(b) Upon inquiry and proof that a person is the sibling of an adoptee who has filed a waiver pursuant to this section, the department or agency may advise the sibling that a waiver has been filed by the adoptee. The department or agency may charge a reasonable fee, not to exceed fifty dollars ($50), for providing the service required by this section.

(c) An adoptee may revoke a waiver filed pursuant to this section by giving written notice of revocation to the department or agency.

(d) The department shall adopt a form for the request authorized by this section. The form shall provide for an affidavit to be executed by a person seeking to employ the procedure provided by this section that, to the best of the person's knowledge, the person is an adoptee or sibling of an adoptee. The form also shall contain a notice of an adoptee's rights pursuant to subdivision (c) and a statement that information will be disclosed only if there is a currently valid waiver on file with the department or agency. The department may adopt regulations requiring any additional means of identification from a person making a request pursuant to this section as it deems necessary.

(e) The department or agency may not solicit the execution of a waiver authorized by this section. However, the department shall announce the availability of the procedure authorized by this section, utilizing a means of communication appropriate to inform the public effectively.

(f) Notwithstanding the age requirement described in subdivision (a), an adoptee or sibling who is under 18 years of age may file a written waiver of confidentiality for the release of his or her name, address, and telephone number pursuant to this section provided that, if an adoptee, the adoptive parent consents, and, if a sibling, the sibling's legal parent or guardian consents. If the sibling is under the jurisdiction of the dependency court and has no legal parent or guardian able or available to provide consent, the dependency court may provide that consent.

(g) Notwithstanding subdivisions (a) and (e), an adoptee or sibling who seeks contact with the other for whom no waiver is on file may petition the court to appoint a confidential intermediary. If the sibling being sought is

the adoptee, the intermediary shall be the department or licensed adoption agency that provided adoption services as described in Section 8521 or 8533. If the sibling being sought was formerly under the jurisdiction of the juvenile court, but is not an adoptee, the intermediary shall be the department, the county child welfare agency that provided services to the dependent child, or the licensed adoption agency that provided adoption services to the sibling seeking contact, as appropriate. If the court finds that the licensed adoption agency that conducted the adoptee's adoption is unable, due to economic hardship, to serve as the intermediary, then the agency shall provide all records related to the adoptee or the sibling to the court and the court shall appoint an alternate confidential intermediary. The court shall grant the petition unless it finds that it would be detrimental to the adoptee or sibling with whom contact is sought. The intermediary shall have access to all records of the adoptee or the sibling and shall make all reasonable efforts to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent, as required to make the disclosure authorized by this section. The confidential intermediary shall notify any located adoptee, sibling, or adoptive or birth parent that consent is optional, not required by law, and does not affect the status of the adoption. If that individual denies the request for consent, the confidential intermediary shall not make any further attempts to obtain consent. The confidential intermediary shall use information found in the records of the adoptee or the sibling for authorized purposes only, and may not disclose that information without authorization. If contact is sought with an adoptee or sibling who is under 18 years of age, the confidential intermediary shall contact and obtain the consent of that child's legal parent before contacting the child. If the sibling is under 18 years of age, under the jurisdiction of the dependency court, and has no legal parent or guardian able or available to provide consent, the intermediary shall obtain that consent from the dependency court. If the adoptee is seeking information regarding a sibling who is known to be a dependent child of the juvenile court, the procedures set forth in subdivision (b) of Section 388 of the Welfare and Institutions Code shall be utilized. If the adoptee is foreign born and was the subject of an intercountry adoption as defined in Section 8527, the adoption agency may fulfill the reasonable efforts requirement by utilizing all information in the agency's case file, and any information received upon request from the foreign adoption agency that conducted the adoption, if any, to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent. If that information is neither in the agency's case file, nor received from the foreign adoption agency, or if the attempts to locate are unsuccessful, then the agency shall be relieved of any further obligation to search for the adoptee or the sibling.

(h) For purposes of this section, "sibling" means a biological sibling, half-sibling, or step-sibling of the adoptee.

(i) Implementation of the amendments made to this section by Chapter 386 of the Statutes of 2006 shall be delayed until July 1, 2010. It is the intent of the Legislature that counties that are already implementing some or all

of the changes made to Section 9205 of the Family Code by Chapter 386 of the Statutes of 2006 shall continue to implement these provisions, to the extent possible.

SEC. 16. Section 17560 of the Family Code is amended to read:

17560. (a) The department shall establish and operate a statewide compromise of arrears program pursuant to which the department may accept offers in compromise of child support arrears and interest accrued thereon owed to the state for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. The program shall operate uniformly across California and shall take into consideration the needs of the children subject to the child support order and the obligor's ability to pay.

(b) If the obligor owes current child support, the offer in compromise shall require the obligor to be in compliance with the current support order for a set period of time before any arrears and interest accrued thereon may be compromised.

(c) Absent a finding of good cause, or a determination by the director that it is in the best interest of the state to do otherwise, any offer in compromise entered into pursuant to this section shall be rescinded, all compromised liabilities shall be reestablished notwithstanding any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise may be refunded, if either of the following occurs:

(1) The department or local child support agency determines that the obligor did any of the following acts regarding the offer in compromise:

(A) Concealed from the department or local child support agency any income, assets, or other property belonging to the obligor or any reasonably anticipated receipt of income, assets, or other property.

(B) Intentionally received, withheld, destroyed, mutilated, or falsified any information, document, or record, or intentionally made any false statement, relating to the financial conditions of the obligor.

(2) The obligor fails to comply with any of the terms and conditions of the offer in compromise.

(d) Pursuant to subdivision (k) of Section 17406, in no event may the administrator, director, or director's designee within the department, accept an offer in compromise of any child support arrears owed directly to the custodial party unless that party consents to the offer in compromise in writing and participates in the agreement. Prior to giving consent, the custodial party shall be provided with a clear written explanation of the rights with respect to child support arrears owed to the custodial party and the compromise thereof.

(e) Subject to the requirements of this section, the director shall delegate to the administrator of a local child support agency the authority to compromise an amount of child support arrears up to five thousand dollars ($5,000), and may delegate additional authority to compromise up to an amount determined by the director to support the effective administration of the offers in compromise program.

(f) For an amount to be compromised under this section, the following conditions shall exist:

(1) (A) The administrator, director or director's designee within the department determines that acceptance of an offer in compromise is in the best interest of the state and that the compromise amount equals or exceeds what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in the absence of the compromise, based on the obligor's ability to pay.

(B) Acceptance of an offer in compromise shall be deemed to be in the best interest of the state, absent a finding of good cause to the contrary, with regard to arrears that accrued as a result of a decrease in income when an obligor was a reservist or member of the National Guard, was activated to United States military service, and failed to modify the support order to reflect the reduction in income. Good cause to find that the compromise is not in the best interest of the state shall include circumstances in which the service member's failure to seek, or delay in seeking, the modification were not reasonable under the circumstances faced by the service member. The director, no later than 90 days after the effective date of the act adding this subparagraph, shall establish rules that compromise, at a minimum, the amount of support that would not have accrued had the order been modified to reflect the reduced income earned during the period of active military service.

(2) Any other terms and conditions that the director establishes that may include, but may not be limited to, paying current support in a timely manner, making lump-sum payments, and paying arrears in exchange for compromise of interest owed.

(3) The obligor shall provide evidence of income and assets, including, but not limited to, wage stubs, tax returns, and bank statements as necessary to establish all of the following:

(A) That the amount set forth in the offer in compromise of arrears owed is the most that can be expected to be paid or collected from the obligor's present assets or income.

(B) That the obligor does not have reasonable prospects of acquiring increased income or assets that would enable the obligor to satisfy a greater amount of the child support arrears than the amount offered, within a reasonable period of time.

(C) That the obligor has not withheld payment of child support in anticipation of the offers in compromise program.

(g) A determination by the administrator, director or the director's designee within the department that it would not be in the best interest of the state to accept or rescind an offer in compromise in satisfaction of child support arrears shall be final and not subject to the provisions of Chapter 5 (commencing with Section 17800) of Division 17, or subject to judicial review.

(h) Any offer in compromise entered into pursuant to this section shall be filed with the appropriate court. The local child support agency shall notify the court if the compromise is rescinded pursuant to subdivision (c).

(i) Any compromise of child support arrears pursuant to this section shall maximize to the greatest extent possible the state's share of the federal performance incentives paid pursuant to the Child Support Performance and Incentive Act of 1998 and shall comply with federal law.

(j) The department shall ensure uniform application of this section across the state.

SEC. 17. Section 17706 of the Family Code is amended to read:

17706. (a) It is the intent of the Legislature to encourage counties to elevate the visibility and significance of the child support enforcement program in the county. To advance this goal, effective July 1, 2000, the counties with the 10 best performance standards pursuant to clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 17704 shall receive an additional 5 percent of the state's share of those counties' collections that are used to reduce or repay aid that is paid pursuant to Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. The counties shall use the increased recoupment for child support-related activities that may not be eligible for federal child support funding under Part D of Title IV of the Social Security Act, including, but not limited to, providing services to parents to help them better support their children financially, medically, and emotionally.

(b) The operation of subdivision (a) shall be suspended for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07,2007–08, 2008–09, 2009–10, 2010–11, and 2011–12 fiscal years.

SEC. 18. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility.

(a) (1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency

a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 through the 2009–10 fiscal years, inclusive, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department

determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensed or certified foster parent, who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the licensee are not left alone with the foster children. However, the licensee, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friends when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee, acting as a reasonable and prudent parent, may allow the parent of the foster child's friends to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any licensed or certified foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the

licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the community care facility. These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to submit fingerprints to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section

1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) To the extent required by federal law, an applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the criminal records search required by subdivision (a).

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) The foster family agency shall obtain fingerprint images and related information from certified home applicants and from persons

specified in subdivision (b) and shall submit them directly to the Department of Justice by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice. A foster family home licensee or foster family agency shall submit these fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence in the foster family home or certified family home. A foster family agency's failure to submit fingerprint images and related information to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family agency pursuant to Section 1550. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, may result in the citation of a deficiency and immediate civil penalties of one hundred dollars ($100) per violation. A licensee's violation of regulations adopted pursuant to Section 1522.04 may result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a

crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this

purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department, a county office with department-delegated licensing authority, or a county child welfare agency with criminal record clearance and exemption authority, a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(5) (A) A county child welfare agency with authority to secure clearances pursuant to Section 16504.5 of the Welfare and Institutions Code and to grant exemptions pursuant to Section 361.4 of the Welfare and Institutions

Code may accept a clearance or exemption from another county with criminal record and exemption authority pursuant to these sections.

(B) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by a county child welfare agency with criminal record clearance and exemption authority, the Department of Justice shall process a request from a county child welfare agency with criminal record and exemption authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the State Department of Social Services and the Department of Justice.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(*l*) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 19. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a child day care facility.

(a) (1) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 through 2009–10 fiscal years, inclusive, neither the Department of Justice nor the department may charge a fee for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure,

the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a child, residing in the facility.

(C) Any person who provides care and supervision to the children.

(D) Any staff person, volunteer, or employee who has contact with the children.

(i) A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.

(ii) A student enrolled or participating at an accredited educational institution shall be exempt from the requirements of this subdivision if the student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the facility has an agreement with the educational institution concerning the placement of the student, the student spends no more than 16 hours per week at the facility, and the student is not left alone with children in care.

(iii) A volunteer who is a relative, legal guardian, or foster parent of a client in the facility shall be exempt from the requirements of this subdivision.

(iv) A contracted repair person retained by the facility, if not left alone with children in care, shall be exempt from the requirements of this subdivision.

(v) Any person similar to those described in this subdivision, as defined by the department in regulations.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(F) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person’s capability to exercise substantial influence over the operation of the facility.

(H) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal record clearance as part of an

application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(I) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal record clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(2) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) These fingerprint images for the purpose of obtaining a permanent set of fingerprints shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The State Department of Social Services may assess civil penalties for continued violations permitted by Sections 1596.99 and 1597.62. The fingerprint images and related information shall then be submitted to the department for processing. Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State

Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The department may assess civil penalties for continued violations, as permitted by Sections 1596.99 and 1597.62.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation

for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(3) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(4) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) or (b) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprint images.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice, only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department or a county office with department-delegated licensing authority a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 20. Section 11758.42 of the Health and Safety Code is amended to read:

11758.42. (a) For purposes of this chapter, "LAAM" means levoalphacetylmethadol.

(b) (1) The department shall establish a narcotic replacement therapy dosing fee for methadone and LAAM.

(2) In addition to the narcotic replacement therapy dosing fee provided for pursuant to paragraph (1), narcotic treatment programs shall be reimbursed for the ingredient costs of methadone or LAAM dispensed to Medi-Cal beneficiaries. These costs may be determined on an average daily dose of methadone or LAAM, as set forth by the department, in consultation with the State Department of Health Care Services.

(c) Reimbursement for narcotic replacement therapy dosing and ancillary services provided by narcotic treatment programs shall be based on a per capita uniform statewide daily reimbursement rate for each individual patient, as established by the department, in consultation with the State Department of Health Care Services. The uniform statewide daily reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon, where available and appropriate, all of the following:

(1) The outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(2) Cost report data.

(3) Other data deemed reliable and relevant by the department.

(4) The rate studies completed pursuant to Section 54 of Assembly Bill 3483 of the 1995–96 Regular Session of the Legislature.

(d) The uniform statewide daily reimbursement rate for ancillary services shall not exceed, for individual services or in the aggregate, the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(e) The uniform statewide daily reimbursement rate shall be established after consultation with narcotic treatment program providers and county alcohol and drug program administrators.

(f) Reimbursement for narcotic treatment program services shall be limited to those services specified in state law and state and federal regulations governing the licensing and administration of narcotic treatment programs. These services shall include, but are not limited to, all of the following:

(1) Admission, physical evaluation, and diagnosis.

(2) Drug screening.

(3) Pregnancy tests.

(4) Narcotic replacement therapy dosing.

(5) Intake assessment, treatment planning, and counseling services. Frequency of counseling or medical psychotherapy, outcomes, and rates shall be addressed through regulations adopted by the department. For purposes of this paragraph, these services include, but are not limited to, substance abuse services to pregnant and postpartum Medi-Cal beneficiaries.

(g) Reimbursement under this section shall be limited to claims for narcotic treatment program services at the uniform statewide daily

reimbursement rate for these services. These rates shall be exempt from the requirements of Section 14021.6 of the Welfare and Institutions Code.

(h) (1) Reimbursement to narcotic treatment program providers shall be limited to the lower of either the uniform statewide daily reimbursement rate, pursuant to subdivision (c), or the provider's usual and customary charge to the general public for the same or similar service.

(2) (A) Reimbursement paid by a county to a narcotic treatment program provider for services provided to any person subject to Section 1210.1 or 3063.1 of the Penal Code, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.

(B) Subparagraph (A) does not constitute a change in, but is declaratory of, existing law.

(i) No program shall be reimbursed for services not rendered to or received by a patient of a narcotic treatment program.

(j) Reimbursement for narcotic treatment program services provided to substance abusers shall be administered by the department and counties electing to participate in the program. Utilization and payment for these services shall be subject to federal Medicaid and state utilization and audit requirements.

SEC. 21. Section 11758.421 of the Health and Safety Code is amended to read:

11758.421. (a) (1) The Legislature finds and declares all of the following:

(A) Medical treatment for indigent patients who are not eligible for Medi-Cal is essential to protecting the public health.

(B) The Legislature supports the adoption of standardized and simplified forms and procedures in order to promote the drug treatment of indigent patients who are not eligible for Medi-Cal.

(C) Providers should not be required by the state to subsidize the medical treatment provided to indigent patients who are not eligible for Medi-Cal.

(D) The Legislature supports the therapeutic value of indigent patients who are not eligible for Medi-Cal contributing some level of fees for drug treatment services in order to support the goals of those drug treatment services.

(2) It is the intent of the Legislature in enacting this section to encourage narcotic treatment program providers to serve indigent patients who are not eligible for Medi-Cal. It is also the intent of the Legislature that the State Department of Alcohol and Drug Programs allow narcotic treatment program providers to charge therapeutic fees for providing drug treatment to indigent patients who are not eligible for Medi-Cal if the providers establish a fee scale that complies with the documentation requirements established pursuant to this section and federal law.

(b) (1) The Legislature recognizes that narcotic treatment program providers are reimbursed for controlled substances provided under the Medi-Cal Drug Treatment Program, also known as Drug Medi-Cal (Chapter 3.4 (commencing with Section 11758.40)), and pursuant to federal law at

a rate that is the lower of the per capita uniform statewide daily reimbursement or Drug Medi-Cal rate, or the provider's usual and customary charge to the general public for the same or similar services.

(2) It furthers the intent of the Legislature to ensure that narcotic treatment programs in the state are able to serve indigent clients and that there is an exception to the reimbursement requirements described in paragraph (1), as the federal law has been interpreted by representatives with the Centers for Medicare and Medicaid Services. Pursuant to this exception, if a narcotic treatment program provider who is serving low-income non-Drug Medi-Cal clients complies with a federal requirement for the application of a sliding indigency scale, the reduced charges under the sliding indigency scale shall not lower the provider's usual and customary charge determination for purposes of Medi-Cal reimbursement.

(c) A licensed narcotic treatment program provider that serves low-income non-Drug Medi-Cal clients shall be deemed in compliance with federal and state law, for purposes of the application of the exception described in paragraph (2) of subdivision (b), and avoid audit disallowances, if the provider implements a sliding indigency scale that meets all of the following requirements:

(1) The maximum fee contained in the scale shall be the provider's full nondiscounted, published charge and shall be at least the rate that Drug Medi-Cal would pay for the same or similar services provided to Drug Medi-Cal clients.

(2) The sliding indigency scale shall provide for an array of different charges, based upon a client's ability to pay, as measured by identifiable variables. These variables may include, but need not be limited to, financial information and the number of dependents of the client.

(3) Income ranges shall be in increments that result in a reasonable distribution of clients paying differing amounts for services based on differing abilities to pay.

(4) A provider shall obtain written documentation that supports an indigency allowance under the sliding indigency scale established pursuant to this section, including a financial determination. In cases where this written documentation cannot be obtained, the provider shall document at least three attempts to obtain this written documentation from a client.

(5) The provider shall maintain all written documentation that supports an indigency allowance under this section, including, if used, the financial evaluation form set forth in Section 11758.425.

(6) Written policies shall be established and maintained that set forth the basis for determining whether an indigency allowance may be granted under this section and establish what documentation shall be requested from a client.

(d) In developing the sliding indigency scale, a narcotic treatment program provider shall consider, but need not include, any or all of the following components:

(1) Vertically, the rows would reflect increments of family or household income. There would be a sufficient number of increments to allow for differing charges, such as a six hundred dollar ($600) increase per interval.

(2) Horizontally, the columns would provide for some other variable, such as family size, in which case, the columns would reflect the number of people dependent on the income, including the client.

(3) Each row, except the first and last rows, would contain at least two different fee amounts and each of the columns, four or more in number, would contain at least six different fee amounts.

(4) The cells would contain an array of fees so that no fee would be represented in more than 25 percent of the cells.

(e) A narcotic treatment program provider that uses the financial evaluation form instructions and financial form set forth in Section 11758.425 in obtaining written documentation that supports an indigency allowance as required under paragraph (4) of subdivision (c) shall be deemed in compliance with that paragraph.

SEC. 22. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, "Drug Medi-Cal services" means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care rehabilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(b) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, "Drug Medi-Cal services" shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.

(2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in gaining access to medical, social, educational, and other needed services.

(3) Aftercare services.

(c) (1) Annually, the department shall publish procedures for contracting for Drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(2) The department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate the claiming process and the process for the submission of specific data required in connection

with reimbursement for Drug Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.

(d) A county or a contractor for the provision of Drug Medi-Cal services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the single state-county contract, and provide certified services pursuant to Section 11758.42, for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, and including estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(e) (1) Within 30 days of receipt of the proposal described in subdivision (d), the department shall provide, to counties and contractors proposing to provide Drug Medi-Cal services in the proposed budget year, a proposed multiple-year contract, as a component of the single state-county contract, for these services, a current utilization control plan, and appropriate administrative procedures.

(2) A county contracting for alcohol and drug services shall receive a single state-county contract for the net negotiated amount and Drug Medi-Cal services.

(3) Contractors contracting for Drug Medi-Cal services shall receive a Drug Medi-Cal contract.

(f) (1) Upon receipt of a contract proposal pursuant to subdivision (d), a county and a contractor seeking to provide reimbursable Drug Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve a contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (c) to (e), inclusive, the county shall have 30 additional days in which to approve a contract. If the county has not approved the contract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable Drug Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(g) (1) For counties and contractors providing Drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund moneys shall commence

no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing Drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from federal Medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) The State Department of Health Care Services and the department shall develop methods to ensure timely payment of Drug Medi-Cal claims.

(4) The State Department of Health Care Services, in cooperation with the department, shall take steps necessary to streamline the billing system for reimbursable Drug Medi-Cal services, to assist the department in meeting the billing provisions set forth in this subdivision.

(h) The department shall submit a proposed interagency agreement to the State Department of Health Care Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Care Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are approved by the State Department of Health Care Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(i) (1) A county or a provider certified to provide reimbursable Drug Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (j) applies, shall submit accurate and complete cost reports for the previous state fiscal year by November 1, following the end of the state fiscal year. The department may settle cost for Drug Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(j) Certified narcotic treatment program providers, that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 of the Penal Code, Section 3063.1 of the Penal Code, or Section 11758.42 shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that state fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state daily reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the treatment providers.

SEC. 23. Section 10080.5 is added to the Welfare and Institutions Code, to read:

10080.5. All duties and authority of the Franchise Tax Board under this chapter are hereby transferred to the department. The department shall succeed to and replace the Franchise Tax Board in any agreement entered

into by the board as the agent of the department. Any agency between the department and the Franchise Tax Board created by any other provision of this chapter is hereby terminated. However, the department and the Franchise Tax Board shall enter into an interagency agreement pursuant to this section to continue any services necessary to be provided by the Franchise Tax Board for the ongoing support of the California Child Support Automation System. The interagency agreement may provide for the transfer of staff from the Franchise Tax Board upon federal notification that the single, statewide California Child Support Automation System is implemented in all jurisdictions, or on January 1, 2009, whichever is later.

SEC. 24. Section 10082 of the Welfare and Institutions Code is amended to read:

10082. (a) The department, through the Franchise Tax Board as its agent, shall be responsible for procuring, developing, implementing, and maintaining the operation of the California Child Support Automation System in all California counties. This project shall, to the extent feasible, use the same sound project management practices that the Franchise Tax Board has developed in successful tax automation efforts. The single statewide system shall be operative in all California counties and shall also include the State Case Registry, the State Disbursement Unit and all other necessary data bases and interfaces. The system shall provide for the sharing of all data and case files, standardized functions across all of the counties, timely and accurate payment processing and centralized payment disbursement from a single location in the state. The system may be built in phases with payments contingent on acceptance of agreed upon deliverables. As appropriate, additional payments may be made to the vendors for predefined levels of higher performance once the system is in operation.

(b) All ongoing interim automation activities apart from the procurement, development, implementation, and maintenance of the California Child Support Automation System, including Year 2000 remediation efforts and system conversions, shall remain with the department, and shall not be the responsibility of the Franchise Tax Board. However, the department shall ensure that all interim automation activities are consistent with the procurement, development, implementation, and maintenance of the California Child Support Automation System by the Franchise Tax Board through continuous consultation.

(c) The department shall seek, at the earliest possible date, all federal approvals and waivers necessary to secure financial participation and system design approval of the California Child Support Automation System.

(d) The department shall seek federal funding for the maintenance and operation of all county child support automation systems until the time that the counties transition to the California Child Support Automation System.

(e) The department shall direct local child support agencies, if it determines it is necessary, to modify their current automation systems or change to a different system, in order to meet the goal of statewide automation.

(f) Notwithstanding any state policies, procedures, or guidelines, including those set forth in state manuals, all state agencies shall cooperate with the department to expedite the procurement, development, implementation, and operation of the California Child Support Automation System. All state agencies shall give review processes affecting the single statewide automation system priority and expedite these review processes.

(g) The Franchise Tax Board shall employ the expertise needed for the successful and efficient implementation of the single statewide child support automation system and, therefore, shall be provided three Career Executive Assignment Level 2 positions, and may enter into personal services agreements with one or more persons, at the prevailing market rates for the kind or quality of services furnished, provided the agreements do not cause the net displacement of civil service employees.

(h) All funds appropriated to the Franchise Tax Board for purposes of this chapter shall be used in a manner consistent with the authorized budget without any other limitations.

(i) The department and the Franchise Tax Board shall consult with local child support agencies and child support advocates on the implementation of the single statewide child support automation system.

(j) (1) Notwithstanding the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), through December 31, 2000, the department may implement the applicable provisions of this chapter through family support division letters or similar instructions from the director.

(2) The department may adopt regulations to implement this chapter in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of any emergency regulation filed with the Office of Administrative Law on or before January 1, 2003, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. These emergency regulations shall remain in effect for no more than 180 days.

SEC. 25. Section 10083 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 10553.15 is added to the Welfare and Institutions Code, to read:

10553.15. Notwithstanding any other provision of law, the director may provide funding to Indian health clinics to provide substance abuse and mental health treatment services, and other related services authorized under the CalWORKs program to CalWORKs applicants and recipients and Tribal Temporary Assistance for Needy Families (TANF) applicants and recipients living in California.

SEC. 27. Section 10823 of the Welfare and Institutions Code, as amended by Section 22 of Chapter 78 of the Statutes of 2005, is amended to read:

10823. (a) (1) The Office of Systems Integration shall implement a statewide automated welfare system for the following public assistance programs:

(A) The CalWORKs program.

(B) The Food Stamp Program.
(C) The Medi-Cal Program.
(D) The foster care program.
(E) The refugee program.
(F) County medical services programs.

(2) Statewide implementation of the statewide automated welfare system for the programs listed in paragraph (1) shall be achieved through no more than four county consortia, including the Interim Statewide Automated Welfare System Consortium, and the Los Angeles Eligibility, Automated Determination, Evaluation, and Reporting System.

(3) Notwithstanding paragraph (2), the Office of Systems Integration shall migrate the 35 counties that currently use the Interim Statewide Automated Welfare System into the C-IV system within the following timeline:

(A) Complete Migration System Test and begin User Acceptance Testing on or before June 30, 2009.

(B) Complete implementation in at least five counties by February 28, 2010.

(C) Complete implementation in at least 14 additional counties on or before May 31, 2010.

(D) Complete implementation in all 35 counties on or before August 31, 2010.

(E) Decommission the Interim Statewide Automated Welfare System on or before January 31, 2011.

(b) Nothing in subdivision (a) transfers program policy responsibilities related to the public assistance programs specified in subdivision (a) from the State Department of Social Services or the State Department of Health Services to the Office of Systems Integration.

(c) On February 1 of each year, the Office of Systems Integration shall provide an annual report to the appropriate committees of the Legislature on the statewide automated welfare system implemented under this section. The report shall address the progress of state and consortia activities and any significant schedule, budget, or functionality changes in the project.

SEC. 28. Section 11320.32 of the Welfare and Institutions Code is amended to read:

11320.32. (a) The department shall administer a voluntary Temporary Assistance Program (TAP) for current and future CalWORKs recipients who meet the exemption criteria for work participation activities set forth in Section 11320.3, and are not single parents who have a child under the age of one year. Temporary Assistance Program recipients shall be entitled to the same assistance payments and other benefits as recipients under the CalWORKs program. The purpose of this program is to provide cash assistance and other benefits to eligible families without any federal restrictions or requirements and without any adverse impact on recipients. The Temporary Assistance Program shall commence no later than April 1, 2010.

(b) CalWORKs recipients who meet the exemption criteria for work participation activities set forth in subdivision (b) of Section 11320.3, and are not single parents with a child under the age of one year, shall have the option of receiving grant payments, child care, and transportation services from the Temporary Assistance Program. The department shall notify all CalWORKs recipients and applicants meeting the exemption criteria specified in subdivision (b) of Section 11320.3, except for single parents with a child under the age of one year, of their option to receive benefits under the Temporary Assistance Program. Absent written indication that these recipients or applicants choose not to receive assistance from the Temporary Assistance Program, the department shall enroll CalWORKs recipients and applicants into the program. However, exempt volunteers shall remain in the CalWORKs program unless they affirmatively indicate, in writing, their interest in enrolling in the Temporary Assistance Program. A Temporary Assistance Program recipient who no longer meets the exemption criteria set forth in Section 11320.3 shall be enrolled in the CalWORKs program.

(c) Funding for grant payments, child care, transportation, and eligibility determination activities for families receiving benefits under the Temporary Assistance Program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under clause (i) of subparagraph (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42 of the United States Code, up to the caseload level equivalent to the amount of funding provided for this purpose in the annual Budget Act.

(d) It is the intent of the Legislature that recipients shall have and maintain access to the hardship exemption and the services necessary to begin and increase participation in welfare-to-work activities, regardless of their county of origin, and that the number of recipients exempt under subdivision (b) of Section 11320.3 not significantly increase due to factors other than changes in caseload characteristics. All relevant state law applicable to CalWORKs recipients shall also apply to families funded under this section. Nothing in this section modifies the criteria for exemption in Section 11320.3.

(e) To the extent that this section is inconsistent with federal regulations regarding implementation of the Deficit Reduction Act of 2005, the department may amend the funding structure for exempt families to ensure consistency with these regulations, not later than 30 days after providing written notification to the chair of the Joint Legislative Budget Committee and the chairs of the appropriate policy and fiscal committees of the Legislature.

SEC. 29. Section 11402.6 of the Welfare and Institutions Code is amended to read:

11402.6. (a) The federal government has provided the state with the option of including in its state plan children placed in a private facility operated on a for-profit basis.

(b) For children for whom the county placing agency has exhausted all other placement options, notwithstanding subdivision (h) of Section 11400

and subject to Section 15200.5, a child who is otherwise eligible for federal financial participation in the AFDC-FC payment shall be eligible for aid under this chapter when the child is placed in a for-profit child care institution and meets all of the following criteria, which shall be clearly documented in the county welfare department case file:

(1) The child has extraordinary and unusual special behavioral or medical needs that make the child difficult to place, including, but not limited to, being medically fragile, brittle diabetic, having severe head injuries, a dual diagnosis of mental illness and substance abuse or a dual diagnosis of developmental delay and mental illness.

(2) No other comparable private nonprofit facility or public licensed residential care home exists in the state that is willing to accept placement and is capable of meeting the child's extraordinary special needs.

(3) The county placing agency has demonstrated that no other alternate placement option exists for the child.

(4) The child has a developmental disability and is eligible for both federal AFDC-FC payments and for regional center services.

(c) Federal financial participation shall be provided pursuant to Section 11402 for children described in subdivision (a) subject to all of the following conditions, which shall be clearly documented in the county welfare department case file.

(1) The county placing agency enters into a performance based placement agreement with the for-profit facility to ensure the facility is providing services to improve the safety, permanency, and well-being outcomes of the placed children pursuant to Section 10601.2.

(2) The county placing agency will require the facility to ensure placement in the child's community to the degree possible to enhance ongoing connections with the child's family and to promote the establishment of lifelong connections with committed adults.

(3) The county placing agency monitors and reviews the facility's outcome performance indicators every six months.

(4) In no event shall federal financial participation in this placement exceed a 12-month period.

(5) Payments made under this section shall not be made on behalf of any more than five children in a county at any one time.

(6) Payments made under this section shall be made pursuant to Sections 4684 and 11464, and only to a group home that is an approved vendor of a regional center.

(d) This section shall be implemented only during a federal fiscal year in which the department determines that no restriction on federal matching AFDC-FC payment exists.

(e) As used in this section, "child care institution" means a nondetention facility that has been licensed in accordance with the California Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and that has a licensed capacity not exceeding 25 children.

(f) The county placing agency shall review and report to the juvenile court at every six-month case plan update if this placement remains appropriate and necessary and what the plan is for discharge to a less restrictive placement.

(g) Notwithstanding subdivision (d) or any other provision of law, this section shall not be implemented before July 1, 2010.

SEC. 30. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), the amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living. These adjustments shall become effective July 1 of each year, unless otherwise specified by the Legislature. For the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, these adjustments shall become effective October 1 of each year. The cost-of-living adjustment shall be calculated by the Department of Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, to reflect any change in the cost of living. For the 1998–99 fiscal year, the cost of living adjustment that would have been provided on July 1, 1998, pursuant to subdivision (a) shall be made on November 1, 1998. No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 2005–06 and 2006–07 fiscal years to reflect any change in the cost-of-living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(3) In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is any increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then the increase pursuant to subdivision (a) of this section shall occur. In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is no increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then any increase pursuant to subdivision (a) of this section shall be suspended.

(4) Notwithstanding paragraph (3), an adjustment to the maximum aid payments set forth in subdivision (a) of Section 11450 shall be made under

this section for the 2002–03 fiscal year, but the adjustment shall become effective June 1, 2003.

(5) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing benefits under this chapter for the 2007–08 and 2008–09 fiscal years.

(d) For the 2004–05 fiscal year, the adjustment to the maximum aid payment set forth in subdivision (a) shall be suspended for three months commencing on the first day of the first month following the effective date of the act adding this subdivision.

(e) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the cost of living was suspended pursuant to subdivision (c).

SEC. 31. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. Except as provided in subdivision (e), these adjustments shall become effective January 1 of each year. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends 12 months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2004, 2006, 2007, 2008, and 2009 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the cost of living was suspended pursuant to paragraph (1).

(e) For the 2003 calendar year, the adjustment required by this section shall become effective June 1, 2003.

(f) For the 2005 calendar year, the adjustment required by this section shall become effective April 1, 2005.

(g) (1) Commencing with the 2010 calendar year and in each calendar year thereafter, the annual adjustment required by this section shall be effective June 1 of that calendar year.

(2) Notwithstanding paragraph (1), the pass along of federal benefits provided for in Section 12201.05 shall be effective on January 1 of each calendar year.

SEC. 32. Section 12305.82 of the Welfare and Institutions Code is amended to read:

12305.82. (a) In addition to its existing authority under the Medi-Cal program, the State Department of Health Care Services shall have the authority to investigate fraud in the provision or receipt of supportive services. Except as provided in subdivision (c), a county shall refer instances of suspected fraud in the provision or receipt of supportive services to the State Department of Health Care Services, which shall investigate all suspected fraud. The department, the State Department of Health Care Services, and county quality assurance staff shall work together as appropriate to coordinate activities to detect and prevent fraud by supportive services providers and recipients in accordance with federal and state laws and regulations, including applicable due process requirements, to take appropriate administrative action relating to suspected fraud in the provision or receipt of supportive services, and to refer suspected criminal offenses to appropriate law enforcement agencies for prosecution.

(b) If the State Department of Health Care Services concludes that there is reliable evidence that a supportive services provider has engaged in fraud in connection with the provision or receipt of supportive services, the State Department of Health Care Services shall notify the department, the county, and the county's public authority or nonprofit consortium, if any, of that conclusion.

(c) Notwithstanding any other provision of law, a county may investigate suspected fraud in connection with the provision or receipt of supportive services, with respect to an overpayment of five hundred dollars ($500) or less.

SEC. 33. Section 12317 of the Welfare and Institutions Code is amended to read:

12317. (a) The State Department of Social Services shall be responsible for procuring and implementing a new Case Management Information and Payroll System (CMIPS) for the In-Home Supportive Services Program and Personal Care Services Program (IHSS/PCSP). This section shall not be interpreted to transfer any of the IHSS/PCSP policy responsibilities from the State Department of Social Services or the State Department of Health Care Services.

(b) At a minimum, the new system shall provide case management, payroll, and management information in order to support the IHSS/PCSP, and shall do all of the following:

(1) Provide current and accurate information in order to manage the IHSS/PCSP caseload.

(2) Calculate accurate wage and benefit deductions.

(3) Provide management information to monitor and evaluate the IHSS/PCSP.

(4) Coordinate benefits information and processing with the California Medicaid Management Information System.

(c) The new system shall be consistent with current state and federal laws, shall incorporate technology that can be readily enhanced and modernized for the expected life of the system, and, to the extent possible, shall employ open architectures and standards.

(d) By August 31, 2004, the State Department of Social Services shall begin a fair and open competitive procurement for the new CMIPS. All state agencies shall cooperate with the State Department of Social Services and the California Health and Human Services Agency Data Center to expedite the procurement, design, development, implementation, and operation of the new CMIPS.

(e) The State Department of Social Services, with any necessary assistance from the State Department of Health Care Services, shall seek all federal approvals and waivers necessary to secure federal financial participation and system design approval of the new system.

(f) The new CMIPS shall include features to strengthen fraud prevention and detection, as well as to reduce overpayments. Program requirements shall include, but shall not be limited to, the ability to readily identify out-of-state providers, recipient hospital stays that are five days or longer, and excessive hours paid to a single provider, and to match recipient information with death reports. This functionality shall be available by April 1, 2010, and implemented statewide by July 1, 2011.

SEC. 34. Section 14021.6 of the Welfare and Institutions Code is amended to read:

14021.6. (a) For the fiscal years prior to fiscal year 2004–05, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from available cost data by modality from the fiscal year that is two years prior to the year for which the rate is being established.

(b) (1) For the fiscal year 2007–08, and subsequent fiscal years, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from the most recently completed cost reports, by specific service codes that are consistent with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(2) For the fiscal years 2005–06 and 2006–07, if the State Department of Health Care Services and the State Department of Alcohol and Drug Programs determine that reasonably reliable and complete cost report data are available, the methodology specified in this subdivision shall be applied to either or both of those years. If reasonably reliable and complete cost report data are not available, the State Department of Health Care Services and the State Department of Alcohol and Drug Programs shall establish rates for either or both of those years based upon the usual, customary, and reasonable charge for the services to be provided, as these two departments may determine in their discretion. This subdivision is not intended to modify

subdivision (k) of Section 11758.46 of the Health and Safety Code, that requires certain providers to submit performance reports.

(c) Notwithstanding subdivision (a), for the 1996–97 fiscal year, the rates for nonperinatal outpatient methadone maintenance services shall be set at the rate established for the 1995–96 fiscal year.

(d) Notwithstanding subdivision (a), the maximum allowable rate for group outpatient drug free services shall be set on a per person basis. A group shall consist of a minimum of four and a maximum of 10 individuals, at least one of which shall be a Medi-Cal eligible beneficiary.

(e) The department shall develop individual and group rates for extensive counseling for outpatient drug free treatment, based on a 50-minute individual or a 90-minute group hour, not to exceed the total rate established for subdivision (d).

(f) The department may adopt regulations as necessary to implement subdivisions (a), (b), and (c), or to implement cost containment procedures. These regulations may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these emergency regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 35. Section 14124.93 of the Welfare and Institutions Code is amended to read:

14124.93. (a) The Department of Child Support Services shall provide payments to the local child support agency of fifty dollars ($50) per case for obtaining third-party health coverage or insurance of beneficiaries, to the extent that funds are appropriated in the annual Budget Act.

(b) A county shall be eligible for a payment if the county obtains third-party health coverage or insurance for applicants or recipients of Title IV-D services not previously covered, or for whom coverage has lapsed, and the county provides all required information on a form approved by both the Department of Child Support Services and the State Department of Health Care Services.

(c) Payments to the local child support agency under this section shall be suspended for the 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, 2009–10, 2010–11, and 2011–12 fiscal years.

SEC. 36. Chapter 10.1 (commencing with Section 15525) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Chapter 10.1. Work Incentive Nutritional Supplement

15525. (a) The State Department of Social Services shall establish a Work Incentive Nutritional Supplement (WINS) program pursuant to this section.

(b) Under the WINS program established pursuant to subdivision (a), each county shall provide a forty dollar ($40) per month additional food

assistance benefit for each eligible food stamp household, as defined in subdivision (d).

(c) The state shall pay to the counties 100 percent of the cost of WINS benefits, using funds that qualify for the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code.

(d) For purposes of this section, an "eligible food stamp household" is a household that meets all of the following criteria:

(1) Receives benefits pursuant to Chapter 10 (commencing with Section 18900) of Part 6.

(2) Has no household member receiving CalWORKs benefits pursuant to Chapter 2 (commencing with Section 11200).

(3) Contains at least one child under 18 years of age, unless the household contains a child who meets the requirements of Section 11253.

(4) Has at least one parent or caretaker relative determined to be "work eligible" as defined in Section 261.2(n) of Title 45 of the Code of Federal Regulations and Section 607 of Title 42 of the United States Code.

(5) Meets the federal work participation hours requirement set forth in Section 607 of Title 42 of the United States Code for subsidized or unsubsidized employment, and provides documentation that the household has met the federal work requirements.

(e) (1) In accordance with federal law, federal food stamp benefits (Chapter 10 (commencing with Section 18900) of Part 6), federal supplemental security income benefits, state supplemental security program benefits, public social services, as defined in Section 10051, and county aid benefits (Part 5 (commencing with Section 17000)), shall not be reduced as a consequence of the receipt of the WINS benefit paid under this chapter.

(2) Benefits paid under this chapter shall not count toward the federal 60-month time limit on aid as set forth in Section 608(a)(7)(A) of Title 42 of the United States Code. Payment of WINS benefits shall not commence before October 1, 2009, and full implementation of the program shall be achieved on or before April 1, 2010.

(f) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Section 10554), until emergency regulations are filed with the Secretary of State pursuant to paragraph (2), the State Department of Social Services may implement this section through all-county letters or similar instructions from the director. The director may provide for individual county phase-in of this section to allow for the orderly implementation based upon standards established by the director, including the operational needs and requirements of the counties. Implementation of the automation process changes shall include issuance of an all-county letter or similar instructions to counties by March 1, 2009.

(2) The department may adopt regulations to implement this chapter. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby

exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this paragraph, the department may request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

(g) (1) The department shall not fully implement this section until the department convenes a workgroup of advocates, legislative staff, county representatives, and other stakeholders to consider the progress of the WINS automation effort in tandem with a pre-assistance employment readiness system (PAERS) program and any other program options that may provide offsetting benefits to the caseload reduction credit in the CalWORKs program. The department shall convene this workgroup on or before December 1, 2008.

(2) A PAERS program shall be considered in light of current and potential federal Temporary Assistance for Needy Families (TANF) statutes and regulations and how other states with pre-assistance or other caseload offset options are responding to federal changes.

(3) The consideration of program options shall include, but not necessarily be limited to, the potential impacts on helping clients to obtain self-sufficiency, increasing the federal work participation rate, increasing the caseload reduction credit, requirements and efficiency of county administration, and the well-being of CalWORKs recipients.

(4) If the workgroup concludes that adopting a PAERS program or other program option pursuant to this section would, on balance, be favorable for California and its CalWORKs recipients, the department, in consultation with the workgroup, shall prepare a proposal by March 31, 2009, for consideration during the regular legislative budget subcommittee process in 2009.

(5) To meet the requirements of this subdivision, the department may use its TANF reauthorization workgroups.

SEC. 37. Section 18939 of the Welfare and Institutions Code is amended to read:

18939. (a) Any person who is found to be eligible for federally funded SSI by the department shall be required to apply for SSI benefits. An individual may continue to receive benefits under this article if he or she fully cooperates in the application and administrative appeal process of the Social Security Administration. An individual shall continue to be eligible to receive benefits under this article if he or she receives an unfavorable decision from the Social Security Administration.

(b) (1) The State Department of Social Services shall require counties with a base caseload of recipients of aid under this chapter of 70 or more to establish an advocacy program to assist applicants and recipients of aid under this chapter in the application process for the SSI program. The department shall encourage counties with a base caseload of recipients of aid under this chapter of 69 or less to establish a similar advocacy program.

Counties may, at their option, contract to provide any or all of the required advocacy services.

(2) The department shall provide assistance to counties in their efforts to implement an SSI advocacy program (SSIAP) for applicants and recipients of aid under this chapter.

(c) The State Department of Social Services shall ensure that its Disability Evaluation Division (DED) expedites the disability evaluations for applicants and recipients of aid under this chapter by utilizing its existing case records sharing procedures to ensure that information from previous DED evaluations for the Medi-Cal program are shared expeditiously with the federal component of the division that is adjudicating the SSI disability application.

(d) The State Department of Social Services shall reimburse counties for legal fees incurred by attorneys or other authorized representatives during the appeals phase of the SSI application process only when the county demonstrates that the legal representative successfully secures approval of SSI benefits. The legal fees for each case shall not exceed twice the difference between the maximum monthly individual payment under this chapter and the maximum monthly SSP payment.

(e) The department shall report to the Legislature, by July 1, 2007, on the outcomes of county SSI advocacy programs, including the numbers of cases that transitioned to SSI and the amount of savings realized through the transfers.

(f) Subdivisions (b) to (e), inclusive, of this section shall become inoperative on July 1, 2011.

SEC. 38. (a) On or before January 10, 2009, the Department of Child Support Services shall provide to the Legislature both of the following:

(1) More comprehensive data from the state hearing pilot project that demonstrates that the pilot project has reduced state hearings.

(2) A breakdown of how the pilot project's revised hearing process results in the estimated savings to state hearing costs.

(b) On or before February 1, 2009, the Department of Child Support Services shall provide the appropriate committees of the Legislature with trailer bill language to codify the new state hearing process.

SEC. 39. Clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 1534 of, paragraph (2) of subdivision (c) of Section 1569.33 of, paragraph (2) of subdivision (c) of Section 1597.09 of, and paragraph (2) of subdivision (c) of Section 1597.55a of, the Health and Safety Code shall be suspended for the 2008–09 and 2009–10 fiscal years. The State Department of Social Services shall submit trailer bill language to the Legislature on or before February 1, 2010, that reflects appropriate indicators to trigger an increase in the number of facilities for which the department conducts annual unannounced random sample visits. The department shall work with legislative staff, the Legislative Analyst's Office, and interested stakeholders to develop the indicators. The department shall provide an update to the Legislature on its progress pursuant to this section at the 2009–10 budget hearings.

SEC. 40. The State Department of Social Services shall do both of the following:

(a) Meet with stakeholders prior to legislative budget subcommittee hearings in 2009 to determine ways that the process for the Independent Adoptions Program can be simplified and streamlined, including whether the fee amounts are appropriate, and provide an update on those discussions, with any recommendations from the department, during the 2009 subcommittee hearings.

(b) Provide an update during the 2009 legislative budget subcommittee hearings regarding the degree to which fee collections have improved as a result of the statutory changes made by Section 8808 of the Family Code, as added by this act, and the impact of the new fees on the number of independent adoptions.

SEC. 41. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Section 10554), until emergency regulations are filed with the Secretary of State pursuant to subdivision (b), the State Department of Social Services may implement Sections 8807, 8808, 8810, and 8820 of the Family Code, as amended and added by this act through all-county letters or similar instructions from the Director of Social Services.

(b) The department may adopt regulations to implement Sections 8807, 8808, 8810, and 8820 of the Family Code, as amended and added by this act. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

SEC. 42. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 43. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the necessary statutory changes to implement the Budget Act of 2008 at the earliest possible time, it is necessary for this act to take effect immediately.

O