

AMENDED IN SENATE JUNE 13, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1460

Introduced by Committee on Budget (Skinner (Chair), Bloom, Campos, Chesbro, Dababneh, Daly, Dickinson, Gordon, Jones-Sawyer, Mullin, Muratsuchi, Nazarian, Rodriguez, Stone, Ting, and Weber)

January 9, 2014

An act relating to the Budget Act of 2014. An act to amend Section 17415 of the Family Code, to amend Sections 1506.5, 1520.3, 1522, 1523.1, 1523.2, 1533, 1534, 1550, 1551, 1556, 1558, 1562, 1568.05, 1568.07, 1569.185, 1569.20, 1569.48, 1569.525, 1569.682, 1596.803, 1596.871, 1796.12, 1796.14, 1796.16, 1796.17, 1796.19, 1796.22, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, 1796.31, 1796.44, 1796.45, 1796.47, 1796.48, 1796.49, 1796.52, 1796.55, 1796.61, and 1796.63 of, to amend and renumber Sections 1796.33, 1796.34, 1796.35, 1796.36, 1796.37, and 1796.42 of, to amend, renumber, and add Sections 1796.38 and 1796.41 of, to add Sections 1546.1, 1546.2, 1548.1, 1569.481, 1569.482, and 1796.40 to, to repeal Sections 1796.39 and 1796.56 of, and to repeal and add Section 1546 of, the Health and Safety Code, and to amend Sections 300, 10104, 10553.11, 11320.32, 11322.8, 11325.24, 11402.4, 11450.025, 11460, 11477, and 18906.55 of, to add Section 11461.3 to, to amend, repeal, and add Sections 18901.2 and 18901.5 of, and to add Article 3.3 (commencing with Section 11330) to Chapter 2 of Part 3 and Chapter 5.2 (commencing with Section 16524.6) to Part 4, of Division 9 of, the Welfare and Institutions Code, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1460, as amended, Committee on Budget. ~~Budget Act of 2014.~~
Human services.

(1) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities, residential care facilities for the elderly, residential care facilities for persons with chronic, life-threatening illness, child day care centers, and family day care homes. Existing law requires that some of these facilities be subject to unannounced visits by the department at least once every 5 years.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of foster family agencies, as defined, by the department. Under existing law, foster family agencies certify foster family homes and find homes or other placements for children. Existing law specifies how foster family agencies are required to carry out these functions, including a requirement that a foster family agency annually recertify a certified family home. A violation of these provisions, or the willful or repeated violation of any rule or regulation promulgated under this provision, is a crime.

This bill would require a foster family agency to conduct an announced inspection of a certified family home during the annual recertification and an unannounced inspection when certain circumstances are present, including when a certified family home is on probation. The bill would also authorize a foster family agency to inspect a certified family home more frequently than annually in order to ensure the quality of care provided. The bill would clarify that certain provisions relating to regulation and licensing of community care facilities generally are applicable to certified family homes approved by a foster family agency. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the department to inspect a residential care facility for persons with chronic, life-threatening illness within 90 days after the facility accepts its first resident for placement following its initial licensure. Existing law also requires that evaluations be conducted annually and as often as necessary to ensure the quality of care being provided.

This bill would instead require that annual inspections be conducted at least annually and that both types of inspections conducted pursuant to these provisions be unannounced.

(3) Existing law, the California Residential Care Facilities for the Elderly Act, provides for the department to license and regulate residential care facilities for the elderly. A violation of the act is a misdemeanor.

Existing law requires the department to immediately request a fire clearance and notify an applicant for a license to operate a residential care facility for the elderly to arrange a time for the department to conduct a prelicensure survey if an application for initial licensure is complete.

This bill would provide that the prelicensure inspection is optional at the discretion of the department if the department determines that an application is for licensure of a currently licensed facility for which there will be no material change to the management or operations of the facility.

(4) Existing law requires, if the Director of Social Services determines that it is necessary to temporarily suspend a license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to make every effort to minimize trauma for the residents. Existing law authorizes and requires the department, in the event of a temporary license suspension or revocation, to comply with specified procedures relating to the transfer of residents, including requiring the department to contact and work with any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly, as specified, to locate alternative placement sites and contact responsible relatives. Existing law requires, upon an order to revoke a license, a licensee to provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation. Existing law entitles a resident who transfers from the facility during that 60-day period to a refund of preadmission fees in accordance with specified provisions.

This bill would require, if the Director of Social Services determines at any time during or following a temporary suspension or revocation of a license that there is a risk to the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to take any necessary action to minimize trauma for the residents, including, but not limited to, arranging for the preparation of the residents' records and medications

for transfer and checking in on the status of each transferred resident within 24 hours of transfer. The bill would additionally require the department to contact the Office of the State Long-Term Care Ombudsman after a decision is made to temporarily suspend or upon a final order revoke a license that is likely to result in closure of the facility. The bill would also require, upon an order to temporarily suspend a license, a licensee to immediately provide a written notice of license suspension to the resident and initiate contact with the resident's responsible person, as specified, and would entitle a resident who transfers due to the receipt of a notice of a temporary suspension or revocation of license to be entitled to a refund of preadmission fees.

This bill would prohibit a licensee, upon receipt of an order to temporarily suspend or revoke a license, from accepting new residents or entering into admission agreements for new residents. The bill would generally make a licensee who fails to comply with the requirements of these provisions liable for civil penalties in the amount of \$500 per violation per day for each day that the licensee is in violation of these provisions until the violation has been corrected. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(5) The bill would authorize the department to appoint a temporary manager to assume the operation of a residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist, including when the director determines that it is necessary to temporarily suspend the license of the facility and immediate relocation of the residents of the facility is not feasible, or when the licensee has opted to secure a temporary manager in response to a final order to revoke a license. The bill would set forth the duties of the temporary manager, would limit the expenditures and encumbrances by the temporary manager unless approved by the department, and would require that the costs of the temporary manager be paid directly by the facility while the temporary manager is assigned. To the extent department funds are used for the costs of the temporary manager or related expenses, the bill would require the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, the bill would require that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility, as specified.

The bill would also authorize the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3

months, subject to extension by the department, when circumstances exist indicating that continued management of the facility by the licensee would present a substantial probability of imminent danger or serious physical harm or death to the clients or residents or the facility is closing and adequate arrangements for the relocation of clients or residents have not been made. The bill would specify the duties of a receiver appointed pursuant to these provisions and would require that the salary of the receiver be set by the court and be paid from the revenue coming to the facility. In the event the revenue is insufficient, the bill would require that the salary be paid from the emergency client contingency fund. The bill would require that state funds advanced to pay for that salary or other related expenses be reimbursed from the revenues accruing to the facility. If those revenues are insufficient, the bill would require that the unreimbursed amount constitute a lien on the assets of the facility.

(6) Existing law establishes a schedule of licensing fees to be charged by the department for each type of facility, and provides for these fees to be deposited into the Technical Assistance Fund.

This bill would increase the licensure and renewal fees for community care facilities, residential care facilities for persons with chronic, life-threatening illness, residential care facilities for the elderly, and child day care facilities, and would require the department to adjust the fees assessed against licensees as necessary to ensure they do not exceed specified costs.

(7) Existing law authorizes the department to impose various civil penalties for various licensing violations. Existing law authorizes the department to transmit no more than $\frac{1}{2}$ of those penalties assessed against community care facilities and residential care facilities for the elderly to be used to establish an emergency resident relocation fund to be utilized for the care and relocation of residents when the license of a community care facility or a residential care facility for the elderly is revoked or temporarily suspended, when appropriated by the Legislature. Existing law requires the department to seek the advice of providers in developing a state plan for emergency resident relocation.

The bill would instead authorize the creation of an emergency client contingency account and an emergency resident contingency account within the Technical Assistance Fund to be used, at the discretion of the Director of the State Department of Social Services, for the care and relocation of clients and residents when a facility's license is revoked or temporarily suspended. The bill would require the

department to seek the input of stakeholders and local agencies in developing policies for emergency client or resident care and supervision. The bill would also authorize the civil penalties deposited in the Technical Assistance Fund to be used for the technical assistance, training, and education of licensees.

(8) This bill would provide that it is the intent of the Legislature to comprehensively increase the penalties for facilities licensed by the State Department of Social Services in subsequent legislation, with particular emphasis on penalties for violations that result in serious injury or death.

(9) This bill would provide that it is the intent of the Legislature that increased staffing and funding resources for the State Department of Social Service's Community Care Licensing Division appropriated in the Budget Act of 2014 be used to enhance the division's structure and improve operations, as specified. The bill also provides that it is the intent of the Legislature to, over a period of time, increase the frequency of facility inspections resulting in annual inspections for some or all facility types. The bill would require the State Department of Social Services to update the Legislature on the status of the structural and quality enhancement improvements during the 2015–16 legislative budget subcommittee hearings.

(10) The Home Care Services Consumer Protection Act, operative January 1, 2015, provides for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and the registration of home care aides. The act excludes specified entities from the definition of a home care organization and does not include certain types of individuals as home care aides for the purposes of these provisions. The act requires background clearances for home care aides, as prescribed, and sets forth specific duties of the home care organization, the department, and the Department of Justice in this regard. The act requires home care aides hired after January 1, 2015, to demonstrate they are free of active tuberculosis. A violation of the act is a crime.

This bill would revise and recast the provisions of the act and delay the implementation date of the act to January 1, 2016. Specifically, the bill would delete those provisions of the act that exempt specified individuals from the registration requirements for home care aides described above and expand the list of individuals and entities that are not considered home care aides or home care organizations, respectively, for purposes of the act. The bill would require that each

home care organization be separately licensed, as specified. This bill would additionally require the chief executive officer or other person serving in a similar capacity in a home care organization, as specified, to consent to a background examination. The bill would prohibit the department from issuing a provisional license or license to any corporate home care organization applicant that has a member of the board of directors, executive director, or officer who is not eligible for licensure, as specified.

This bill would revise the licensure requirements of a home care organization to additionally require certain disclosures and proof of an employee dishonesty bond. The bill would also revise the license renewal requirements for home care organizations to include, among other things, specified insurance and workers' compensation policies and being current on all fees and civil penalties due to the department. The bill would provide certain review procedures for applications for licensure received by the department. The bill would, among other things, require the department to cease any further review of an application for a specified period of time if it is determined that the home care organization applicant was previously issued a license pursuant to the act or other specified provisions of law and that license was revoked, as specified. The bill would apply similar requirements to a home care organization applicant that had previously applied for a certificate of approval with a foster family agency and was denied, as specified. The bill would also authorize the department to exclude a person from acting as, and require the home care organization to remove that person from, his or her position as a member of the board of directors, an executive director, or an officer of a licensee if the department determines that the person was previously issued a license pursuant to the act or other specified provisions of law and that license was revoked, as specified, or if the person was previously issued a certificate of approval by a foster family agency that was subsequently revoked, as specified.

This bill would require home care organization licensees to report any suspected or known dependent adult, elder, or child abuse to the department. The bill would require the department, upon receipt of these reports, to cross-report the suspected or known abuse to local law enforcement and Adult Protective Services or Child Protected Services, as specified. The bill would authorize home care organization applicants and home care aide applicants who submit applications prior to January 1, 2016, to provide home care services without meeting

the tuberculosis requirements described above, provided those requirements are met by July 1, 2016. The bill would authorize the department to adopt and readopt emergency regulations to implement and administer the provisions of the act, as specified.

This bill would require all fines and penalties collected for violations of the above provisions to be deposited into the Home Care Technical Assistance Fund, which would be created by the bill. The bill would require that the moneys in the fund be made available to the department upon appropriation by the Legislature for specified purposes.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

(11) Existing law, the California Community Care Facilities Act, provides for the licensure and inspection of community care facilities, including, but not limited to, group homes, by the State Department of Social Services. Existing law makes any violation of the act a misdemeanor.

This bill would require each person employed as a facility manager or staff member of a group home on or after October 1, 2014, to be at least 21 years of age, except as specified. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

(12) Existing law authorizes the Director of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Pursuant to these agreements, these child welfare activities are delegated to the tribe, consortium of tribes, or tribal organization, which is also required to provide specified matching funds. Existing law specifies the share of costs required of the tribe, consortium of tribes, or tribal organization operating a program pursuant to these agreements.

This bill would, notwithstanding those provisions, adjust the tribal share of costs commencing July 1, 2014.

(13) Existing law requires a county welfare department to refer all cases in which a parent is absent from the home, or as specified, to the local child support agency immediately at the time of the application for public assistance, except as specified.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using

federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law requires each applicant or recipient to, as a condition of eligibility for aid paid under CalWORKs, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained.

The bill would exempt from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court after December 31, 1997.

(14) Under existing law, with certain exceptions, an applicant or recipient, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities for a specified number of hours each week.

The bill would modify the number of welfare-to-work participation hours to conform to certain federal requirements.

(15) 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 the TAP to commence no later than October 1, 2014.

This bill would delay the commencement date of the TAP until October 1, 2016.

(16) Existing law establishes maximum aid grant amounts to be provided under the CalWORKs program, subject to specified adjustments. Existing law increases the maximum aid payments in effect on July 1, 2012, by 5% commencing March 1, 2014.

This bill would increase aid payments by 5% as of April 1, 2015.

(17) Under existing law, after a family has used all available liquid resources in excess of \$100, the family is entitled to receive a

CalWORKS allowance for nonrecurring special needs, including homeless assistance.

This bill would specify that a recipient of CalWORKs benefits is eligible to receive specified housing supports, including financial assistance and housing stabilization and relocation, if the county determines that the recipient's family is experiencing homelessness or housing instability that would be a barrier to self-sufficiency or child well-being. The bill would require the State Department of Social Services, in consultation with the County Welfare Directors Association of California, to, among other things, develop criteria by which counties may opt to participate in providing housing supports to eligible recipients of CalWORKs benefits. The bill would include a statement of legislative findings and declarations.

(18) Under existing law, with certain exceptions, every individual, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities. Existing law authorizes recipients to participate in family stabilization if the county determines that his or her family is experiencing an identified situation or crisis that is destabilizing the family and would interfere with participation in welfare-to-work activities and services.

This bill would authorize funds allocated for family stabilization to be used to provide housing and other needed services to a family during any month that a family is participating in family stabilization. The bill would state the intent of the legislature that family stabilization is a voluntary component intended to provide needed services and constructive interventions for parents and to assist in barrier removal for families facing very difficult needs.

(19) Existing federal law provides for the Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county.

Existing law requires the Department of Community Services and Development to receive and administer the federal Low-Income Home Energy Assistance Program (LIHEAP) block grant. Under existing law, to the extent permitted by federal law, the State Department of Social Services, in conjunction with the Department of Community Services and Development, is required to design, implement, and maintain a utility assistance initiative to provide applicants and recipients of

CalFresh benefits a nominal LIHEAP service benefit, as specified, out of the federal LIHEAP block grant.

This bill would repeal those provisions and instead, effective July 1, 2014, create the State Utility Assistance Subsidy (SUAS), a state-funded energy assistance program. The bill would require the Department of Community Services and Development to delegate authority over the program to the State Department of Social Services. The bill would require the State Department of Social Services, among other things, in designing, implementing, and maintaining the SUAS program, to provide households that do not currently qualify for, nor receive, a standard utility allowance with a SUAS benefit, as specified, if the household would become eligible for CalFresh benefits or would receive increased benefits if the standard utility allowance was provided. The bill would condition the implementation of these provisions on an appropriation of funds by the Legislature in the annual Budget Act or related legislation. To the extent that the bill would increase the administrative duties of county welfare departments, the bill would impose a state-mandated local program.

(20) Existing law requires the State Department of Social Services, to the extent permitted by federal law, to design and implement a program of categorical eligibility for the purpose of establishing the gross income limit for the federal Temporary Assistance for Needy Families and state maintenance of effort funded service that confers categorical eligibility for those needy households and that includes a member who receives, or is eligible to receive, medical assistance under the Medi-Cal program.

This bill would, effective July 1, 2014, delete those provisions.

(21) Existing law requires each county to pay 30% of the nonfederal share of costs of administering the CalFresh program. Existing law also requires counties to expend an amount for programs that provide services to needy families that, when combined with the funds expended above for the administration of the CalFresh program, equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year. Existing law provides that any county that equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year entirely through expenditures for the administration of the CalFresh program in the 2010–11, 2011–12, 2012–13, and 2013–14 fiscal years shall receive the full General Fund allocation for the administration of the CalFresh program without

paying the county's share of the nonfederal costs for the amount above the 1996–97 expenditure requirement.

This bill would extend counties' eligibility to receive the full allocation for CalFresh administration under the above circumstances to the 2014–15 fiscal year. The bill would also reduce the amount of the waiver throughout subsequent fiscal years, as specified, and would eliminate the waiver by the 2018–19 fiscal year.

(22) Existing law requires the State Department of Social Services to annually report to the appropriate fiscal and policy committees of the Legislature and to post on its Internet Web site a summary of outcome and expenditure data that allows for monitoring the changes of the 2011 realignment of child welfare services, foster care, adoptions, and adult protective services programs.

This bill would require the report to contain specified information, including the child welfare services social worker caseloads per county.

(23) Existing law establishes the State Department of Social Services and sets forth its duties and responsibilities regarding ensuring that the needs of foster children are met by local child welfare agencies and foster care providers. Existing law declares the findings of the Legislature that there is a need to develop programs to provide the kinds of innovative strategies and services that will ameliorate, reduce, and ultimately eliminate the trauma of child sexual abuse.

This bill would establish the Commercially Sexually Exploited Children Program to be administered by the State Department of Social Services in order to adequately serve children who have been sexually exploited, and would require the department, in consultation with the County Welfare Directors Association of California, to develop an allocation methodology to distribute funding for the program. The bill would authorize the use of these funds by counties electing to participate in the program for certain prevention and intervention activities and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation. The bill would require the department to contract to provide training for county children's services workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation, and the training of foster caregivers for the prevention and identification of potential victims, as specified. The bill would also require the department to ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are commercially sexually exploited, as specified. The bill would require the department,

no later than April 1, 2017, to provide to the Legislature information regarding the implementation of the program.

This bill would require each county electing to receive funds pursuant to the provisions described above to develop an interagency protocol to be utilized in serving sexually exploited children who have been adjudged to be a dependent child of the juvenile court. The bill would require the county interagency protocol to be developed by a team led by a representative of the county human services department and to include representatives from specified county agencies and the juvenile court.

This bill would make these provisions operative on January 1, 2015.

(24) Existing law establishes the jurisdiction of the juvenile court, which may adjudge certain children to be dependents of the court under certain circumstances, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would make a legislative finding that declares that a child is within the jurisdiction of the juvenile court and may become a dependent child of the court if the child is a victim of sexual trafficking, or receives food or shelter in exchange for, or is paid to perform, specified sexual acts, as a result of the failure or inability of his or her parent or guardian to protect the child, and would declare that this finding is declaratory of existing law.

(25) Existing law, the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, provides for payments to group home providers at a per child per month rate, and in accordance with prescribed rate classification levels, for the care and supervision of the AFDC-FC child placed with the provider.

This bill would specify that nothing precludes a county from providing a supplemental rate to serve commercially exploited foster children, as specified, and would provide that, to the extent federal financial participation is available, these federal funds should be utilized.

(26) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. In order to be eligible for AFDC-FC, existing law requires a child or nonminor dependent to be placed in a specified placement, including, among others, the approved home of a relative, provided the child is otherwise eligible for federal financial participation in the

AFDC-FC payment. Existing law requires foster care providers be paid a per child per month rate, as specified, in return for the care and supervision of an AFDC-FC child placed with them.

This bill would establish the Approved Relative Caregiver Funding Option Program and would require counties who opt to participate in the program to, effective January 1, 2015, pay an approved relative caregiver a per child per month rate in return for the care and supervision of an AFDC-FC ineligible child placed with the relative caregiver that is equal to the basic rate paid to foster care providers for an AFDC-FC child if the county has notified the department of its decision to participate in the program, as specified, and the related child placed in the home meets certain requirements, including that the child resides in the state.

The bill would require a participating county to affirmatively indicate that the county understands and agrees to specified conditions, including that the county will be responsible to pay any additional costs needed to make all payments to the relative caregivers if state and federal funds are insufficient. If a participating county decides to opt out of the program, the bill requires the county to provide at least 120 days' prior written notice of that decision to the department and to provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

The bill would specify the funding for the program, including the use of state General Fund resources that do not count towards the state's maintenance of effort requirements for the federal Temporary Assistance for Needy Families (TANF) block grant. The bill would appropriate the sum of \$30,000,000 from the General Fund for the 2015 calendar year and for each calendar year thereafter, as specified, for these purposes. If this appropriation is insufficient to fully fund the base caseload of approved relative caregivers, as specified, the bill would also provide for the appropriation of additional funds necessary to fully fund that base caseload, and would require the adjusted amount for the calendar year appropriation, beginning with the 2016 calendar year, to be adjusted by the California Necessities Index for each subsequent year.

(27) The bill would authorize the State Department of Social Services to implement specified provisions of the bill through all-county letters or similar instructions and would require the department to adopt

emergency regulations implementing these provisions no later than January 1, 2016.

(28) *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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(29) *This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2014.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 17415 of the Family Code is amended to
2 read:

3 17415. (a) It shall be the duty of the county welfare department
4 to refer all cases in which a parent is absent from the home, or in
5 which the parents are unmarried and parentage has not been
6 established by the completion and filing of a voluntary declaration
7 of paternity pursuant to Section 7573 or a court of competent
8 jurisdiction, to the local child support agency immediately at the
9 time the application for public assistance, including Medi-Cal
10 benefits, or certificate of eligibility, is signed by the applicant or
11 recipient, except as provided in Section 17552 of this code and
12 ~~Section~~ Sections 11477 and 11477.04 of the Welfare and
13 Institutions Code. If an applicant is found to be ineligible, the
14 applicant shall be notified in writing that the referral of the case
15 to the local child support agency may be terminated at the
16 applicant's request. The county welfare department shall cooperate
17 with the local child support agency and shall make available all
18 pertinent information ~~as provided in~~ pursuant to Section 17505.

1 (b) Upon referral from the county welfare department, the local
2 child support agency shall investigate the question of nonsupport
3 or paternity and shall take all steps necessary to obtain child
4 support for the needy child, enforce spousal support as part of the
5 state plan under Section 17604, and determine paternity in the case
6 of a child born out of wedlock. Upon the advice of the county
7 welfare department that a child is being considered for adoption,
8 the local child support agency shall delay the investigation and
9 other actions with respect to the case until advised that the adoption
10 is no longer under consideration. The granting of public assistance
11 or Medi-Cal benefits to an applicant shall not be delayed or
12 contingent upon investigation by the local child support agency.

13 (c) In cases where Medi-Cal benefits are the only assistance
14 provided, the local child support agency shall provide child and
15 spousal support services unless the recipient of the services notifies
16 the local child support agency that only services related to securing
17 health insurance benefits are requested.

18 (d) ~~Where~~ *Whenever* a court order has been obtained, any
19 contractual agreement for support between the local child support
20 agency or the county welfare department and the noncustodial
21 parent shall be deemed null and void to the extent that it is not
22 consistent with the court order.

23 (e) Whenever a family ~~which~~ *that* has been receiving public
24 assistance, including Medi-Cal, ceases to receive assistance,
25 including Medi-Cal, the local child support agency shall, to the
26 extent required by federal regulations, continue to enforce support
27 payments from the noncustodial parent until the individual on
28 whose behalf the enforcement efforts are made sends written notice
29 to the local child support agency requesting that enforcement
30 services be discontinued.

31 (f) The local child support agency shall, ~~where~~ *when* appropriate,
32 utilize reciprocal arrangements adopted with other states in securing
33 support from an absent parent. In individual cases where utilization
34 of reciprocal arrangements has proven ineffective, the local child
35 support agency may forward to the Attorney General a request to
36 utilize federal courts in order to obtain or enforce orders for child
37 or spousal support. If reasonable efforts to collect amounts assigned
38 pursuant to Section 11477 of the Welfare and Institutions Code
39 have failed, the local child support agency may request that the
40 case be forwarded to the *United States* Treasury Department for

1 collection in accordance with federal regulations. The Attorney
2 General, ~~where~~ *when* appropriate, shall forward these requests to
3 the Secretary of Health and Human Services, or a designated
4 representative.

5 *SEC. 2. Section 1506.5 of the Health and Safety Code is*
6 *amended to read:*

7 1506.5. (a) Foster family agencies shall not use foster family
8 homes licensed by a county without the approval of the licensing
9 county. When approval is granted, a written agreement between
10 the foster family agency and the county shall specify the nature of
11 administrative control and case management responsibility and
12 the nature and number of the children to be served in the home.

13 (b) Before a foster family agency may use a licensed foster
14 family home it shall review and, with the exception of a new
15 fingerprint clearance, qualify the home in accordance with Section
16 1506.

17 (c) When approval is given, and for the duration of the
18 agreement permitting the foster family agency use of its licensed
19 foster family home, no child shall be placed in that home except
20 through the foster family agency.

21 (d) Nothing in this section shall transfer or eliminate the
22 responsibility of the placing agency for the care, custody, or control
23 of the child. Nothing in this section shall relieve a foster family
24 agency of its responsibilities for or on behalf of a child placed with
25 it.

26 (e) (1) If an application to a foster family agency for a
27 certificate of approval indicates, or the department determines
28 during the application review process, that the applicant previously
29 was issued a license under this chapter or under Chapter 1
30 (commencing with Section 1200), Chapter 2 (commencing with
31 Section 1250), Chapter 3.01 (commencing with Section 1568.01),
32 Chapter 3.2 (commencing with Section 1569), Chapter 3.4
33 (commencing with Section 1596.70), Chapter 3.5 (commencing
34 with Section 1596.90), or Chapter 3.6 (commencing with Section
35 1597.30) and the prior license was revoked within the preceding
36 two years, the foster family agency shall cease any further review
37 of the application until two years have elapsed from the date of
38 the revocation.

39 (2) If an application to a foster family agency for a certificate
40 of approval indicates, or the department determines during the

1 application review process, that the applicant previously was issued
2 a certificate of approval by a foster family agency that was revoked
3 by the department pursuant to subdivision (b) of Section 1534
4 within the preceding two years, the foster family agency shall cease
5 any further review of the application until two years have elapsed
6 from the date of the revocation.

7 (3) If an application to a foster family agency for a certificate
8 of approval indicates, or the department determines during the
9 application review process, that the applicant was excluded from
10 a facility licensed by the department *or from a certified family*
11 *home* pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897,
12 the foster family agency shall cease any further review of the
13 application unless the excluded person has been reinstated pursuant
14 to Section 11522 of the Government Code by the department.

15 (4) The cessation of review shall not constitute a denial of the
16 application for purposes of subdivision (b) of Section 1534 or any
17 other law.

18 (f) (1) If an application to a foster family agency for a
19 certificate of approval indicates, or the department determines
20 during the application review process, that the applicant had
21 previously applied for a license under any of the chapters listed in
22 paragraph (1) of subdivision (e) and the application was denied
23 within the last year, the foster family agency shall cease further
24 review of the application as follows:

25 (A) In cases where the applicant petitioned for a hearing, the
26 foster family agency shall cease further review of the application
27 until one year has elapsed from the effective date of the decision
28 and order of the department upholding a denial.

29 (B) In cases where the department informed the applicant of
30 his or her right to petition for a hearing and the applicant did not
31 petition for a hearing, the foster family agency shall cease further
32 review of the application until one year has elapsed from the date
33 of the notification of the denial and the right to petition for a
34 hearing.

35 (2) The foster family agency may continue to review the
36 application if the department has determined that the reasons for
37 the denial of the application were due to circumstances and a
38 condition that either have been corrected or are no longer in
39 existence.

1 (3) The cessation of review shall not constitute a denial of the
2 application for purposes of subdivision (b) of Section 1534 or any
3 other law.

4 (g) (1) If an application to a foster family agency for a
5 certificate of approval indicates, or the department determines
6 during the application review process, that the applicant had
7 previously applied for a certificate of approval with a foster family
8 agency and the department ordered the foster family agency to
9 deny the application pursuant to subdivision (b) of Section 1534,
10 the foster family agency shall cease further review of the
11 application as follows:

12 (A) In cases where the applicant petitioned for a hearing, the
13 foster family agency shall cease further review of the application
14 until one year has elapsed from the effective date of the decision
15 and order of the department upholding a denial.

16 (B) In cases where the department informed the applicant of
17 his or her right to petition for a hearing and the applicant did not
18 petition for a hearing, the foster family agency shall cease further
19 review of the application until one year has elapsed from the date
20 of the notification of the denial and the right to petition for a
21 hearing.

22 (2) The foster family agency may continue to review the
23 application if the department has determined that the reasons for
24 the denial of the application were due to circumstances and
25 conditions that either have been corrected or are no longer in
26 existence.

27 (3) The cessation of review shall not constitute a denial of the
28 application for purposes of subdivision (b) of Section 1534 or any
29 other law.

30 *SEC. 3. Section 1520.3 of the Health and Safety Code is*
31 *amended to read:*

32 1520.3. (a) (1) If an application for a license or special permit
33 indicates, or the department determines during the application
34 review process, that the applicant previously was issued a license
35 under this chapter or under Chapter 1 (commencing with Section
36 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01
37 (commencing with Section 1568.01), Chapter 3.3 (commencing
38 with Section 1569), Chapter 3.4 (commencing with Section
39 1596.70), Chapter 3.5 (commencing with Section 1596.90), or
40 Chapter 3.6 (commencing with Section 1597.30) and the prior

1 license was revoked within the preceding two years, the department
2 shall cease any further review of the application until two years
3 shall have elapsed from the date of the revocation. The cessation
4 of review shall not constitute a denial of the application for
5 purposes of Section 1526 or any other provision of law.

6 (2) If an application for a license or special permit indicates,
7 or the department determines during the application review process,
8 that the applicant previously was issued a certificate of approval
9 by a foster family agency that was revoked by the department
10 pursuant to subdivision (b) of Section 1534 within the preceding
11 two years, the department shall cease any further review of the
12 application until two years shall have elapsed from the date of the
13 revocation.

14 (3) If an application for a license or special permit indicates,
15 or the department determines during the application review process,
16 that the applicant was excluded from a facility licensed by the
17 department *or from a certified family home* pursuant to Sections
18 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease
19 any further review of the application unless the excluded individual
20 has been reinstated pursuant to Section 11522 of the Government
21 Code by the department.

22 (b) If an application for a license or special permit indicates,
23 or the department determines during the application review process,
24 that the applicant had previously applied for a license under any
25 of the chapters listed in paragraph (1) of subdivision (a) and the
26 application was denied within the last year, the department shall
27 cease further review of the application as follows:

28 (1) In cases where the applicant petitioned for a hearing, the
29 department shall cease further review of the application until one
30 year has elapsed from the effective date of the decision and order
31 of the department upholding a denial.

32 (2) In cases where the department informed the applicant of
33 his or her right to petition for a hearing and the applicant did not
34 petition for a hearing, the department shall cease further review
35 of the application until one year has elapsed from the date of the
36 notification of the denial and the right to petition for a hearing.

37 (3) The department may continue to review the application if
38 it has determined that the reasons for the denial of the application
39 were due to circumstances and conditions which either have been
40 corrected or are no longer in existence.

1 (c) If an application for a license or special permit indicates,
2 or the department determines during the application review process,
3 that the applicant had previously applied for a certificate of
4 approval with a foster family agency and the department ordered
5 the foster family agency to deny the application pursuant to
6 subdivision (b) of Section 1534, the department shall cease further
7 review of the application as follows:

8 (1) In cases where the applicant petitioned for a hearing, the
9 department shall cease further review of the application until one
10 year has elapsed from the effective date of the decision and order
11 of the department upholding a denial.

12 (2) In cases where the department informed the applicant of
13 his or her right to petition for a hearing and the applicant did not
14 petition for a hearing, the department shall cease further review
15 of the application until one year has elapsed from the date of the
16 notification of the denial and the right to petition for a hearing.

17 (3) The department may continue to review the application if
18 it has determined that the reasons for the denial of the application
19 were due to circumstances and conditions that either have been
20 corrected or are no longer in existence.

21 (d) The cessation of review shall not constitute a denial of the
22 application for purposes of Section 1526 or any other law.

23 *SEC. 4. Section 1522 of the Health and Safety Code is amended*
24 *to read:*

25 1522. The Legislature recognizes the need to generate timely
26 and accurate positive fingerprint identification of applicants as a
27 condition of issuing licenses, permits, or certificates of approval
28 for persons to operate or provide direct care services in a
29 community care facility, foster family home, or a certified family
30 home of a licensed foster family agency. Therefore, the Legislature
31 supports the use of the fingerprint live-scan technology, as
32 identified in the long-range plan of the Department of Justice for
33 fully automating the processing of fingerprints and other data by
34 the year 1999, otherwise known as the California Crime
35 Information Intelligence System (CAL-CII), to be used for
36 applicant fingerprints. It is the intent of the Legislature in enacting
37 this section to require the fingerprints of those individuals whose
38 contact with community care clients may pose a risk to the clients'
39 health and safety. An individual shall be required to obtain either
40 a criminal record clearance or a criminal record exemption from

1 the State Department of Social Services before his or her initial
2 presence in a community care ~~facility~~. *facility or certified family*
3 *home*.

4 (a) (1) Before issuing a license or special permit to any person
5 or persons to operate or manage a community care facility, the
6 State Department of Social Services shall secure from an
7 appropriate law enforcement agency a criminal record to determine
8 whether the applicant or any other person specified in subdivision
9 (b) has ever been convicted of a crime other than a minor traffic
10 violation or arrested for any crime specified in Section 290 of the
11 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
12 subdivision (b) of Section 273a of the Penal Code, or, prior to
13 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
14 or for any crime for which the department cannot grant an
15 exemption if the person was convicted and the person has not been
16 exonerated.

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

20 (3) Except during the 2003–04 to the 2014–15 fiscal years,
21 inclusive, neither the Department of Justice nor the State
22 Department of Social Services may charge a fee for the
23 fingerprinting of an applicant for a license or special permit to
24 operate a facility providing nonmedical board, room, and care for
25 six or less children or for obtaining a criminal record of the
26 applicant pursuant to this section.

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

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

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

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

1 (D) If the State Department of Social Services finds after
2 licensure that the licensee, or any other person specified in
3 paragraph (1) of subdivision (b), has been convicted of a crime
4 other than a minor traffic violation, the license may be revoked,
5 unless the director grants an exemption pursuant to subdivision
6 (g).

7 (E) An applicant and any other person specified in subdivision
8 (b) shall submit fingerprint images and related information to the
9 Department of Justice for the purpose of searching the criminal
10 records of the Federal Bureau of Investigation, in addition to the
11 criminal records search required by this subdivision. If an applicant
12 and all other persons described in subdivision (b) meet all of the
13 conditions for licensure, except receipt of the Federal Bureau of
14 Investigation's criminal offender record information search
15 response for the applicant or any of the persons described in
16 subdivision (b), the department may issue a license if the applicant
17 and each person described in subdivision (b) has signed and
18 submitted a statement that he or she has never been convicted of
19 a crime in the United States, other than a traffic infraction, as
20 prescribed in paragraph (1) of subdivision (a) of Section 42001 of
21 the Vehicle Code. If, after licensure, *or the issuance of a certificate*
22 *of approval of a certified family home by a foster family agency,*
23 *the department determines that the licensee or any other person*
24 *specified in subdivision (b) has a criminal record, the license*
25 *department may be revoked revoke the license, or require a foster*
26 *family agency to revoke the certificate of approval, pursuant to*
27 *Section 1550. The department may also suspend the license or*
28 *require a foster family agency to suspend the certificate of approval*
29 *pending an administrative hearing pursuant to Section 1550.5.*

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

39 (G) Notwithstanding any other law, the department is authorized
40 to provide an individual with a copy of his or her state or federal

1 level criminal offender record information search response as
2 provided to that department by the Department of Justice if the
3 department has denied a criminal background clearance based on
4 this information and the individual makes a written request to the
5 department for a copy specifying an address to which it is to be
6 sent. The state or federal level criminal offender record information
7 search response shall not be modified or altered from its form or
8 content as provided by the Department of Justice and shall be
9 provided to the address specified by the individual in his or her
10 written request. The department shall retain a copy of the
11 individual's written request and the response and date provided.

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

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

16 (B) Any person, other than a client, residing in the ~~facility.~~
17 *facility or certified family home.*

18 (C) Any person who provides client assistance in dressing,
19 grooming, bathing, or personal hygiene. Any nurse assistant or
20 home health aide meeting the requirements of Section 1338.5 or
21 1736.6, respectively, who is not employed, retained, or contracted
22 by the licensee, and who has been certified or recertified on or
23 after July 1, 1998, shall be deemed to meet the criminal record
24 clearance requirements of this section. A certified nurse assistant
25 and certified home health aide who will be providing client
26 assistance and who falls under this exemption shall provide one
27 copy of his or her current certification, prior to providing care, to
28 the community care facility. The facility shall maintain the copy
29 of the certification on file as long as care is being provided by the
30 certified nurse assistant or certified home health aide at the ~~facility.~~
31 *facility or certified family home.* Nothing in this paragraph restricts
32 the right of the department to exclude a certified nurse assistant
33 or certified home health aide from a licensed community care
34 *facility or certified family home* pursuant to Section 1558.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (D) Clergy and other spiritual caregivers who are performing
37 services in common areas of the community care facility or who
38 are advising an individual client at the request of, or with the
39 permission of, the client or legal decisionmaker, are exempt from
40 fingerprint and criminal background check requirements imposed

1 by community care licensing. This exemption does not apply to a
2 person who is a community care licensee or employee of the
3 facility.

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

- 6 (i) Members are not left alone with clients.
- 7 (ii) Members do not transport clients off the facility premises.
- 8 (iii) The same organization does not conduct group activities
9 for clients more often than defined by the department’s regulations.

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

14 (A) Adult friends and family of the licensed or certified foster
15 parent, who come into the home to visit for a length of time no
16 longer than defined by the department in regulations, provided
17 that the adult friends and family of the licensee *or certified parent*
18 are not left alone with the foster children. However, the ~~licensee,~~
19 *licensee or certified parent*, acting as a reasonable and prudent
20 parent, as defined in paragraph (2) of subdivision (a) of Section
21 362.04 of the Welfare and Institutions Code, may allow his or her
22 adult friends and family to provide short-term care to the foster
23 child and act as an appropriate occasional short-term babysitter
24 for the child.

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

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

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

39 (A) Unless contraindicated by the client’s individualized
40 program plan (IPP) or needs and service plan, a spouse, significant

1 other, relative, or close friend of a client, or an attendant or a
2 facilitator for a client with a developmental disability if the
3 attendant or facilitator is not employed, retained, or contracted by
4 the licensee. This exemption applies only if the person is visiting
5 the client or providing direct care and supervision to the client.

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

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

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

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

13 (5) (A) In addition to the exemptions specified in paragraph
14 (2), the following persons in adult residential and social
15 rehabilitation facilities, unless contraindicated by the client's
16 individualized program plan (IPP) or needs and services plan, are
17 exempt from the requirements applicable under paragraph (1): a
18 spouse, significant other, relative, or close friend of a client, or an
19 attendant or a facilitator for a client with a developmental disability
20 if the attendant or facilitator is not employed, retained, or
21 contracted by the licensee. This exemption applies only if the
22 person is visiting the client or providing direct care and supervision
23 to that client.

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

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

30 (c) (1) Subsequent to initial licensure, a person specified in
31 subdivision (b) who is not exempted from fingerprinting shall
32 obtain either a criminal record clearance or an exemption from
33 disqualification pursuant to subdivision (g) from the State
34 Department of Social Services prior to employment, residence, or
35 initial presence in the facility. A person specified in subdivision
36 (b) who is not exempt from fingerprinting shall be fingerprinted
37 and shall sign a declaration under penalty of perjury regarding any
38 prior criminal convictions. The licensee shall submit fingerprint
39 images and related information to the Department of Justice and
40 the Federal Bureau of Investigation, through the Department of

1 Justice, for a state and federal level criminal offender record
2 information search, or comply with paragraph (1) of subdivision
3 (h). These fingerprint images and related information shall be sent
4 by electronic transmission in a manner approved by the State
5 Department of Social Services and the Department of Justice for
6 the purpose of obtaining a permanent set of fingerprints, and shall
7 be submitted to the Department of Justice by the licensee. A
8 licensee's failure to prohibit the employment, residence, or initial
9 presence of a person specified in subdivision (b) who is not exempt
10 from fingerprinting and who has not received either a criminal
11 record clearance or an exemption from disqualification pursuant
12 to subdivision (g) or to comply with paragraph (1) of subdivision
13 (h), as required in this section, shall result in the citation of a
14 deficiency and the immediate assessment of civil penalties in the
15 amount of one hundred dollars (\$100) per violation per day for a
16 maximum of five days, unless the violation is a second or
17 subsequent violation within a 12-month period in which case the
18 civil penalties shall be in the amount of one hundred dollars (\$100)
19 per violation for a maximum of 30 days, and shall be grounds for
20 disciplining the licensee pursuant to Section 1550. The department
21 may assess civil penalties for continued violations as permitted by
22 Section 1548. The fingerprint images and related information shall
23 then be submitted to the Department of Justice for processing.
24 Upon request of the licensee, who shall enclose a self-addressed
25 stamped postcard for this purpose, the Department of Justice shall
26 verify receipt of the fingerprints.

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

1 Section 1522.04, and shall also notify the licensee by mail, within
2 14 days of electronic transmission of the fingerprints to the
3 Department of Justice, if the person has no criminal history
4 recorded. A violation of the regulations adopted pursuant to Section
5 1522.04 shall result in the citation of a deficiency and an immediate
6 assessment of civil penalties in the amount of one hundred dollars
7 (\$100) per violation per day for a maximum of five days, unless
8 the violation is a second or subsequent violation within a 12-month
9 period in which case the civil penalties shall be in the amount of
10 one hundred dollars (\$100) per violation for a maximum of 30
11 days, and shall be grounds for disciplining the licensee pursuant
12 to Section 1550. The department may assess civil penalties for
13 continued violations as permitted by Section 1548.

14 (3) Except for persons specified in subdivision (b) who are
15 exempt from fingerprinting, the licensee shall endeavor to ascertain
16 the previous employment history of persons required to be
17 fingerprinted. If it is determined by the State Department of Social
18 Services, on the basis of the fingerprint images and related
19 information submitted to the Department of Justice, that subsequent
20 to obtaining a criminal record clearance or exemption from
21 disqualification pursuant to subdivision (g), the person has been
22 convicted of, or is awaiting trial for, a sex offense against a minor,
23 or has been convicted for an offense specified in Section 243.4,
24 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State
25 Department of Social Services shall notify the licensee to act
26 immediately to terminate the person's employment, remove the
27 person from the community care facility, or bar the person from
28 entering the community care facility. The State Department of
29 Social Services may subsequently grant an exemption from
30 disqualification pursuant to subdivision (g). If the conviction or
31 arrest was for another crime, except a minor traffic violation, the
32 licensee shall, upon notification by the State Department of Social
33 Services, act immediately to either (A) terminate the person's
34 employment, remove the person from the community care facility,
35 or bar the person from entering the community care facility; or
36 (B) seek an exemption from disqualification pursuant to subdivision
37 (g). The State Department of Social Services shall determine if
38 the person shall be allowed to remain in the facility until a decision
39 on the exemption from disqualification is rendered. A licensee's
40 failure to comply with the department's prohibition of employment,

1 contact with clients, or presence in the facility as required by this
2 paragraph shall result in a citation of deficiency and an immediate
3 assessment of civil penalties in the amount of one hundred dollars
4 (\$100) per violation per day and shall be grounds for disciplining
5 the licensee pursuant to Section 1550.

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

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

21 (d) (1) Before issuing a license or certificate of approval to any
22 person or persons to operate a foster family home or certified
23 family home as described in Section 1506, the State Department
24 of Social Services or other approving authority shall secure
25 California and Federal Bureau of Investigation criminal history
26 information to determine whether the applicant or any person
27 specified in subdivision (b) who is not exempt from fingerprinting
28 has ever been convicted of a crime other than a minor traffic
29 violation or arrested for any crime specified in subdivision (c) of
30 Section 290 of the Penal Code, for violating Section 245 or 273.5,
31 subdivision (b) of Section 273a or, prior to January 1, 1994,
32 paragraph (2) of Section 273a of the Penal Code, or for any crime
33 for which the department cannot grant an exemption if the person
34 was convicted and the person has not been exonerated. The State
35 Department of Social Services or other approving authority shall
36 not issue a license or certificate of approval to any foster family
37 home or certified family home applicant who has not obtained
38 both a California and Federal Bureau of Investigation criminal
39 record clearance or exemption from disqualification pursuant to
40 subdivision (g).

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

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

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

9 (A) If the applicant or other persons specified in subdivision
10 (b) who are not exempt from fingerprinting have convictions that
11 would make the applicant's home unfit as a foster family home or
12 a certified family home, the license, special permit, or certificate
13 of approval shall be denied.

14 (B) If the State Department of Social Services finds that the
15 applicant, or any person specified in subdivision (b) who is not
16 exempt from fingerprinting is awaiting trial for a crime other than
17 a minor traffic violation, the State Department of Social Services
18 or other approving authority may cease processing the application
19 until the conclusion of the trial.

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

23 (D) To the same extent required for federal funding, an applicant
24 for a foster family home license or for certification as a family
25 home, and any other person specified in subdivision (b) who is
26 not exempt from fingerprinting, shall submit a set of fingerprint
27 images and related information to the Department of Justice and
28 the Federal Bureau of Investigation, through the Department of
29 Justice, for a state and federal level criminal offender record
30 information search, in addition to the criminal records search
31 required by subdivision (a).

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

39 (6) (A) Subsequent to initial licensure or certification, a person
40 specified in subdivision (b) who is not exempt from fingerprinting

1 shall obtain both a California and Federal Bureau of Investigation
2 criminal record clearance, or an exemption from disqualification
3 pursuant to subdivision (g), prior to employment, residence, or
4 initial presence in the foster family or certified family home. A
5 foster family home licensee or foster family agency shall submit
6 fingerprint images and related information of persons specified in
7 subdivision (b) who are not exempt from fingerprinting to the
8 Department of Justice and the Federal Bureau of Investigation,
9 through the Department of Justice, for a state and federal level
10 criminal offender record information search, or to comply with
11 paragraph (1) of subdivision (h). A foster family home licensee's
12 or a foster family agency's failure to either prohibit the
13 employment, residence, or initial presence of a person specified
14 in subdivision (b) who is not exempt from fingerprinting and who
15 has not received either a criminal record clearance or an exemption
16 from disqualification pursuant to subdivision (g), or comply with
17 paragraph (1) of subdivision (h), as required in this section, shall
18 result in a citation of a deficiency, and the immediate civil penalties
19 of one hundred dollars (\$100) per violation per day for a maximum
20 of five days, unless the violation is a second or subsequent violation
21 within a 12-month period in which case the civil penalties shall
22 be in the amount of one hundred dollars (\$100) per violation for
23 a maximum of 30 days, and shall be grounds for disciplining the
24 licensee pursuant to Section 1550. A violation of the regulation
25 adopted pursuant to Section 1522.04 shall result in the citation of
26 a deficiency and an immediate assessment of civil penalties in the
27 amount of one hundred dollars (\$100) per violation per day for a
28 maximum of five days, unless the violation is a second or
29 subsequent violation within a 12-month period in which case the
30 civil penalties shall be in the amount of one hundred dollars (\$100)
31 per violation for a maximum of 30 days, and shall be grounds for
32 disciplining the foster family home licensee or the foster family
33 agency pursuant to Section 1550. The State Department of Social
34 Services may assess penalties for continued violations, as permitted
35 by Section 1548. The fingerprint images shall then be submitted
36 to the Department of Justice for processing.

37 (B) Upon request of the licensee, who shall enclose a
38 self-addressed envelope for this purpose, the Department of Justice
39 shall verify receipt of the fingerprints. Within five working days
40 of the receipt of the criminal record or information regarding

1 criminal convictions from the Department of Justice, the
2 department shall notify the applicant of any criminal arrests or
3 convictions. If no arrests or convictions are recorded, the
4 Department of Justice shall provide the foster family home licensee
5 or the foster family agency with a statement of that fact concurrent
6 with providing the information to the State Department of Social
7 Services.

8 (7) If the State Department of Social Services *or other approving*
9 *authority* finds that the applicant, or any other person specified in
10 subdivision (b) who is not exempt from fingerprinting, has been
11 convicted of a crime other than a minor traffic violation, the
12 application shall be denied, unless the director grants an exemption
13 from disqualification pursuant to subdivision (g).

14 (8) If the State Department of Social Services *or other approving*
15 *authority* finds after licensure or the granting of the certificate of
16 approval that the licensee, certified foster parent, or any other
17 person specified in subdivision (b) who is not exempt from
18 fingerprinting, has been convicted of a crime other than a minor
19 traffic violation, the license or certificate of approval may be
20 revoked by the department or the foster family agency, whichever
21 is applicable, unless the director grants an exemption from
22 disqualification pursuant to subdivision (g). A licensee's failure
23 to comply with the department's prohibition of employment,
24 contact with clients, or presence in the facility as required by
25 paragraph (3) of subdivision (c) shall be grounds for disciplining
26 the licensee pursuant to Section 1550.

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

39 (f) (1) For purposes of this section or any other provision of
40 this chapter, a conviction means a plea or verdict of guilty or a

1 conviction following a plea of nolo contendere. Any action that
2 the State Department of Social Services is permitted to take
3 following the establishment of a conviction may be taken when
4 the time for appeal has elapsed, when the judgment of conviction
5 has been affirmed on appeal, or when an order granting probation
6 is made suspending the imposition of sentence, notwithstanding
7 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
8 Penal Code permitting the person to withdraw his or her plea of
9 guilty and to enter a plea of not guilty, or setting aside the verdict
10 of guilty, or dismissing the accusation, information, or indictment.
11 For purposes of this section or any other provision of this chapter,
12 the record of a conviction, or a copy thereof certified by the clerk
13 of the court or by a judge of the court in which the conviction
14 occurred, shall be conclusive evidence of the conviction. For
15 purposes of this section or any other provision of this chapter, the
16 arrest disposition report certified by the Department of Justice, or
17 documents admissible in a criminal action pursuant to Section
18 969b of the Penal Code, shall be prima facie evidence of the
19 conviction, notwithstanding any other law prohibiting the
20 admission of these documents in a civil or administrative action.

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

25 (g) (1) After review of the record, the director may grant an
26 exemption from disqualification for a license or special permit as
27 specified in paragraph (4) of subdivision (a), or for a license,
28 special permit, or certificate of approval as specified in paragraphs
29 (4), (7), and (8) of subdivision (d), or for employment, residence,
30 or presence in a community care facility as specified in paragraphs
31 (3), (4), and (5) of subdivision (c), if the director has substantial
32 and convincing evidence to support a reasonable belief that the
33 applicant and the person convicted of the crime, if other than the
34 applicant, are of good character as to justify issuance of the license
35 or special permit or granting an exemption for purposes of
36 subdivision (c). Except as otherwise provided in this subdivision,
37 an exemption shall not be granted pursuant to this subdivision if
38 the conviction was for any of the following offenses:

39 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
40 subdivision (a) of Section 273a or, prior to January 1, 1994,

1 paragraph (1) of Section 273a, Section 273d, 288, or 289,
2 subdivision (c) of Section 290, or Section 368 of the Penal Code,
3 or was a conviction of another crime against an individual specified
4 in subdivision (c) of Section 667.5 of the Penal Code.

5 (ii) Notwithstanding clause (i), the director may grant an
6 exemption regarding the conviction for an offense described in
7 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
8 of the Penal Code, if the employee or prospective employee has
9 been rehabilitated as provided in Section 4852.03 of the Penal
10 Code, has maintained the conduct required in Section 4852.05 of
11 the Penal Code for at least 10 years, and has the recommendation
12 of the district attorney representing the employee's county of
13 residence, or if the employee or prospective employee has received
14 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
15 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This
16 clause shall not apply to foster care providers, including relative
17 caregivers, nonrelated extended family members, or any other
18 person specified in subdivision (b), in those homes where the
19 individual has been convicted of an offense described in paragraph
20 (1) of subdivision (c) of Section 667.5 of the Penal Code.

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

25 (C) Under no circumstances shall an exemption be granted
26 pursuant to this subdivision to any foster care provider applicant
27 if that applicant, or any other person specified in subdivision (b)
28 in those homes, has a felony conviction for either of the following
29 offenses:

30 (i) A felony conviction for child abuse or neglect, spousal abuse,
31 crimes against a child, including child pornography, or for a crime
32 involving violence, including rape, sexual assault, or homicide,
33 but not including other physical assault and battery. For purposes
34 of this subparagraph, a crime involving violence means a violent
35 crime specified in clause (i) of subparagraph (A), or subparagraph
36 (B).

37 (ii) A felony conviction, within the last five years, for physical
38 assault, battery, or a drug- or alcohol-related offense.

39 (iii) This subparagraph shall not apply to licenses or approvals
40 wherein a caregiver was granted an exemption to a criminal

1 conviction described in clause (i) or (ii) prior to the enactment of
2 this subparagraph.

3 (iv) This subparagraph shall remain operative only to the extent
4 that compliance with its provisions is required by federal law as
5 a condition for receiving funding under Title IV-E of the federal
6 Social Security Act (42 U.S.C. Sec. 670 et seq.).

7 (2) The department shall not prohibit a person from being
8 employed or having contact with clients in a facility on the basis
9 of a denied criminal record exemption request or arrest information
10 unless the department complies with the requirements of Section
11 1558.

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

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

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

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

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

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

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

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

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

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

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

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

24 (ii) The department shall notify the Department of Justice within
25 15 calendar days of the date on which a new county office receives
26 department-delegated licensing authority or a county's delegated
27 licensing authority is rescinded.

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

34 (5) (A) A county child welfare agency with authority to secure
35 clearances pursuant to Section 16504.5 of the Welfare and
36 Institutions Code and to grant exemptions pursuant to Section
37 361.4 of the Welfare and Institutions Code may accept a clearance
38 or exemption from another county with criminal record and
39 exemption authority pursuant to these sections.

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

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

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

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

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

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

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

29 (l) Amendments to this section made in the 1999 portion of the
30 1999–2000 Regular Session shall be implemented commencing
31 60 days after the effective date of the act amending this section in
32 the 1999 portion of the 1999–2000 Regular Session, except that
33 those provisions for the submission of fingerprints for searching
34 the records of the Federal Bureau of Investigation shall be
35 implemented 90 days after the effective date of that act.

36 *SEC. 5. Section 1523.1 of the Health and Safety Code is*
37 *amended to read:*

38 1523.1. (a) (1) An application fee adjusted by facility and
39 capacity shall be charged by the department for the issuance of a
40 license. After initial licensure, a fee shall be charged by the

1 department annually on each anniversary of the effective date of
 2 the license. The fees are for the purpose of financing the activities
 3 specified in this chapter. Fees shall be assessed as follows: ~~follows~~, *follows*,
 4 *subject to paragraph (2)*;

Fee Schedule				
			Initial	
	Facility Type	Capacity	Application	Annual
5				
6				
7				
8	Foster Family and	-	-	-
9	Adoption Agencies		\$2,750	\$1,375
10	Adult Day Programs	—1–15	—\$165	—\$83
11		—16–30	—\$275	—\$138
12		—31–60	—\$550	—\$275
13		—61–75	—\$689	—\$344
14		—76–90	—\$825	—\$413
15		—91–120	—\$1,100	—\$550
16		121+	—\$1,375	—\$688
17				
18				
19	Other Community	—1–3	—\$413	—\$413
20	Care Facilities	—4–6	—\$825	—\$413
21		—7–15	—\$1,239	—\$619
22		—16–30	—\$1,650	—\$825
23		—31–49	—\$2,064	\$1,032
24	-	—50–74	—\$2,477	\$1,239
25	-	—75–100	—\$2,891	\$1,445
26	-	101–150	—\$3,304	\$1,652
27	-	151–200	—\$3,852	\$1,926
28	-	201–250	—\$4,400	\$2,200
29	-	251–300	—\$4,950	\$2,475
30	-	301–350	—\$5,500	\$2,750
31	-	351–400	—\$6,050	\$3,025
32	-	401–500	—\$7,150	\$3,575
33	-	501–600	—\$8,250	\$4,125
34	-	601–700	—\$9,350	\$4,675
35	-	701+—	\$11,000	\$5,500

Fee Schedule				
			Initial	
	Facility Type	Capacity	Application	Annual
36				
37				
38				
39	Foster Family and		\$3,025	\$1,513
40				

1	<i>Adoption Agencies</i>			
2	<i>Adult Day Programs</i>	<i>1-15</i>	<i>\$182</i>	<i>\$91</i>
3		<i>16-30</i>	<i>\$303</i>	<i>\$152</i>
4		<i>31-60</i>	<i>\$605</i>	<i>\$303</i>
5		<i>61-75</i>	<i>\$758</i>	<i>\$378</i>
6		<i>76-90</i>	<i>\$908</i>	<i>\$454</i>
7		<i>91-120</i>	<i>\$1,210</i>	<i>\$605</i>
8		<i>121+</i>	<i>\$1,513</i>	<i>\$757</i>
9				
10	<i>Other Community</i>	<i>1-3</i>	<i>\$454</i>	<i>\$454</i>
11	<i>Care Facilities</i>	<i>4-6</i>	<i>\$908</i>	<i>\$454</i>
12		<i>7-15</i>	<i>\$1,363</i>	<i>\$681</i>
13		<i>16-30</i>	<i>\$1,815</i>	<i>\$908</i>
14		<i>31-49</i>	<i>\$2,270</i>	<i>\$1,135</i>
15		<i>50-74</i>	<i>\$2,725</i>	<i>\$1,363</i>
16		<i>75-100</i>	<i>\$3,180</i>	<i>\$1,590</i>
17		<i>101-150</i>	<i>\$3,634</i>	<i>\$1,817</i>
18		<i>151-200</i>	<i>\$4,237</i>	<i>\$2,119</i>
19		<i>201-250</i>	<i>\$4,840</i>	<i>\$2,420</i>
20		<i>251-300</i>	<i>\$5,445</i>	<i>\$2,723</i>
21		<i>301-350</i>	<i>\$6,050</i>	<i>\$3,025</i>
22		<i>351-400</i>	<i>\$6,655</i>	<i>\$3,328</i>
23		<i>401-500</i>	<i>\$7,865</i>	<i>\$3,933</i>
24		<i>501-600</i>	<i>\$9,075</i>	<i>\$4,538</i>
25		<i>601-700</i>	<i>\$10,285</i>	<i>\$5,143</i>
26		<i>701+</i>	<i>\$12,100</i>	<i>\$6,050</i>

27
 28 (2) (A) *The Legislature finds that all revenues generated by*
 29 *fees for licenses computed under this section and used for the*
 30 *purposes for which they were imposed are not subject to Article*
 31 *XIII B of the California Constitution.*

32 (B) *The department, at least every five years, shall analyze*
 33 *initial application fees and annual fees issued by it to ensure the*
 34 *appropriate fee amounts are charged. The department shall*
 35 *recommend to the Legislature that fees established by the*
 36 *Legislature be adjusted as necessary to ensure that the amounts*
 37 *are appropriate.*

38 (b) (1) *In addition to fees set forth in subdivision (a), the*
 39 *department shall charge the following fees:*

1 (A) A fee that represents 50 percent of an established application
2 fee when an existing licensee moves the facility to a new physical
3 address.

4 (B) A fee that represents 50 percent of the established
5 application fee when a corporate licensee changes who has the
6 authority to select a majority of the board of directors.

7 (C) A fee of twenty-five dollars (\$25) when an existing licensee
8 seeks to either increase or decrease the licensed capacity of the
9 facility.

10 (D) An orientation fee of fifty dollars (\$50) for attendance by
11 any individual at a department-sponsored orientation session.

12 (E) A probation monitoring fee equal to the *current* annual fee,
13 in addition to the *current* annual fee for that category and capacity
14 for each year a license has been placed on probation as a result of
15 a stipulation or decision and order pursuant to the administrative
16 adjudication procedures of the Administrative Procedure Act
17 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title
19 2 of the Government Code).

20 (F) A late fee that represents an additional 50 percent of the
21 established *current* annual fee when any licensee fails to pay the
22 *current* annual licensing fee on or before the due date as indicated
23 by postmark on the payment.

24 (G) A fee to cover any costs incurred by the department for
25 processing payments including, but not limited to, bounced check
26 charges, charges for credit and debit transactions, and postage due
27 charges.

28 (H) A plan of correction fee of two hundred dollars (\$200) when
29 any licensee does not implement a plan of correction on or prior
30 to the date specified in the plan.

31 (2) Foster family homes shall be exempt from the fees imposed
32 pursuant to this subdivision.

33 (3) Foster family agencies shall be annually assessed
34 eighty-eight dollars (\$88) for each home certified by the agency.

35 (4) No local jurisdiction shall impose any business license, fee,
36 or tax for the privilege of operating a facility licensed under this
37 chapter which serves six or fewer persons.

38 (c) (1) The revenues collected from licensing fees pursuant to
39 this section shall be utilized by the department for the purpose of
40 ensuring the health and safety of all individuals provided care and

1 supervision by licensees and to support activities of the licensing
2 program, including, but not limited to, monitoring facilities for
3 compliance with licensing laws and regulations pursuant to this
4 chapter, and other administrative activities in support of the
5 licensing program, when appropriated for these purposes. The
6 revenues collected shall be used in addition to any other funds
7 appropriated in the Budget Act in support of the licensing program.
8 *The department shall adjust the fees collected pursuant to this*
9 *section as necessary to ensure that they do not exceed the costs*
10 *described in this paragraph.*

11 (2) The department shall not utilize any portion of these revenues
12 sooner than 30 days after notification in writing of the purpose
13 and use of this revenue, as approved by the Director of Finance,
14 to the Chairperson of the Joint Legislative Budget Committee, and
15 the chairpersons of the committee in each house that considers
16 appropriations for each fiscal year. The department shall submit
17 a budget change proposal to justify any positions or any other
18 related support costs on an ongoing basis.

19 (d) A facility may use a bona fide business check to pay the
20 license fee required under this section.

21 (e) The failure of an applicant or licensee to pay all applicable
22 and accrued fees and civil penalties shall constitute grounds for
23 denial or forfeiture of a license.

24 *SEC. 6. Section 1523.2 of the Health and Safety Code is*
25 *amended to read:*

26 1523.2. (a) Beginning with the 1996–97 fiscal year, there is
27 hereby created in the State Treasury the Technical Assistance
28 Fund, from which money, upon appropriation by the Legislature
29 in the Budget Act, shall be expended by the department to fund
30 administrative and other activities in support of the licensing
31 program.

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

1 (c) Notwithstanding any other provision of law, revenues
2 received by the department from payment of civil penalties
3 imposed on licensed facilities pursuant to Sections 1522, 1536,
4 1547, 1548, 1568.0821, 1568.0822, 1568.09, 1569.17, 1569.485,
5 and 1569.49 shall be deposited into the Technical Assistance Fund
6 created pursuant to subdivision (a), and ~~shall~~ *may* be expended by
7 the department ~~exclusively~~ for the technical assistance, training,
8 and education of licensees.

9 *SEC. 7. Section 1533 of the Health and Safety Code is amended*
10 *to read:*

11 1533. (a) Except as otherwise provided in this section, any
12 duly authorized officer, employee, or agent of the State Department
13 of Social Services may, upon presentation of proper identification,
14 enter and inspect any place providing personal care, supervision,
15 and services at any time, with or without advance notice, to secure
16 compliance with, or to prevent a violation of, any provision of this
17 chapter.

18 (b) (1) Foster family homes ~~which~~ *that* are considered private
19 residences for the purposes of Section 1530.5 shall not be subject
20 to inspection by the department or its officers without advance
21 notice, except in response to a ~~complaint~~. *complaint, a plan of*
22 *correction, or as set forth in Section 1534. The unannounced visits*
23 *complaint inspection shall not constitute the annual evaluation*
24 *visit an inspection as required by Section 1534. Inspection visits*
25 *to Announced inspections of foster family homes required by*
26 *Section 1534 shall be made during normal business hours, unless*
27 *the serious nature of a complaint requires otherwise.*

28 “Normal

29 (2) ~~business hours,”~~ *as* ~~As used in this section, subdivision,~~
30 *“normal business hours” means from 8 a.m. to 5 p.m., inclusive,*
31 *of each day from Monday to Friday, inclusive, other than state*
32 *holidays.*

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

35 1534. (a) (1) (A) *Except for foster family homes, every*
36 *licensed community care facility shall be subject to unannounced*
37 *inspections by the department.*

38 (B) *Foster family homes shall be subject to announced*
39 *inspections by the department, except that a foster family home*
40 *shall be subject to unannounced inspections in response to a*

1 *complaint, a plan of correction, or under any of the circumstances*
 2 *set forth in subparagraph (B) of paragraph (2).*

3 ~~(a)~~

4 ~~(2) (1)(A) Every licensed community care facility shall be~~
 5 ~~subject to unannounced visits by the department. The department~~
 6 ~~shall visit may inspect~~ these facilities as often as necessary to
 7 ensure the quality of care provided.

8 ~~(A)~~

9 ~~(B)~~ The department shall conduct an annual unannounced ~~visit~~
 10 ~~to inspection of~~ a facility under any of the following circumstances:

- 11 (i) When a license is on probation.
- 12 (ii) When the terms of agreement in a facility compliance plan
- 13 require an annual ~~evaluation~~ *inspection*.
- 14 (iii) When an accusation against a licensee is pending.
- 15 (iv) When a facility requires an annual ~~visit~~ *inspection* as a
- 16 condition of receiving federal financial participation.
- 17 (v) In order to verify that a person who has been ordered out of
- 18 a facility by the department is no longer at the facility.

19 ~~(C) (i) The department shall conduct annual unannounced~~
 20 ~~inspections of no less than 20 percent of facilities, except for foster~~
 21 ~~family homes, not subject to an inspection under subparagraph~~
 22 ~~(B).~~

23 ~~(ii) The department shall conduct annual announced inspections~~
 24 ~~of no less than 20 percent of foster family homes not subject to an~~
 25 ~~inspection under subparagraph (B).~~

26 ~~(B)~~

27 ~~(iii) (i) The department shall conduct annual unannounced~~
 28 ~~visits to no less than 20 percent of facilities not subject to an~~
 29 ~~evaluation under subparagraph (A). These unannounced visits~~
 30 ~~inspections shall be conducted based on a random sampling~~
 31 ~~methodology developed by the department.~~

32 ~~(ii)~~

33 ~~(iv)~~ If the total citations issued by the department *to facilities*
 34 exceed the previous year's total by 10 percent, the following year
 35 the department shall increase the random sample by an additional
 36 10 percent of the facilities not subject to an ~~evaluation~~ *inspection*
 37 under subparagraph ~~(A)~~ *(B)*. The department may request
 38 additional resources to increase the random sample by 10 percent.

39 ~~(C)~~

1 (v) ~~Under no circumstance~~ *The department shall the department*
2 *visit not inspect* a licensed community care facility less often than
3 once every five years.

4 ~~(D)~~

5 (3) In order to facilitate direct contact with group home clients,
6 the department may interview children who are clients of group
7 homes at any public agency or private agency at which the client
8 may be found, including, but not limited to, a juvenile hall,
9 recreation or vocational program, or a *public or* nonpublic school.
10 The department shall respect the rights of the child while
11 conducting the interview, including informing the child that he or
12 she has the right not to be interviewed and the right to have another
13 adult present during the interview.

14 ~~(2)~~

15 (4) The department shall notify the community care facility in
16 writing of all deficiencies in its compliance with the provisions of
17 this chapter and the rules and regulations adopted pursuant to this
18 chapter, and shall set a reasonable length of time for compliance
19 by the facility.

20 ~~(3)~~

21 (5) Reports on the results of each inspection, evaluation, or
22 consultation shall be kept on file in the department, and all
23 inspection reports, consultation reports, lists of deficiencies, and
24 plans of correction shall be open to public inspection.

25 (b) (1) ~~Nothing in this~~ *This section shall does not* limit the
26 authority of the department to inspect or evaluate a licensed foster
27 family agency, a certified family home, or any aspect of a program
28 ~~where in which~~ a licensed community care facility is certifying
29 compliance with licensing requirements.

30 (2) (A) *A foster family agency shall conduct an announced*
31 *inspection of a certified family home during the annual*
32 *recertification described in Section 1506 in order to ensure that*
33 *the certified family home meets all applicable licensing standards.*
34 *A foster family agency may inspect a certified family home as often*
35 *as necessary to ensure the quality of care provided.*

36 (B) *In addition to the inspections required pursuant to*
37 *subparagraph (A), a foster family agency shall conduct an*
38 *unannounced inspection of a certified family home under any of*
39 *the following circumstances:*

40 (i) *When a certified family home is on probation.*

1 (ii) When the terms of the agreement in a facility compliance
2 plan require an annual inspection.

3 (iii) When an accusation against a certified family home is
4 pending.

5 (iv) When a certified family home requires an annual inspection
6 as a condition of receiving federal financial participation.

7 (v) In order to verify that a person who has been ordered out
8 of a certified family home by the department is no longer at the
9 home.

10 ~~(2)~~

11 (3) Upon a finding of noncompliance by the department, the
12 department may require a foster family agency to deny or revoke
13 the certificate of approval of a certified family home, or take other
14 action the department may deem necessary for the protection of a
15 child placed with the *certified* family home. ~~The family home~~
16 *certified parent or prospective foster parent* shall be afforded the
17 due process provided pursuant to this chapter.

18 ~~(3)~~

19 (4) If the department requires a foster family agency to deny or
20 revoke the certificate of approval, the department shall serve an
21 order of denial or revocation upon the certified or prospective
22 foster parent and foster family agency that shall notify the certified
23 or prospective foster parent of the basis of the department's action
24 and of the certified or prospective foster parent's right to a hearing.

25 ~~(4)~~

26 (5) Within 15 days after the department serves an order of denial
27 or revocation, the certified or prospective foster parent may file a
28 written appeal of the department's decision with the department.
29 The department's action shall be final if the certified or prospective
30 foster parent does not file a written appeal within 15 days after the
31 department serves the denial or revocation order.

32 ~~(5)~~

33 (6) The department's order of the denial or revocation of the
34 certificate of approval shall remain in effect until the hearing is
35 completed and the director has made a final determination on the
36 merits.

37 ~~(6)~~

38 (7) A certified or prospective foster parent who files a written
39 appeal of the department's order with the department pursuant to
40 this section shall, as part of the written request, provide his or her

1 current mailing address. The certified or prospective foster parent
2 shall subsequently notify the department in writing of any change
3 in mailing address, until the hearing process has been completed
4 or terminated.

5 (7)

6 (8) Hearings held pursuant to this section shall be conducted in
7 accordance with Chapter 5 (commencing with Section 11500) of
8 *Part 1 of Division 3 of Title 2 of the Government Code*. In all
9 proceedings conducted in accordance with this section the standard
10 of proof shall be by a preponderance of the evidence.

11 (8)

12 (9) The department may institute or continue a disciplinary
13 proceeding against a certified or prospective foster parent upon
14 any ground provided by this section, ~~section or Section 1550~~, enter
15 an order denying or revoking the certificate of approval, or
16 otherwise take disciplinary action against the certified or
17 prospective foster parent, notwithstanding any resignation,
18 withdrawal of application, surrender of the certificate of approval,
19 or denial or revocation of the certificate of approval by the foster
20 family agency.

21 (9)

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

26 *SEC. 9. Section 1546 of the Health and Safety Code is repealed.*

27 ~~1546. The department may require not more than 50 percent~~
28 ~~of each penalty assessed pursuant to Section 1548 to be transmitted~~
29 ~~to the department for use by the Community Care Licensing~~
30 ~~Division of the state department to establish an emergency resident~~
31 ~~relocation fund to be utilized for the relocation and care of residents~~
32 ~~when a facility's license is revoked or temporarily suspended,~~
33 ~~when appropriated by the Legislature. The money in the fund shall~~
34 ~~cover costs, including but not limited to, transportation expenses,~~
35 ~~expenses incurred in notifying family members, and any other~~
36 ~~costs directly associated with providing continuous care to the~~
37 ~~residents. The department shall seek the advice of providers in~~
38 ~~developing a state plan for emergency resident relocation.~~

39 *SEC. 10. Section 1546 is added to the Health and Safety Code,*
40 *to read:*

1 1546. An emergency client contingency account may be
2 established within the Technical Assistance Fund to which not
3 more than 50 percent of each penalty assessed pursuant to Section
4 1548 is deposited for use by the Community Care Licensing
5 Division of the department, at the discretion of the director, for
6 the care and relocation of clients when a facility's license is
7 revoked or temporarily suspended. The money in the account shall
8 cover costs, including, but not limited to, transportation expenses,
9 expenses incurred in notifying family members, and any other costs
10 directly associated with providing continuous care and supervision
11 to the clients. The department may seek the opinion of stakeholders
12 and local governmental agencies in developing policies for
13 emergency client care and supervision.

14 SEC. 11. Section 1546.1 is added to the Health and Safety
15 Code, to read:

16 1546.1. (a) (1) It is the intent of the Legislature in enacting
17 this section to authorize the department to take quick, effective
18 action to protect the health and safety of clients of community care
19 facilities and to minimize the effects of transfer trauma that
20 accompany the abrupt transfer of clients by appointing a temporary
21 manager to assume the operation of a facility that is found to be
22 in a condition in which continued operation by the licensee or his
23 or her representative presents a substantial probability of imminent
24 danger of serious physical harm or death to the clients.

25 (2) A temporary manager appointed pursuant to this section
26 shall assume the operation of the facility in order to bring it into
27 compliance with the law, facilitate a transfer of ownership to a
28 new licensee, or ensure the orderly transfer of clients should the
29 facility be required to close. Upon a final decision and order of
30 revocation of the license or a forfeiture by operation of law, the
31 department shall immediately issue a provisional license to the
32 appointed temporary manager. Notwithstanding the applicable
33 sections of this code governing the revocation of a provisional
34 license, the provisional license issued to a temporary manager
35 shall automatically expire upon the termination of the temporary
36 manager. The temporary manager shall possess the provisional
37 license solely for purposes of carrying out the responsibilities
38 authorized by this section and the duties set forth in the written
39 agreement between the department and the temporary manager.

1 *The temporary manager shall have no right to appeal the*
2 *expiration of the provisional license.*

3 *(b) For purposes of this section, “temporary manager” means*
4 *the person, corporation, or other entity appointed temporarily by*
5 *the department as a substitute facility licensee or administrator*
6 *with authority to hire, terminate, reassign staff, obligate facility*
7 *funds, alter facility procedures, and manage the facility to correct*
8 *deficiencies identified in the facility’s operation. The temporary*
9 *manager shall have the final authority to direct the care and*
10 *supervision activities of any person associated with the facility,*
11 *including superseding the authority of the licensee and the*
12 *administrator.*

13 *(c) The director may appoint a temporary manager when it is*
14 *determined that it is necessary to temporarily suspend any license*
15 *of a community care facility pursuant to Section 1550.5 and any*
16 *of the following circumstances exist:*

17 *(1) The immediate relocation of the clients is not feasible based*
18 *on transfer trauma, lack of alternate placements, or other*
19 *emergency considerations for the health and safety of the clients.*

20 *(2) The licensee is unwilling or unable to comply with the*
21 *requirements of Section 1556 for the safe and orderly relocation*
22 *of clients when ordered to do so by the department.*

23 *(d) (1) Upon appointment, the temporary manager shall*
24 *complete its application for a license to operate a community care*
25 *facility and take all necessary steps and make best efforts to*
26 *eliminate any substantial threat to the health and safety to clients*
27 *or complete the transfer of clients to alternative placements*
28 *pursuant to Section 1556. For purposes of a provisional license*
29 *issued to a temporary manager, the licensee’s existing fire safety*
30 *clearance shall serve as the fire safety clearance for the temporary*
31 *manager’s provisional license.*

32 *(2) A person shall not impede the operation of a temporary*
33 *manager. The temporary manager’s access to, or possession of,*
34 *the property shall not be interfered with during the term of the*
35 *temporary manager appointment. There shall be an automatic stay*
36 *for a 60-day period subsequent to the appointment of a temporary*
37 *manager of any action that would interfere with the functioning*
38 *of the facility, including, but not limited to, termination of utility*
39 *services, attachments or set-offs of client trust funds, and*
40 *repossession of equipment in the facility.*

1 (e) (1) *The appointment of a temporary manager shall be*
2 *immediately effective and shall continue for a period not to exceed*
3 *60 days unless otherwise extended in accordance with paragraph*
4 *(2) of subdivision (h) at the discretion of the department or*
5 *otherwise terminated earlier by any of the following events:*

6 (A) *The temporary manager notifies the department, and the*
7 *department verifies, that the facility meets state and, if applicable,*
8 *federal standards for operation, and will be able to continue to*
9 *maintain compliance with those standards after the termination*
10 *of the appointment of the temporary manager.*

11 (B) *The department approves a new temporary manager.*

12 (C) *A new operator is licensed.*

13 (D) *The department closes the facility.*

14 (E) *A hearing or court order ends the temporary manager*
15 *appointment, including the appointment of a receiver under Section*
16 *1546.2.*

17 (F) *The appointment is terminated by the department or the*
18 *temporary manager.*

19 (2) *The appointment of a temporary manager shall authorize*
20 *the temporary manager to act pursuant to this section. The*
21 *appointment shall be made pursuant to a written agreement*
22 *between the temporary manager and the department that outlines*
23 *the circumstances under which the temporary manager may expend*
24 *funds. The department shall provide the licensee and administrator*
25 *with a copy of the accusation to appoint a temporary manager at*
26 *the time of appointment. The accusation shall notify the licensee*
27 *of the licensee's right to petition the Office of Administrative*
28 *Hearings for a hearing to contest the appointment of the temporary*
29 *manager as described in subdivision (f) and shall provide the*
30 *licensee with a form and appropriate information for the licensee's*
31 *use in requesting a hearing.*

32 (3) *The director may rescind the appointment of a temporary*
33 *manager and appoint a new temporary manager at any time that*
34 *the director determines the temporary manager is not adhering to*
35 *the conditions of the appointment.*

36 (f) (1) *The licensee of a community care facility may contest*
37 *the appointment of the temporary manager by filing a petition for*
38 *an order to terminate the appointment of the temporary manager*
39 *with the Office of Administrative Hearings within 15 days from*
40 *the date of mailing of the accusation to appoint a temporary*

1 manager under subdivision (e). On the same day as the petition is
2 filed with the Office of Administrative Hearings, the licensee shall
3 serve a copy of the petition to the office of the director.

4 (2) Upon receipt of a petition under paragraph (1), the Office
5 of Administrative Hearings shall set a hearing date and time within
6 10 business days of the receipt of the petition. The office shall
7 promptly notify the licensee and the department of the date, time,
8 and place of the hearing. The office shall assign the case to an
9 administrative law judge. At the hearing, relevant evidence may
10 be presented pursuant to Section 11513 of the Government Code.
11 The administrative law judge shall issue a written decision on the
12 petition within 10 business days of the conclusion of the hearing.
13 The 10-day time period for holding the hearing and for rendering
14 a decision may be extended by the written agreement of the parties.

15 (3) The administrative law judge shall uphold the appointment
16 of the temporary manager if the department proves, by a
17 preponderance of the evidence, that the circumstances specified
18 in subdivision (c) applied to the facility at the time of the
19 appointment. The administrative law judge shall order the
20 termination of the temporary manager if the burden of proof is
21 not satisfied.

22 (4) The decision of the administrative law judge is subject to
23 judicial review as provided in Section 1094.5 of the Code of Civil
24 Procedure by the superior court of the county where the facility
25 is located. This review may be requested by the licensee of the
26 facility or the department by filing a petition seeking relief from
27 the order. The petition may also request the issuance of temporary
28 injunctive relief pending the decision on the petition. The superior
29 court shall hold a hearing within 10 business days of the filing of
30 the petition and shall issue a decision on the petition within 10
31 days of the hearing. The department may be represented by legal
32 counsel within the department for purposes of court proceedings
33 authorized under this section.

34 (g) If the licensee of the community care facility does not protest
35 the appointment or does not prevail at either the administrative
36 hearing under paragraph (2) of subdivision (f) or the superior
37 court hearing under paragraph (4) of subdivision (f), the temporary
38 manager shall continue in accordance with subdivision (e).

39 (h) (1) If the licensee of the community care facility petitions
40 the Office of Administrative Hearings pursuant to subdivision (f),

1 *the appointment of the temporary manager by the director pursuant*
2 *to this section shall continue until it is terminated by the*
3 *administrative law judge or by the superior court, or it shall*
4 *continue until the conditions of subdivision (e) are satisfied,*
5 *whichever is earlier.*

6 (2) *At any time during the appointment of the temporary*
7 *manager, the director may request an extension of the appointment*
8 *by filing a petition for hearing with the Office of Administrative*
9 *Hearings and serving a copy of the petition on the licensee. The*
10 *office shall proceed as specified in paragraph (2) of subdivision*
11 *(f). The administrative law judge may extend the appointment of*
12 *the temporary manager an additional 60 days upon a showing by*
13 *the department that the conditions specified in subdivision (c)*
14 *continue to exist.*

15 (3) *The licensee or the department may request review of the*
16 *administrative law judge's decision on the extension as provided*
17 *in paragraph (4) of subdivision (f).*

18 (i) *The temporary manager appointed pursuant to this section*
19 *shall meet the following qualifications:*

20 (1) *Be qualified to oversee correction of deficiencies on the*
21 *basis of experience and education.*

22 (2) *Not be the subject of any pending actions by the department*
23 *or any other state agency nor have ever been excluded from a*
24 *department licensed facility or had a license or certification*
25 *suspended or revoked by an administrative action by the*
26 *department or any other state agency.*

27 (3) *Have no financial ownership interest in the facility and have*
28 *no member of his or her immediate family who has a financial*
29 *ownership interest in the facility.*

30 (4) *Not currently serve, or within the past two years have served,*
31 *as a member of the staff of the facility.*

32 (j) *Payment of the costs of the temporary manager shall comply*
33 *with the following requirements:*

34 (1) *Upon agreement with the licensee, the costs of the temporary*
35 *manager and any other expenses in connection with the temporary*
36 *management shall be paid directly by the facility while the*
37 *temporary manager is assigned to that facility. Failure of the*
38 *licensee to agree to the payment of those costs may result in the*
39 *payment of the costs by the department and subsequent required*

1 reimbursement of the department by the licensee pursuant to this
2 section.

3 (2) Direct costs of the temporary manager shall be equivalent
4 to the sum of the following:

5 (A) The prevailing fee paid by licensees for positions of the
6 same type in the facility's geographic area.

7 (B) Additional costs that reasonably would have been incurred
8 by the licensee if the licensee and the temporary manager had
9 been in an employment relationship.

10 (C) Any other reasonable costs incurred by the temporary
11 manager in furnishing services pursuant to this section.

12 (3) May exceed the amount specified in paragraph (2) if the
13 department is otherwise unable to attract a qualified temporary
14 manager.

15 (k) (1) The responsibilities of the temporary manager may
16 include, but are not limited to, the following:

17 (A) Paying wages to staff. The temporary manager shall have
18 the full power to hire, direct, manage, and discharge employees
19 of the facility, subject to any contractual rights they may have. The
20 temporary manager shall pay employees at the same rate of
21 compensation, including benefits, that the employees would have
22 received from the licensee or wages necessary to provide adequate
23 staff for the protection of clients and compliance with the law.

24 (B) Preserving client funds. The temporary manager shall be
25 entitled to, and shall take possession of, all property or assets of
26 clients that are in the possession of the licensee or administrator
27 of the facility. The temporary manager shall preserve all property,
28 assets, and records of clients of which the temporary manager
29 takes possession.

30 (C) Contracting for outside services as may be needed for the
31 operation of the facility. Any contract for outside services in excess
32 of five thousand dollars (\$5,000) shall be approved by the director.

33 (D) Paying commercial creditors of the facility to the extent
34 required to operate the facility. The temporary manager shall
35 honor all leases, mortgages, and secured transactions affecting
36 the building in which the facility is located and all goods and
37 fixtures in the building, but only to the extent of payments that, in
38 the case of a rental agreement, are for the use of the property
39 during the period of the temporary management, or that, in the

1 case of a purchase agreement, come due during the period of the
2 temporary management.

3 (E) Doing all things necessary and proper to maintain and
4 operate the facility in accordance with sound fiscal policies. The
5 temporary manager shall take action as is reasonably necessary
6 to protect or conserve the assets or property of which the
7 temporary manager takes possession and may use those assets or
8 property only in the performance of the powers and duties set out
9 in this section.

10 (2) Expenditures by the temporary manager in excess of five
11 thousand dollars (\$5,000) shall be approved by the director. Total
12 encumbrances and expenditures by the temporary manager for
13 the duration of the temporary management shall not exceed the
14 sum of forty-nine thousand nine hundred ninety-nine dollars
15 (\$49,999) unless approved by the director in writing.

16 (3) The temporary manager shall make no capital improvements
17 to the facility in excess of five thousand dollars (\$5,000) without
18 the approval of the director.

19 (l) (1) To the extent department funds are advanced for the
20 costs of the temporary manager or for other expenses in connection
21 with the temporary management, the department shall be
22 reimbursed from the revenues accruing to the facility or to the
23 licensee or an entity related to the licensee. Any reimbursement
24 received by the department shall be redeposited in the account
25 from which the department funds were advanced. If the revenues
26 are insufficient to reimburse the department, the unreimbursed
27 amount shall constitute a lien upon the assets of the facility or the
28 proceeds from the sale thereof. The lien against the personal assets
29 of the facility or an entity related to the licensee shall be filed with
30 the Secretary of State on the forms required for a notice of
31 judgment lien. A lien against the real property of the facility or an
32 entity related to the licensee shall be recorded with the county
33 recorder of the county where the facility of the licensee is located
34 or where the real property of the entity related to the licensee is
35 located. The lien shall not attach to the interests of a lessor, unless
36 the lessor is operating the facility. The authority to place a lien
37 against the personal and real property of the licensee for the
38 reimbursement of any state funds expended pursuant to this section
39 shall be given judgment creditor priority.

1 (2) For purposes of this section, “entity related to the licensee”
2 means an entity, other than a natural person, of which the licensee
3 is a subsidiary or an entity in which a person who was obligated
4 to disclose information under Section 1520 possesses an interest
5 that would also require disclosure pursuant to Section 1520.

6 (m) Appointment of a temporary manager under this section
7 does not relieve the licensee of any responsibility for the care and
8 supervision of clients under this chapter. The licensee, even if the
9 license is deemed surrendered or the facility abandoned, shall be
10 required to reimburse the department for all costs associated with
11 operation of the facility during the period the temporary manager
12 is in place that are not accounted for by using facility revenues or
13 for the relocation of clients handled by the department if the
14 licensee fails to comply with the relocation requirements of Section
15 1556 when required by the department to do so. If the licensee
16 fails to reimburse the department under this section, then the
17 department, along with using its own remedies available under
18 this chapter, may request that the Attorney General’s office, the
19 city attorney’s office, or the local district attorney’s office seek
20 any available criminal, civil, or administrative remedy, including,
21 but not limited to, injunctive relief, restitution, and damages in the
22 same manner as provided for in Chapter 5 (commencing with
23 Section 17200) of Part 2 of Division 7 of the Business and
24 Professions Code.

25 (n) The department may use funds from the emergency client
26 contingency account pursuant to Section 1546 when needed to
27 supplement the operation of the facility or the transfer of clients
28 under the control of the temporary manager appointed under this
29 section if facility revenues are unavailable or exhausted when
30 needed. Pursuant to subdivision (l), the licensee shall be required
31 to reimburse the department for any funds used from the emergency
32 client contingency account during the period of control of the
33 temporary manager and any incurred costs of collection.

34 (o) This section does not apply to a residential facility that
35 serves six or fewer persons and is also the principal residence of
36 the licensee.

37 (p) Notwithstanding any other provision of law, the temporary
38 manager shall be liable only for damages resulting from gross
39 negligence in the operation of the facility or intentional tortious
40 acts.

1 (q) All governmental immunities otherwise applicable to the
2 state shall also apply to the state in the use of a temporary manager
3 in the operation of a facility pursuant to this section.

4 (r) A licensee shall not be liable for any occurrences during the
5 temporary management under this section except to the extent that
6 the occurrences are the result of the licensee's conduct.

7 (s) The department may adopt regulations for the administration
8 of this section.

9 SEC. 12. Section 1546.2 is added to the Health and Safety
10 Code, to read:

11 1546.2. (a) It is the intent of the Legislature in enacting this
12 section to authorize the department to take quick, effective action
13 to protect the health and safety of residents of community care
14 facilities and to minimize the effects of transfer trauma that
15 accompany the abrupt transfer of clients through a system whereby
16 the department may apply for a court order appointing a receiver
17 to temporarily operate a community care facility. The receivership
18 is not intended to punish a licensee or to replace attempts to secure
19 cooperative action to protect the clients' health and safety. The
20 receivership is intended to protect the clients in the absence of
21 other reasonably available alternatives. The receiver shall assume
22 the operation of the facility in order to bring it into compliance
23 with law, facilitate a transfer of ownership to a new licensee, or
24 ensure the orderly transfer of clients should the facility be required
25 to close.

26 (b) (1) Whenever circumstances exist indicating that continued
27 management of a community care facility by the current licensee
28 would present a substantial probability or imminent danger of
29 serious physical harm or death to the clients, or the facility is
30 closing or intends to terminate operation as a community care
31 facility and adequate arrangements for relocation of clients have
32 not been made at least 30 days prior to the closing or termination,
33 the director may petition the superior court for the county in which
34 the community care facility is located for an order appointing a
35 receiver to temporarily operate the community care facility in
36 accordance with this section.

37 (2) The petition shall allege the facts upon which the action is
38 based and shall be supported by an affidavit of the director. A
39 copy of the petition and affidavits, together with an order to appear
40 and show cause why temporary authority to operate the community

1 care facility should not be vested in a receiver pursuant to this
2 section, shall be delivered to the licensee, administrator, or a
3 responsible person at the facility to the attention of the licensee
4 and administrator. The order shall specify a hearing date, which
5 shall be not less than 10, nor more than 15, days following delivery
6 of the petition and order upon the licensee, except that the court
7 may shorten or lengthen the time upon a showing of just cause.

8 (c) (1) If the director files a petition pursuant to subdivision
9 (b) for appointment of a receiver to operate a community care
10 facility, in accordance with Section 564 of the Code of Civil
11 Procedure, the director may also petition the court, in accordance
12 with Section 527 of the Code of Civil Procedure, for an order
13 appointing a temporary receiver. A temporary receiver appointed
14 by the court pursuant to this subdivision shall serve until the court
15 has made a final determination on the petition for appointment of
16 a receiver filed pursuant to subdivision (b). A receiver appointed
17 pursuant to this subdivision shall have the same powers and duties
18 as a receiver would have if appointed pursuant to subdivision (b).
19 Upon the director filing a petition for a receiver, the receiver shall
20 complete its application for a provisional license to operate a
21 community care facility. For purposes of a provisional license
22 issued to a receiver, the licensee's existing fire safety clearance
23 shall serve as the fire safety clearance for the receiver's provisional
24 license.

25 (2) At the time of the hearing, the department shall advise the
26 licensee of the name of the proposed receiver. The receiver shall
27 be a certified community care facility administrator or other
28 responsible person or entity, as determined by the court, from a
29 list of qualified receivers established by the department, and, if
30 need be, with input from providers of residential care and
31 consumer representatives. Persons appearing on the list shall have
32 experience in the delivery of care services to clients of community
33 care facilities, and, if feasible, shall have experience with the
34 operation of a community care facility, shall not be the subject of
35 any pending actions by the department or any other state agency,
36 and shall not have ever been excluded from a department licensed
37 facility nor have had a license or certification suspended or
38 revoked by an administrative action by the department or any other
39 state agency. The receivers shall have sufficient background and
40 experience in management and finances to ensure compliance with

1 orders issued by the court. The owner, licensee, or administrator
2 shall not be appointed as the receiver unless authorized by the
3 court.

4 (3) If at the conclusion of the hearing, which may include oral
5 testimony and cross-examination at the option of any party, the
6 court determines that adequate grounds exist for the appointment
7 of a receiver and that there is no other reasonably available
8 remedy to protect the clients, the court may issue an order
9 appointing a receiver to temporarily operate the community care
10 facility and enjoining the licensee from interfering with the receiver
11 in the conduct of his or her duties. In these proceedings, the court
12 shall make written findings of fact and conclusions of law and
13 shall require an appropriate bond to be filed by the receiver and
14 paid for by the licensee. The bond shall be in an amount necessary
15 to protect the licensee in the event of any failure on the part of the
16 receiver to act in a reasonable manner. The bond requirement
17 may be waived by the licensee.

18 (4) The court may permit the licensee to participate in the
19 continued operation of the facility during the pendency of any
20 receivership ordered pursuant to this section and shall issue an
21 order detailing the nature and scope of participation.

22 (5) Failure of the licensee to appear at the hearing on the
23 petition shall constitute an admission of all factual allegations
24 contained in the petition for purposes of these proceedings only.

25 (6) The licensee shall receive notice and a copy of the
26 application each time the receiver applies to the court or the
27 department for instructions regarding his or her duties under this
28 section, when an accounting pursuant to subdivision (i) is
29 submitted, and when any other report otherwise required under
30 this section is submitted. The licensee shall have an opportunity
31 to present objections or otherwise participate in those proceedings.

32 (d) A person shall not impede the operation of a receivership
33 created under this section. The receiver's access to, or possession
34 of, the property shall not be interfered with during the term of the
35 receivership. There shall be an automatic stay for a 60-day period
36 subsequent to the appointment of a receiver of any action that
37 would interfere with the functioning of the facility, including, but
38 not limited to, cancellation of insurance policies executed by the
39 licensees, termination of utility services, attachments or setoffs of

1 *client trust funds and working capital accounts, and repossession*
2 *of equipment in the facility.*

3 *(e) When a receiver is appointed, the licensee may, at the*
4 *discretion of the court, be divested of possession and control of*
5 *the facility in favor of the receiver. If the court divests the licensee*
6 *of possession and control of the facility in favor of the receiver,*
7 *the department shall immediately issue a provisional license to*
8 *the receiver. Notwithstanding the applicable sections of this code*
9 *governing the revocation of a provisional license, the provisional*
10 *license issued to a receiver shall automatically expire upon the*
11 *termination of the receivership. The receiver shall possess the*
12 *provisional license solely for purposes of carrying out the*
13 *responsibilities authorized by this section and the duties ordered*
14 *by the court. The receiver shall have no right to appeal the*
15 *expiration of the provisional license.*

16 *(f) A receiver appointed pursuant to this section:*

17 *(1) May exercise those powers and shall perform those duties*
18 *ordered by the court, in addition to other duties provided by statute.*

19 *(2) Shall operate the facility in a manner that ensures the safety*
20 *and adequate care for the clients.*

21 *(3) Shall have the same rights to possession of the building in*
22 *which the facility is located, and of all goods and fixtures in the*
23 *building at the time the petition for receivership is filed, as the*
24 *licensee and administrator would have had if the receiver had not*
25 *been appointed.*

26 *(4) May use the funds, building, fixtures, furnishings, and any*
27 *accompanying consumable goods in the provision of care and*
28 *services to clients and to any other persons receiving services from*
29 *the facility at the time the petition for receivership was filed.*

30 *(5) Shall take title to all revenue coming to the facility in the*
31 *name of the receiver who shall use it for the following purposes*
32 *in descending order of priority:*

33 *(A) To pay wages to staff. The receiver shall have full power to*
34 *hire, direct, manage, and discharge employees of the facility,*
35 *subject to any contractual rights they may have. The receiver shall*
36 *pay employees at the same rate of compensation, including benefits,*
37 *that the employees would have received from the licensee or wages*
38 *necessary to provide adequate staff for the protection of the clients*
39 *and compliance with the law.*

1 (B) To preserve client funds. The receiver shall be entitled to,
2 and shall take, possession of all property or assets of clients that
3 are in the possession of the licensee or operator of the facility. The
4 receiver shall preserve all property, assets, and records of clients
5 of which the receiver takes possession.

6 (C) To contract for outside services as may be needed for the
7 operation of the community care facility. Any contract for outside
8 services in excess of five thousand dollars (\$5,000) shall be
9 approved by the court.

10 (D) To pay commercial creditors of the facility to the extent
11 required to operate the facility. Except as provided in subdivision
12 (h), the receiver shall honor all leases, mortgages, and secured
13 transactions affecting the building in which the facility is located
14 and all goods and fixtures in the building of which the receiver
15 has taken possession, but only to the extent of payments which, in
16 the case of a rental agreement, are for the use of the property
17 during the period of receivership, or which, in the case of a
18 purchase agreement, come due during the period of receivership.

19 (E) To receive a salary, as approved by the court.

20 (F) To do all things necessary and proper to maintain and
21 operate the facility in accordance with sound fiscal policies. The
22 receiver shall take action as is reasonably necessary to protect or
23 conserve the assets or property of which the receiver takes
24 possession and may use those assets or property only in the
25 performance of the powers and duties set out in this section and
26 by order of the court.

27 (G) To ask the court for direction in the treatment of debts
28 incurred prior to the appointment, if the licensee's debts appear
29 extraordinary, of questionable validity, or unrelated to the normal
30 and expected maintenance and operation of the facility, or if
31 payment of the debts will interfere with the purposes of
32 receivership.

33 (g) (1) A person who is served with notice of an order of the
34 court appointing a receiver and of the receiver's name and address
35 shall be liable to pay the receiver, rather than the licensee, for any
36 goods or services provided by the community care facility after
37 the date of the order. The receiver shall give a receipt for each
38 payment and shall keep a copy of each receipt on file. The receiver
39 shall deposit amounts received in a special account and shall use
40 this account for all disbursements. Payment to the receiver

1 pursuant to this subdivision shall discharge the obligation to the
2 extent of the payment and shall not thereafter be the basis of a
3 claim by the licensee or any other person. A client shall not be
4 evicted nor may any contract or rights be forfeited or impaired,
5 nor may any forfeiture be effected or liability increased, by reason
6 of an omission to pay the licensee, operator, or other person a
7 sum paid to the receiver pursuant to this subdivision.

8 (2) This section shall not be construed to suspend, during the
9 temporary management by the receiver, any obligation of the
10 licensee for payment of local, state, or federal taxes. A licensee
11 shall not be held liable for acts or omissions of the receiver during
12 the term of the temporary management.

13 (3) Upon petition of the receiver, the court may order immediate
14 payment to the receiver for past services that have been rendered
15 and billed, and the court may also order a sum not to exceed one
16 month's advance payment to the receiver of any sums that may
17 become payable under the Medi-Cal program.

18 (h) (1) A receiver shall not be required to honor a lease,
19 mortgage, or secured transaction entered into by the licensee of
20 the facility and another party if the court finds that the agreement
21 between the parties was entered into for a collusive, fraudulent
22 purpose or that the agreement is unrelated to the operation of the
23 facility.

24 (2) A lease, mortgage, or secured transaction or an agreement
25 unrelated to the operation of the facility that the receiver is
26 permitted to dishonor pursuant to this subdivision shall only be
27 subject to nonpayment by the receiver for the duration of the
28 receivership, and the dishonoring of the lease, mortgage, security
29 interest, or other agreement, to this extent, by the receiver shall
30 not relieve the owner or operator of the facility from any liability
31 for the full amount due under the lease, mortgage, security interest,
32 or other agreement.

33 (3) If the receiver is in possession of real estate or goods subject
34 to a lease, mortgage, or security interest that the receiver is
35 permitted to avoid pursuant to paragraph (1), and if the real estate
36 or goods are necessary for the continued operation of the facility,
37 the receiver may apply to the court to set a reasonable rent, price,
38 or rate of interest to be paid by the receiver during the duration
39 of the receivership. The court shall hold a hearing on this
40 application within 15 days. The receiver shall send notice of the

1 application to any known owner of the property involved at least
2 10 days prior to the hearing.

3 (4) Payment by the receiver of the amount determined by the
4 court to be reasonable is a defense to any action against the
5 receiver for payment or possession of the goods or real estate,
6 subject to the lease or mortgage, which is brought by any person
7 who received the notice required by this subdivision. However,
8 payment by the receiver of the amount determined by the court to
9 be reasonable shall not relieve the owner or operator of the facility
10 from any liability for the difference between the amount paid by
11 the receiver and the amount due under the original lease,
12 mortgage, or security interest.

13 (i) A monthly accounting shall be made by the receiver to the
14 department of all moneys received and expended by the receiver
15 on or before the 15th day of the following month or as ordered by
16 the court, and the remainder of income over expenses for that
17 month shall be returned to the licensee. A copy of the accounting
18 shall be provided to the licensee. The licensee or owner of the
19 community care facility may petition the court for a determination
20 as to the reasonableness of any expenditure made pursuant to
21 paragraph (5) of subdivision (f).

22 (j) (1) The receiver shall be appointed for an initial period of
23 not more than three months. The initial three-month period may
24 be extended for additional periods not exceeding three months, as
25 determined by the court pursuant to this section. At the end of one
26 month, the receiver shall report to the court on its assessment of
27 the probability that the community care facility will meet state
28 standards for operation by the end of the initial three-month period
29 and will continue to maintain compliance with those standards
30 after termination of the receiver's management. If it appears that
31 the facility cannot be brought into compliance with state standards
32 within the initial three-month period, the court shall take
33 appropriate action as follows:

34 (A) Extend the receiver's management for an additional three
35 months if there is a substantial likelihood that the facility will meet
36 state standards within that period and will maintain compliance
37 with the standards after termination of the receiver's management.
38 The receiver shall report to the court in writing upon the facility's
39 progress at the end of six weeks of any extension ordered pursuant
40 to this paragraph.

1 (B) Order the director to revoke or temporarily suspend, or
2 both, the license pursuant to Article 5 (commencing with Section
3 1550) and extend the receiver's management for the period
4 necessary to transfer clients in accordance with the transfer plan,
5 but for not more than three months from the date of initial
6 appointment of a receiver, or 14 days, whichever is greater. An
7 extension of an additional three months may be granted if deemed
8 necessary by the court.

9 (2) If it appears at the end of six weeks of an extension ordered
10 pursuant to subparagraph (A) of paragraph (1) that the facility
11 cannot be brought into compliance with state standards for
12 operation or that it will not maintain compliance with those
13 standards after the receiver's management is terminated, the court
14 shall take appropriate action as specified in subparagraph (B) of
15 paragraph (1).

16 (3) In evaluating the probability that a community care facility
17 will maintain compliance with state standards of operation after
18 the termination of receiver management ordered by the court, the
19 court shall consider at least the following factors:

20 (A) The duration, frequency, and severity of past violations in
21 the facility.

22 (B) History of compliance in other care facilities operated by
23 the proposed licensee.

24 (C) Efforts by the licensee to prevent and correct past violations.

25 (D) The financial ability of the licensee to operate in compliance
26 with state standards.

27 (E) The recommendations and reports of the receiver.

28 (4) Management of a community care facility operated by a
29 receiver pursuant to this section shall not be returned to the
30 licensee, to any person related to the licensee, or to any person
31 who served as a member of the facility's staff or who was employed
32 by the licensee prior to the appointment of the receiver unless both
33 of the following conditions are met:

34 (A) The department believes that it would be in the best interests
35 of the clients of the facility, requests that the court return the
36 operation of the facility to the former licensee, and provides clear
37 and convincing evidence to the court that it is in the best interests
38 of the facility's clients to take that action.

39 (B) The court finds that the licensee has fully cooperated with
40 the department in the appointment and ongoing activities of a

1 receiver appointed pursuant to this section, and, if applicable, any
2 temporary manager appointed pursuant to Section 1546.1.

3 (5) The owner of the facility may at any time sell, lease, or close
4 the facility, subject to the following provisions:

5 (A) If the owner closes the facility, or the sale or lease results
6 in the closure of the facility, the court shall determine if a transfer
7 plan is necessary. If the court so determines, the court shall adopt
8 and implement a transfer plan consistent with the provisions of
9 Section 1556.

10 (B) If the licensee proposes to sell or lease the facility and the
11 facility will continue to operate as a community care facility, the
12 court and the department shall reevaluate any proposed transfer
13 plan. If the court and the department determine that the sale or
14 lease of the facility will result in compliance with licensing
15 standards, the transfer plan and the receivership shall, subject to
16 those conditions that the court may impose and enforce, be
17 terminated upon the effective date of the sale or lease.

18 (k) (1) The salary of the receiver shall be set by the court
19 commensurate with community care facility industry standards,
20 giving due consideration to the difficulty of the duties undertaken,
21 and shall be paid from the revenue coming to the facility. If the
22 revenue is insufficient to pay the salary in addition to other
23 expenses of operating the facility, the receiver's salary shall be
24 paid from the emergency client contingency account as provided
25 in Section 1546. State advances of funds in excess of five thousand
26 dollars (\$5,000) shall be approved by the director. Total advances
27 for encumbrances and expenditures shall not exceed the sum of
28 forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
29 unless approved by the director in writing.

30 (2) To the extent state funds are advanced for the salary of the
31 receiver or for other expenses in connection with the receivership,
32 as limited by subdivision (g), the state shall be reimbursed from
33 the revenues accruing to the facility or to the licensee or an entity
34 related to the licensee. Any reimbursement received by the state
35 shall be redeposited in the account from which the state funds were
36 advanced. If the revenues are insufficient to reimburse the state,
37 the unreimbursed amount shall constitute a lien upon the assets
38 of the facility or the proceeds from the sale thereof. The lien against
39 the personal assets of the facility or an entity related to the licensee
40 shall be filed with the Secretary of State on the forms required for

1 a notice of judgment lien. A lien against the real property of the
2 facility or an entity related to the licensee shall be recorded with
3 the county recorder of the county where the facility of the licensee
4 is located or where the real property of the entity related to the
5 licensee is located. The lien shall not attach to the interests of a
6 lessor, unless the lessor is operating the facility.

7 (3) For purposes of this subdivision, “entity related to the
8 licensee” means an entity, other than a natural person, of which
9 the licensee is a subsidiary or an entity in which any person who
10 was obligated to disclose information under Section 1520 possesses
11 an interest that would also require disclosure pursuant to Section
12 1520.

13 (l) (1) This section does not impair the right of the owner of a
14 community care facility to dispose of his or her property interests
15 in the facility, but any facility operated by a receiver pursuant to
16 this section shall remain subject to that administration until
17 terminated by the court. The termination shall be promptly
18 effectuated, provided that the interests of the clients have been
19 safeguarded as determined by the court.

20 (2) This section does not limit the power of the court to appoint
21 a receiver under any other applicable provision of law or to order
22 any other remedy available under law.

23 (m) (1) Notwithstanding any other provision of law, the receiver
24 shall be liable only for damages resulting from gross negligence
25 in the operation of the facility or intentional tortious acts.

26 (2) All governmental immunities otherwise applicable to the
27 State of California shall also apply in the use of a receiver in the
28 operation if a facility pursuant to this section.

29 (3) The licensee shall not be liable for any occurrences during
30 the receivership except to the extent that the occurrences are the
31 result of the licensee’s conduct.

32 (n) The department may adopt regulations for the administration
33 of this section. This section does not impair the authority of the
34 department to temporarily suspend licenses under Section 1550.5
35 or to reach a voluntary agreement with the licensee for alternate
36 management of a community care facility including the use of a
37 temporary manager under Section 1546.1. This section does not
38 authorize the department to interfere in a labor dispute.

1 (o) *This section does not apply to a residential facility that*
 2 *serves six or fewer persons and is also the principal residence of*
 3 *the licensee.*

4 (p) *This section does not apply to a licensee that has obtained*
 5 *a certificate of authority to offer continuing care contracts, as*
 6 *defined in paragraph (8) of subdivision (c) of Section 1771.*

7 SEC. 13. *Section 1548.1 is added to the Health and Safety*
 8 *Code, to read:*

9 1548.1. *The Legislature finds and declares that the current*
 10 *civil penalty structure for facilities licensed by the State*
 11 *Department of Social Services is insufficient to ensure the health*
 12 *and safety of those in care. It is the intent of the Legislature to*
 13 *comprehensively increase these penalties for all facilities in*
 14 *subsequent legislation, with particular emphasis on penalties for*
 15 *violations that result in serious injury or death.*

16 SEC. 14. *Section 1550 of the Health and Safety Code is*
 17 *amended to read:*

18 1550. The department may deny an application for, or suspend
 19 or revoke, any license, or any *special permit, certificate of*
 20 *approval, or administrator certificate*, issued under this chapter
 21 upon any of the following grounds and in the manner provided in
 22 this chapter, or may deny a transfer of a license pursuant to
 23 paragraph (2) of subdivision (b) of Section 1524 for any of the
 24 following grounds:

25 ~~(a) Violation by the licensee or holder of a special permit of~~
 26 ~~this chapter or of the rules and regulations promulgated under this~~
 27 ~~chapter.~~ *chapter by the licensee or holder of a special permit or*
 28 *certificate.*

29 (b) Aiding, abetting, or permitting the violation of this chapter
 30 or of the rules and regulations promulgated under this chapter.

31 (c) Conduct which is inimical to the health, morals, welfare, or
 32 safety of either *the people of this state or* an individual in, or
 33 receiving services from, the facility ~~or the people of the State of~~
 34 ~~California.~~ *certified family home.*

35 (d) The conviction of a licensee, *holder of a special permit or*
 36 *certificate, or other person mentioned in Section 1522, at any time*
 37 *before or during licensure, of a crime as defined in Section 1522.*

38 (e) The licensee of any ~~facility~~ *facility, the holder of a special*
 39 *permit or certificate, or the person providing direct care or*

1 supervision knowingly allows any child to have illegal drugs or
2 alcohol.

3 (f) Engaging in acts of financial malfeasance concerning the
4 operation of a ~~facility~~, *facility or certified family home*, including,
5 but not limited to, improper use or embezzlement of client moneys
6 and property or fraudulent appropriation for personal gain of
7 facility moneys and property, or willful or negligent failure to
8 provide services.

9 *SEC. 15. Section 1551 of the Health and Safety Code is*
10 *amended to read:*

11 1551. (a) Proceedings for the suspension, revocation, or denial
12 of a license, registration, special permit, *certificate of approval*,
13 or any administrator certificate under this chapter, or denial of
14 transfer of a license pursuant to paragraph (2) of subdivision (c)
15 of Section 1524, shall be conducted in accordance with Chapter 5
16 (commencing with Section 11500) of Part 1 of Division 3 of Title
17 2 of the Government Code, and the department shall have all the
18 powers granted by those provisions. In the event of conflict
19 between this chapter and the Government Code, the Government
20 Code shall prevail.

21 (b) In all proceedings conducted in accordance with this section,
22 the standard of proof to be applied shall be by the preponderance
23 of the evidence.

24 (c) If the ~~license~~ *license, special permit, certificate of approval,*
25 *or administrator certificate* is not temporarily suspended pursuant
26 to Section 1550, the hearing shall be held within 90 calendar days
27 after receipt of the notice of defense, unless a continuance of the
28 hearing is granted by the department or the administrative law
29 judge. When the matter has been set for hearing only the
30 administrative law judge may grant a continuance of the hearing.
31 The administrative law judge may, but need not, grant a
32 continuance of the hearing only upon finding the existence of one
33 or more of the following:

34 (1) The death or incapacitating illness of a party, a representative
35 or attorney of a party, a witness to an essential fact, or of the parent,
36 child, or member of the household of such person, when it is not
37 feasible to substitute another representative, attorney, or witness
38 because of the proximity of the hearing date.

39 (2) Lack of notice of hearing as provided in Section 11509 of
40 the Government Code.

1 (3) A material change in the status of the case where a change
 2 in the parties or pleadings requires postponement, or an executed
 3 settlement or stipulated findings of fact obviate the need for
 4 hearing. A partial amendment of the pleadings shall not be good
 5 cause for continuance to the extent that the unamended portion of
 6 the pleadings is ready to be heard.

7 (4) A stipulation for continuance signed by all parties or their
 8 authorized representatives, including, but not limited to, a
 9 representative, which is communicated with the request for
 10 continuance to the administrative law judge no later than 25
 11 business days before the hearing.

12 (5) The substitution of the representative or attorney of a party
 13 upon showing that the substitution is required.

14 (6) The unavailability of a party, representative, or attorney of
 15 a party, or witness to an essential fact due to a conflicting and
 16 required appearance in a judicial matter if when the hearing date
 17 was set, the person did not know and could neither anticipate nor
 18 at any time avoid the conflict, and the conflict with request for
 19 continuance is immediately communicated to the administrative
 20 law judge.

21 (7) The unavailability of a party, a representative or attorney of
 22 a party, or a material witness due to an unavoidable emergency.

23 (8) Failure by a party to comply with a timely discovery request
 24 if the continuance request is made by the party who requested the
 25 discovery.

26 *SEC. 16. Section 1556 of the Health and Safety Code is*
 27 *amended to read:*

28 1556. (a) If the director determines that it is necessary to
 29 temporarily suspend any license or special permit of a community
 30 care facility in order to protect the residents or clients of the facility
 31 from physical or mental abuse, abandonment, or any other
 32 substantial threat to health or safety, the department shall make
 33 every effort to minimize transfer trauma for the residents or clients.

34 (b) The department shall contact any local agency that may have
 35 ~~placement~~ *assessment, placement, protective,* or advocacy
 36 responsibility for the residents or clients of a facility after a
 37 decision is made to temporarily suspend the license or special
 38 permit of the facility and prior to its implementation. The
 39 department shall work *together* with these agencies *and the*
 40 *licensee, if the director determines it to be appropriate, to locate*

1 alternative placement ~~sites~~ *sites*, and to contact relatives *or other*
2 *persons* responsible for the care of these ~~clients~~ *residents* or
3 ~~residents~~. *clients, provide onsite evaluation of the residents or*
4 *clients, and assist in the transfer of the residents or clients.*

5 (c) In any case where the department alleges that a client or
6 resident has a health condition or health conditions which cannot
7 be cared for within the limits of the license or special permit, or
8 requires inpatient care in a health facility licensed pursuant to
9 Chapter 2 (commencing with Section 1250), the department shall
10 do all of the following:

11 (1) Consult with ~~physicians and surgeons~~ *appropriate medical*
12 *personnel* about when the client or resident should be removed
13 from the facility and how transfer trauma can be minimized.

14 (2) If the department temporarily suspends the license or special
15 permit of a facility, use ~~physicians and surgeons or other~~ medical
16 personnel deemed appropriate by the department to provide onsite
17 evaluation of the clients or residents.

18 (3) If the department does not suspend the license or special
19 permit of a facility, order the licensee to remove only those clients
20 or residents who have health conditions which cannot be cared for
21 within the limits of the license or special permit or require inpatient
22 care in a health facility licensed pursuant to Chapter 2
23 (commencing with Section 1250), as determined by the department,
24 if the department determines that other clients or residents are not
25 in physical danger.

26 (d) In any case where the department orders the *temporary*
27 *suspension of a licensee or orders the* licensee, or holder of a
28 special permit, to remove a client or resident who has a health
29 condition or health conditions which cannot be cared for within
30 the limits of the license or special permit or requires inpatient care
31 in a health facility licensed pursuant to Chapter 2 (commencing
32 with Section 1250), the *department may require the* licensee or
33 holder of a special permit ~~shall~~ *to* do all of the following:

34 (1) Prepare and submit to the department a written plan for *the*
35 *safe and orderly* relocation of the client or resident, in a form
36 acceptable to the department.

37 (2) Comply with all terms and conditions of the approved
38 relocation plan.

1 (3) Provide any other information as may be required by the
2 department for the proper administration and enforcement of this
3 section.

4 *SEC. 17. Section 1558 of the Health and Safety Code is*
5 *amended to read:*

6 1558. (a) The department may prohibit any person from being
7 a member of the board of directors, an executive director, or an
8 officer of a licensee, or a licensee from employing, or continuing
9 the employment of, or allowing in a licensed ~~facility,~~ *facility* or
10 *certified family home*, or allowing contact with clients of a licensed
11 *facility or certified family home* by, any employee, prospective
12 employee, or person who is not a client who has:

13 (1) Violated, or aided or permitted the violation by any other
14 person of, any provisions of this chapter or of any rules or
15 regulations promulgated under this chapter.

16 (2) Engaged in conduct that is inimical to the health, morals,
17 welfare, or safety of either *the people of this state* or an individual
18 in or receiving services from the ~~facility,~~ *facility* or ~~the people of~~
19 ~~the State of California.~~ *certified family home.*

20 (3) Been denied an exemption to work or to be present in a
21 ~~facility,~~ *facility or certified family home*, when that person has
22 been convicted of a crime as defined in Section 1522.

23 (4) Engaged in any other conduct that would constitute a basis
24 for disciplining a ~~licensee.~~ *licensee or certified family home.*

25 (5) Engaged in acts of financial malfeasance concerning the
26 operation of a ~~facility,~~ *facility or certified family home*, including,
27 but not limited to, improper use or embezzlement of client moneys
28 and property or fraudulent appropriation for personal gain of
29 facility moneys and property, or willful or negligent failure to
30 provide services.

31 (b) The excluded person, the ~~facility,~~ *facility or certified family*
32 *home*, and the licensee shall be given written notice of the basis
33 of the department's action and of the excluded person's right to
34 an appeal. The notice shall be served either by personal service or
35 by registered mail. Within 15 days after the department serves the
36 notice, the excluded person may file with the department a written
37 appeal of the exclusion order. If the excluded person fails to file
38 a written appeal within the prescribed time, the department's action
39 shall be final.

1 (c) (1) The department may require the immediate removal of
2 a member of the board of directors, an executive director, or an
3 officer of a licensee or exclusion of an employee, prospective
4 employee, or person who is not a client from a facility *or certified*
5 *family home* pending a final decision of the matter, when, in the
6 opinion of the director, the action is necessary to protect residents
7 or clients from physical or mental abuse, abandonment, or any
8 other substantial threat to their health or safety.

9 (2) If the department requires the immediate removal of a
10 member of the board of directors, an executive director, or an
11 officer of a licensee or exclusion of an employee, prospective
12 employee, or person who is not a client from a ~~facility~~, *facility or*
13 *certified family home*, the department shall serve an order of
14 immediate exclusion upon the excluded person that shall notify
15 the excluded person of the basis of the department's action and of
16 the excluded person's right to a hearing.

17 (3) Within 15 days after the department serves an order of
18 immediate exclusion, the excluded person may file a written appeal
19 of the exclusion with the department. The department's action
20 shall be final if the excluded person does not appeal the exclusion
21 within the prescribed time. The department shall do the following
22 upon receipt of a written appeal:

23 (A) Within 30 days of receipt of the appeal, serve an accusation
24 upon the excluded person.

25 (B) Within 60 days of receipt of a notice of defense pursuant
26 to Section 11506 of the Government Code by the excluded person
27 to conduct a hearing on the accusation.

28 (4) An order of immediate exclusion of the excluded person
29 from the facility *or certified family home* shall remain in effect
30 until the hearing is completed and the director has made a final
31 determination on the merits. However, the order of immediate
32 exclusion shall be deemed vacated if the director fails to make a
33 final determination on the merits within 60 days after the original
34 hearing has been completed.

35 (d) An excluded person who files a written appeal with the
36 department pursuant to this section shall, as part of the written
37 request, provide his or her current mailing address. The excluded
38 person shall subsequently notify the department in writing of any
39 change in mailing address, until the hearing process has been
40 completed or terminated.

1 (e) Hearings held pursuant to this section shall be conducted in
2 accordance with Chapter 5 (commencing with Section 11500) of
3 Division 3 of Title 2 of the Government Code. The standard of
4 proof shall be the preponderance of the evidence and the burden
5 of proof shall be on the department.

6 (f) The department may institute or continue a disciplinary
7 proceeding against a member of the board of directors, an executive
8 director, or an officer of a licensee or an employee, prospective
9 employee, or person who is not a client upon any ground provided
10 by this section. The department may enter an order prohibiting
11 any person from being a member of the board of directors, an
12 executive director, or an officer of a licensee or prohibiting the
13 excluded person's employment or presence in the ~~facility~~, *facility*
14 or *certified family home*, or otherwise take disciplinary action
15 against the excluded person, notwithstanding any resignation,
16 withdrawal of employment application, or change of duties by the
17 excluded person, or any discharge, failure to hire, or reassignment
18 of the excluded person by the licensee or that the excluded person
19 no longer has contact with clients at the ~~facility~~. *facility or certified*
20 *family home*.

21 (g) A licensee's or *certified family home's* failure to comply
22 with the department's exclusion order after being notified of the
23 order shall be grounds for disciplining the licensee pursuant to
24 Section 1550.

25 (h) (1) (A) In cases where the excluded person appealed the
26 exclusion order, the person shall be prohibited from working in
27 any facility or being licensed to operate any facility licensed by
28 the department or from being a certified foster parent for the
29 remainder of the excluded person's life, unless otherwise ordered
30 by the department.

31 (B) The excluded individual may petition for reinstatement one
32 year after the effective date of the decision and order of the
33 department upholding the exclusion order pursuant to Section
34 11522 of the Government Code. The department shall provide the
35 excluded person with a copy of Section 11522 of the Government
36 Code with the decision and order.

37 (2) (A) In cases where the department informed the excluded
38 person of his or her right to appeal the exclusion order and the
39 excluded person did not appeal the exclusion order, the person
40 shall be prohibited from working in any facility or being licensed

1 to operate any facility licensed by the department or a certified
2 foster parent for the remainder of the excluded person’s life, unless
3 otherwise ordered by the department.

4 (B) The excluded individual may petition for reinstatement after
5 one year has elapsed from the date of the notification of the
6 exclusion order pursuant to Section 11522 of the Government
7 Code. The department shall provide the excluded person with a
8 copy of Section 11522 of the Government Code with the exclusion
9 order.

10 *SEC. 18. Section 1562 of the Health and Safety Code is*
11 *amended to read:*

12 1562. (a) The director shall ensure that operators and staffs of
13 community care facilities have appropriate training to provide the
14 care and services for which a license or certificate is issued. The
15 section shall not apply to a facility licensed as an Adult Residential
16 Facility for Persons with Special Health Care Needs pursuant to
17 Article 9 (commencing with Section 1567.50).

18 (b) It is the intent of the Legislature that children in foster care
19 reside in the least restrictive, family-based settings that can meet
20 their needs, and that group homes will be used only for short-term,
21 specialized, and intensive treatment purposes that are consistent
22 with a case plan that is determined by a child’s best interests.
23 Accordingly, the Legislature encourages the department to adopt
24 policies, practices, and guidance that ensure that the education,
25 qualification, and training requirements for child care staff in group
26 homes are consistent with the intended role of group homes to
27 provide short-term, specialized, and intensive treatment, with a
28 particular focus on crisis intervention, behavioral stabilization,
29 and other treatment-related goals, as well as the connections
30 between those efforts and work toward permanency for children.

31 (c) (1) *On and after October 1, 2014, each person employed*
32 *as a facility manager or staff member of a group home, as defined*
33 *in paragraph (13) of subdivision (a) of Section 1502, who provides*
34 *direct care and supervision to children and youth residing in the*
35 *group home shall be at least 21 years of age.*

36 (2) *Paragraph (1) shall not apply to a facility manager or staff*
37 *member employed at the group home before October 1, 2014.*

38 (3) *For purposes of this subdivision, “group home” does not*
39 *include a runaway and homeless youth shelter.*

1 SEC. 19. Section 1568.05 of the Health and Safety Code is
 2 amended to read:

3 1568.05. (a) (1) An application fee adjusted by facility and
 4 capacity, shall be charged by the department for a license to operate
 5 a residential care facility for persons with chronic life-threatening
 6 illness. After initial licensure, a fee shall be charged by the
 7 department annually, on each anniversary of the effective date of
 8 the license. The fees are for the purpose of financing the activities
 9 specified in this chapter. Fees shall be assessed as follows: follows,
 10 subject to paragraph (2):

		Fee Schedule	
		Initial	Annual
Capacity	Application		
1-6	\$550 \$605	\$275 \$303 plus \$10	\$11
		per bed	
7-15	\$689 \$758	\$344 \$378 plus \$10	\$11
		per bed	
16-25	\$825 \$908	\$413 \$454 plus \$10	\$11
		per bed	
26+	\$964 \$1,060	\$482 \$530 plus \$10	\$11
		per bed	

27
 28 (2) (A) The Legislature finds that all revenues generated by
 29 fees for licenses computed under this section and used for the
 30 purposes for which they were imposed are not subject to Article
 31 XIII B of the California Constitution.

32 (B) The department, at least every five years, shall analyze
 33 initial application fees and annual fees issued by it to ensure the
 34 appropriate fee amounts are charged. The department shall
 35 recommend to the Legislature that fees established by the
 36 Legislature be adjusted as necessary to ensure that the amounts
 37 are appropriate.

38 (b) (1) In addition to fees set forth in subdivision (a), the
 39 department shall charge the following fees:

1 (A) A fee that represents 50 percent of an established application
2 fee when an existing licensee moves the facility to a new physical
3 address.

4 (B) A fee that represents 50 percent of the established
5 application fee when a corporate licensee changes who has the
6 authority to select a majority of the board of directors.

7 (C) A fee of twenty-five dollars (\$25) when an existing licensee
8 seeks to either increase or decrease the licensed capacity of the
9 facility.

10 (D) An orientation fee of fifty dollars (\$50) for attendance by
11 any individual at a department-sponsored orientation session.

12 (E) A probation monitoring fee equal to the *current* annual fee,
13 in addition to the *current* annual fee for that category and capacity
14 for each year a license has been placed on probation as a result of
15 a stipulation or decision and order pursuant to the administrative
16 adjudication procedures of the Administrative Procedure Act
17 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title
19 2 of the Government Code).

20 (F) A late fee that represents an additional 50 percent of the
21 *current* established annual fee when any licensee fails to pay the
22 *current* annual licensing fee on or before the due date as indicated
23 by postmark on the payment.

24 (G) A fee to cover any costs incurred by the department for
25 processing payments including, but not limited to, bounced check
26 charges, charges for credit and debit transactions, and postage due
27 charges.

28 (H) A plan of correction fee of two hundred dollars (\$200) when
29 any licensee does not implement a plan of correction on or prior
30 to the date specified in the plan.

31 (2) No local governmental entity shall impose any business
32 license, fee, or tax for the privilege of operating a facility licensed
33 under this chapter which serves six or fewer persons.

34 (c) All fees collected pursuant to subdivisions (a) and (b) shall
35 be deposited in the Technical Assistance Fund.

36 (d) The revenues collected from licensing fees pursuant to this
37 section shall be utilized by the department for the purpose of
38 ensuring the health and safety of all individuals provided care and
39 supervision by licensees and to support activities of the licensing
40 program, including, but not limited to, monitoring facilities for

1 compliance with licensing laws and regulations pursuant to this
 2 chapter, and other administrative activities in support of the
 3 licensing program, when appropriated for these purposes. The
 4 revenues collected shall be used in addition to any other funds
 5 appropriated in the Budget Act in support of the licensing program.
 6 *The department shall adjust the fees collected pursuant to this*
 7 *section as necessary to ensure that they do not exceed the costs*
 8 *described in this subdivision.*

9 (e) The department shall not utilize any portion of the revenues
 10 collected pursuant to this section sooner than 30 days after
 11 notification in writing of the purpose and use of this revenue, as
 12 approved by the Director of Finance, to the Chairperson of the
 13 Joint Legislative Budget Committee, and the chairpersons of the
 14 committee in each house that considers appropriations for each
 15 fiscal year. The department shall submit a budget change proposal
 16 to justify any positions or any other related support costs on an
 17 ongoing basis.

18 (f) Fees established pursuant to this section shall not be effective
 19 unless licensing fees are established for all adult residential
 20 facilities licensed by the department.

21 (g) A residential care facility may use a bona fide business check
 22 to pay the license fee required under this section.

23 (h) The failure of an applicant for licensure or a licensee to pay
 24 all applicable and accrued fees and civil penalties shall constitute
 25 grounds for denial or forfeiture of a license.

26 *SEC. 20. Section 1568.07 of the Health and Safety Code is*
 27 *amended to read:*

28 1568.07. (a) (1) Within 90 days after a facility accepts its
 29 first resident for placement following its initial licensure, the
 30 department shall ~~inspect~~ *conduct an unannounced inspection of*
 31 *the facility to evaluate compliance with rules and regulations and*
 32 *to assess the facility's continuing ability to meet regulatory*
 33 *requirements. The licensee shall notify the department, within five*
 34 *business days after accepting its first resident for placement, that*
 35 *the facility has commenced operating.*

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

38 (b) (1) Every licensed residential care facility shall be
 39 periodically inspected and evaluated for quality of care by a
 40 representative or representatives designated by the director.

1 ~~Evaluations~~ *Unannounced inspections* shall be conducted at least
2 annually and as often as necessary to ensure the quality of care
3 being provided.

4 (2) During each licensing inspection the department shall
5 determine if the facility meets regulatory standards, including, but
6 not limited to, providing residents with the appropriate level of
7 care based on the facility's license, providing adequate staffing
8 and services, updated resident records and assessments, and
9 compliance with basic health and safety standards.

10 (3) If the department determines that a resident requires a higher
11 level of care than the facility is authorized to provide, the
12 department may initiate a professional level of care assessment by
13 an assessor approved by the department. An assessment shall be
14 conducted in consultation with the resident, the resident's physician
15 and surgeon, and the resident's case manager, and shall reflect the
16 desires of the resident, the resident's physician and surgeon, and
17 the resident's case manager. The assessment also shall recognize
18 that certain illnesses are episodic in nature and that the resident's
19 need for a higher level of care may be temporary.

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

24 (5) Reports on the results of each ~~inspection, evaluation,~~
25 *inspection* or consultation shall be kept on file in the department,
26 and all inspection reports, consultation reports, lists of deficiencies,
27 and plans of correction shall be open to public inspection.

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

33 (d) No licensee, or officer or employee of the licensee, shall
34 discriminate or retaliate in any manner, including, but not limited
35 to, eviction or threat of eviction, against any person receiving the
36 services of the licensee's facility, or against any employee of the
37 licensee's facility, on the basis, or for the reason, that the person
38 or employee or any other person has initiated or participated in
39 the filing of a complaint, grievance, or a request for inspection
40 with the department pursuant to this chapter or has initiated or

1 participated in the filing of a complaint, grievance, or request for
2 investigation with the appropriate local or state ombudsman.

3 (e) Any person who, without lawful authorization from a duly
4 authorized officer, employee, or agent of the department, informs
5 an owner, operator, employee, agent, or resident of a residential
6 care facility, of an impending or proposed inspection or evaluation
7 of that facility by personnel of the department, is guilty of a
8 misdemeanor and upon conviction thereof shall be punished by a
9 fine not to exceed one thousand dollars (\$1,000), by imprisonment
10 in the county jail for a period not to exceed 180 days, or by both
11 a fine and imprisonment.

12 *SEC. 21. Section 1569.185 of the Health and Safety Code is*
13 *amended to read:*

14 1569.185. (a) (1) An application fee adjusted by facility and
15 capacity shall be charged by the department for the issuance of a
16 license to operate a residential care facility for the elderly. After
17 initial licensure, a fee shall be charged by the department annually
18 on each anniversary of the effective date of the license.

19 The fees are for the purpose of financing activities specified in
20 this chapter. Fees shall be assessed as follows: *follows, subject to*
21 *paragraph (2):*

		Fee Schedule	
		Initial	Annual
Capacity		Application	
1-3		\$413	\$413
		\$454	\$454
4-6		\$825	\$413
		\$908	\$454
7-15		\$1,239	\$619
		\$1,363	\$681
16-30		\$1,650	\$825
		\$1,815	\$908
31-49		\$2,064	\$1,032
		\$2,270	\$1,135
50-74		\$2,477	\$1,239
		\$2,725	\$1,363
75-100		\$2,891	\$1,445
		\$3,180	\$1,590
101-150		\$3,304	\$1,652

1		\$3,634	\$1,817
2	151-200	-\$3,852	-\$1,926
3		\$4,237	\$2,119
4	201-250	-\$4,400	-\$2,200
5		\$4,840	\$2,420
6	251-300	-\$4,950	-\$2,475
7		\$5,445	\$2,723
8	301-350	\$5,500	\$2,750
9	351-400 301-350		
10		-\$6,050	-\$3,025
11		\$6,050	\$3,025
12	351-400		
13		\$6,655	\$3,328
14	401-500	-\$7,150	-\$3,575
15		\$7,865	\$3,933
16	501-600	-\$8,250	-\$4,125
17		\$9,075	\$4,538
18	601-700	-\$9,350	-\$4,675
19		\$10,285	\$5,143
20	701+	-\$11,000	-\$5,500
21		\$12,100	\$6,050
22			

23 (2) (A) *The Legislature finds that all revenues generated by*
 24 *fees for licenses computed under this section and used for the*
 25 *purposes for which they were imposed are not subject to Article*
 26 *XIII B of the California Constitution.*

27 (B) *The department, at least every five years, shall analyze*
 28 *initial application fees and annual fees issued by it to ensure the*
 29 *appropriate fee amounts are charged. The department shall*
 30 *recommend to the Legislature that fees established by the*
 31 *Legislature be adjusted as necessary to ensure that the amounts*
 32 *are appropriate.*

33 (b) (1) In addition to fees set forth in subdivision (a), the
 34 department shall charge the following fees:

35 (A) A fee that represents 50 percent of an established application
 36 fee when an existing licensee moves the facility to a new physical
 37 address.

38 (B) A fee that represents 50 percent of the established
 39 application fee when a corporate licensee changes who has the
 40 authority to select a majority of the board of directors.

1 (C) A fee of twenty-five dollars (\$25) when an existing licensee
2 seeks to either increase or decrease the licensed capacity of the
3 facility.

4 (D) An orientation fee of fifty dollars (\$50) for attendance by
5 any individual at a department-sponsored orientation session.

6 (E) A probation monitoring fee equal to the *current* annual fee,
7 in addition to the *current* annual fee for that category and capacity
8 for each year a license has been placed on probation as a result of
9 a stipulation or decision and order pursuant to the administrative
10 adjudication procedures of the Administrative Procedure Act
11 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3 of Title
13 2 of the Government Code).

14 (F) A late fee that represents an additional 50 percent of the
15 established *current* annual fee when any licensee fails to pay the
16 *current* annual licensing fee on or before the due date as indicated
17 by postmark on the payment.

18 (G) A fee to cover any costs incurred by the department for
19 processing payments including, but not limited to, bounced check
20 charges, charges for credit and debit transactions, and postage due
21 charges.

22 (H) A plan of correction fee of two hundred dollars (\$200) when
23 any licensee does not implement a plan of correction on or prior
24 to the date specified in the plan.

25 (2) No local jurisdiction shall impose any business license, fee,
26 or tax for the privilege of operating a facility licensed under this
27 chapter which serves six or fewer persons.

28 (c) (1) The revenues collected from licensing fees pursuant to
29 this section shall be utilized by the department for the purpose of
30 ensuring the health and safety of all individuals provided care or
31 supervision by licensees and to support the activities of the
32 licensing programs, including, but not limited to, monitoring
33 facilities for compliance with licensing laws and regulations
34 pursuant to this chapter, and other administrative activities in
35 support of the licensing program, when appropriated for these
36 purposes. The revenues collected shall be used in addition to any
37 other funds appropriated in the annual Budget Act in support of
38 the licensing program. *The department shall adjust the fees*
39 *collected pursuant to this section to ensure that they do not exceed*
40 *the costs described in this paragraph.*

1 (2) The department shall not utilize any portion of these revenues
2 sooner than 30 days after notification in writing of the purpose
3 and use, as approved by the Department of Finance, to the
4 Chairperson of the Joint Legislative Budget Committee, and the
5 chairpersons of the committee in each house that considers
6 appropriations for each fiscal year. The department shall submit
7 a budget change proposal to justify any positions or any other
8 related support costs on an ongoing basis.

9 (d) A residential care facility for the elderly may use a bona
10 fide business check to pay the license fee required under this
11 section.

12 (e) The failure of an applicant for licensure or a licensee to pay
13 all applicable and accrued fees and civil penalties shall constitute
14 grounds for denial or forfeiture of a license.

15 *SEC. 22. Section 1569.20 of the Health and Safety Code is*
16 *amended to read:*

17 1569.20. Upon the filing of the application for issuance of an
18 initial license, the department shall, within five working days of
19 the filing, make a determination regarding the completeness of the
20 application. If the application is complete, the department shall
21 immediately request a fire clearance and notify the applicant to
22 arrange a time for the department to conduct a prelicensure ~~survey~~
23 *inspection*. If the *department determines that an application is for*
24 *licensure of a currently licensed facility for which there is no*
25 *material change to the management or operations of the facility,*
26 *the prelicensure inspection is optional at the discretion of the*
27 *department. If the application is incomplete, the department shall*
28 *notify the applicant and request the necessary information. Within*
29 *60 days of making a determination that the file is complete, the*
30 *department shall make a determination whether the application is*
31 *in compliance with this chapter and the rules and regulations of*
32 *the department and shall either immediately issue the license or*
33 *notify the applicant of the deficiencies. The notice shall specify*
34 *whether the deficiencies constitute denial of the application or*
35 *whether further corrections for compliance will likely result in*
36 *approval of the application.*

37 *SEC. 23. Section 1569.48 of the Health and Safety Code is*
38 *amended to read:*

39 1569.48. ~~A fund~~ *An emergency resident contingency account*
40 *may be established within the Technical Assistance Fund*

1 *established under Section 1523.2 to which not more than 50 percent*
2 *of each penalty assessed pursuant to Section 1569.49 is transmitted*
3 *to the department deposited for use by the Community Care*
4 *Licensing Division of the department to establish an emergency*
5 *resident relocation fund to be utilized department, at the discretion*
6 *of the director, for the relocation and care of residents when a*
7 *facility's license is revoked or temporarily suspended, when*
8 *appropriated by the Legislature. suspended. The money in the fund*
9 *account shall cover costs, including, but not limited to,*
10 *transportation expenses, expenses incurred in notifying family*
11 *members, and any other costs directly associated with providing*
12 *continuous care and supervision to the residents. The department*
13 *shall seek the advice input of providers stakeholders and local*
14 *agencies in developing a state plan policies for emergency resident*
15 *relocation. care and supervision.*

16 *SEC. 24. Section 1569.481 is added to the Health and Safety*
17 *Code, to read:*

18 *1569.481. (a) (1) It is the intent of the Legislature in enacting*
19 *this section to authorize the department to take quick, effective*
20 *action to protect the health and safety of residents of residential*
21 *care facilities for the elderly and to minimize the effects of transfer*
22 *trauma that accompany the abrupt transfer of residents by*
23 *appointing a temporary manager to assume the operation of a*
24 *facility that is found to be in a condition in which continued*
25 *operation by the licensee or his or her representative presents a*
26 *substantial probability of imminent danger of serious physical*
27 *harm or death to the residents.*

28 *(2) A temporary manager appointed pursuant to this section*
29 *shall assume the operation of the facility in order to bring it into*
30 *compliance with the law, facilitate a transfer of ownership to a*
31 *new licensee, or ensure the orderly transfer of residents should*
32 *the facility be required to close. Upon a final decision and order*
33 *of revocation of the license, issuance of a temporary suspension,*
34 *or a forfeiture by operation of law, the department shall*
35 *immediately issue a provisional license to the appointed temporary*
36 *manager. Notwithstanding the applicable sections of this code*
37 *governing the revocation of a provisional license, the provisional*
38 *license issued to a temporary manager shall automatically expire*
39 *upon the termination of the temporary manager. The temporary*
40 *manager shall possess the provisional license solely for purposes*

1 of carrying out the responsibilities authorized by this section and
2 the duties set forth in the written agreement between the department
3 and the temporary manager. The temporary manager shall have
4 no right to appeal the expiration of the provisional license.

5 (b) For purposes of this section, “temporary manager” means
6 the person, corporation, or other entity appointed temporarily by
7 the department as a substitute facility licensee or administrator
8 with authority to hire, terminate, reassign staff, obligate facility
9 funds, alter facility procedures, and manage the facility to correct
10 deficiencies identified in the facility’s operation. The temporary
11 manager shall have the final authority to direct the care and
12 supervision activities of any person associated with the facility,
13 including superseding the authority of the licensee and the
14 administrator.

15 (c) The director, in order to protect the residents of the facility
16 from physical or mental abuse, abandonment, or any other
17 substantial threat to health or safety, may appoint a temporary
18 manager when any of the following circumstances exist:

19 (1) The director determines that it is necessary to temporarily
20 suspend the license of a residential care facility for the elderly
21 pursuant to Section 1569.50 and the immediate relocation of the
22 residents is not feasible based on transfer trauma, lack of available
23 alternative placements, or other emergency considerations for the
24 health and safety of the residents.

25 (2) The licensee is unwilling or unable to comply with the
26 requirements of Section 1569.525 or the requirements of Section
27 1569.682 regarding the safe and orderly relocation of residents
28 when ordered to do so by the department or when otherwise
29 required by law.

30 (3) The licensee has opted to secure a temporary manager
31 pursuant to Section 1569.525.

32 (d) (1) Upon appointment, the temporary manager shall
33 complete its application for a license to operate a residential care
34 facility for the elderly and take all necessary steps and make best
35 efforts to eliminate any substantial threat to the health and safety
36 to residents or complete the transfer of residents to alternative
37 placements pursuant to Section 1569.525 or 1569.682. For
38 purposes of a provisional license issued to a temporary manager,
39 the licensee’s existing fire safety clearance shall serve as the fire
40 safety clearance for the temporary manager’s provisional license.

1 (2) A person shall not impede the operation of a temporary
2 manager. The temporary manager's access to, or possession of,
3 the property shall not be interfered with during the term of the
4 temporary manager appointment. There shall be an automatic stay
5 for a 60-day period subsequent to the appointment of a temporary
6 manager of any action that would interfere with the functioning
7 of the facility, including, but not limited to, termination of utility
8 services, attachments, or setoffs of resident trust funds, and
9 repossession of equipment in the facility.

10 (e) (1) The appointment of a temporary manager shall be
11 immediately effective and shall continue for a period not to exceed
12 60 days unless otherwise extended in accordance with paragraph
13 (2) of subdivision (h) at the discretion of the department or as
14 permitted by paragraph (2) of subdivision (d) of Section 1569.525,
15 or unless otherwise terminated earlier by any of the following
16 events:

17 (A) The temporary manager notifies the department, and the
18 department verifies, that the facility meets state and, if applicable,
19 federal standards for operation, and will be able to continue to
20 maintain compliance with those standards after the termination
21 of the appointment of the temporary manager.

22 (B) The department approves a new temporary manager.

23 (C) A new operator is licensed.

24 (D) The department closes the facility.

25 (E) A hearing or court order ends the temporary manager
26 appointment, including the appointment of a receiver under Section
27 1569.482.

28 (F) The appointment is terminated by the department or the
29 temporary manager.

30 (2) The appointment of a temporary manager shall authorize
31 the temporary manager to act pursuant to this section. The
32 appointment shall be made pursuant to a written agreement
33 between the temporary manager and the department that outlines
34 the circumstances under which the temporary manager may expend
35 funds. The department shall provide the licensee and administrator
36 with a copy of the accusation to appoint a temporary manager at
37 the time of appointment. The accusation shall notify the licensee
38 of the licensee's right to petition the Office of Administrative
39 Hearings for a hearing to contest the appointment of the temporary
40 manager as described in subdivision (f) and shall provide the

1 licensee with a form and appropriate information for the licensee's
2 use in requesting a hearing.

3 (3) The director may rescind the appointment of a temporary
4 manager and appoint a new temporary manager at any time that
5 the director determines the temporary manager is not adhering to
6 the conditions of the appointment.

7 (f) (1) The licensee of a residential care facility for the elderly
8 may contest the appointment of the temporary manager by filing
9 a petition for an order to terminate the appointment of the
10 temporary manager with the Office of Administrative Hearings
11 within 15 days from the date of mailing of the accusation to appoint
12 a temporary manager under subdivision (e). On the same day as
13 the petition is filed with the Office of Administrative Hearings, the
14 licensee shall serve a copy of the petition to the office of the
15 director.

16 (2) Upon receipt of a petition under paragraph (1), the Office
17 of Administrative Hearings shall set a hearing date and time within
18 10 business days of the receipt of the petition. The office shall
19 promptly notify the licensee and the department of the date, time,
20 and place of the hearing. The office shall assign the case to an
21 administrative law judge. At the hearing, relevant evidence may
22 be presented pursuant to Section 11513 of the Government Code.
23 The administrative law judge shall issue a written decision on the
24 petition within 10 business days of the conclusion of the hearing.
25 The 10-day time period for holding the hearing and for rendering
26 a decision may be extended by the written agreement of the parties.

27 (3) The administrative law judge shall uphold the appointment
28 of the temporary manager if the department proves, by a
29 preponderance of the evidence, that the circumstances specified
30 in subdivision (c) applied to the facility at the time of the
31 appointment. The administrative law judge shall order the
32 termination of the temporary manager if the burden of proof is
33 not satisfied.

34 (4) The decision of the administrative law judge is subject to
35 judicial review as provided in Section 1094.5 of the Code of Civil
36 Procedure by the superior court of the county where the facility
37 is located. This review may be requested by the licensee of the
38 facility or the department by filing a petition seeking relief from
39 the order. The petition may also request the issuance of temporary
40 injunctive relief pending the decision on the petition. The superior

1 court shall hold a hearing within 10 business days of the filing of
2 the petition and shall issue a decision on the petition within 10
3 days of the hearing. The department may be represented by legal
4 counsel within the department for purposes of court proceedings
5 authorized under this section.

6 (g) If the licensee does not protest the appointment or does not
7 prevail at either the administrative hearing under paragraph (2)
8 of subdivision (f) or the superior court hearing under paragraph
9 (4) of subdivision (f), the temporary manager shall continue in
10 accordance with subdivision (e).

11 (h) (1) If the licensee petitions the Office of Administrative
12 Hearings pursuant to subdivision (f), the appointment of the
13 temporary manager by the director pursuant to this section shall
14 continue until it is terminated by the administrative law judge or
15 by the superior court, or it shall continue until the conditions of
16 subdivision (e) are satisfied, whichever is earlier.

17 (2) At any time during the appointment of the temporary
18 manager, the director may request an extension of the appointment
19 by filing a petition for hearing with the Office of Administrative
20 Hearings and serving a copy of the petition on the licensee. The
21 office shall proceed as specified in paragraph (2) of subdivision
22 (f). The administrative law judge may extend the appointment of
23 the temporary manager an additional 60 days upon a showing by
24 the department that the conditions specified in subdivision (c)
25 continue to exist.

26 (3) The licensee or the department may request review of the
27 administrative law judge's decision on the extension as provided
28 in paragraph (4) of subdivision (f).

29 (i) The temporary manager appointed pursuant to this section
30 shall meet the following qualifications:

31 (1) Be qualified to oversee correction of deficiencies in a
32 residential care facility for the elderly on the basis of experience
33 and education.

34 (2) Not be the subject of any pending actions by the department
35 or any other state agency nor have ever been excluded from a
36 department-licensed facility or had a license or certification
37 suspended or revoked by an administrative action by the
38 department or any other state agency.

1 (3) *Have no financial ownership interest in the facility and have*
2 *no member of his or her immediate family who has a financial*
3 *ownership interest in the facility.*

4 (4) *Not currently serve, or within the past two years have served,*
5 *as a member of the staff of the facility.*

6 (j) *Payment of the costs of the temporary manager shall comply*
7 *with the following requirements:*

8 (1) *Upon agreement with the licensee, the costs of the temporary*
9 *manager and any other expenses in connection with the temporary*
10 *management shall be paid directly by the facility while the*
11 *temporary manager is assigned to that facility. Failure of the*
12 *licensee to agree to the payment of those costs may result in the*
13 *payment of the costs by the department and subsequent required*
14 *reimbursement of the department by the licensee pursuant to this*
15 *section.*

16 (2) *Direct costs of the temporary manager shall be equivalent*
17 *to the sum of the following:*

18 (A) *The prevailing fee paid by licensees for positions of the*
19 *same type in the facility's geographic area.*

20 (B) *Additional costs that reasonably would have been incurred*
21 *by the licensee if the licensee and the temporary manager had*
22 *been in an employment relationship.*

23 (C) *Any other reasonable costs incurred by the temporary*
24 *manager in furnishing services pursuant to this section.*

25 (3) *Direct costs may exceed the amount specified in paragraph*
26 *(2) if the department is otherwise unable to find a qualified*
27 *temporary manager.*

28 (k) (1) *The responsibilities of the temporary manager may*
29 *include, but are not limited to, the following:*

30 (A) *Paying wages to staff. The temporary manager shall have*
31 *the full power to hire, direct, manage, and discharge employees*
32 *of the facility, subject to any contractual rights they may have. The*
33 *temporary manager shall pay employees at the same rate of*
34 *compensation, including benefits, that the employees would have*
35 *received from the licensee or wages necessary to provide adequate*
36 *staff for the protection of clients and compliance with the law.*

37 (B) *Preserving resident funds. The temporary manager shall*
38 *be entitled to, and shall take possession of, all property or assets*
39 *of residents that are in the possession of the licensee or*
40 *administrator of the facility. The temporary manager shall preserve*

1 all property, assets, and records of residents of which the
2 temporary manager takes possession.

3 (C) Contracting for outside services as may be needed for the
4 operation of the facility. Any contract for outside services in excess
5 of five thousand dollars (\$5,000) shall be approved by the director.

6 (D) Paying commercial creditors of the facility to the extent
7 required to operate the facility. The temporary manager shall
8 honor all leases, mortgages, and secured transactions affecting
9 the building in which the facility is located and all goods and
10 fixtures in the building, but only to the extent of payments that, in
11 the case of a rental agreement, are for the use of the property
12 during the period of the temporary management, or that, in the
13 case of a purchase agreement, come due during the period of the
14 temporary management.

15 (E) Performing all acts that are necessary and proper to
16 maintain and operate the facility in accordance with sound fiscal
17 policies. The temporary manager shall take action as is reasonably
18 necessary to protect or conserve the assets or property of which
19 the temporary manager takes possession and may use those assets
20 or property only in the performance of the powers and duties set
21 forth in this section.

22 (2) Expenditures by the temporary manager in excess of five
23 thousand dollars (\$5,000) shall be approved by the director. Total
24 encumbrances and expenditures by the temporary manager for
25 the duration of the temporary management shall not exceed the
26 sum of forty-nine thousand nine hundred ninety-nine dollars
27 (\$49,999) unless approved by the director in writing.

28 (3) The temporary manager shall not make capital improvements
29 to the facility in excess of five thousand dollars (\$5,000) without
30 the approval of the director.

31 (l) (1) To the extent department funds are advanced for the
32 costs of the temporary manager or for other expenses in connection
33 with the temporary management, the department shall be
34 reimbursed from the revenues accruing to the facility or to the
35 licensee or an entity related to the licensee. Any reimbursement
36 received by the department shall be redeposited in the account
37 from which the department funds were advanced. If the revenues
38 are insufficient to reimburse the department, the unreimbursed
39 amount shall constitute a lien upon the assets of the facility or the
40 proceeds from the sale thereof. The lien against the personal assets

1 of the facility or an entity related to the licensee shall be filed with
2 the Secretary of State on the forms required for a notice of
3 judgment lien. A lien against the real property of the facility or an
4 entity related to the licensee shall be recorded with the county
5 recorder of the county where the facility of the licensee is located
6 or where the real property of the entity related to the licensee is
7 located. The lien shall not attach to the interests of a lessor, unless
8 the lessor is operating the facility. The authority to place a lien
9 against the personal and real property of the licensee for the
10 reimbursement of any state funds expended pursuant to this section
11 shall be given judgment creditor priority.

12 (2) For purposes of this section, “entity related to the licensee”
13 means an entity, other than a natural person, of which the licensee
14 is a subsidiary or an entity in which a person who was obligated
15 to disclose information under Section 1569.15 possesses an interest
16 that would also require disclosure pursuant to Section 1569.15.

17 (m) Appointment of a temporary manager under this section
18 does not relieve the licensee of any responsibility for the care and
19 supervision of residents under this chapter. The licensee, even if
20 the license is deemed surrendered or the facility abandoned, shall
21 be required to reimburse the department for all costs associated
22 with operation of the facility during the period the temporary
23 manager is in place that are not accounted for by using facility
24 revenues or for the relocation of residents handled by the
25 department if the licensee fails to comply with the relocation
26 requirements of Section 1569.525 or 1569.682 when required by
27 the department to do so. If the licensee fails to reimburse the
28 department under this section, then the department, along with
29 using its own remedies available under this chapter, may request
30 that the Attorney General’s office, the city attorney’s office, or the
31 local district attorney’s office seek any available criminal, civil,
32 or administrative remedy, including, but not limited to, injunctive
33 relief, restitution, and damages in the same manner as provided
34 for in Chapter 5 (commencing with Section 17200) of Part 2 of
35 Division 7 of the Business and Professions Code.

36 (n) The department may use funds from the emergency resident
37 contingency account pursuant to Section 1569.48 when needed to
38 supplement the operation of the facility or the transfer of residents
39 under the control of the temporary manager appointed under this
40 section if facility revenues are unavailable or exhausted when

1 needed. Pursuant to subdivision (l), the licensee shall be required
2 to reimburse the department for any funds used from the emergency
3 resident contingency account during the period of control of the
4 temporary manager and any incurred costs of collection.

5 (o) This section does not apply to a residential care facility for
6 the elderly that serves six or fewer persons and is also the principal
7 residence of the licensee.

8 (p) Notwithstanding any other provision of law, the temporary
9 manager shall be liable only for damages resulting from gross
10 negligence in the operation of the facility or intentional tortious
11 acts.

12 (q) All governmental immunities otherwise applicable to the
13 state shall also apply to the state in the use of a temporary manager
14 in the operation of a facility pursuant to this section.

15 (r) A licensee shall not be liable for any occurrences during the
16 temporary management under this section except to the extent that
17 the occurrences are the result of the licensee's conduct.

18 (s) The department may adopt regulations for the administration
19 of this section.

20 SEC. 25. Section 1569.482 is added to the Health and Safety
21 Code, to read:

22 1569.482. (a) It is the intent of the Legislature in enacting this
23 section to authorize the department to take quick, effective action
24 to protect the health and safety of residents of residential care
25 facilities for the elderly and to minimize the effects of transfer
26 trauma that accompany the abrupt transfer of residents through
27 a system whereby the department may apply for a court order
28 appointing a receiver to temporarily operate a residential care
29 facility for the elderly. The receivership is not intended to punish
30 a licensee or to replace attempts to secure cooperative action to
31 protect the residents' health and safety. The receivership is
32 intended to protect the residents in the absence of other reasonably
33 available alternatives. The receiver shall assume the operation of
34 the facility in order to bring it into compliance with law, facilitate
35 a transfer of ownership to a new licensee, or ensure the orderly
36 transfer of residents should the facility be required to close.

37 (b) (1) Whenever circumstances exist indicating that continued
38 management of a residential care facility by the current licensee
39 would present a substantial probability or imminent danger of
40 serious physical harm or death to the residents, or the facility is

1 closing or intends to terminate operation as a residential care
2 facility for the elderly and adequate arrangements for relocation
3 of residents have not been made at least 30 days prior to the
4 closing or termination, the director may petition the superior court
5 for the county in which the facility is located for an order
6 appointing a receiver to temporarily operate the facility in
7 accordance with this section.

8 (2) The petition shall allege the facts upon which the action is
9 based and shall be supported by an affidavit of the director. A
10 copy of the petition and affidavits, together with an order to appear
11 and show cause why temporary authority to operate the residential
12 care facility for the elderly should not be vested in a receiver
13 pursuant to this section, shall be delivered to the licensee,
14 administrator, or a responsible person at the facility to the
15 attention of the licensee and administrator. The order shall specify
16 a hearing date, which shall be not less than 10, nor more than 15,
17 days following delivery of the petition and order upon the licensee,
18 except that the court may shorten or lengthen the time upon a
19 showing of just cause.

20 (c) (1) If the director files a petition pursuant to subdivision
21 (b) for appointment of a receiver to operate a residential care
22 facility for the elderly, in accordance with Section 564 of the Code
23 of Civil Procedure, the director may also petition the court, in
24 accordance with Section 527 of the Code of Civil Procedure, for
25 an order appointing a temporary receiver. A temporary receiver
26 appointed by the court pursuant to this subdivision shall serve
27 until the court has made a final determination on the petition for
28 appointment of a receiver filed pursuant to subdivision (b). A
29 receiver appointed pursuant to this subdivision shall have the same
30 powers and duties as a receiver would have if appointed pursuant
31 to subdivision (b). Upon the director filing a petition for a receiver,
32 the receiver shall complete its application for a provisional license
33 to operate a residential care facility for the elderly. For purposes
34 of a provisional license issued to a receiver, the licensee's existing
35 fire safety clearance shall serve as the fire safety clearance for
36 the receiver's provisional license.

37 (2) At the time of the hearing, the department shall advise the
38 licensee of the name of the proposed receiver. The receiver shall
39 be a certified residential care facility for the elderly administrator
40 or other responsible person or entity, as determined by the court,

1 from a list of qualified receivers established by the department,
2 and, if need be, with input from providers of residential care and
3 consumer representatives. Persons appearing on the list shall have
4 experience in the delivery of care services to clients of community
5 care facilities, and, if feasible, shall have experience with the
6 operation of a residential care facility for the elderly, shall not be
7 the subject of any pending actions by the department or any other
8 state agency, and shall not have ever been excluded from a
9 department licensed facility nor have had a license or certification
10 suspended or revoked by an administrative action by the
11 department or any other state agency. The receivers shall have
12 sufficient background and experience in management and finances
13 to ensure compliance with orders issued by the court. The owner,
14 licensee, or administrator shall not be appointed as the receiver
15 unless authorized by the court.

16 (3) If at the conclusion of the hearing, which may include oral
17 testimony and cross-examination at the option of any party, the
18 court determines that adequate grounds exist for the appointment
19 of a receiver and that there is no other reasonably available
20 remedy to protect the residents, the court may issue an order
21 appointing a receiver to temporarily operate the residential care
22 facility for the elderly and enjoining the licensee from interfering
23 with the receiver in the conduct of his or her duties. In these
24 proceedings, the court shall make written findings of fact and
25 conclusions of law and shall require an appropriate bond to be
26 filed by the receiver and paid for by the licensee. The bond shall
27 be in an amount necessary to protect the licensee in the event of
28 any failure on the part of the receiver to act in a reasonable
29 manner. The bond requirement may be waived by the licensee.

30 (4) The court may permit the licensee to participate in the
31 continued operation of the facility during the pendency of any
32 receivership ordered pursuant to this section and shall issue an
33 order detailing the nature and scope of participation.

34 (5) Failure of the licensee to appear at the hearing on the
35 petition shall constitute an admission of all factual allegations
36 contained in the petition for purposes of these proceedings only.

37 (6) The licensee shall receive notice and a copy of the
38 application each time the receiver applies to the court or the
39 department for instructions regarding his or her duties under this
40 section, when an accounting pursuant to subdivision (i) is

1 submitted, and when any other report otherwise required under
2 this section is submitted. The licensee shall have an opportunity
3 to present objections or otherwise participate in those proceedings.

4 (d) A person shall not impede the operation of a receivership
5 created under this section. The receiver's access to, or possession
6 of, the property shall not be interfered with during the term of the
7 receivership. There shall be an automatic stay for a 60-day period
8 subsequent to the appointment of a receiver of any action that
9 would interfere with the functioning of the facility, including, but
10 not limited to, cancellation of insurance policies executed by the
11 licensees, termination of utility services, attachments, or setoffs
12 of resident trust funds and working capital accounts and
13 repossession of equipment in the facility.

14 (e) When a receiver is appointed, the licensee may, at the
15 discretion of the court, be divested of possession and control of
16 the facility in favor of the receiver. If the court divests the licensee
17 of possession and control of the facility in favor of the receiver,
18 the department shall immediately issue a provisional license to
19 the receiver. Notwithstanding the applicable sections of this code
20 governing the revocation of a provisional license, the provisional
21 license issued to a receiver shall automatically expire upon the
22 termination of the receivership. The receiver shall possess the
23 provisional license solely for purposes of carrying out the
24 responsibilities authorized by this section and the duties ordered
25 by the court. The receiver shall have no right to appeal the
26 expiration of the provisional license.

27 (f) A receiver appointed pursuant to this section:

28 (1) May exercise those powers and shall perform those duties
29 ordered by the court, in addition to other duties provided by statute.

30 (2) Shall operate the facility in a manner that ensures the safety
31 and adequate care for the residents.

32 (3) Shall have the same rights to possession of the building in
33 which the facility is located, and of all goods and fixtures in the
34 building at the time the petition for receivership is filed, as the
35 licensee and administrator would have had if the receiver had not
36 been appointed.

37 (4) May use the funds, building, fixtures, furnishings, and any
38 accompanying consumable goods in the provision of care and
39 services to residents and to any other persons receiving services
40 from the facility at the time the petition for receivership was filed.

1 (5) *Shall take title to all revenue coming to the facility in the*
2 *name of the receiver who shall use it for the following purposes*
3 *in descending order of priority:*

4 (A) *To pay wages to staff. The receiver shall have full power to*
5 *hire, direct, manage, and discharge employees of the facility,*
6 *subject to any contractual rights they may have. The receiver shall*
7 *pay employees at the same rate of compensation, including benefits,*
8 *that the employees would have received from the licensee or wages*
9 *necessary to provide adequate staff for the protection of the clients*
10 *and compliance with the law.*

11 (B) *To preserve resident funds. The receiver shall be entitled*
12 *to, and shall take, possession of all property or assets of residents*
13 *that are in the possession of the licensee or operator of the facility.*
14 *The receiver shall preserve all property, assets, and records of*
15 *residents of which the receiver takes possession.*

16 (C) *To contract for outside services as may be needed for the*
17 *operation of the residential care facility for the elderly. Any*
18 *contract for outside services in excess of five thousand dollars*
19 *(\$5,000) shall be approved by the court.*

20 (D) *To pay commercial creditors of the facility to the extent*
21 *required to operate the facility. Except as provided in subdivision*
22 *(h), the receiver shall honor all leases, mortgages, and secured*
23 *transactions affecting the building in which the facility is located*
24 *and all goods and fixtures in the building of which the receiver*
25 *has taken possession, but only to the extent of payments which, in*
26 *the case of a rental agreement, are for the use of the property*
27 *during the period of receivership, or which, in the case of a*
28 *purchase agreement, come due during the period of receivership.*

29 (E) *To receive a salary, as approved by the court.*

30 (F) *To do all things necessary and proper to maintain and*
31 *operate the facility in accordance with sound fiscal policies. The*
32 *receiver shall take action as is reasonably necessary to protect or*
33 *conserve the assets or property of which the receiver takes*
34 *possession and may use those assets or property only in the*
35 *performance of the powers and duties set out in this section and*
36 *by order of the court.*

37 (G) *To ask the court for direction in the treatment of debts*
38 *incurred prior to the appointment, if the licensee's debts appear*
39 *extraordinary, of questionable validity, or unrelated to the normal*
40 *and expected maintenance and operation of the facility, or if*

1 *payment of the debts will interfere with the purposes of*
2 *receivership.*

3 *(g) (1) A person who is served with notice of an order of the*
4 *court appointing a receiver and of the receiver's name and address*
5 *shall be liable to pay the receiver, rather than the licensee, for any*
6 *goods or services provided by the residential care facility for the*
7 *elderly after the date of the order. The receiver shall give a receipt*
8 *for each payment and shall keep a copy of each receipt on file.*
9 *The receiver shall deposit amounts received in a special account*
10 *and shall use this account for all disbursements. Payment to the*
11 *receiver pursuant to this subdivision shall discharge the obligation*
12 *to the extent of the payment and shall not thereafter be the basis*
13 *of a claim by the licensee or any other person. A resident shall not*
14 *be evicted nor may any contract or rights be forfeited or impaired,*
15 *nor may any forfeiture be effected or liability increased, by reason*
16 *of an omission to pay the licensee, operator, or other person a*
17 *sum paid to the receiver pursuant to this subdivision.*

18 *(2) This section shall not be construed to suspend, during the*
19 *temporary management by the receiver, any obligation of the*
20 *licensee for payment of local, state, or federal taxes. A licensee*
21 *shall not be held liable for acts or omissions of the receiver during*
22 *the term of the temporary management.*

23 *(3) Upon petition of the receiver, the court may order immediate*
24 *payment to the receiver for past services that have been rendered*
25 *and billed, and the court may also order a sum not to exceed one*
26 *month's advance payment to the receiver of any sums that may*
27 *become payable under the Medi-Cal program.*

28 *(h) (1) A receiver shall not be required to honor a lease,*
29 *mortgage, or secured transaction entered into by the licensee of*
30 *the facility and another party if the court finds that the agreement*
31 *between the parties was entered into for a collusive, fraudulent*
32 *purpose or that the agreement is unrelated to the operation of the*
33 *facility.*

34 *(2) A lease, mortgage, or secured transaction or an agreement*
35 *unrelated to the operation of the facility that the receiver is*
36 *permitted to dishonor pursuant to this subdivision shall only be*
37 *subject to nonpayment by the receiver for the duration of the*
38 *receivership, and the dishonoring of the lease, mortgage, security*
39 *interest, or other agreement, to this extent, by the receiver shall*
40 *not relieve the owner or operator of the facility from any liability*

1 for the full amount due under the lease, mortgage, security interest,
2 or other agreement.

3 (3) If the receiver is in possession of real estate or goods subject
4 to a lease, mortgage, or security interest that the receiver is
5 permitted to avoid pursuant to paragraph (1), and if the real estate
6 or goods are necessary for the continued operation of the facility,
7 the receiver may apply to the court to set a reasonable rent, price,
8 or rate of interest to be paid by the receiver during the duration
9 of the receivership. The court shall hold a hearing on this
10 application within 15 days. The receiver shall send notice of the
11 application to any known owner of the property involved at least
12 10 days prior to the hearing.

13 (4) Payment by the receiver of the amount determined by the
14 court to be reasonable is a defense to any action against the
15 receiver for payment or possession of the goods or real estate,
16 subject to the lease or mortgage, which is brought by any person
17 who received the notice required by this subdivision. However,
18 payment by the receiver of the amount determined by the court to
19 be reasonable shall not relieve the owner or operator of the facility
20 from any liability for the difference between the amount paid by
21 the receiver and the amount due under the original lease,
22 mortgage, or security interest.

23 (i) A monthly accounting shall be made by the receiver to the
24 department of all moneys received and expended by the receiver
25 on or before the 15th day of the following month or as ordered by
26 the court, and the remainder of income over expenses for that
27 month shall be returned to the licensee. A copy of the accounting
28 shall be provided to the licensee. The licensee or owner of the
29 residential care facility for the elderly may petition the court for
30 a determination as to the reasonableness of any expenditure made
31 pursuant to paragraph (5) of subdivision (f).

32 (j) (1) The receiver shall be appointed for an initial period of
33 not more than three months. The initial three-month period may
34 be extended for additional periods not exceeding three months, as
35 determined by the court pursuant to this section. At the end of one
36 month, the receiver shall report to the court on its assessment of
37 the probability that the residential care facility for the elderly will
38 meet state standards for operation by the end of the initial
39 three-month period and will continue to maintain compliance with
40 those standards after termination of the receiver's management.

1 *If it appears that the facility cannot be brought into compliance*
2 *with state standards within the initial three-month period, the court*
3 *shall take appropriate action as follows:*

4 (A) *Extend the receiver's management for an additional three*
5 *months if there is a substantial likelihood that the facility will meet*
6 *state standards within that period and will maintain compliance*
7 *with the standards after termination of the receiver's management.*
8 *The receiver shall report to the court in writing upon the facility's*
9 *progress at the end of six weeks of any extension ordered pursuant*
10 *to this paragraph.*

11 (B) *Order the director to revoke or temporarily suspend, or*
12 *both, the license pursuant to Section 1569.50 and extend the*
13 *receiver's management for the period necessary to transfer clients*
14 *in accordance with the transfer plan, but for not more than three*
15 *months from the date of initial appointment of a receiver, or 14*
16 *days, whichever is greater. An extension of an additional three*
17 *months may be granted if deemed necessary by the court.*

18 (2) *If it appears at the end of six weeks of an extension ordered*
19 *pursuant to subparagraph (A) of paragraph (1) that the facility*
20 *cannot be brought into compliance with state standards for*
21 *operation or that it will not maintain compliance with those*
22 *standards after the receiver's management is terminated, the court*
23 *shall take appropriate action as specified in subparagraph (B) of*
24 *paragraph (1).*

25 (3) *In evaluating the probability that a residential care facility*
26 *for the elderly will maintain compliance with state standards of*
27 *operation after the termination of receiver management ordered*
28 *by the court, the court shall consider at least the following factors:*

29 (A) *The duration, frequency, and severity of past violations in*
30 *the facility.*

31 (B) *History of compliance in other care facilities operated by*
32 *the proposed licensee.*

33 (C) *Efforts by the licensee to prevent and correct past violations.*

34 (D) *The financial ability of the licensee to operate in compliance*
35 *with state standards.*

36 (E) *The recommendations and reports of the receiver.*

37 (4) *Management of a residential care facility for the elderly*
38 *operated by a receiver pursuant to this section shall not be returned*
39 *to the licensee, to any person related to the licensee, or to any*
40 *person who served as a member of the facility's staff or who was*

1 employed by the licensee prior to the appointment of the receiver
2 unless both of the following conditions are met:

3 (A) The department believes that it would be in the best interests
4 of the residents of the facility, requests that the court return the
5 operation of the facility to the former licensee, and provides clear
6 and convincing evidence to the court that it is in the best interests
7 of the facility's residents to take that action.

8 (B) The court finds that the licensee has fully cooperated with
9 the department in the appointment and ongoing activities of a
10 receiver appointed pursuant to this section, and, if applicable, any
11 temporary manager appointed pursuant to Section 1569.481.

12 (5) The owner of the facility may at any time sell, lease, or close
13 the facility, subject to the following provisions:

14 (A) If the owner closes the facility, or the sale or lease results
15 in the closure of the facility, the court shall determine if a transfer
16 plan is necessary. If the court so determines, the court shall adopt
17 and implement a transfer plan consistent with the provisions of
18 Section 1569.682.

19 (B) If the licensee proposes to sell or lease the facility and the
20 facility will continue to operate as a residential care facility for
21 the elderly, the court and the department shall reevaluate any
22 proposed transfer plan. If the court and the department determine
23 that the sale or lease of the facility will result in compliance with
24 licensing standards, the transfer plan and the receivership shall,
25 subject to those conditions that the court may impose and enforce,
26 be terminated upon the effective date of the sale or lease.

27 (k) (1) The salary of the receiver shall be set by the court
28 commensurate with community care facility industry standards,
29 giving due consideration to the difficulty of the duties undertaken,
30 and shall be paid from the revenue coming to the facility. If the
31 revenue is insufficient to pay the salary in addition to other
32 expenses of operating the facility, the receiver's salary shall be
33 paid from the emergency resident contingency account as provided
34 in Section 1569.48. State advances of funds in excess of five
35 thousand dollars (\$5,000) shall be approved by the director. Total
36 advances for encumbrances and expenditures shall not exceed the
37 sum of forty-nine thousand nine hundred ninety-nine dollars
38 (\$49,999) unless approved by the director in writing.

39 (2) To the extent state funds are advanced for the salary of the
40 receiver or for other expenses in connection with the receivership,

1 as limited by subdivision (g), the state shall be reimbursed from
2 the revenues accruing to the facility or to the licensee or an entity
3 related to the licensee. Any reimbursement received by the state
4 shall be redeposited in the account from which the state funds were
5 advanced. If the revenues are insufficient to reimburse the state,
6 the unreimbursed amount shall constitute a lien upon the assets
7 of the facility or the proceeds from the sale thereof. The lien against
8 the personal assets of the facility or an entity related to the licensee
9 shall be filed with the Secretary of State on the forms required for
10 a notice of judgment lien. A lien against the real property of the
11 facility or an entity related to the licensee shall be recorded with
12 the county recorder of the county where the facility of the licensee
13 is located or where the real property of the entity related to the
14 licensee is located. The lien shall not attach to the interests of a
15 lessor, unless the lessor is operating the facility.

16 (3) For purposes of this subdivision, “entity related to the
17 licensee” means an entity, other than a natural person, of which
18 the licensee is a subsidiary or an entity in which any person who
19 was obligated to disclose information under Section 1569.15
20 possesses an interest that would also require disclosure pursuant
21 to Section 1569.15.

22 (l) (1) This section does not impair the right of the owner of a
23 residential care facility for the elderly to dispose of his or her
24 property interests in the facility, but any facility operated by a
25 receiver pursuant to this section shall remain subject to that
26 administration until terminated by the court. The termination shall
27 be promptly effectuated, provided that the interests of the residents
28 have been safeguarded as determined by the court.

29 (2) This section does not limit the power of the court to appoint
30 a receiver under any other applicable provision of law or to order
31 any other remedy available under law.

32 (m) (1) Notwithstanding any other provision of law, the receiver
33 shall be liable only for damages resulting from gross negligence
34 in the operation of the facility or intentional tortious acts.

35 (2) All governmental immunities otherwise applicable to the
36 State of California shall also apply in the use of a receiver in the
37 operation if a facility pursuant to this section.

38 (3) The licensee shall not be liable for any occurrences during
39 the receivership except to the extent that the occurrences are the
40 result of the licensee’s conduct.

1 (n) *The department may adopt regulations for the administration*
 2 *of this section. This section does not impair the authority of the*
 3 *department to temporarily suspend licenses under Section 1569.50*
 4 *or to reach a voluntary agreement with the licensee for alternate*
 5 *management of a community care facility including the use of a*
 6 *temporary manager under Section 1569.481. This section does*
 7 *not authorize the department to interfere in a labor dispute.*

8 (o) *This section does not apply to a residential care facility for*
 9 *the elderly that serves six or fewer persons and is also the principal*
 10 *residence of the licensee.*

11 (p) *This section does not apply to a licensee that has obtained*
 12 *a certificate of authority to offer continuing care contracts, as*
 13 *defined in paragraph (8) of subdivision (c) of Section 1771.*

14 SEC. 26. *Section 1569.525 of the Health and Safety Code is*
 15 *amended to read:*

16 1569.525. (a) *If the director determines that it is necessary to*
 17 *temporarily suspend or to revoke any license of a residential care*
 18 *facility for the elderly in order to protect the residents or clients*
 19 *of the facility from physical or mental abuse, abandonment, or any*
 20 *other substantial threat to health or safety pursuant to Section*
 21 *1569.50, the department shall make every effort to minimize*
 22 *trauma for the residents.*

23 (b) (1) (A) *After a decision is made to temporarily suspend or,*
 24 *upon an order, to revoke the license of a residential care facility*
 25 *for the elderly which is likely to result in closure of the facility,*
 26 *the department shall contact both of the following:*

27 (i) *The Office of the State Long-Term Care Ombudsman.*

28 (ii) *Any local agency that may have placement or advocacy*
 29 *responsibility for the residents of a residential care facility for the*
 30 *elderly.*

31 ~~(b)~~

32 (B) ~~The department shall contact any local agency that may~~
 33 ~~have placement or advocacy responsibility for the residents of a~~
 34 ~~residential care facility for the elderly after a decision is made to~~
 35 ~~temporarily suspend or to revoke the license of the facility and~~
 36 ~~prior to its implementation. The department shall work with these~~
 37 ~~agencies to work with these agencies, and the licensee if the~~
 38 ~~director determines it to be appropriate, to locate alternative~~
 39 ~~placement sites and to contact relatives or other persons~~

1 responsible for the care of these *residents, and to assist in the*
2 *transfer of residents.*

3 ~~(e)~~

4 (2) The department shall use ~~physicians and surgeons and other~~
5 ~~medical personnel~~ *appropriately skilled professionals* deemed
6 appropriate by the department to provide onsite evaluation of the
7 residents and assist in any transfers.

8 ~~(d)~~

9 (3) The department ~~may~~ *shall* require the licensee to prepare
10 and submit to the licensing agency a written plan for relocation
11 and compliance with the terms and conditions of the approved
12 plans, and to provide other information as necessary for the
13 enforcement of this section.

14 (c) *Upon receipt of an order to temporarily suspend or revoke*
15 *a license, the licensee shall be prohibited from accepting new*
16 *residents or entering into admission agreements for new residents.*

17 (d) *Upon an order to temporarily suspend a license, the*
18 *following shall apply:*

19 (1) *The licensee shall immediately provide written notice of the*
20 *temporary suspension to the resident and initiate contact with the*
21 *resident's responsible person, if applicable.*

22 (2) *The department may secure, or permit the licensee to secure,*
23 *the services of a temporary manager who is not an immediate*
24 *family member of the licensee or an entity that is not owned by the*
25 *licensee to manage the day-to-day operations of the facility. The*
26 *temporary manager shall be appointed and assume operation of*
27 *the facility in accordance with Section 1569.481.*

28 (e) ~~Upon an order to revoke a license, except an order to revoke~~
29 ~~a license following the temporary suspension of a license pursuant~~
30 ~~to Section 1569.50, 1569.50 that led to the transfer of all residents,~~
31 *the following shall apply:*

32 (1) *The licensee shall provide a 60-day written notice of license*
33 *revocation that may lead to closure to the resident and the resident's*
34 *responsible person within 24 hours of receipt of the department's*
35 *order of revocation.*

36 (2) *The department shall permit the licensee to secure the*
37 *services of a ~~person~~ temporary manager who is not an immediate*
38 *family member of the licensee or an entity that is not owned by*
39 *the licensee to manage the day-to-day operations of the residential*

1 care facility for the elderly for a period of at least 60 days, provided
2 that all of the following conditions are met:

3 (A) A proposal is submitted to the department within 72 hours
4 of the licensee’s receipt of the department’s order of revocation
5 that includes both of the following:

6 (i) A completed “Application for a Community Care Facility
7 or Residential Care Facility for the Elderly License” form (LIC
8 200), or similar form as determined by the department, signed and
9 dated by both the licensee and the person or entity described in
10 paragraph (2).

11 (ii) A copy of the executed agreement between the licensee and
12 the person or entity described in paragraph (2) that delineates the
13 roles and responsibilities of each party and specifies that the person
14 or entity described in paragraph (2) shall have the full authority
15 necessary to operate the facility, in compliance with all applicable
16 laws and regulations, and without interference from the licensee.

17 (B) The person or entity described in paragraph (2) shall be
18 currently licensed and in substantial compliance to operate a
19 residential care facility for the elderly that is of comparable size
20 or greater and has comparable programming to the facility. For
21 purposes of this subparagraph, the following definitions apply:

22 (i) “Comparable programming” includes, but is not limited to,
23 dementia care, hospice care, and care for residents with exempted
24 prohibited health care conditions.

25 (ii) “Comparable size” means a facility capacity of 1 to 15
26 residents, 16 to 49 residents, or 50 or more residents.

27 (C) The person or entity described in paragraph (2) shall not be
28 subject to the application fee specified in Section 1569.185.

29 (D) If the department denies a proposal to secure the services
30 of a person or entity pursuant to paragraph (2), this denial shall
31 not be deemed a denial of a license application subject to the right
32 to a hearing under Section 1569.22 and other procedural rights
33 under Section 1569.51.

34 (3)

35 (f) ~~(A)(1)~~ Notwithstanding Section 1569.651 or any other
36 ~~provision of law, for paid preadmission fees in excess of five~~
37 ~~hundred dollars (\$500), fees,~~ a resident who transfers from the
38 facility ~~during due to the 60-day period described in paragraph (1)~~
39 ~~notice of temporary suspension or revocation of subdivision (e) a~~

1 *license pursuant to this section* is entitled to a refund in accordance
2 with all of the following:

3 (i)

4 (A) A 100-percent refund if preadmission fees were paid within
5 six months of ~~the either~~ notice of closure required by ~~paragraph~~
6 ~~(1)~~. *this section*.

7 (ii)

8 (B) A 75-percent refund if preadmission fees were paid more
9 than six months, but not more than 12 months, before ~~the either~~
10 notice of closure required by ~~paragraph (1)~~. *this section*.

11 (iii)

12 (C) A 50-percent refund if preadmission fees were paid more
13 than 12 months, but not more than 18 months, before ~~the either~~
14 notice of closure required by ~~paragraph (1)~~. *this section*.

15 (iv)

16 (D) A 25-percent refund if preadmission fees were paid more
17 than 18 months, but not more than 25 months, before ~~the either~~
18 notice of closure required by ~~paragraph (1)~~. *this section*.

19 (B)

20 (2) No preadmission fee refund is required if preadmission fees
21 were paid 25 months or more before ~~the either~~ notice of closure
22 required by ~~paragraph (1)~~. *this section*.

23 (C)

24 (3) The preadmission fee refund required by this paragraph shall
25 be paid within 15 days of issuing ~~the either~~ notice of closure
26 required by ~~paragraph (1)~~. *this section*. In lieu of the refund, the
27 resident may request that the licensee provide a credit toward the
28 resident's monthly fee obligation in an amount equal to the
29 preadmission fee refund due.

30 (4) If a resident transfers from the facility ~~during due to the~~
31 ~~60-day period described in paragraph (1) revocation of subdivision~~
32 ~~(e)~~; *a license*, and the resident gives notice at least five days before
33 leaving the facility, *or if the transfer is due to a temporary*
34 *suspension of the license order*, the licensee shall refund to the
35 resident or his or her legal representative a proportional per diem
36 amount of any prepaid monthly fees at the time the resident leaves
37 the facility and the unit is vacated. Otherwise the licensee shall
38 pay the refund within seven days from the date that the resident
39 leaves the facility and the unit is vacated.

40 (5)

1 (g) ~~Within 10 days~~ *24 hours after all residents each residence*
 2 ~~who are~~ *is* transferring pursuant to these provisions have left the
 3 facility, the licensee that had his or her license *temporarily*
 4 *suspended or revoked* shall, based on information provided by the
 5 resident or the resident’s ~~legal representative,~~ *responsible person,*
 6 submit a final list of names and new locations of all residents to
 7 the department and the local ombudsman program.

8 (h) *If at any point during or following a temporary suspension*
 9 *or revocation order of a license the director determines that there*
 10 *is a risk to the residents of a facility from physical or mental abuse,*
 11 *abandonment, or any other substantial threat to health or safety,*
 12 *the department shall take any necessary action to minimize trauma*
 13 *for the residents, including, but not limited to, all of the following:*

14 (1) *Contact any local agency that may have placement or*
 15 *advocacy responsibility for the residents and work with those*
 16 *agencies to locate alternative placement sites.*

17 (2) *Contact the residents’ relatives, legal representatives,*
 18 *authorized agents in a health care directive, or responsible parties.*

19 (3) *Assist in the transfer of residents, and, if necessary, arrange*
 20 *or coordinate transportation.*

21 (4) *Provide onsite evaluation of the residents and use any*
 22 *medical personnel deemed appropriate by the department to*
 23 *provide onsite evaluation of the residents and assist in any*
 24 *transfers.*

25 (5) *Arrange for or coordinate care and supervision.*

26 (6) *Arrange for the distribution of medications.*

27 (7) *Arrange for the preparation and service of meals and snacks.*

28 (8) *Arrange for the preparation of the residents’ records and*
 29 *medications for transfer of each resident.*

30 (9) *Assist in any way necessary to facilitate a safe transfer of*
 31 *all residents.*

32 (10) *Check on the status of each transferred resident within 24*
 33 *hours of transfer.*

34 (i) *The participation of the department and local agencies in*
 35 *the relocation of residents from a residential care facility for the*
 36 *elderly shall not relieve the licensee of any responsibility under*
 37 *this section. A licensee that fails to comply with the requirements*
 38 *of this section shall be required to reimburse the department and*
 39 *local agencies for the cost of providing those services. If the*
 40 *licensee fails to provide the services required in this section, the*

1 department shall request that the Attorney General's office, the
2 city attorney's office, or the local district attorney's office seek
3 injunctive relief and damages.

4 (j) Notwithstanding Section 1569.49, a licensee who fails to
5 comply with the requirements of this section shall be liable for
6 civil penalties in the amount of five hundred dollars (\$500) per
7 violation per day for each day that the licensee is in violation of
8 this section, until the violation has been corrected. The civil
9 penalties shall be issued immediately following the written notice
10 of violation.

11 (f)

12 (k) ~~Nothing in this~~ This section shall not preclude the
13 department from amending the effective date in the order of
14 suspension or revocation of a license and closing the facility prior
15 to the end of the 60-day notice period provided for in subdivision
16 (e), facility, or from pursuing any other available remedies if
17 necessary to protect the health and safety of the residents in care.

18 SEC. 27. Section 1569.682 of the Health and Safety Code is
19 amended to read:

20 1569.682. (a) A licensee of a licensed residential care facility
21 for the elderly shall, prior to transferring a resident of the facility
22 to another facility or to an independent living arrangement as a
23 result of the forfeiture of a license, as described in subdivision (a),
24 (b), or (f) of Section 1569.19, or a change of use of the facility
25 pursuant to the department's regulations, take all reasonable steps
26 to transfer affected residents safely and to minimize possible
27 transfer trauma, and shall, at a minimum, do all of the following:

28 (1) Prepare, for each resident, a relocation evaluation of the
29 needs of that resident, which shall include both of the following:

30 (A) Recommendations on the type of facility that would meet
31 the needs of the resident based on the current service plan.

32 (B) A list of facilities, within a 60-mile radius of the resident's
33 current facility, that meet the resident's present needs.

34 (2) Provide each resident or the resident's responsible person
35 with a written notice no later than 60 days before the intended
36 eviction. The notice shall include all of the following:

37 (A) The reason for the eviction, with specific facts to permit a
38 determination of the date, place, witnesses, and circumstances
39 concerning the reasons.

40 (B) A copy of the resident's current service plan.

1 (C) The relocation evaluation.

2 (D) A list of referral agencies.

3 (E) The right of the resident or resident's legal representative
4 to contact the department to investigate the reasons given for the
5 eviction pursuant to Section 1569.35.

6 (F) The contact information for the local long-term care
7 ombudsman, including address and telephone number.

8 (3) Discuss the relocation evaluation with the resident and his
9 or her legal representative within 30 days of issuing the notice of
10 eviction.

11 (4) Submit a written report of any eviction to the licensing
12 agency within five days.

13 (5) Upon issuing the written notice of eviction, a licensee shall
14 not accept new residents or enter into new admission agreements.

15 (6) (A) For paid preadmission fees in excess of five hundred
16 dollars (\$500), the resident is entitled to a refund in accordance
17 with all of the following:

18 (i) A 100-percent refund if preadmission fees were paid within
19 six months of notice of eviction.

20 (ii) A 75-percent refund if preadmission fees were paid more
21 than ~~6~~ six months but not more than 12 months before notice of
22 eviction.

23 (iii) A 50-percent refund if preadmission fees were paid more
24 than 12 months but not more than 18 months before notice of
25 eviction.

26 (iv) A 25-percent refund if preadmission fees were paid more
27 than 18 months but less than 25 months before notice of eviction.

28 (B) No preadmission refund is required if preadmission fees
29 were paid 25 months or more before the notice of eviction.

30 (C) The preadmission refund required by this paragraph shall
31 be paid within 15 days of issuing the eviction notice. In lieu of the
32 refund, the resident may request that the licensee provide a credit
33 toward the resident's monthly fee obligation in an amount equal
34 to the preadmission fee refund due.

35 (7) If the resident gives notice five days before leaving the
36 facility, the licensee shall refund to the resident or his or her legal
37 representative a proportional per diem amount of any prepaid
38 monthly fees at the time the resident leaves the facility and the
39 unit is vacated. Otherwise the licensee shall pay the refund within

1 seven days from the date that the resident leaves the facility and
2 the unit is vacated.

3 (8) Within 10 days of all residents having left the facility, the
4 licensee, based on information provided by the resident or
5 resident's legal representative, shall submit a final list of names
6 and new locations of all residents to the department and the local
7 ombudsman program.

8 (b) If seven or more residents of a residential care facility for
9 the elderly will be transferred as a result of the forfeiture of a
10 license or change in the use of the facility pursuant to subdivision
11 (a), the licensee shall submit a proposed closure plan to the
12 department for approval. The department shall approve or
13 disapprove the closure plan, and monitor its implementation, in
14 accordance with the following requirements:

15 (1) Upon submission of the closure plan, the licensee shall be
16 prohibited from accepting new residents and entering into new
17 admission agreements for new residents.

18 (2) The closure plan shall meet the requirements described in
19 subdivision (a), and describe the staff available to assist in the
20 transfers. The department's review shall include a determination
21 as to whether the licensee's closure plan contains a relocation
22 evaluation for each resident.

23 (3) Within 15 working days of receipt, the department shall
24 approve or disapprove the closure plan prepared pursuant to this
25 subdivision, and, if the department approves the plan, it shall
26 become effective upon the date the department grants its written
27 approval of the plan.

28 (4) If the department disapproves a closure plan, the licensee
29 may resubmit an amended plan, which the department shall
30 promptly either approve or disapprove, within 10 working days
31 of receipt by the department of the amended plan. If the department
32 fails to approve a closure plan, it shall inform the licensee, in
33 writing, of the reasons for the disapproval of the plan.

34 (5) If the department fails to take action within 20 working days
35 of receipt of either the original or the amended closure plan, the
36 plan, or amended plan, as the case may be, shall be deemed
37 approved.

38 (6) Until such time that the department has approved a licensee's
39 closure plan, the facility shall not issue a notice of transfer or
40 require any resident to transfer.

1 (7) Upon approval by the department, the licensee shall send a
 2 copy of the closure plan to the local ombudsman program.

3 (c) (1) If a licensee fails to comply with the requirements of
 4 ~~subdivision (a), this section~~, and if the director determines that it
 5 is necessary to protect the residents of a facility from physical or
 6 mental abuse, abandonment, or any other substantial threat to
 7 health or safety, the department shall take any necessary action to
 8 minimize trauma for the ~~residents~~: *residents, including caring for*
 9 *the residents through the use of a temporary manager as provided*
 10 *for in Section 1569.481 when the director determines the immediate*
 11 *relocation of the residents is not feasible based on transfer trauma*
 12 *or other considerations such as the unavailability of alternative*
 13 *placements. The department shall contact any local agency that*
 14 *may have placement assessment placement, protective, or advocacy*
 15 *responsibility for the residents, and shall work together with those*
 16 *agencies to locate alternative placement sites, contact relatives or*
 17 *other persons responsible for the care of these residents, provide*
 18 *onsite evaluation of the residents, and assist in the transfer of*
 19 *residents.*

20 (2) The participation of the department and local agencies in
 21 the relocation of residents from a residential care facility for the
 22 elderly shall not relieve the licensee of any responsibility under
 23 this section. A licensee that fails to comply with the requirements
 24 of this section shall be required to reimburse the department and
 25 local agencies for the cost of providing the relocation ~~services~~.
 26 *services or the costs incurred in caring for the residents through*
 27 *the use of a temporary manager as provided for in Section*
 28 *1569.481. If the licensee fails to provide the relocation services*
 29 *required in ~~subdivisions (a) and (b), this section~~, then the*
 30 *department may request that the Attorney General’s office, the*
 31 *city attorney’s office, or the local district attorney’s office seek*
 32 *injunctive relief and damages in the same manner as provided for*
 33 *in Chapter 5 (commencing with Section 17200) of Part 2 of*
 34 *Division 7 of the Business and Professions ~~Code~~: Code, including*
 35 *restitution to the department of any costs incurred in caring for*
 36 *the residents through the use of a temporary manager as provided*
 37 *for in Section 1569.481.*

38 (d) A licensee who fails to comply with requirements of this
 39 section shall be liable for the imposition of civil penalties in the
 40 amount of one hundred dollars (\$100) per violation per day for

1 each day that the licensee is in violation of this section, until such
 2 time that the violation has been corrected. The civil penalties shall
 3 be issued immediately following the written notice of violation.
 4 However, if the violation does not present an immediate or
 5 substantial threat to the health or safety of residents and the licensee
 6 corrects the violation within three days after receiving the notice
 7 of violation, the licensee shall not be liable for payment of any
 8 civil penalties pursuant to this subdivision related to the corrected
 9 violation.

10 (e) A resident of a residential care facility for the elderly covered
 11 under this section, may bring a civil action against any person,
 12 firm, partnership, or corporation who owns, operates, establishes,
 13 manages, conducts, or maintains a residential care facility for the
 14 elderly who violates the rights of a resident, as set forth in this
 15 section. Any person, firm, partnership, or corporation who owns,
 16 operates, establishes, manages, conducts, or maintains a residential
 17 care facility for the elderly who violates this section shall be
 18 responsible for the acts of the facility’s employees and shall be
 19 liable for costs and attorney’s fees. Any such residential care
 20 facility for the elderly may also be enjoined from permitting the
 21 violation to continue. The remedies specified in this section shall
 22 be in addition to any other remedy provided by law.

23 (f) This section shall not apply to a licensee that has obtained
 24 a certificate of authority to offer continuing care contracts, as
 25 defined in paragraph (8) of subdivision (c) of Section 1771.

26 *SEC. 28. Section 1596.803 of the Health and Safety Code is*
 27 *amended to read:*

28 1596.803. (a) (1) An application fee adjusted by facility and
 29 capacity shall be charged by the department for the issuance of a
 30 license to operate a child day care facility. After initial licensure,
 31 a fee shall be charged by the department annually, on each
 32 anniversary of the effective date of the license. The fees are for
 33 the purpose of financing activities specified in this chapter. Fees
 34 shall be assessed as ~~follows~~: *follows, subject to paragraph (2):*

35

36 Fee Schedule

37 Facility Type	38 Capacity	Original 39 Application	Annual 40 Fee
Family Day Care	1-8	-\$66	-\$66
		\$73	\$73

1		9-14	-\$127	-\$127
2			\$140	\$140
3	Day Care Centers	1-30	-\$440	-\$220
4			\$484	\$242
5		31-60	-\$880	-\$440
6			\$968	\$484
7		61-75	-\$1,100	-\$550
8			\$1,210	\$605
9		76-90	-\$1,320	-\$660
10			\$1,452	\$726
11		91-120	-\$1,760	-\$880
12			\$1,936	\$968
13		121+	-\$2,200	-\$1,100
14			\$2,420	\$1,210

15
 16 (2) (A) *The Legislature finds that all revenues generated by*
 17 *fees for licenses computed under this section and used for the*
 18 *purposes for which they were imposed are not subject to Article*
 19 *XIII B of the California Constitution.*

20 (B) *The department, at least every five years, shall analyze*
 21 *initial application fees and annual fees issued by it to ensure the*
 22 *appropriate fee amounts are charged. The department shall*
 23 *recommend to the Legislature that fees established by the*
 24 *Legislature be adjusted as necessary to ensure that the amounts*
 25 *are appropriate.*

26 (b) (1) In addition to fees set forth in subdivision (a), the
 27 department shall charge the following fees:

28 (A) A fee that represents 50 percent of an established application
 29 fee when an existing licensee moves the facility to a new physical
 30 address.

31 (B) A fee that represents 50 percent of the established
 32 application fee when a corporate licensee changes who has the
 33 authority to select a majority of the board of directors.

34 (C) A fee of twenty-five dollars (\$25) when an existing licensee
 35 seeks to either increase or decrease the licensed capacity of the
 36 facility.

37 (D) An orientation fee of twenty-five dollars (\$25) for
 38 attendance by any individual at a department-sponsored family
 39 child day care home orientation session, and a fifty dollar (\$50)

1 orientation fee for attendance by any individual at a
2 department-sponsored child day care center orientation session.

3 (E) A probation monitoring fee equal to the *current* annual fee,
4 in addition to the *current* annual fee for that category and capacity
5 for each year a license has been placed on probation as a result of
6 a stipulation or decision and order pursuant to the administrative
7 adjudication procedures of the Administrative Procedure Act
8 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
9 (commencing with Section 11500) of Part 1 of Division 3 of Title
10 2 of the Government Code).

11 (F) A late fee that represents an additional 50 percent of the
12 established *current* annual fee when any licensee fails to pay the
13 *current* annual licensing fee on or before the due date as indicated
14 by postmark on the payment.

15 (G) A fee to cover any costs incurred by the department for
16 processing payments including, but not limited to, bounced check
17 charges, charges for credit and debit transactions, and postage due
18 charges.

19 (H) A plan of correction fee of two hundred dollars (\$200) when
20 any licensee does not implement a plan of correction on or prior
21 to the date specified in the plan.

22 (2) No local jurisdiction shall impose any business license, fee,
23 or tax for the privilege of operating a small family day care home
24 licensed under this act.

25 (c) (1) The revenues collected from licensing fees pursuant to
26 this section shall be utilized by the department for the purpose of
27 ensuring the health and safety of all individuals provided care and
28 supervision by licensees, and to support the activities of the
29 licensing program, including, but not limited to, monitoring
30 facilities for compliance with licensing laws and regulations
31 pursuant to this act, and other administrative activities in support
32 of the licensing program, when appropriated for these purposes.
33 The revenues collected shall be used in addition to any other funds
34 appropriated in the annual Budget Act in support of the licensing
35 program. *The department shall adjust the fees collected pursuant*
36 *to this section as necessary to ensure they do not exceed the costs*
37 *described in this paragraph.*

38 (2) The department shall not utilize any portion of these revenues
39 sooner than 30 days after notification in writing of the purpose
40 and use, as approved by the Department of Finance, to the

1 Chairperson of the Joint Legislative Budget Committee, and the
2 chairpersons of the committee in each house that considers
3 appropriations for each fiscal year. The department shall submit
4 a budget change proposal to justify any positions or any other
5 related support costs on an ongoing basis.

6 (d) A child day care facility may use a bona fide business or
7 personal check to pay the license fee required under this section.

8 (e) The failure of an applicant for licensure or a licensee to pay
9 all applicable and accrued fees and civil penalties shall constitute
10 grounds for denial or forfeiture of a license.

11 *SEC. 29. Section 1596.871 of the Health and Safety Code is*
12 *amended to read:*

13 1596.871. The Legislature recognizes the need to generate
14 timely and accurate positive fingerprint identification of applicants
15 as a condition of issuing licenses, permits, or certificates of
16 approval for persons to operate or provide direct care services in
17 a child care center or family child care home. It is the intent of the
18 Legislature in enacting this section to require the fingerprints of
19 those individuals whose contact with child day care facility clients
20 may pose a risk to the children's health and safety. An individual
21 shall be required to obtain either a criminal record clearance or a
22 criminal record exemption from the State Department of Social
23 Services before his or her initial presence in a child day care
24 facility.

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

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

1 (3) Except during the 2003–04 to the 2014–15 fiscal years,
2 inclusive, neither the Department of Justice nor the department
3 may charge a fee for the fingerprinting of an applicant who will
4 serve six or fewer children or any family day care applicant for a
5 license, or for obtaining a criminal record of an applicant pursuant
6 to this section.

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

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

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

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

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

27 (E) An applicant and any other person specified in subdivision
28 (b) shall submit fingerprint images and related information to the
29 Department of Justice and the Federal Bureau of Investigation,
30 through the Department of Justice, for a state and federal level
31 criminal offender record information search, in addition to the
32 search required by subdivision (a). If an applicant meets all other
33 conditions for licensure, except receipt of the Federal Bureau of
34 Investigation’s criminal history information for the applicant and
35 persons listed in subdivision (b), the department may issue a license
36 if the applicant and each person described by subdivision (b) has
37 signed and submitted a statement that he or she has never been
38 convicted of a crime in the United States, other than a traffic
39 infraction as defined in paragraph (1) of subdivision (a) of Section
40 42001 of the Vehicle Code. If, after licensure, the department

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (H) This section does not apply to employees of child care and
12 development programs under contract with the State Department
13 of Education who have completed a criminal record clearance as
14 part of an application to the Commission on Teacher Credentialing,
15 and who possess a current credential or permit issued by the
16 commission, including employees of child care and development
17 programs that serve both children subsidized under, and children
18 not subsidized under, a State Department of Education contract.
19 The Commission on Teacher Credentialing shall notify the
20 department upon revocation of a current credential or permit issued
21 to an employee of a child care and development program under
22 contract with the State Department of Education.

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

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

35 (c) (1) (A) Subsequent to initial licensure, any person specified
36 in subdivision (b) and not exempted from fingerprinting shall, as
37 a condition to employment, residence, or presence in a child day
38 care facility be fingerprinted and sign a declaration under penalty
39 of perjury regarding any prior criminal conviction. The licensee
40 shall submit fingerprint images and related information to the

1 Department of Justice and the Federal Bureau of Investigation,
2 through the Department of Justice, or to comply with paragraph
3 (1) of subdivision (h), prior to the person's employment, residence,
4 or initial presence in the child day care facility.

5 (B) These fingerprint images ~~for the purpose of obtaining a~~
6 ~~permanent set of fingerprints and related information~~ shall be
7 electronically submitted to the Department of Justice in a manner
8 approved by the State Department of Social Services and *the*
9 *Department of Justice for the purpose of obtaining a permanent*
10 *set of fingerprints. A licensee's failure to submit fingerprint images*
11 *and related information to the Department of Justice, Justice* or
12 to comply with paragraph (1) of subdivision (h), as required in this
13 section, shall result in the citation of a deficiency, and an immediate
14 assessment of civil penalties in the amount of one hundred dollars
15 (\$100) per violation per day for a maximum of five days, unless
16 the violation is a second or subsequent violation within a 12-month
17 period in which case the civil penalties shall be in the amount of
18 one hundred dollars (\$100) per violation for a maximum of 30
19 days, and shall be grounds for disciplining the licensee pursuant
20 to Section 1596.885 or Section 1596.886. The State Department
21 of Social Services may assess civil penalties for *repeated or*
22 *continued violations permitted by Sections 1596.99 and 1597.62.*
23 *1597.58.* The fingerprint images and related information shall then
24 be submitted to the department for processing. Within 14 calendar
25 days of the receipt of the fingerprint images, the Department of
26 Justice shall notify the State Department of Social Services of the
27 criminal record information, as provided in this subdivision. If no
28 criminal record information has been recorded, the Department of
29 Justice shall provide the licensee and the State Department of
30 Social Services with a statement of that fact within 14 calendar
31 days of receipt of the fingerprint images. If new fingerprint images
32 are required for processing, the Department of Justice shall, within
33 14 calendar days from the date of receipt of the fingerprint images,
34 notify the licensee that the fingerprints were illegible.

35 (C) Documentation of the individual's clearance or exemption
36 shall be maintained by the licensee, and shall be available for
37 inspection. When live-scan technology is operational, as defined
38 in Section 1522.04, the Department of Justice shall notify the
39 department, as required by that section, and notify the licensee by
40 mail within 14 days of electronic transmission of the fingerprints

1 to the Department of Justice, if the person has no criminal record.
2 Any violation of the regulations adopted pursuant to Section
3 1522.04 shall result in the citation of a deficiency and an immediate
4 assessment of civil penalties in the amount of one hundred dollars
5 (\$100) per violation per day for a maximum of five days, unless
6 the violation is a second or subsequent violation within a 12-month
7 period in which case the civil penalties shall be in the amount of
8 one hundred dollars (\$100) per violation for a maximum of 30
9 days, and shall be grounds for disciplining the licensee pursuant
10 to Section 1596.885 or Section 1596.886. The department may
11 assess civil penalties for *repeated or* continued violations, as
12 permitted by Sections 1596.99 and ~~1597.62~~. 1597.58.

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

1 be in the amount of one hundred dollars (\$100) per violation for
2 a maximum of 30 days, and shall be grounds for disciplining the
3 licensee pursuant to Section 1596.885 or 1596.886.

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

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

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

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

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

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

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

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

39 (2) The department may not prohibit a person from being
40 employed or having contact with clients in a facility on the basis

1 of a denied criminal record exemption request or arrest information
2 unless the department complies with the requirements of Section
3 1596.8897.

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

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

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

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

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

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

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

36 (4) With respect to notifications issued by the Department of
37 Justice pursuant to Section 11105.2 of the Penal Code concerning
38 an individual whose criminal record clearance was originally
39 processed by the department or a county office with

1 department-delegated licensing authority, all of the following shall
2 apply:

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

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

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

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

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

17 (ii) The department shall notify the Department of Justice within
18 15 calendar days of the date on which a new county office receives
19 department-delegated licensing authority or a county's delegated
20 licensing authority is rescinded.

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

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

39 *SEC. 30. Section 1796.12 of the Health and Safety Code is*
40 *amended to read:*

1 1796.12. For purposes of this chapter, the following definitions
2 shall apply:

3 (a) “Affiliated home care aide” means an individual, 18 years
4 of age or older, who is employed by a home care organization to
5 provide home care services to a client and is listed on the home
6 care aide registry.

7 (b) “Child” or “children” means an individual or individuals
8 under 18 years of age.

9 (c) “Client” means an individual who receives home care
10 services from a registered home care aide.

11 (d) “Department” means the State Department of Social
12 Services.

13 (e) “Director” means the Director of Social Services.

14 (f) “Family member” means any spouse, by marriage or
15 otherwise, *domestic partner*, child or stepchild, by natural birth or
16 by adoption, parent, brother, sister, half-brother, half-sister,
17 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
18 uncle, first cousin, or any person denoted by the prefix “grand” or
19 “great,” or the spouse of any of these persons, even if the marriage
20 has been terminated by death or dissolution.

21 (g) “Home care aide applicant” means an individual, 18 years
22 of age or older, who is requesting to become ~~an~~ a registered home
23 care aide and the department has received and is processing the
24 individual’s complete home care aide application and ~~fees.~~
25 *nonrefundable application fee.*

26 (h) “Home care aide application” means the official form,
27 designated by the department, to request to become a registered
28 home care aide.

29 (i) “Home care aide registry” means a department-established
30 and department-maintained Internet Web site of registered home
31 care aides and home care aide applicants, which includes all of the
32 following: the individual’s name, registration number, registration
33 status, registration expiration date, and, if applicable, the home
34 care organization to which the affiliated home care aide or affiliated
35 home care aide applicant is associated.

36 (j) “Home care organization” means an individual, 18 years of
37 age or older, firm, partnership, corporation, limited liability
38 company, joint venture, association, or other entity that arranges
39 for home care services by an affiliated home care aide to a client,
40 and is licensed pursuant to this chapter.

1 (k) “Home care organization applicant” means an individual,
2 18 years of age or older, or a firm, partnership, corporation,
3 limited liability company, joint venture, association, or other entity
4 where the individual or individuals applying for the license are
5 18 years of age or older and are requesting to become a home
6 care organization licensee and the department has received and
7 is processing the complete home care organization application
8 and nonrefundable application fee.

9 ~~(k)~~

10 (l) “Home care organization application” means the official
11 form, designated by the department, to request to become a licensed
12 home care organization.

13 ~~(l)~~

14 (m) “Home care organization licensee” means an individual, 18
15 years of age or older, firm, partnership, corporation, limited liability
16 company, joint venture, association, or other entity having the
17 authority and responsibility for the operation *or management* of a
18 licensed home care organization.

19 ~~(m)~~

20 (n) “Home care services” means nonmedical services and
21 assistance provided by a registered home care aide to a client who,
22 because of advanced age or physical or mental disability, cannot
23 perform these services. These services enable the client to remain
24 in his or her residence and include, but are not limited to, assistance
25 with the following: bathing, dressing, feeding, exercising, personal
26 hygiene and grooming, transferring, ambulating, positioning,
27 toileting and incontinence care, assisting with medication that the
28 client self-administers, housekeeping, meal planning and
29 preparation, laundry, transportation, correspondence, making
30 telephone calls, shopping for personal care items or groceries, and
31 companionship. This subdivision shall not authorize a registered
32 home care aide to assist with medication that the client
33 self-administers that would otherwise require administration or
34 oversight by a licensed health care professional.

35 ~~(n)~~

36 (o) “Registered home care aide” means an affiliated home care
37 aide or independent home care aide, 18 years of age or older, who
38 is listed on the home care aide registry.

39 ~~(o)~~

1 (p) “Independent home care aide” means an individual, 18 years
 2 of age or older, who is not employed by a home care organization,
 3 but who is listed on the home care aide registry and is providing
 4 home care services through a direct agreement with a client.

5 SEC. 31. Section 1796.14 of the Health and Safety Code is
 6 amended to read:

7 1796.14. (a) Individuals who are not employed by a home care
 8 organization but who provide home care services to a client may
 9 be listed on the home care aide registry.

10 (b) An affiliated home care aide shall be listed on the home care
 11 aide registry prior to providing home care services to a client.

12 ~~(c) An individual providing home care services to a child is~~
 13 ~~exempt from any requirement to be listed on the home care aide~~
 14 ~~registry if the individual is one of the following:~~

- 15 ~~(1) A family member of the child.~~
- 16 ~~(2) A guardian of the child.~~
- 17 ~~(3) A conservator of the child.~~
- 18 ~~(4) A foster parent of the child, in a foster family home, as~~
 19 ~~defined in paragraph (5) of subdivision (a) of Section 1502, or a~~
 20 ~~certified family home, as defined in subdivision (d) of Section~~
 21 ~~1506.~~

22 ~~(5) Nonrelative extended family member, as defined in Section~~
 23 ~~362.7 of the Welfare and Institutions Code.~~

24 ~~(6) Providing home care services in a facility in which only~~
 25 ~~Indian children who are eligible under the federal Indian Child~~
 26 ~~Welfare Act (25 U.S.C. 1901 et seq.) are placed and is one of the~~
 27 ~~following:~~

28 ~~(A) An extended family member of the Indian child, as defined~~
 29 ~~in Section 1903 of Title 25 of the United States Code.~~

30 ~~(B) A foster home that is licensed, approved, or specified by~~
 31 ~~the Indian child’s tribe pursuant to Section 1915 of Title 25 of the~~
 32 ~~United States Code.~~

33 ~~(7)~~

34 (c) ~~Providing~~(1) Home care aides shall not include individuals
 35 who are providing home care services as part of his or her their
 36 job duties through one of the following entities:

37 (A) ~~A Services authorized to be provided by a licensed home~~
 38 ~~health agency licensed under Chapter 8 (commencing with Section~~
 39 ~~1725).~~

1 (B) ~~A Services authorized to be provided by a licensed hospice~~
2 ~~licensed under pursuant to Chapter 8.5 (commencing with Section~~
3 ~~1745).~~

4 (C) ~~A Services authorized to be provided by a licensed health~~
5 ~~facility licensed under pursuant to Chapter 2 (commencing with~~
6 ~~Section 1250).~~

7 ~~(D) Any clinic licensed under Sections 1204 or 1204.1.~~

8 ~~(E)~~

9 (D) ~~A county providing in-home~~ *In-home* supportive services
10 *provided* pursuant to Article 7 (commencing with Section 12300)
11 ~~of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions~~
12 ~~Code, without regard to whether the county provides these services~~
13 ~~as a public authority of, or through a nonprofit consortium~~
14 ~~established pursuant to Section 12301.6 of 14132.95, 14132.952,~~
15 ~~or 14132.956 of, the Welfare and Institutions Code.~~

16 (E) *A community care facility licensed pursuant to Chapter 3*
17 *(commencing with Section 1500), a residential care facility for*
18 *persons with chronic life-threatening illness licensed pursuant to*
19 *Chapter 3.01 (commencing with Section 1568.01), a residential*
20 *care facility for the elderly licensed pursuant to Chapter 3.2*
21 *(commencing with Section 1569), or a facility licensed pursuant*
22 *to the California Child Day Care Facilities Act, (Chapter 3.4*
23 *(commencing with Section 1596.70)), which includes day care*
24 *centers, as described in Chapter 3.5 (commencing with Section*
25 *1596.90), family day care homes, as described in Chapter 3.6*
26 *(commencing with Section 1597.30), and employer-sponsored*
27 *child care centers, as described in Chapter 3.65 (commencing with*
28 *Section 1597.70).*

29 (F) *A clinic licensed pursuant to Section 1204 or 1204.1.*

30 ~~(F)~~

31 (G) *A home medical device retail facility licensed*
32 *pursuant to Section 111656.*

33 ~~(G)~~

34 (H) *An organization vendored or contracted through a regional*
35 *center or the State Department of Developmental Services pursuant*
36 *to the Lanterman Developmental Disabilities Services Act*
37 ~~(Division 4.5 (Chapter 1 (commencing with Section 4500) of~~
38 ~~Division 4.5 of the Welfare and Institutions Code) and the~~
39 *California Early Intervention Services Act (Title 14 (commencing*
40 *with Section 95000) of the Government Code) to provide services*

1 and supports for persons with developmental disabilities, as defined
 2 in Section 4512 of the Welfare and Institutions Code, when funding
 3 for those services is provided through the State Department of
 4 Developmental Services and more than 50 percent of the recipients
 5 of the home care services provided by the organization are persons
 6 with developmental disabilities.

7 ~~(H) A community care facility as licensed under Chapter 3~~
 8 ~~(commencing with Section 1500), a residential care facility for~~
 9 ~~persons with special health care needs licensed under Chapter 3.01~~
 10 ~~(commencing with Section 1568.01), a residential care facility for~~
 11 ~~the elderly licensed under Chapter 3.2 (commencing with Section~~
 12 ~~1569), or a child day care licensed under Chapter 3.4 (commencing~~
 13 ~~with Section 1596.70).~~

14 ~~(I) Any An alcoholism or drug abuse recovery or treatment~~
 15 ~~facility as defined by in Section 11834.02.~~

16 ~~(J) Any other entity providing services similar to those described~~
 17 ~~in this paragraph, as determined by the director.~~

18 ~~(8) Providing services authorized pursuant to Section 2731 of~~
 19 ~~the Business and Professions Code~~

20 ~~(d) (1) Home care aides shall not include individuals who are~~
 21 ~~providing home care services as part of their job duties through~~
 22 ~~one of the following entities:~~

23 ~~(A) Services authorized to be provided by a licensed home~~
 24 ~~health agency under Chapter 8 (commencing with Section 1725).~~

25 ~~(B) Services authorized to be provided by a licensed hospice~~
 26 ~~pursuant to Chapter 8.5 (commencing with Section 1745).~~

27 ~~(C) Services authorized to be provided by a licensed health~~
 28 ~~facility pursuant to Chapter 2 (commencing with Section 1250).~~

29 ~~(D) In-home supportive services provided pursuant to Article~~
 30 ~~7 (commencing with Section 12300) of Chapter 3 of Part 3 of~~
 31 ~~Division 9 of the Welfare and Institutions Code.~~

32 ~~(E)~~

33 ~~(J) Services authorized to be provided by one A facility in which~~
 34 ~~only Indian children who are eligible under the federal Indian~~
 35 ~~Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and is~~
 36 ~~either of the following:~~

37 ~~(i) A licensed residential care facility for An extended family~~
 38 ~~member of the elderly pursuant to Chapter 3.2 (commencing with~~
 39 ~~Indian child, as defined in Section 1569). 1903 of Title 25 of the~~
 40 ~~United States Code.~~

1 (ii) ~~A licensed community care facility foster home that is~~
2 ~~licensed, approved, or specified by the Indian child's tribe pursuant~~
3 ~~to Chapter 3 (commencing with Section 1500). Section 1915 of~~
4 ~~Title 25 of the United States Code.~~

5 (iii) ~~A licensed residential care facility for persons with chronic~~
6 ~~life-threatening illness pursuant to Chapter 3.01 (commencing with~~
7 ~~Section 1568.01).~~

8 (iv) ~~A licensed facility, pursuant to the California Child Day~~
9 ~~Care Act (Chapter 3.4 (commencing with Section 1596.70)), which~~
10 ~~includes day care centers under Chapter 3.5 (commencing with~~
11 ~~Section 1596.90) and family day care homes under to Chapter 3.6~~
12 ~~(commencing with Section 1597.30).~~

13 (2) Home care aides shall not include individuals providing
14 services authorized to be provided pursuant to Section 2731 of the
15 Business and Professions Code.

16 (d) *Home care aides shall not include a nonrelative extended*
17 *family member, as defined in Section 362.7 of the Welfare and*
18 *Institutions Code.*

19 (e) *In the event of a conflict between this chapter and a provision*
20 *listed in subdivision (b), (c), or (d), the provision in subdivision*
21 *(b), (c), or (d) shall control.*

22 SEC. 32. *Section 1796.16 of the Health and Safety Code is*
23 *amended to read:*

24 1796.16. (a) A registered home care aide may provide home
25 care services to more than one child for a family, but may not
26 provide home care services for a child or children from more than
27 one family at the same time. ~~This section~~ *chapter* shall not preclude
28 a registered home care aide from providing home care services for
29 a child or children of multiple families at different times. This
30 chapter shall not override provisions of the California Child Day
31 Care *Facilities* Act (Chapter 3.4 (commencing with Section
32 1596.70)), *which includes* Chapter 3.5 (commencing with Section
33 1596.90), ~~and Chapter 3.6 (commencing with Section 1597.30).~~
34 *1597.30), and Chapter 3.65 (commencing with Section 1597.70).*

35 (b) *This chapter does not override provisions of the California*
36 *Community Care Facilities Act (Chapter 3 (commencing with*
37 *Section 1500)), Residential Care Facilities for Persons With*
38 *Chronic Life-Threatening Illness Act (Chapter 3.01 (commencing*
39 *with Section 1568.01)), or the California Residential Care*

1 *Facilities for the Elderly Act (Chapter 3.2 (commencing with*
 2 *Section 1569)).*

3 *SEC. 33. Section 1796.17 of the Health and Safety Code is*
 4 *amended to read:*

5 *1796.17. (a) Each home care organization shall be separately*
 6 *licensed. Nothing in this chapter shall prevent a licensee from*
 7 *obtaining more than one home care organization license or*
 8 *obtaining a home care organization license in addition to other*
 9 *licenses issued by the department, or both.*

10 *(b) A home care organization shall not include the following:*

11 ~~(a)~~

12 *(1) A home health agency licensed under Chapter 8*
 13 *(commencing with Section 1725).*

14 ~~(b)~~

15 *(2) A hospice licensed under Chapter 8.5 (commencing with*
 16 *Section 1745).*

17 ~~(c)~~

18 *(3) A health facility licensed under Chapter 2 (commencing*
 19 *with Section 1250).*

20 ~~(d)~~

21 ~~*(4) A county providing in-home supportive person who performs*~~
 22 ~~*services through the In-Home Supportive Services program*~~
 23 ~~*pursuant to Article 7 (commencing with Section 12300) of Chapter*~~
 24 ~~*3 of Part 3 of Division 9 of the Welfare and Institutions Code,*~~
 25 ~~*without regard to whether the county provides these services as a*~~
 26 ~~*public authority of, or through a nonprofit consortium established*~~
 27 ~~*pursuant to Section 12301.6 of 14132.95, 14132.952, or 14132.956*~~
 28 ~~*of, the Welfare and Institutions Code.*~~

29 ~~(e)~~

30 *(5) A home medical device retail facility licensed under Section*
 31 *111656.*

32 ~~(f)~~

33 *(6) An organization vendored or contracted through a regional*
 34 *center or the State Department of Developmental Services pursuant*
 35 *to the Lanterman Developmental Disabilities Services Act*
 36 *(Division 4.5 (commencing with Section 4500) of the Welfare and*
 37 *Institutions Code) and the California Early Intervention Services*
 38 *Act (Title 14 (commencing with Section 95000) of the Government*
 39 *Code) to provide services and supports for persons with*
 40 *developmental disabilities, as defined in Section 4512 of the*

1 Welfare and Institutions Code, when funding for those services is
2 provided through the State Department of Developmental Services
3 and more than 50 percent of the recipients of the home care services
4 provided by the organization are persons with developmental
5 disabilities.

6 ~~(g)~~

7 (7) An employment agency, as defined in Section 1812.5095
8 of the Civil Code, that procures, offers, refers, provides, or attempts
9 to provide an independent home care aide who provides home care
10 services clients.

11 ~~(h) A residential care facility for the elderly licensed under~~
12 ~~Chapter 3.2 (commencing with Section 1569).~~

13 ~~(i)~~

14 (8) A community care facility licensed ~~under pursuant to~~
15 Chapter 3 (commencing with Section 1500), ~~or a residential care~~
16 ~~facility for persons with chronic life-threatening illness licensed~~
17 ~~under pursuant to Chapter 3.01 (commencing with Section~~
18 ~~1568.01). 1568.01), a residential care facility for the elderly~~
19 ~~licensed pursuant to Chapter 3.2 (commencing with Section 1569),~~
20 ~~or a facility licensed pursuant to the California Child Day Care~~
21 ~~Facilities Act (Chapter 3.4 (commencing with Section 1596.70)),~~
22 ~~which includes day care centers, as described in Chapter 3.5~~
23 ~~(commencing with Section 1596.90), family day care homes, as~~
24 ~~described in Chapter 3.6 (commencing with Section 1597.30), and~~
25 ~~employer-sponsored child care centers, as described in Chapter~~
26 ~~3.65 (commencing with Section 1597.70).~~

27 ~~(j)~~

28 (9) ~~An person alcoholism or organization performing activities~~
29 ~~that fall under the jurisdiction of a child day care facility licensed~~
30 ~~under Chapter 3.4 (commencing with Section 1596.70), a day care~~
31 ~~center licensed under Chapter 3.5 (commencing with Section~~
32 ~~1596.60); drug abuse recovery or a family day care home licensed~~
33 ~~under Chapter 3.6 (commencing with treatment facility as defined~~
34 ~~in Section 1597.30). 11834.02.~~

35 (10) ~~A person providing services authorized pursuant to Section~~
36 ~~2731 of the Business and Professions Code.~~

37 (11) ~~A clinic licensed pursuant to Section 1204 or 1204.1.~~

38 (12) ~~A nonrelative extended family member, as defined in Section~~
39 ~~362.7 of the Welfare and Institutions Code.~~

1 (13) A facility providing home care services in which only Indian
2 children who are eligible under the federal Indian Child Welfare
3 Act (25 U.S.C. Sec. 1901 et seq.) are placed and which satisfies
4 either of the following:

5 (A) An extended family member of the Indian child, as defined
6 in Section 1903 of Title 25 of the United States Code.

7 (B) A foster home that is licensed, approved, or specified by the
8 Indian child’s tribe pursuant to Section 1915 of Title 25 of the
9 United States Code.

10 (14) Any other individual or entity providing services similar
11 to those described in this chapter, as determined by the director.

12 (c) In the event of a conflict between this chapter and a provision
13 listed in subdivision (b), the provision in subdivision (b) shall
14 control.

15 SEC. 34. Section 1796.19 of the Health and Safety Code is
16 amended to read:

17 1796.19. (a) The department shall consider, but is not limited
18 to, the following when determining whether to approve a
19 registration application:

20 (1) Evidence satisfactory to the department of the ability of the
21 ~~independent home care aide applicant or the affiliated home care~~
22 ~~aide applicant~~ to comply with this chapter and the rules and
23 regulations promulgated under this chapter by the department.

24 (2) Evidence satisfactory to the department that the ~~independent~~
25 ~~home care aide applicant or the affiliated home care aide applicant~~
26 is of reputable and responsible character. The evidence shall
27 include, but is not limited to, a review of the independent home
28 care aide applicant’s ~~or the affiliated home care aide applicant’s~~
29 criminal offender record information pursuant to Section 1522.

30 (3) ~~Disclosure of any~~ Any revocation or other disciplinary action
31 taken, or in the process of being taken, related to the care of
32 individuals against the ~~independent home care aide applicant or~~
33 ~~the affiliated home care aide applicant~~.

34 (4) ~~A signed statement that the independent home care aide~~
35 ~~applicant or the affiliated home care aide applicant has read and~~
36 ~~understood this chapter and any rules and regulations promulgated~~
37 ~~under this chapter by the department.~~

38 (5)

1 (4) Any other information that may be required by the
2 department for the proper administration and enforcement of this
3 chapter.

4 (b) Failure of the home care aide applicant to cooperate with
5 the department in the completion of the Home Care Aide
6 application shall result in the withdrawal of the registration
7 application. “Failure to cooperate” means that the information
8 described in this chapter and by any rules and regulations
9 promulgated under this chapter has not been provided, or has not
10 been provided in the form requested by the department, or both.

11 *SEC. 35. Section 1796.22 of the Health and Safety Code is*
12 *amended to read:*

13 1796.22. Any individual who has submitted ~~an~~ a home care
14 aide application and who possesses any one of the following
15 identification cards may initiate a background examination to be
16 a registered home care aide:

17 (a) A valid California driver’s license.

18 (b) A valid identification card issued by the Department of
19 Motor Vehicles.

20 (c) A valid Alien Registration Card.

21 (d) In the case of a person living in a state other than California,
22 a valid numbered photo identification card issued by an agency of
23 the state other than California.

24 *SEC. 36. Section 1796.23 of the Health and Safety Code is*
25 *amended to read:*

26 1796.23. (a) Each person initiating a background examination
27 to be a registered home care aide shall submit his or her fingerprints
28 to the Department of Justice by electronic transmission in a manner
29 approved by the ~~State Department of Social Services, department,~~
30 unless exempt under subdivision (d). Each person initiating a
31 background examination to be a registered home care aide shall
32 also submit to the ~~State Department of Social Services department~~
33 a signed declaration under penalty of perjury regarding any prior
34 criminal convictions pursuant to Section 1522 and a completed
35 home care aide application.

36 (b) A law enforcement agency or other local agency authorized
37 to take fingerprints may charge a reasonable fee to offset the costs
38 of fingerprinting for the purposes of this chapter. *The fee revenues*
39 *shall be deposited in the Fingerprint Fees Account.*

1 (c) The Department of Justice shall use the fingerprints to search
2 the state and Federal Bureau of Investigation criminal offender
3 record information pursuant to Section 1522.

4 (d) A person who is a current licensee or employee in a facility
5 licensed by the ~~State Department of Social Services~~, *department*,
6 a certified foster parent, a certified administrator, or a registered
7 TrustLine provider need not submit fingerprints to the ~~State~~
8 ~~Department of Social Services~~ *department*, and may transfer his
9 or her current criminal record clearance or exemption pursuant to
10 paragraph (1) of subdivision (h) of Section 1522. The person shall
11 instead submit to the ~~State Department of Social Services~~,
12 *department*, along with the person's registration application, a
13 copy of the person's identification card described in Section
14 1796.22 and sign a declaration verifying the person's identity.

15 *SEC. 37. Section 1796.24 of the Health and Safety Code is*
16 *amended to read:*

17 1796.24. (a) (1) The department shall establish a home care
18 aide registry pursuant to this chapter and shall continuously update
19 the registry information. Upon submission of the home care ~~aide~~
20 *aide* application and fingerprints or other identification documents
21 pursuant to Section ~~1796.23~~, 1796.22, the department shall enter
22 into the home care aide registry the person's name, identification
23 number, and an indicator that the person has submitted a home
24 care aide application and fingerprints or identification
25 documentation. This person shall be known as a "home care aide
26 applicant."

27 (2) A person shall not be entitled to apply to be a registered
28 home care aide and shall have his or her registration application
29 returned without the right to appeal if the person would not be
30 eligible to obtain a license pursuant to Section ~~1558.1~~. 1796.40 or
31 1796.41.

32 (b) (1) Before approving an individual for registration, the
33 department shall check the individual's criminal history pursuant
34 to Section 1522. Upon completion of the searches of the state
35 summary criminal offender record information and the records of
36 the Federal Bureau of Investigation, the *home care aide* applicant
37 shall be issued a criminal record clearance or granted a criminal
38 record exemption if grounds do not exist for denial pursuant to
39 Section 1522. The department shall enter that finding in the
40 person's record in the home care aide registry and shall notify the

1 person of the action. This person shall be known as an “independent
2 a “registered home care aide” or an “affiliated home care aide.”
3 If the *home care aide* applicant meets all of the conditions for
4 registration, except receipt of the Federal Bureau of Investigation’s
5 criminal offender record information search response, the
6 department may issue a clearance if the *home care aide* applicant
7 has signed and submitted a statement that he or she has never been
8 convicted of a crime in the United States, other than a minor traffic
9 violation. If, after approval, the department determines that the
10 registrant has a criminal record, registration may be revoked
11 pursuant to Section 1796.26.

12 (2) For purposes of compliance with this section, the department
13 may permit ~~an a home care organization applicant or a home care~~
14 ~~organization licensee~~ to request the transfer of a *home care aide’s*
15 current criminal record clearance or exemption for a licensed care
16 facility issued by the ~~department or a county with delegated~~
17 ~~licensing authority.~~ *department*. A signed criminal record clearance
18 or exemption transfer request shall be submitted to the department
19 and shall include a copy of the person’s driver’s license or valid
20 identification card issued by the Department of Motor Vehicles,
21 or a valid photo identification issued by another state or the United
22 States government if the person is not a California resident. Upon
23 request of the licensee, ~~who shall enclose a self-addressed envelope~~
24 ~~for this purpose,~~ *licensee or home care aide applicant*, the ~~State~~
25 ~~Department of Social Services~~ *department* shall verify whether
26 the individual has a clearance or exemption that can be transferred
27 pursuant to the requirements of this chapter.

28 (3) ~~The State Department of Social Services~~ *department* shall
29 hold criminal record clearances and exemptions in its active files
30 for a minimum of three years after the individual is no longer on
31 the registry in order to facilitate a transfer request.

32 *SEC. 38. Section 1796.25 of the Health and Safety Code is*
33 *amended to read:*

34 1796.25. (a) (1) If the department finds that the home care
35 aide applicant or the registered home care aide has been convicted
36 of a crime, other than a minor traffic violation, the department
37 shall deny the home care aide application, or revoke the registered
38 home care aide’s registration unless the director grants an
39 exemption pursuant to subdivision (g) of Section 1522.

1 (2) If the department finds that the ~~independent~~ home care aide
 2 ~~applicant, the independent home care aide, the affiliated home care~~
 3 ~~aide applicant, applicant or the affiliated registered~~ home care
 4 aide has an arrest as described in subdivision (a) of Section 1522,
 5 the department may deny the registration application or registration
 6 renewal application, or revoke the registered home care aide’s
 7 registration, if the ~~independent~~ home care aide ~~applicant,~~
 8 ~~independent home care aide, affiliated home care aide applicant,~~
 9 or ~~affiliated~~ *registered* home care aide may pose a risk to the health
 10 and safety of any person who is or may become a client and the
 11 department complies with subdivision (e) of Section 1522.

12 (3) The department may deny the home care aide application
 13 or the renewal application of a registered home care *aide, or revoke*
 14 *the home care aide registration,* if the department discovers that
 15 it had previously revoked a license or certificate of approval to be
 16 a certified family home, a certified administrator, or a registered
 17 TrustLine provider held by the home care aide applicant or
 18 registered home care aide, or that it had excluded the home care
 19 aide applicant or registered home care aide from a licensed facility.

20 (4) The department may deny the home care aide application
 21 or registered home care aide registration renewal application, for
 22 placement or retention upon the home care aide registry or revoke
 23 the registered home care aide’s registration if the department
 24 discovers that it had previously denied the home care aide
 25 applicant’s or registered home care aide’s application for a license
 26 from the department or certificate of approval to be a certified
 27 family home, a certified administrator, or a registered TrustLine
 28 provider.

29 (b) (1) If the department revokes or denies a home care aide
 30 application or registered home care aide’s renewal application
 31 pursuant to subdivision (a), the department shall advise the home
 32 care aide applicant or registered home care ~~aide~~ *aide, by written*
 33 *notification,* of the right to appeal. The home care aide applicant
 34 or registered home care aide shall have 15 days *from the date of*
 35 *the written notification* to appeal the denial or revocation.

36 (2) Upon receipt by the department of the appeal, the appeal
 37 shall be set for hearing. The hearing shall be conducted in
 38 accordance with Section 1551.

39 (c) If the home care aide application or registered home care
 40 aide renewal application has been denied, the home care aide

1 applicant or registered home care aide shall not reapply until he
2 or she meets the timeframe set forth ~~by the department in~~
3 ~~regulation, not to exceed one year. Sections 1796.40 and 1796.41.~~

4 *SEC. 39. Section 1796.26 of the Health and Safety Code is*
5 *amended to read:*

6 1796.26. (a) (1) The department may revoke or deny a
7 registered home care aide's registration or request for registration
8 renewal if *any of the following apply to the registered home care*
9 *aide does any of the following:* *aide:*

10 (A) ~~Procures~~ *He* or ~~attempts~~ *she* ~~procured or attempted to~~
11 ~~procure his or her registered home care aide registration or renewal~~
12 ~~by fraud or misrepresentation.~~

13 (B) ~~Knowingly makes or gives any false statement or~~
14 ~~information in conjunction with the registered home care aide~~
15 ~~application or renewal application.~~

16 (C)

17 (B) ~~Has~~ *He or she* has a criminal conviction, *other than a minor*
18 *traffic violation*, unless an exemption is granted pursuant to Section
19 1522.

20 (D) ~~Engages or has engaged in an incident of abuse or neglect~~
21 ~~or other conduct that poses a threat to the health and safety of any~~
22 ~~person who is or may become a client.~~

23 (E) ~~Violates this chapter or of the rules or regulations~~
24 ~~promulgated under this chapter.~~

25 (F) ~~Aids, abets, or permits the violation of this chapter or of the~~
26 ~~rules and regulations promulgated under this chapter.~~

27 (G)

28 (C) ~~Engages~~ *He or she* ~~engages or~~ has engaged in conduct
29 which is inimical to the health, morals, welfare, or safety of the
30 people of the ~~state~~ *State of California* or an individual receiving
31 or seeking to receive home care services.

32 (H) ~~Engages or has engaged in acts of financial malfeasance~~
33 ~~concerning a client, including, but not limited to, improper use or~~
34 ~~embezzlement of client moneys and property or fraudulent~~
35 ~~appropriation for personal gain of client moneys and property, or~~
36 ~~willful or negligent failure to provide services.~~

37 (2) An individual whose registered home care aide registration
38 has been revoked shall not reapply until he or she meets the
39 timeframe as set forth in Section ~~1558.1. 1796.40 or 1796.41.~~

1 (3) An individual whose ~~registered home care aide~~ criminal
2 record exemption has been denied shall not reapply for two years
3 from the date of the exemption denial.

4 (4) The hearing to revoke or deny the registered home care aide
5 registration or registration renewal request shall be conducted in
6 accordance with Section 1551.

7 (b) (1) The registered home care aide's registration shall be
8 considered forfeited under the following conditions:

9 (A) The registered home care aide has had a license or certificate
10 of approval revoked, suspended, or denied as authorized under
11 Section 1534, 1550, 1568.082, 1569.50, ~~1596.608~~, or 1596.885.

12 (B) The registered home care aide has been denied employment,
13 residence, or presence in a facility or client's home based on action
14 resulting from an administrative hearing pursuant to Section 1558,
15 1568.092, 1569.58, or 1596.8897.

16 (C) The registered home care aide fails to maintain a current
17 mailing address with the department.

18 (D) The registered home care aide's registration is not renewed.

19 (E) The registered home care aide surrenders his or her
20 registration to the department.

21 (F) The registered home care aide dies.

22 (2) An individual whose registered home care aide registration
23 has been forfeited shall not reapply until he or she meets the
24 timeframe set forth by the department in ~~Section 1558.1~~. *Sections*
25 *1796.40 and 1796.41*.

26 (c) A registered home care aide's registration shall not be
27 transferred or sold to another individual or entity.

28 *SEC. 40. Section 1796.29 of the Health and Safety Code is*
29 *amended to read:*

30 1796.29. The department shall do both of the following in the
31 administration of the home care aide registry:

32 (a) Establish and maintain on the department's Internet Web
33 site the registry of registered home care aides and home care aide
34 applicants.

35 (1) To expedite the ability of a consumer to search and locate
36 a registered home care aide or home care aide applicant, the
37 Internet Web site shall enable consumers to look up the registration
38 status by providing the registered home care aide's or home care
39 aide applicant's name, registration number, registration status, ~~and~~

1 registration expiration ~~date~~: *date, and, if applicable, the home care*
2 *organization with which the affiliated home care aide is associated.*

3 (2) The Internet Web site shall not provide any additional,
4 individually identifiable information about a registered home care
5 aide or home care aide applicant. The department may request and
6 may maintain additional information for registered home care aides
7 or home care aide applicants, as necessary for the administration
8 of this chapter, which shall not be publicly available on the home
9 care aide registry.

10 (b) Update the home care registry upon receiving notification
11 from a home care organization that an affiliated home care aide is
12 no longer employed by the home care organization.

13 *SEC. 41. Section 1796.31 of the Health and Safety Code is*
14 *amended to read:*

15 1796.31. (a) To remain on the home care aide registry, a
16 registered home care aide shall renew his or her registration every
17 two years.

18 (1) A registered home care aide's registration shall expire every
19 two years, on the anniversary date of the initial registration date.
20 If the registration is not renewed on or prior to its expiration date,
21 the registration shall be forfeited pursuant to subdivision (b) of
22 Section 1796.26.

23 (2) To renew a registration, the registered home care aide shall,
24 on or before the registration expiration date, request renewal by
25 submitting to the department the registration renewal application
26 form and paying the *nonrefundable* registration renewal application
27 fee in the amount determined by the department.

28 (b) Renewal of a registered home care aide's registration is
29 conditioned on compliance with all of the following:

30 (1) Submitting a complete registration renewal application form
31 and payment of ~~fees~~; *the nonrefundable renewal fee*, both of which
32 shall be postmarked on or before the expiration of the registration.

33 (2) Continuing to satisfy the requirements set forth in this
34 chapter.

35 (3) Cooperating with the department in the completion of the
36 renewal process. Failure of the registered home care aide to
37 cooperate shall result in the withdrawal of the registration renewal
38 application by the department. For purposes of this section, ~~a failure~~
39 *"failure to cooperate"* means that the information
40 described in this chapter and in any rules and regulations

1 promulgated under this chapter has not been provided, or has not
2 been provided in the form requested by the department, or both.

3 (c) (1) *The department shall notify a registered home care aide*
4 *in writing of his or her registration expiration date and the process*
5 *of renewal.*

6 (e)

7 ~~(2) A revoked registered home care aide's registration is subject~~
8 ~~Written notification pursuant to expiration as provided for in this~~
9 ~~section. If reinstatement of subdivision shall be mailed to the~~
10 ~~registered home care aide's registration is approved by the~~
11 ~~department, the individual, as a condition precedent to~~
12 ~~reinstatement, shall pay a fee in an amount equal to the renewal~~
13 ~~fee accrued at mailing address of record at least 60 days before~~
14 ~~the time of its revocation. registration expiration date.~~

15 *SEC. 42. Section 1796.33 of the Health and Safety Code is*
16 *amended and renumbered to read:*

17 ~~1796.33.~~

18 *1796.32.* Any individual who has submitted an application
19 and who possesses any one of the following identification cards
20 may initiate a background examination to be a licensed home care
21 organization:

22 (a) A valid California driver's license.

23 (b) A valid identification card issued by the Department of
24 Motor Vehicles.

25 (c) A valid Alien Registration Card.

26 (d) In the case of a person living in a state other than California,
27 a valid numbered photo identification card issued by an agency of
28 the state other than California.

29 *SEC. 43. Section 1796.34 of the Health and Safety Code is*
30 *amended and renumbered to read:*

31 ~~1796.34.~~

32 *1796.33.* In order to obtain a home care organization license,
33 the following individual or individuals shall consent to the
34 background examination described in Section 1796.23:

35 (a) The owner ~~or owners~~ of the home care organization, if the
36 ~~owners are individuals. owner is an individual.~~

37 (b) If the owner of a home care organization is a corporation,
38 limited liability company, joint venture, association, or other entity,
39 an individual having a 10-percent or greater ~~interest ownership~~
40 ~~that entity. entity and the chief executive officer or other person~~

1 *servicing in a similar capacity. The department shall not issue a*
2 *provisional license or license to any corporate home care*
3 *organization applicant that has a member of the board of directors,*
4 *executive director, or officer who is not eligible for licensure*
5 *pursuant to Sections 1796.40 and 1796.41.*

6 *SEC. 44. Section 1796.35 of the Health and Safety Code is*
7 *amended and renumbered to read:*

8 ~~1796.35:~~

9 *1796.34. (a) A person or a private or public organization, with*
10 *the exception of a county providing any person who performs*
11 *in-home supportive services through the In-Home Supportive*
12 *Services program pursuant to Article 7 (commencing with Section*
13 *12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and*
14 *Institutions Code, or Section 14132.95, 14132.952, or 14132.956*
15 *of the Welfare and Institutions Code, and the exceptions provided*
16 *for in subdivision (b), shall not do any of the following, unless it*
17 *is licensed under pursuant to this chapter:*

18 (1) ~~Represent~~ *Own, manage, or represent himself, herself or*
19 *itself to be a home care organization by name, advertising,*
20 *soliciting, or any other presentments to the public, or in the context*
21 *of services within the scope of this chapter, imply that he, she, or*
22 *it is licensed to provide those services or to make any reference to*
23 *employee bonding in relation to those services.*

24 (2) Use the terms “home care organization,” “home care,”
25 “in-home care,” or any combination of those terms, within its
26 name.

27 (b) This section does not apply to either of the following:

28 (1) ~~A county providing~~ *Any person who performs in-home*
29 *supportive services through the In-Home Supportive Services*
30 *program pursuant to Article 7 (commencing with Section 12300)*
31 *of Chapter 3 of Part 3 of Division 9 of of, or Section 14132.95,*
32 *14132.952, or 14132.956 of, the Welfare and Institutions Code.*

33 (2) An employment agency, as defined in Section 1812.5095
34 of the Civil Code, that procures, offers, refers, provides, or attempts
35 to provide an ~~affiliated~~ *independent* home care aide who provides
36 home care to clients.

37 *SEC. 45. Section 1796.36 of the Health and Safety Code is*
38 *amended and renumbered to read:*

1 ~~1796.36.~~

2 1796.35. (a) Subject to the exceptions set forth in Section
3 1796.17, an individual, partnership, corporation, limited liability
4 company, joint venture, association, or other entity shall not arrange
5 for the provision of home care services by a registered home care
6 aide to a client in this state before obtaining a license pursuant to
7 this chapter. This shall be deemed “unlicensed home care services.”

8 (b) Upon discovering an individual or entity is in violation of
9 subdivision (a), the department shall send a written notice of
10 noncompliance to the individual or entity and assess a civil penalty
11 of nine hundred dollars (\$900) per day for each calendar day of
12 each violation.

13 (c) Upon discovering that an individual or entity is in violation
14 of subdivision (a), the department shall send a copy of the written
15 notice of noncompliance to the individual or entity and to the
16 Attorney General or appropriate district attorney or city attorney.

17 (d) Upon receiving this notice, the Attorney General, district
18 attorney, or city attorney may do any or all of the following:

19 (1) Issue a cease and desist order, which shall remain in effect
20 until the individual or entity has obtained a license pursuant to this
21 chapter. If the individual or entity fails to comply with the cease
22 and desist order within 20 calendar days, the Attorney General,
23 district attorney, or city attorney may apply for an injunction.

24 ~~(2) Impose the civil penalty described in subdivision (b).~~

25 ~~(3)~~

26 (2) Bring an action against the individual or entity under Chapter
27 5 (commencing with Section 17200) of Part 2 of Division 7 of the
28 Business and Professions Code.

29 *SEC. 46. Section 1796.37 of the Health and Safety Code is*
30 *amended and renumbered to read:*

31 ~~1796.37.~~

32 1796.36. (a) A home care organization that has its principal
33 place of business in another state, in addition to the other
34 requirements of this chapter, before arranging for home care
35 services provided by an affiliated home care aide to a client in the
36 state, shall comply with all of the following:

37 (1) Have an office in California.

38 (2) Maintain all pertinent records of the operation in California
39 at the California office. All records shall be available to review,
40 copy, audit, and inspect by the ~~licensing agency.~~ *department.*

1 (b) If the home care organization is a foreign corporation,
2 foreign limited liability company, foreign limited partnership,
3 foreign association, or a foreign limited liability partnership, as
4 defined in Sections 170, 171, 171.03, 171.05, and 16101 of the
5 Corporations Code, before arranging for home care services
6 provided by an affiliated home care aide to a client in the state,
7 the home care organization shall have an office in California and
8 shall comply with both of the following:

9 (1) Register with the Secretary of State to conduct intrastate
10 business in California.

11 (2) Maintain all pertinent records of the operation in California
12 at the California office. All records shall be available to review,
13 copy, audit, and inspect by the ~~licensing agency~~ department.

14 *SEC. 47. Section 1796.38 of the Health and Safety Code is*
15 *amended and renumbered to read:*

16 ~~1796.38.~~

17 *1796.37. (a) The department may issue a home care*
18 *organization license to ~~an individual or other entity~~ a home care*
19 *organization applicant that satisfies ~~all~~ of the requirements set*
20 *forth in this chapter, including all of the following:*

21 ~~(a)~~

22 *(1) Files a complete home care organization application,*
23 *including the fees required pursuant to Section 1796.49.*

24 *(2) Submits proof of general and professional liability insurance*
25 *in the amount of at least one million dollars (\$1,000,000) per*
26 *occurrence and three million dollars (\$3,000,000) in the aggregate.*

27 *(3) Submits proof of a valid workers' compensation policy*
28 *covering its affiliated home care aides. The proof shall consist of*
29 *the policy number, the effective and expiration dates of the policy,*
30 *and the name and address of the policy carrier.*

31 *(4) Submits proof of an employee dishonesty bond, including*
32 *third-party coverage, with a minimum limit of ten thousand dollars*
33 *(\$10,000). This proof shall be submitted at each subsequent*
34 *renewal.*

35 *(5) Provides the department, upon request, with a complete list*
36 *of its affiliated home care aides, and proof that each satisfies the*
37 *requirements of Sections 1796.43, 1796.44, and 1796.45.*

38 *(6) Passes a background examination, as required pursuant to*
39 *Section 1796.33.*

40 *(7) Completes a department orientation.*

- 1 (8) Does not have any outstanding fees or civil penalties due to
 2 the department.
- 3 (9) Discloses prior or present service as an administrator,
 4 general partner, corporate officer or director of, or discloses that
 5 he or she has held or holds a beneficial ownership of 10 percent
 6 or more in, any of the following:
- 7 (A) A community care facility, as defined in Section 1502.
 8 (B) A residential care facility, as defined in Section 1568.01.
 9 (C) A residential care facility for the elderly, as defined in
 10 Section 1569.2.
 11 (D) A child day care facility, as defined in Section 1596.750.
 12 (E) A day care center, as described in Chapter 3.5 (commencing
 13 with Section 1596.90).
 14 (F) A family day care home, as described in Chapter 3.6
 15 (commencing with Section 1597.30).
 16 (G) An employer-sponsored child care center, as described in
 17 Chapter 3.65 (commencing with Section 1597.70).
 18 (H) A home care organization licensed pursuant to this chapter.
- 19 (10) Discloses any revocation or other disciplinary action taken,
 20 or in the process of being taken, against a license held or
 21 previously held by the entities specified in paragraph (9).
- 22 (11) Provides evidence that every member of the board of
 23 directors, if applicable, understands his or her legal duties and
 24 obligations as a member of the board of directors and that the
 25 home care organization’s operation is governed by laws and
 26 regulations that are enforced by the department.
- 27 (12) Provides any other information as may be required by the
 28 department for the proper administration and enforcement of this
 29 chapter.
- 30 (13) Cooperates with the department in the completion of the
 31 home care organization license application process. Failure of
 32 the home care organization licensee to cooperate may result in
 33 the withdrawal of the home care organization license application.
 34 “Failure to cooperate” means that the information described in
 35 this chapter and in any rules and regulations promulgated pursuant
 36 to this chapter has not been provided, or not provided in the form
 37 requested by the department, or both.
- 38 (b) A home care organization licensee shall renew the home
 39 care organization license every two years. The department may
 40 renew a home care organization license if the licensee satisfies

1 *the requirements set forth in this chapter, including all of the*
2 *following:*

3 (1) *Files a complete home care organization license renewal*
4 *application, including the nonrefundable fees required pursuant*
5 *to Section 1796.49, both of which shall be postmarked on or before*
6 *the expiration of the license.*

7 ~~(b)~~

8 (2) *Submits proof of general and professional liability insurance*
9 *in the amount of at least one million dollars (\$1,000,000) per*
10 *occurrence and three million dollars (\$3,000,000) in the aggregate.*

11 ~~(e)~~

12 (3) *Submits proof of a valid workers' compensation policy*
13 *covering its affiliated home care aides. The proof shall consist of*
14 *the policy number, the effective and expiration dates of the policy,*
15 *and the name and address of the policy carrier.*

16 ~~(d)~~

17 (4) ~~Provides the department, upon request, Submits proof of an~~
18 ~~employee dishonesty bond, including third-party coverage, with~~
19 ~~a complete list minimum limit of its affiliated home care aides, and~~
20 ~~proof that each satisfies the requirements of Section 1796.43: ten~~
21 ~~thousand dollars (\$10,000).~~

22 (5) *Does not have any outstanding fees or civil penalties due to*
23 *the department.*

24 (6) *Provides any other information as may be required by the*
25 *department for the proper administration and enforcement of this*
26 *chapter.*

27 ~~(e)~~

28 (7) ~~The owner or owners Cooperates with the department in~~
29 ~~the completion of the home care organization pass a background~~
30 ~~examination, as required license renewal process. Failure of the~~
31 ~~home care organization licensee to cooperate may result in the~~
32 ~~withdrawal of the home care organization license renewal~~
33 ~~application. "Failure to cooperate" means that the information~~
34 ~~described in this chapter and in any rules and regulations~~
35 ~~promulgated pursuant to Section 1796.34: this chapter has not~~
36 ~~been provided, or not provided in the form requested by the~~
37 ~~department, or both.~~

38 (c) (1) *The department shall notify a licensed home care*
39 *organization in writing of its registration expiration date and the*
40 *process of renewal.*

1 ~~(f)~~
 2 ~~(2) The applicant does not have any outstanding fees or civil~~
 3 ~~penalties due to the department. Written notification pursuant to~~
 4 ~~this subdivision shall be mailed to the registered home care~~
 5 ~~organization’s mailing address of record at least 60 days before~~
 6 ~~the registration expiration date.~~

7 SEC. 48. Section 1796.38 is added to the Health and Safety
 8 Code, to read:

9 1796.38. The department may deny an application for licensure
 10 or suspend or revoke any license issued pursuant to this chapter,
 11 pursuant to Sections 1550.5 and 1551 and in the manner provided
 12 in this chapter on any of the following grounds:

13 (a) Violation by the licensee of this chapter or of the rules and
 14 regulations promulgated under this chapter.

15 (b) Aiding, abetting, or permitting the violation of this chapter
 16 or of the rules and regulations promulgated under this chapter.

17 (c) Conduct which is inimical to the health, morals, welfare, or
 18 safety of either an individual receiving home care services or the
 19 people of the State of California.

20 (d) The conviction of a licensee, or other person mentioned in
 21 Section 1522, at any time before or during licensure, of a crime
 22 as defined in Section 1522.

23 (e) Engaging in acts of financial malfeasance concerning the
 24 operation of a home care organization.

25 SEC. 49. Section 1796.39 of the Health and Safety Code is
 26 repealed.

27 ~~1796.39. (a) A home care organization licensee shall renew~~
 28 ~~the home care organization license every two years.~~

29 ~~(b) Renewal shall be conditioned upon the licensee doing both~~
 30 ~~of the following:~~

31 ~~(1) Submitting a complete home care organization licensee~~
 32 ~~renewal application form and payment of fees, both of which shall~~
 33 ~~be postmarked on or before the expiration of the license.~~

34 ~~(2) Continuing to satisfy the requirements set forth in this~~
 35 ~~chapter, and cooperating with the department in the completion~~
 36 ~~of the home care organization licenses renewal process.~~

37 ~~(c) Failure of the home care organization licensee to cooperate~~
 38 ~~may result in the withdrawal of the home care organization license~~
 39 ~~renewal application. “Failure to cooperate” means that the~~
 40 ~~information described in this chapter and in any rules and~~

1 ~~regulations promulgated under this chapter has not been provided,~~
2 ~~or not provided in the form requested by the department, or both.~~

3 *SEC. 50. Section 1796.40 is added to the Health and Safety*
4 *Code, to read:*

5 *1796.40. (a) (1) If an application for a home care organization*
6 *license indicates, or the department determines during the*
7 *application review process, that the home care organization*
8 *applicant was previously issued a license under this chapter or*
9 *under Chapter 1 (commencing with Section 1200), Chapter 2*
10 *(commencing with Section 1250), Chapter 3 (commencing with*
11 *Section 1500), Chapter 3.01 (commencing with Section 1568.01),*
12 *Chapter 3.2 (commencing with Section 1569), Chapter 3.4*
13 *(commencing with Section 1596.70), Chapter 3.5 (commencing*
14 *with Section 1596.90), Chapter 3.6 (commencing with Section*
15 *1597.30), or Chapter 3.65 (commencing with Section 1597.70),*
16 *and the prior license was revoked within the preceding two years,*
17 *the department shall cease any further review of the application*
18 *until two years have elapsed from the date of the revocation. All*
19 *home care organizations are exempt from the health planning*
20 *requirements contained in Part 2 (commencing with Section*
21 *127125) of Division 107.*

22 *(2) If an application for a license indicates, or the department*
23 *determines during the application review process, that the home*
24 *care organization applicant previously was issued a certificate of*
25 *approval by a foster family agency that was revoked by the*
26 *department pursuant to subdivision (b) of Section 1534 within the*
27 *preceding two years, the department shall cease any further review*
28 *of the application until two years have elapsed from the date of*
29 *the revocation.*

30 *(3) If an application for a license indicates, or the department*
31 *determines during the application review process, that the home*
32 *care organization applicant was excluded from a facility licensed*
33 *by the department pursuant to Section 1558, 1568.092, 1569.58,*
34 *or 1596.8897, the department shall cease any further review of*
35 *the application unless the excluded individual has been reinstated*
36 *pursuant to Section 11522 of the Government Code by the*
37 *department.*

38 *(b) If an application for a license indicates, or the department*
39 *determines during the application review process, that the home*
40 *care organization applicant had previously applied for a license*

1 pursuant to any of the chapters listed in paragraph (1) of
2 subdivision (a) and the application was denied within the last year,
3 the department shall cease further review of the application until
4 one year has elapsed from the date of the denial letter. In those
5 circumstances in which denials are appealed and upheld at an
6 administrative hearing, review of the application shall cease for
7 one year from the date of the decision and order of the department.

8 (c) If an application for a license indicates, or the department
9 determines during the application review process, that the home
10 care organization applicant had previously applied for a certificate
11 of approval with a foster family agency and the department ordered
12 the foster family agency to deny the application pursuant to
13 subdivision (b) of Section 1534, the department shall cease further
14 review of the application as follows:

15 (1) In cases where the home care organization applicant
16 petitioned for a hearing, the department shall cease further review
17 of the application until one year has elapsed from the effective
18 date of the decision and order of the department upholding the
19 denial.

20 (2) In cases where the department informed the home care
21 organization applicant of his or her right to petition for a hearing
22 and the home care organization applicant did not petition for a
23 hearing, the department shall cease further review of the
24 application until one year has elapsed from the date of the
25 notification of the denial and the right to petition for a hearing.

26 (3) The department may continue to review the application if it
27 has determined that the reasons for the denial of the application
28 were due to circumstances and conditions that either have been
29 corrected or are no longer in existence.

30 (d) Cessation of review pursuant to this section does not
31 constitute a denial of the application.

32 SEC. 51. Section 1796.41 of the Health and Safety Code is
33 amended and renumbered to read:

34 ~~1796.41.~~

35 1796.42. A home care organization licensee shall do all of the
36 following:

37 (a) Post its ~~license~~ license, business hours, and ~~business hours~~
38 any other information required by the department in its place of
39 business in a conspicuous location, visible both to clients and
40 affiliated home care aides.

1 (b) Maintain and abide by a valid workers' compensation policy
2 covering its affiliated home care aides.

3 (c) Maintain and abide by an employee dishonesty bond,
4 including third-party coverage, with a minimum limit of ten
5 thousand dollars (\$10,000).

6 (d) *Maintain proof of general and professional liability*
7 *insurance in the amount of at least one million dollars (\$1,000,000)*
8 *per occurrence and three million dollars (\$3,000,000) in the*
9 *aggregate.*

10 ~~(d)~~

11 (e) Report any suspected or known *dependent adult or elder*
12 *abuse as required by Section 15630 of the Welfare and Institutions*
13 *Code and suspected or known child abuse as required by Sections*
14 *11164 to 11174.3, inclusive, of the Penal Code. A copy of each*
15 *suspected abuse report shall be maintained and available for review*
16 *by the department during normal business hours.*

17 *SEC. 52. Section 1796.41 is added to the Health and Safety*
18 *Code, to read:*

19 *1796.41. (a) (1) If the department determines that a person*
20 *was issued a license pursuant to this chapter or Chapter 1*
21 *(commencing with Section 1200), Chapter 2 (commencing with*
22 *Section 1250), Chapter 3 (commencing with Section 1500), Chapter*
23 *3.01 (commencing with Section 1568.01), Chapter 3.2*
24 *(commencing with Section 1569), Chapter 3.4 (commencing with*
25 *Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),*
26 *Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65*
27 *(commencing with Section 1597.70), and the prior license was*
28 *revoked within the preceding two years, the department shall*
29 *exclude the person from acting as, and require the home care*
30 *organization to remove him or her from his or her position as, a*
31 *member of the board of directors, an executive director, or an*
32 *officer of a licensee of any home care organizations licensed by*
33 *the department pursuant to this chapter.*

34 *(2) If the department determines that a person was previously*
35 *issued a certificate of approval by a foster family agency that was*
36 *revoked by the department pursuant to subdivision (b) of Section*
37 *1534 within the preceding two years, the department shall exclude*
38 *the person from acting as, and require the home care organization*
39 *to remove him or her from his or her position as, a member of the*
40 *board of directors, an executive director, or an officer of a licensee*

1 of, any home care organizations licensed by the department
2 pursuant to this chapter.

3 (b) If the department determines that the person had previously
4 applied for a license under any of the chapters listed in paragraph
5 (1) of subdivision (a) and the application was denied within the
6 last year, the department shall exclude the person from acting as,
7 and require the home care organization to remove him or her from
8 his or her position as, a member of the board of directors, an
9 executive director, or an officer of a licensee of any home care
10 organizations licensed by the department pursuant to this chapter
11 as follows:

12 (1) In cases where the home care organization applicant
13 petitioned for a hearing, the department shall exclude the person
14 from acting as, and require the home care organization to remove
15 him or her from his or her position as, a member of the board of
16 directors, an executive director, or an officer of a licensee of, any
17 home care organizations licensed by the department pursuant to
18 this chapter until one year has elapsed from the effective date of
19 the decision and order of the department upholding a denial.

20 (2) In cases where the department informed the home care
21 organization applicant of his or her right to petition for a hearing
22 and the home care organization applicant did not petition for a
23 hearing, the department shall exclude the person from acting as,
24 and require the home care organization to remove him or her from
25 his or her position as, a member of the board of directors, an
26 executive director, or an officer of a licensee of, any home care
27 organizations licensed by the department pursuant to this chapter
28 until one year has elapsed from the date of the notification of the
29 denial and the right to petition for a hearing.

30 (c) If the department determines that the person had previously
31 applied for a certificate of approval with a foster family agency
32 and the department ordered the foster family agency to deny the
33 application pursuant to subdivision (b) of Section 1534, the
34 department shall exclude the person from acting as, and require
35 the home care organization to remove him or her from his or her
36 position as, a member of the board of directors, an executive
37 director, or an officer of a licensee of, any home care organizations
38 licensed by the department pursuant to this chapter and as follows:

39 (1) In cases where the home care organization applicant
40 petitioned for a hearing, the department shall exclude the person

1 *from acting as, and require the home care organization to remove*
2 *him or her from his or her position as, a member of the board of*
3 *directors, an executive director, or an officer of a licensee of, any*
4 *home care organizations licensed by the department pursuant to*
5 *this chapter until one year has elapsed from the effective date of*
6 *the decision and order of the department upholding a denial.*

7 *(2) In cases where the department informed the home care*
8 *organization applicant of his or her right to petition for a hearing*
9 *and the home care organization applicant did not petition for a*
10 *hearing, the department shall exclude the person from acting as,*
11 *and require the home care organization to remove him or her from*
12 *his or her position as, a member of the board of directors, an*
13 *executive director, or an officer of a licensee of, any home care*
14 *organizations licensed by the department pursuant to this chapter*
15 *until one year has elapsed from the date of the notification of the*
16 *denial and the right to petition for a hearing.*

17 *(d) Exclusion or removal of an individual pursuant to this*
18 *section shall not be considered an order of exclusion for purposes*
19 *of Section 1796.25 or any other law.*

20 *(e) The department may determine not to exclude a person from*
21 *acting as or require that he or she be removed from his or her*
22 *position as a member of the board of directors, an executive*
23 *director, or an officer of a licensee of, any home care organizations*
24 *licensed by the department pursuant to this chapter if it has been*
25 *determined that the reasons for the denial of the application or*
26 *revocation of the facility license or certificate of approval were*
27 *due to circumstances or conditions that either have been corrected*
28 *or are no longer in existence.*

29 *SEC. 53. Section 1796.42 of the Health and Safety Code is*
30 *amended and renumbered to read:*

31 ~~1796.42.~~

32 *1796.43. (a) Home care organizations that employ affiliated*
33 *home care aides shall ensure the affiliated home care aides are*
34 *cleared on the home care aide registry before placing the individual*
35 *in direct contact with clients. In addition, the home care*
36 *organization shall do all of the following:*

37 *(1) Ensure any staff person, volunteer, or employee of a home*
38 *care organization who has contact with clients, prospective clients,*
39 *or confidential client information that may pose a risk to the clients'*
40 *health and safety has met the requirements of ~~Section 1796.23~~*

1 Sections 1796.23, 1796.24, 1796.25, 1796.26, and 1796.28 before
 2 ~~being hired~~; there is contact with clients or prospective clients or
 3 access to confidential client information.

4 (2) Require home care aides to demonstrate that they are free
 5 of active tuberculosis disease, pursuant to Section 1796.45.

6 (3) Immediately notify the department when the home care
 7 organization no longer employs an individual as an affiliated home
 8 care aide.

9 (b) This section shall not prevent a licensee from requiring a
 10 criminal record clearance of any individual exempt from the
 11 requirements of this section, provided that the individual has client
 12 contact.

13 SEC. 54. Section 1796.44 of the Health and Safety Code is
 14 amended to read:

15 1796.44. (a) ~~A home care organization~~ licensee shall ensure
 16 that prior to providing home care services, an affiliated home care
 17 aide shall complete the training requirements specified in this
 18 section.

19 (b) An affiliated home care aide shall complete a minimum of
 20 five hours of entry-level training prior to presence with a client,
 21 as follows:

22 (1) Two hours of orientation training regarding his or her role
 23 as caregiver and the applicable terms of employment.

24 (2) Three hours of safety training, including basic safety
 25 precautions, emergency procedures, and infection control.

26 (c) In addition to the requirements in subdivision (b), an
 27 affiliated home care aide shall complete a minimum of five hours
 28 of annual training. The annual training shall relate to core
 29 competencies and be population specific, which shall include, but
 30 not be limited to, the following areas:

31 (1) Clients' rights and safety.

32 (2) How to provide for and respond to a client's daily living
 33 needs.

34 (3) How to report, prevent, and detect abuse and neglect.

35 (4) How to assist a client with personal hygiene and other home
 36 care services.

37 (5) If transportation services are provided, how to safely
 38 transport a client.

1 (d) The entry-level training and annual training—on
2 department-approved job-related topics described in subdivisions
3 (b) and (c) may be completed through an online training program.

4 SEC. 55. Section 1796.45 of the Health and Safety Code is
5 amended to read:

6 1796.45. (a) ~~An individual hired to be an affiliated~~ *Affiliated*
7 ~~home care aide~~ *aides* hired on or after January 1, ~~2015,~~ *2016*, shall
8 ~~be submitted~~ *submit* to an examination 90 days prior to employment
9 or within seven days after employment to determine that the
10 individual is free of active tuberculosis disease.

11 (b) For purposes of this section, “examination” means a test for
12 tuberculosis infection that is recommended by the federal Centers
13 for Disease Control and Prevention (CDC) and that is licensed by
14 the federal Food and Drug Administration (FDA) and, if that test
15 is positive, an X-ray of the lungs. The aide shall not work as an
16 affiliated home care aide unless ~~he or she~~ *the licensee* obtains
17 documentation from a licensed medical professional that there is
18 no risk of spreading the disease.

19 ~~(e) An affiliated home care aide whose employment with a home~~
20 ~~care organization began before January 1, 2015, shall submit to~~
21 ~~the examination described in subdivision (a) before July 1, 2015.~~

22 ~~(d)~~

23 (c) After submitting to an examination, an affiliated home care
24 aide whose test for tuberculosis infection is negative shall be
25 required to undergo an examination at least once every two years.
26 Once an affiliated home care aide has a documented positive test
27 for tuberculosis infection that has been followed by an X-ray, the
28 examination is no longer required.

29 ~~(e)~~

30 (d) After ~~the~~ *each* examination, an affiliated home care aide
31 shall submit, and the home care organization shall keep on file, a
32 certificate from the examining practitioner showing that the
33 affiliated home care aide was examined and found free from active
34 tuberculosis disease.

35 ~~(f)~~

36 (e) The examination is a condition of initial and continuing
37 employment with the home care organization. ~~The affiliated home~~
38 ~~care aide shall pay the cost of the examination.~~

39 ~~(g)~~

1 (f) An affiliated home care aide who transfers employment from
2 one home care organization to another shall be deemed to meet
3 the requirements of subdivision (a) or (c) if the affiliated home
4 care aide can produce a certificate showing that he or she submitted
5 to the examination within the past two years and was found to be
6 free of active tuberculosis disease, or if it is verified by the home
7 care organization previously employing him or her that it has a
8 certificate on file that contains ~~that showing~~ *showing and a copy*
9 *of the certificate is provided to the new home care organization*
10 *prior to the affiliated home care aide beginning employment.*

11 SEC. 56. Section 1796.47 of the Health and Safety Code is
12 amended to read:

13 1796.47. (a) (1) Administration of this program shall be fully
14 supported by fees and not civil penalties. Initial costs to implement
15 this chapter may be provided through a General Fund loan that is
16 to be repaid in accordance with a schedule provided by the
17 Department of Finance. The department shall assess fees for home
18 care organization licensure, and home care aide registration related
19 to activities authorized by this chapter. The department may adjust
20 fees as necessary to fully support the administration of this chapter.
21 Except for General Fund moneys that are otherwise transferred or
22 appropriated for the initial costs of administering this chapter, or
23 penalties collected pursuant to this chapter that are appropriated
24 by the Legislature for the purposes of this chapter, no General
25 Fund moneys shall be used for any purpose under this chapter.

26 (2) A portion of moneys collected in the administration of this
27 chapter, as designated by the department, may be used for
28 community outreach consistent with this chapter.

29 (b) The Home Care Fund is hereby created within the State
30 Treasury for the purpose of this chapter. All licensure and
31 registration fees authorized by this chapter shall be deposited into
32 the Home Care ~~Fund~~ *Fund, except the fingerprint fees collected*
33 *pursuant to Section 1796.23, which shall be deposited into the*
34 *Fingerprint Fees Account*. Moneys in this fund shall, upon
35 appropriation by the Legislature, be made available to the
36 department for purposes of administering this chapter.

37 (c) *Any fines and penalties collected pursuant to this chapter*
38 *shall be deposited into the Home Care Technical Assistance Fund,*
39 *which is hereby created as a subaccount within the Home Care*
40 *Fund. Moneys in the Home Care Technical Assistance Fund shall,*

1 upon appropriation by the Legislature, be available to the
2 department for the purposes of providing technical assistance,
3 training, and education pursuant to this chapter.

4 SEC. 57. Section 1796.48 of the Health and Safety Code is
5 amended to read:

6 1796.48. (a) The department may charge ~~an~~ a nonrefundable
7 application and nonrefundable renewal fee to become a registered
8 home care aide and to renew a registered home care aide's
9 registration.

10 (b) The maximum fee shall not exceed the total actual costs,
11 which include, but are not limited to, of all of the following:

12 (1) The searches for criminal offender records performed by
13 the Department of Justice. ~~The cost to check the criminal offender~~
14 ~~records shall not subsidize the cost to check the criminal history~~
15 ~~of other persons by the department who are not charged a fee by~~
16 ~~the Department of Justice.~~

17 (2) The cost incurred by the Department of Justice for the
18 searches of the records of the Federal Bureau of Investigation.

19 (3) The cost to the department to process the applications and
20 maintain the home care aide registry and perform the duties
21 required by this chapter and any rules and regulations promulgated
22 ~~under~~ pursuant to this chapter.

23 (c) The fees collected shall be deposited into the Home Care
24 Fund pursuant to subdivision (b) of Section ~~1796.47~~. 1796.47,
25 *except the fingerprint fees collected pursuant to Section 1796.23,*
26 *which shall be deposited into the Fingerprint Fees Account.*

27 SEC. 58. Section 1796.49 of the Health and Safety Code is
28 amended to read:

29 1796.49. (a) ~~A home care organization~~ licensee shall pay the
30 following fees:

31 (1) A nonrefundable 24-month initial license fee, as prescribed
32 by the department, for a ~~new home care organization~~ licensee not
33 currently licensed to provide home care services in the state.

34 (2) ~~Two-year~~ A two-year nonrefundable renewal fee, as
35 determined by the department, based on the number of full-time
36 equivalents (FTEs), including paid personnel or contractors needed
37 to oversee the enforcement of this chapter.

38 (3) Other reasonable fees as prescribed by the department
39 necessary for the administration of this chapter.

1 (b) The fees collected shall be deposited into the Home Care
2 Fund pursuant to subdivision (b) of Section ~~1796.47~~: 1796.47,
3 *except the fingerprint fees collected pursuant to Section 1796.23,*
4 *which shall be deposited into the Fingerprint Fees Account.*

5 SEC. 59. Section 1796.52 of the Health and Safety Code is
6 amended to read:

7 1796.52. (a) The department may review and, if it determines
8 necessary, investigate complaints filed against home care
9 organizations regarding violations of this chapter or any rules or
10 regulations promulgated ~~under~~ pursuant to this chapter.

11 (b) The department shall verify through random, unannounced
12 inspections that a home care organization meets the requirements
13 of this chapter and the rules and regulations promulgated ~~under~~
14 pursuant to this chapter.

15 (c) An investigation or inspection conducted by the department
16 pursuant to this chapter may include, but is not limited to,
17 inspection of the books, records, or premises of a home care
18 organization. A home care organization's refusal to make records,
19 books, or premises available shall constitute cause for the
20 revocation of the home care organization's license.

21 (d) Other than maintaining the home care registry, the
22 department shall have no oversight responsibility regarding
23 registered home care aides.

24 (e) *Upon receipt of a report of suspected or known abuse, as*
25 *set forth in subdivision (e) of Section 1796.42, the department shall*
26 *cross-report the suspected or known abuse to local law*
27 *enforcement and Adult Protective Services if the alleged victim is*
28 *18 years of age or older, or local law enforcement and Child*
29 *Protective Services if the alleged victim is under 18 years of age.*
30 *Other than the cross-reporting required by this subdivision, the*
31 *department shall not be required to investigate suspected or known*
32 *abuse or have other responsibilities related to the suspected or*
33 *known abuse. This subdivision shall not supersede the existing*
34 *duty of home health aides and home health agencies as mandated*
35 *reporters to report directly to local law enforcement or county*
36 *adult protective services pursuant to Section 15630.*

37 SEC. 60. Section 1796.55 of the Health and Safety Code is
38 amended to read:

39 1796.55. (a) A home care organization that operates in
40 violation of any requirement or obligation imposed by this chapter

1 or any rule or regulation promulgated ~~under~~ pursuant to this chapter
2 may be subject to the fines levied or licensure action taken by the
3 department as specified in this chapter.

4 (b) When the department determines that a home care
5 organization is in violation of this chapter or any rules or
6 regulations promulgated ~~under~~ pursuant to this chapter, a notice
7 of violation shall be served upon the licensee. Each notice of
8 violation shall be prepared in writing and shall specify the nature
9 of the violation and the statutory provision, rule, or regulation
10 alleged to have been violated. The notice shall inform the licensee
11 of any action the department may take ~~under~~ pursuant to this
12 chapter, including the requirement of a plan of correction,
13 assessment of a penalty, or action to suspend, revoke, or deny
14 renewal of the license. The director or his or her designee shall
15 also inform the licensee of rights to a hearing ~~under~~ pursuant to
16 this chapter.

17 (c) The department may impose a fine of up to nine hundred
18 dollars (\$900) per violation per day commencing on the date the
19 violation was identified and ending on the date each violation is
20 corrected, or action is taken to suspend, revoke, or deny renewal
21 of the license, whichever comes first. *corrected.*

22 (d) The department shall adopt regulations establishing
23 procedures for notices, correction plans, appeals, and hearings.

24 *SEC. 61. Section 1796.56 of the Health and Safety Code is*
25 *repealed.*

26 ~~1796.56. Any fines and penalties collected pursuant to this~~
27 ~~chapter shall be deposited into the Home Care Penalties~~
28 ~~Subaccount, which is hereby created within the Home Care Fund~~
29 ~~created pursuant to Section 1796.47. Moneys in this account shall,~~
30 ~~upon appropriation by the Legislature, be made available to the~~
31 ~~department for purposes of enforcing this chapter.~~

32 *SEC. 62. Section 1796.61 of the Health and Safety Code is*
33 *amended to read:*

34 1796.61. (a) This chapter shall ~~become operative be~~
35 *implemented* on January 1, ~~2015~~. 2016.

36 (b) *Home care organization applicants and home care aide*
37 *applicants who submit applications prior to January 1, 2016, shall*
38 *be authorized to provide home care services without meeting the*
39 *requirements of Section 1796.45, provided the requirements of*
40 *that section are met no later than July 1, 2016.*

1 (c) *The applicants described in subdivision (b) shall meet all*
 2 *the requirements of this chapter no later than July 1, 2016, in order*
 3 *to continue to provide home care services.*

4 SEC. 63. *Section 1796.63 of the Health and Safety Code is*
 5 *amended to read:*

6 1796.63. (a) *The department shall adopt, amend, or repeal,*
 7 *in accordance with Chapter 3.5 (commencing with Section 11340)*
 8 *of the Government Code, any reasonable rules, regulations, and*
 9 *standards as may be necessary or proper to carry out the purpose*
 10 *and intent of this chapter and to enable the department to exercise*
 11 *the powers and perform the duties conferred upon it by this chapter,*
 12 *not inconsistent with any of the provisions of any statute of this*
 13 *state. Notwithstanding the rulemaking provisions of the*
 14 *Administrative Procedure Act (Chapter 3.5 (commencing with*
 15 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
 16 *Code), the department may implement and administer this chapter*
 17 *through written directives, without taking regulatory action, subject*
 18 *to the limitations provided in subdivision (b).*

19 ~~(a) The department shall post any proposed rules promulgated~~
 20 ~~under this section on its public Internet Web site no earlier than~~
 21 ~~10 calendar days prior to the effective date of the proposed rule,~~
 22 ~~which shall also include notification to the public regarding how~~
 23 ~~members of the public may comment, including the date on which~~
 24 ~~those comment must be received in order to be considered by the~~
 25 ~~department.~~

26 (b) *The department’s authority to implement and administer*
 27 *this section chapter through written directives shall expire no later*
 28 *than 12 months after the written directives are promulgated and*
 29 *posted on a public Internet Web site, January 1, 2018, or upon the*
 30 *effective date of regulations promulgated in accordance with the*
 31 *Administrative Procedure Act (Chapter 3.5 (commencing with*
 32 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
 33 *Code), whichever occurs sooner.*

34 (c) *The department may adopt emergency regulations to*
 35 *implement and administer the provisions of this chapter. The*
 36 *department may readopt any emergency regulations that are the*
 37 *same as, or substantially equivalent to, any emergency regulations*
 38 *previously adopted. The initial adoption and readoption of*
 39 *emergency regulations for the implementation and administration*
 40 *of this chapter pursuant to this subdivision shall be deemed to be*

1 *an emergency and necessary for the immediate preservation of*
2 *the public peace, health, safety, or general welfare. The initial and*
3 *readopted emergency regulations shall be exempt from review by*
4 *the Office of Administrative Law. The initial and readopted*
5 *emergency regulations shall be submitted to the Office of*
6 *Administrative Law for filing with the Secretary of State and each*
7 *adoption or readoption shall remain in effect for no more than*
8 *180 days.*

9 *SEC. 64. Section 300 of the Welfare and Institutions Code is*
10 *amended to read:*

11 300. Any child who comes within any of the following
12 descriptions is within the jurisdiction of the juvenile court which
13 may adjudge that person to be a dependent child of the court:

14 (a) The child has suffered, or there is a substantial risk that the
15 child will suffer, serious physical harm inflicted nonaccidentally
16 upon the child by the child's parent or guardian. For the purposes
17 of this subdivision, a court may find there is a substantial risk of
18 serious future injury based on the manner in which a less serious
19 injury was inflicted, a history of repeated inflictions of injuries on
20 the child or the child's siblings, or a combination of these and other
21 actions by the parent or guardian which indicate the child is at risk
22 of serious physical harm. For purposes of this subdivision, "serious
23 physical harm" does not include reasonable and age-appropriate
24 spanking to the buttocks where there is no evidence of serious
25 physical injury.

26 (b) (1) The child has suffered, or there is a substantial risk
27 that the child will suffer, serious physical harm or illness, as a
28 result of the failure or inability of his or her parent or guardian to
29 adequately supervise or protect the child, or the willful or negligent
30 failure of the child's parent or guardian to adequately supervise
31 or protect the child from the conduct of the custodian with whom
32 the child has been left, or by the willful or negligent failure of the
33 parent or guardian to provide the child with adequate food,
34 clothing, shelter, or medical treatment, or by the inability of the
35 parent or guardian to provide regular care for the child due to the
36 parent's or guardian's mental illness, developmental disability, or
37 substance abuse. No child shall be found to be a person described
38 by this subdivision solely due to the lack of an emergency shelter
39 for the family. Whenever it is alleged that a child comes within
40 the jurisdiction of the court on the basis of the parent's or

1 guardian's willful failure to provide adequate medical treatment
2 or specific decision to provide spiritual treatment through prayer,
3 the court shall give deference to the parent's or guardian's medical
4 treatment, nontreatment, or spiritual treatment through prayer alone
5 in accordance with the tenets and practices of a recognized church
6 or religious denomination, by an accredited practitioner thereof,
7 and shall not assume jurisdiction unless necessary to protect the
8 child from suffering serious physical harm or illness. In making
9 its determination, the court shall consider (1) the nature of the
10 treatment proposed by the parent or guardian, (2) the risks to the
11 child posed by the course of treatment or nontreatment proposed
12 by the parent or guardian, (3) the risk, if any, of the course of
13 treatment being proposed by the petitioning agency, and (4) the
14 likely success of the courses of treatment or nontreatment proposed
15 by the parent or guardian and agency. The child shall continue to
16 be a dependent child pursuant to this subdivision only so long as
17 is necessary to protect the child from risk of suffering serious
18 physical harm or illness.

19 *(2) The Legislature finds and declares that a child who is*
20 *sexually trafficked, as described in Section 236.1 of the Penal*
21 *Code, or who receives food or shelter in exchange for, or who is*
22 *paid to perform, sexual acts described in Section 236.1 or 11165.1*
23 *of the Penal Code, and whose parent or guardian failed to, or was*
24 *unable to, protect the child, is within the description of this*
25 *subdivision, and that this finding is declaratory of existing law.*
26 *These children shall be known as commercially sexually exploited*
27 *children.*

28 (c) The child is suffering serious emotional damage, or is at
29 substantial risk of suffering serious emotional damage, evidenced
30 by severe anxiety, depression, withdrawal, or untoward aggressive
31 behavior toward self or others, as a result of the conduct of the
32 parent or guardian or who has no parent or guardian capable of
33 providing appropriate care. No child shall be found to be a person
34 described by this subdivision if the willful failure of the parent or
35 guardian to provide adequate mental health treatment is based on
36 a sincerely held religious belief and if a less intrusive judicial
37 intervention is available.

38 (d) The child has been sexually abused, or there is a substantial
39 risk that the child will be sexually abused, as defined in Section
40 11165.1 of the Penal Code, by his or her parent or guardian or a

1 member of his or her household, or the parent or guardian has
2 failed to adequately protect the child from sexual abuse when the
3 parent or guardian knew or reasonably should have known that
4 the child was in danger of sexual abuse.

5 (e) The child is under the age of five years and has suffered
6 severe physical abuse by a parent, or by any person known by the
7 parent, if the parent knew or reasonably should have known that
8 the person was physically abusing the child. For the purposes of
9 this subdivision, “severe physical abuse” means any of the
10 following: any single act of abuse which causes physical trauma
11 of sufficient severity that, if left untreated, would cause permanent
12 physical disfigurement, permanent physical disability, or death;
13 any single act of sexual abuse which causes significant bleeding,
14 deep bruising, or significant external or internal swelling; or more
15 than one act of physical abuse, each of which causes bleeding,
16 deep bruising, significant external or internal swelling, bone
17 fracture, or unconsciousness; or the willful, prolonged failure to
18 provide adequate food. A child may not be removed from the
19 physical custody of his or her parent or guardian on the basis of a
20 finding of severe physical abuse unless the social worker has made
21 an allegation of severe physical abuse pursuant to Section 332.

22 (f) The child’s parent or guardian caused the death of another
23 child through abuse or neglect.

24 (g) The child has been left without any provision for support;
25 physical custody of the child has been voluntarily surrendered
26 pursuant to Section 1255.7 of the Health and Safety Code and the
27 child has not been reclaimed within the 14-day period specified
28 in subdivision (e) of that section; the child’s parent has been
29 incarcerated or institutionalized and cannot arrange for the care of
30 the child; or a relative or other adult custodian with whom the child
31 resides or has been left is unwilling or unable to provide care or
32 support for the child, the whereabouts of the parent are unknown,
33 and reasonable efforts to locate the parent have been unsuccessful.

34 (h) The child has been freed for adoption by one or both parents
35 for 12 months by either relinquishment or termination of parental
36 rights or an adoption petition has not been granted.

37 (i) The child has been subjected to an act or acts of cruelty by
38 the parent or guardian or a member of his or her household, or the
39 parent or guardian has failed to adequately protect the child from
40 an act or acts of cruelty when the parent or guardian knew or

1 reasonably should have known that the child was in danger of
2 being subjected to an act or acts of cruelty.

3 (j) The child's sibling has been abused or neglected, as defined
4 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
5 that the child will be abused or neglected, as defined in those
6 subdivisions. The court shall consider the circumstances
7 surrounding the abuse or neglect of the sibling, the age and gender
8 of each child, the nature of the abuse or neglect of the sibling, the
9 mental condition of the parent or guardian, and any other factors
10 the court considers probative in determining whether there is a
11 substantial risk to the child.

12 It is the intent of the Legislature that nothing in this section
13 disrupt the family unnecessarily or intrude inappropriately into
14 family life, prohibit the use of reasonable methods of parental
15 discipline, or prescribe a particular method of parenting. Further,
16 nothing in this section is intended to limit the offering of voluntary
17 services to those families in need of assistance but who do not
18 come within the descriptions of this section. To the extent that
19 savings accrue to the state from child welfare services funding
20 obtained as a result of the enactment of the act that enacted this
21 section, those savings shall be used to promote services which
22 support family maintenance and family reunification plans, such
23 as client transportation, out-of-home respite care, parenting
24 training, and the provision of temporary or emergency in-home
25 caretakers and persons teaching and demonstrating homemaking
26 skills. The Legislature further declares that a physical disability,
27 such as blindness or deafness, is no bar to the raising of happy and
28 well-adjusted children and that a court's determination pursuant
29 to this section shall center upon whether a parent's disability
30 prevents him or her from exercising care and control. The
31 Legislature further declares that a child whose parent has been
32 adjudged a dependent child of the court pursuant to this section
33 shall not be considered to be at risk of abuse or neglect solely
34 because of the age, dependent status, or foster care status of the
35 parent.

36 As used in this section, "guardian" means the legal guardian of
37 the child.

38 *SEC. 65. Section 10104 of the Welfare and Institutions Code*
39 *is amended to read:*

1 10104. (a) It is the intent of the Legislature to ensure that the
2 impacts of the 2011 realignment of child welfare services, foster
3 care, adoptions, and adult protective services programs are
4 identified and ~~evaluated~~; *evaluated* initially and over time. It is
5 further the intent of the Legislature to ensure that information
6 regarding these impacts is publicly available and accessible and
7 can be utilized to support the state's and counties' effectiveness
8 in delivering these critical services and supports.

9 (a)

10 (b) The State Department of Social Services shall annually
11 report to the appropriate fiscal and policy committees of the
12 Legislature, and publicly post on the department's Internet Web
13 site, *site* a summary of outcome and expenditure data that allows
14 for monitoring of changes over time.

15 (b)

16 (c) The report shall be submitted and posted by April 15 of each
17 year and shall contain expenditures for each county for the
18 programs described in clauses (i) to (vii), inclusive, of
19 subparagraph (A) of paragraph ~~(9)~~(16) of subdivision (f) of Section
20 30025 of the Government Code. *To the extent that the information*
21 *is readily or publicly available, the report shall also contain the*
22 *amount of funds each county receives from the Protective Services*
23 *Growth Special Account created pursuant to Section 30025 of the*
24 *Government Code, child welfare services social worker caseloads*
25 *per county, and the number of authorized positions in the local*
26 *child welfare services agency.*

27 (e)

28 (d) The department shall consult with legislative staff and with
29 stakeholders to develop a reporting format consistent with the
30 Legislature's desired level of outcome and expenditure reporting
31 detail.

32 *SEC. 66. Section 10553.11 of the Welfare and Institutions Code*
33 *is amended to read:*

34 10553.11. (a) Effective July 1, 2011, notwithstanding any
35 other ~~provision~~ of law or regulation, a tribe, consortium of tribes,
36 or a tribal organization that is operating a program pursuant to an
37 agreement with the department under Section 10553.1, shall be
38 responsible for the following share of costs:

39 (1) For the adequate care of each child receiving AFDC-FC as
40 identified in subdivision (d) of Section 11450, the tribal share shall

1 be 60 percent of the nonfederal share. For nonfederally eligible
2 costs, the tribal share shall be 60 percent of the costs.

3 (2) For administrative costs of administering the AFDC-FC
4 program, the tribal share shall be 30 percent of the nonfederal
5 share. For nonfederally eligible administrative costs, the tribal
6 share shall be 30 percent of the costs.

7 (3) For the provision of child welfare services pursuant to
8 Section 10101, the tribal share shall be 30 percent of the nonfederal
9 share. For nonfederally eligible costs, the tribal share shall be 30
10 percent of the costs.

11 (4) For the provision of Title XIX child welfare services, the
12 tribal share shall be 30 percent of the nonfederal costs. For services
13 delivered by skilled professional medical personnel, reimbursement
14 may be claimed under Title XIX at an enhanced rate and the tribal
15 share shall be 30 percent of the nonfederal share.

16 (5) For wraparound services approved by the department for
17 children described in Section 18250, the tribal share shall be 60
18 percent of the costs.

19 (6) For the support and care of hard-to-place adoptive children,
20 the tribal share shall be 25 percent of the nonfederal share of the
21 amount specified in Section 16121. For nonfederally eligible
22 children, the tribal share shall be 25 percent of the costs.

23 (7) For monthly visitation of children placed in group homes,
24 there shall be no tribal share.

25 (8) For the support and care of former dependent children who
26 have been made wards of related guardians, the tribal share shall
27 be 21 percent of the nonfederal share. For nonfederally eligible
28 children, the tribal share shall be 21 percent of the costs. There
29 shall be no tribal share for federally eligible administrative costs.
30 For nonfederally eligible administrative costs, the tribal share shall
31 be 50 percent.

32 (9) For the cost of extending aid pursuant to Section 11403 to
33 eligible nonminor dependents who have reached 18 years of age
34 and who are under the jurisdiction of the tribal program, the tribal
35 share shall be 21 percent of the nonfederal share.

36 (b) *Notwithstanding subdivision (a), commencing July 1, 2014,*
37 *a tribe, consortium of tribes, or a tribal organization, that is*
38 *operating a program pursuant to an agreement with the department*
39 *under Section 10553.1, shall be responsible for the share of costs,*
40 *as follows:*

1 (1) For the adequate care of each child receiving AFDC-FC as
2 identified in subdivision (d) of Section 11450, there shall be no
3 tribal share of costs of the nonfederal share with an enhanced
4 federal medical assistance percentage of 80 percent or higher. If
5 the federal medical assistance percentage is below 80 percent, the
6 tribal share of cost shall be 60 percent of the nonfederal share.
7 For nonfederally eligible costs, there shall be no tribal share unless
8 the federal medical assistance percentage for federally eligible
9 cases is below 80 percent, in which case the tribal share for
10 nonfederally eligible costs shall be 60 percent.

11 (2) For administrative costs of administering the AFDC-FC
12 program, the tribal share shall be 30 percent of the nonfederal
13 share. For nonfederally eligible administrative costs, the tribal
14 share shall be 30 percent of the costs.

15 (3) For the provision of child welfare services pursuant to
16 Section 10101, the tribal share shall be 30 percent of the
17 nonfederal share. For nonfederally eligible costs, the tribal share
18 shall be 30 percent of the costs.

19 (4) For the provision of child welfare services under Title XIX
20 of the federal Social Security Act, the tribal share shall be 30
21 percent of the nonfederal share. For services delivered by skilled
22 professional medical personnel, reimbursement may be claimed
23 under Title XIX of the federal Social Security Act at an enhanced
24 rate and the tribal share shall be 30 percent of the nonfederal
25 share.

26 (5) For wraparound services approved by the department for
27 children described in Section 18250, there shall be no tribal share
28 of the costs with an enhanced federal medical assistance
29 percentage of 80 percent or higher. If the federal medical
30 assistance percentage is below 80 percent, the tribal share of cost
31 shall be 60 percent of the nonfederal share.

32 (6) For the support and care of hard-to-place adoptive children,
33 there shall be no tribal share of cost of the nonfederal share of the
34 amount specified in Section 16121 with an enhanced federal
35 medical assistance percentage of 62.5 percent or higher. If the
36 federal medical assistance percentage is below 62.5 percent, the
37 tribal share of cost shall be 25 percent of the nonfederal share.
38 For nonfederally eligible costs, there shall be no tribal share unless
39 the federal medical assistance percentage for federally eligible

1 cases is below 62.5 percent, in which case the tribal share for
 2 nonfederally eligible costs shall be 25 percent.

3 (7) For monthly visitation of children placed in group homes,
 4 there shall be no tribal share.

5 (8) For the support and care of former dependent children who
 6 have been made wards of related guardians, there shall be no
 7 tribal share of cost of the nonfederal share with an enhanced
 8 federal medical assistance percentage of 60.5 percent or higher.
 9 If the federal medical assistance percentage is below 60.5 percent,
 10 the tribal share shall be 21 percent of the nonfederal share. For
 11 nonfederally eligible costs, there shall be no tribal share unless
 12 the federal medical assistance percentage for federally eligible
 13 cases is below 60.5 percent, in which case the tribal share for
 14 nonfederally eligible costs shall be 21 percent. For nonfederally
 15 eligible administrative costs, the tribal share shall be 50 percent.

16 (9) For the cost of extending aid pursuant to Section 11403 to
 17 eligible nonminor dependents who have reached 18 years of age
 18 and who are under the jurisdiction of the tribal program, the tribal
 19 share shall be based on the sharing ratios set forth in paragraphs
 20 (1), (5), (6), and (8).

21 ~~(b)~~

22 (c) Notwithstanding any other law or regulation, for programs,
 23 services, or administrative costs provided pursuant to Section
 24 10553.1, but for which the sharing ratios are not specified in this
 25 section, the tribal share of costs shall be equal to the county
 26 statutory share of costs as set forth in statutory sharing ratios for
 27 each of these programs as in effect on June 30, 2011.

28 ~~(e)~~

29 (d) Notwithstanding any other law, for the purposes of this
 30 section, the nonfederal costs for programs, services, or
 31 administrative costs provided pursuant to Section 10553.1 shall
 32 be borne by the tribe, consortium of tribes, or tribal organization,
 33 and the state. However, in the event that an Indian child is
 34 transferred from the tribal program to the jurisdiction of the county,
 35 the costs for the child shall be borne by the county as for any other
 36 child under the county's jurisdiction.

37 *SEC. 67. Section 11320.32 of the Welfare and Institutions Code*
 38 *is amended to read:*

39 11320.32. (a) The department shall administer a voluntary
 40 Temporary Assistance Program (TAP) for current and future

1 CalWORKs recipients who meet the exemption criteria for work
2 participation activities set forth in Section 11320.3, and are not
3 single parents who have a child under the age of one year.
4 Temporary Assistance Program recipients shall be entitled to the
5 same assistance payments and other benefits as recipients under
6 the CalWORKs program. The purpose of this program is to provide
7 cash assistance and other benefits to eligible families without any
8 federal restrictions or requirements and without any adverse impact
9 on recipients. The Temporary Assistance Program shall commence
10 no later than October 1, ~~2014~~. 2016.

11 (b) CalWORKs recipients who meet the exemption criteria for
12 work participation activities set forth in subdivision (b) of Section
13 11320.3, and are not single parents with a child under the age of
14 one year, shall have the option of receiving grant payments, child
15 care, and transportation services from the Temporary Assistance
16 Program. The department shall notify all CalWORKs recipients
17 and applicants meeting the exemption criteria specified in
18 subdivision (b) of Section 11320.3, except for single parents with
19 a child under the age of one year, of their option to receive benefits
20 under the Temporary Assistance Program. Absent written
21 indication that these recipients or applicants choose not to receive
22 assistance from the Temporary Assistance Program, the department
23 shall enroll CalWORKs recipients and applicants into the program.
24 However, exempt volunteers shall remain in the CalWORKs
25 program unless they affirmatively indicate, in writing, their interest
26 in enrolling in the Temporary Assistance Program. A Temporary
27 Assistance Program recipient who no longer meets the exemption
28 criteria set forth in Section 11320.3 shall be enrolled in the
29 CalWORKs program.

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

39 (d) It is the intent of the Legislature that recipients shall have
40 and maintain access to the hardship exemption and the services

1 necessary to begin and increase participation in welfare-to-work
 2 activities, regardless of their county of origin, and that the number
 3 of recipients exempt under subdivision (b) of Section 11320.3 not
 4 significantly increase due to factors other than changes in caseload
 5 characteristics. All relevant state law applicable to CalWORKs
 6 recipients shall also apply to families funded under this section.
 7 ~~Nothing in this~~ *This section modifies does not modify* the criteria
 8 for exemption in Section 11320.3.

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

16 *SEC. 68. Section 11322.8 of the Welfare and Institutions Code*
 17 *is amended to read:*

18 11322.8. (a) For a recipient required to participate in
 19 accordance with paragraph (1) of subdivision (a) of Section
 20 11322.85, unless the recipient is otherwise exempt, the following
 21 shall apply:

22 (1) (A) An adult recipient in a one-parent assistance unit that
 23 does not include a child under six years of age shall participate in
 24 welfare-to-work activities for ~~an average of at least 30 hours each~~
 25 ~~week; per week during the month.~~

26 (B) An adult recipient in a one-parent assistance unit that
 27 includes a child under six years of age shall participate in
 28 welfare-to-work activities for ~~an average of at least 20 hours each~~
 29 ~~week; per week during the month.~~

30 (2) An adult recipient who is an unemployed parent, as defined
 31 in Section 11201, shall participate ~~in~~ *for an average of* at least 35
 32 hours of welfare-to-work activities ~~each week; per week during~~
 33 ~~the month.~~ However, both parents in a two-parent assistance unit
 34 may contribute to the 35 hours.

35 (b) For a recipient required to participate in accordance with
 36 paragraph (3) of subdivision (a) of Section 11322.85, the following
 37 shall apply:

38 (1) Unless otherwise exempt, an adult recipient in a one-parent
 39 assistance unit shall participate in welfare-to-work activities for
 40 *an average of at least 30 hours per-week, week during the month,*

1 subject to the special rules and limitations described in Section
2 607(c)(1)(A) of Title 42 of the United States Code as of ~~the~~
3 ~~operative date of this section, as provided in subdivision (e).~~
4 *January 1, 2013.*

5 (2) Unless otherwise exempt, an adult recipient in a one-parent
6 assistance unit that includes a child under six years of age shall
7 participate in welfare-to-work activities for *an average of at least*
8 *20 hours each week, per week during the month,* as described in
9 Section 607(c)(2)(B) of Title 42 of the United States Code as of
10 ~~the operative date of this section, as provided in subdivision (e).~~
11 *January 1, 2013.*

12 (3) Unless otherwise exempt, an adult recipient who is an
13 unemployed parent, as defined in Section 11201, shall participate
14 in welfare-to-work activities for *an average of at least 35 hours*
15 *per week, week during the month,* subject to the special rules and
16 limitations described in Section 607(c)(1)(B) of Title 42 of the
17 United States Code as of ~~the operative date of this section, as~~
18 ~~provided in subdivision (e).~~ *January 1, 2013.*

19 ~~(e) This section shall become operative on January 1, 2013.~~

20 *SEC. 69. Section 11325.24 of the Welfare and Institutions Code*
21 *is amended to read:*

22 11325.24. (a) If, in the course of appraisal pursuant to Section
23 11325.2 or at any point during an individual's participation in
24 welfare-to-work activities in accordance with paragraph (1) of
25 subdivision (a) of Section 11322.85, it is determined that a recipient
26 meets the criteria described in subdivision (b), the recipient shall
27 be eligible to participate in family stabilization.

28 (b) (1) A recipient shall be eligible to participate in family
29 stabilization if the county determines that his or her family is
30 experiencing an identified situation or crisis that is destabilizing
31 the family and would interfere with participation in welfare-to-work
32 activities and services.

33 (2) A situation or a crisis that is destabilizing the family in
34 accordance with paragraph (1) may include, but shall not be limited
35 to:

36 (A) Homelessness or imminent risk of homelessness.

37 (B) A lack of safety due to domestic violence.

38 (C) Untreated or undertreated behavioral needs, including mental
39 health or substance abuse-related needs.

1 (c) Family stabilization shall include intensive case management
2 and services designed to support the family in overcoming the
3 situation or crisis, which may include, but are not limited to,
4 welfare-to-work activities.

5 (d) Funds allocated for family stabilization in accordance with
6 this section shall be in addition to, and independent of, the county
7 allocations made pursuant to Section 15204.2.

8 (e) *Funds allocated for family stabilization in accordance with*
9 *this section, or the county allocations made pursuant to Section*
10 *15204.2, may be used to provide housing and other needed services*
11 *to a family during any month that a family is participating in family*
12 *stabilization.*

13 (e)

14 (f) Each county shall submit to the department a plan, as defined
15 by the department, regarding how it intends to implement the
16 provisions of this section and shall report information to the
17 department, including, but not limited to, the number of recipients
18 served pursuant to this section, information regarding the services
19 provided, outcomes for the families served, and any lack of
20 availability of services. The department shall provide an update
21 regarding this information to the Legislature during the 2014–15
22 budget process.

23 (f)

24 (g) ~~This section shall become operative on January 1, 2014. It~~
25 *is the intent of the Legislature that family stabilization is a*
26 *voluntary component intended to provide needed services and*
27 *constructive interventions for parents and to assist in barrier*
28 *removal for families facing very difficult needs. Participants in*
29 *family stabilization are encouraged to participate, but the*
30 *Legislature does not intend that parents be sanctioned as part of*
31 *their experience in this program component. The Legislature*
32 *further intends that recipients refusing or unable to follow their*
33 *family stabilization plans without good cause be returned to the*
34 *traditional welfare-to-work program.*

35 SEC. 70. Article 3.3 (commencing with Section 11330) is added
36 to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
37 Code, to read:

1 Article 3.3. CalWORKs Housing Support

2
3 11330. The Legislature finds and declares all of the following:

4 (a) Stable housing is a fundamental component of self-sufficiency
5 and child well-being.

6 (b) According to the National Alliance to End Homelessness,
7 residential stability is a necessary precursor to effectively
8 addressing barriers that inhibit self-sufficiency, and research is
9 clear that children who lack safe and stable housing demonstrate
10 worse academic and social outcomes.

11 (c) Housing support in the CalWORKs program is minimal and
12 families struggle to find and retain safe, affordable, and stable
13 housing.

14 (d) Expanding homeless and housing support in the CalWORKs
15 program would help meet a critical need for families working to
16 achieve self-sufficiency.

17 11330.5. (a) A recipient shall be eligible to receive CalWORKs
18 housing supports if the county determines that his or her family is
19 experiencing homelessness or housing instability that would be a
20 barrier to self-sufficiency or child well-being.

21 (b) Notwithstanding subdivision (a), this section does not create
22 an entitlement to housing supports, which are intended to be a
23 service to CalWORKs families and not a form of assistance, to be
24 provided to families at the discretion of the county.

25 (c) It is the intent of the Legislature that housing supports
26 provided pursuant to this article utilize evidence-based models,
27 including those established in the federal Department of Housing
28 and Urban Development's Homeless Prevention and Rapid
29 Re-Housing Program. Supports provided may include, but shall
30 not be limited to, all of the following:

31 (1) Financial assistance, including rental assistance, security
32 deposits, utility payments, moving cost assistance, and motel and
33 hotel vouchers.

34 (2) Housing stabilization and relocation, including outreach
35 and engagement, landlord recruitment, case management, housing
36 search and placement, legal services, and credit repair.

37 (d) The asset limit threshold specified in subdivision (f) of
38 Section 11450 shall not be used to determine a family's eligibility
39 for receipt of housing supports provided pursuant to this article.

1 (e) Funds appropriated for purposes of this article shall be
2 allocated to participating counties by the State Department of
3 Social Services according to an allocation methodology developed
4 by the department in consultation with the County Welfare
5 Directors Association.

6 (f) The department, in consultation with the County Welfare
7 Directors Association and other stakeholders, shall develop each
8 of the following:

9 (1) The criteria by which counties may opt to participate in
10 providing housing supports to eligible CalWORKs recipients
11 pursuant to this article.

12 (2) The proportion of funding to be expended on reasonable
13 and appropriate administrative activities to minimize overhead
14 and maximize services.

15 (3) Tracking and reporting procedures.

16 (g) The department, in consultation with appropriate legislative
17 staff and the County Welfare Directors Association, shall
18 determine, in a manner that reflects the legislative intent for the
19 use of these funds and that is most beneficial to the overall
20 CalWORKs program, whether housing supports provided with
21 this funding are considered to be assistance or nonassistance
22 payments.

23 SEC. 71. Section 11402.4 of the Welfare and Institutions Code
24 is amended to read:

25 11402.4. (a) Subject to the conditions set forth in subdivisions
26 (b) and (c), and notwithstanding any other provision of law, with
27 respect to an approved home of a relative or nonrelative extended
28 family member for which an annual visit to ensure the quality of
29 care provided is pending, the relative or nonrelative extended
30 family member home's approval shall remain in full force and
31 effect. Payment to the relative or nonrelative extended family
32 member provider shall not be delayed or terminated solely due to
33 late completion of the annual visit to ensure the quality of care
34 provided.

35 (b) The frequency of required visits to ensure the quality of care
36 provided shall not be less than the frequency of visits for licensed
37 foster family homes as specified in ~~paragraph (1) of subdivision~~
38 ~~(a) of~~ Section 1534 of the Health and Safety Code. If late
39 completion of an annual visit occurs, under no circumstances shall

1 the county visit an approved home of a relative or nonrelative
2 extended family member less than once every 24 months.

3 (c) The frequency of required visits to ensure the quality of care
4 provided shall be subject to state plan approval.

5 *SEC. 72. Section 11450.025 of the Welfare and Institutions*
6 *Code is amended to read:*

7 11450.025. (a) (1) Notwithstanding any other law, effective
8 on March 1, 2014, the maximum aid payments in effect on July
9 1, 2012, as specified in subdivision (b) of Section 11450.02, shall
10 be increased by 5 percent.

11 (2) *Effective April 1, 2015, the maximum aid payments in effect*
12 *on July 1, 2014, as specified in paragraph (1), shall be increased*
13 *by 5 percent.*

14 (b) Commencing in 2014 and annually thereafter, on or before
15 January 10 and on or before May 14, the Director of Finance shall
16 do all of the following:

17 (1) Estimate the amount of growth revenues pursuant to
18 subdivision (f) of Section 17606.10 that will be deposited in the
19 Child Poverty and Family Supplemental Support Subaccount of
20 the Local Revenue Fund for the current fiscal year and the
21 following fiscal year and the amounts in the subaccount carried
22 over from prior fiscal years.

23 (2) For the current fiscal year and the following fiscal year,
24 determine the total cost of providing the ~~increase~~ *increases*
25 described in subdivision (a), as well as any other increase in the
26 maximum aid payments subsequently provided only under this
27 section, after adjusting for updated projections of CalWORKs
28 costs associated with caseload changes, as reflected in the local
29 assistance subvention estimates prepared by the State Department
30 of Social Services and released with the annual Governor's Budget
31 and subsequent May Revision update.

32 (3) If the amount estimated in paragraph (1) plus the amount
33 projected to be deposited for the current fiscal year into the Child
34 Poverty and Family Supplemental Support Subaccount pursuant
35 to subparagraph (3) of subdivision (e) of Section 17600.15 is
36 greater than the amount determined in paragraph (2), the difference
37 shall be used to calculate the percentage increase to the CalWORKs
38 maximum aid payment standards that could be fully funded on an
39 ongoing basis beginning the following fiscal year.

1 (4) If the amount estimated in paragraph (1) plus the amount
2 projected to be deposited for the current fiscal year into the Child
3 Poverty and Family Supplemental Support Subaccount pursuant
4 to subparagraph (3) of subdivision (e) of Section 17600.15 is equal
5 to or less than the amount determined in paragraph (2), no
6 additional increase to the CalWORKs maximum aid payment
7 standards shall be provided in the following fiscal year in
8 accordance with this section.

9 (5) (A) Commencing with the 2014–15 fiscal year and for all
10 fiscal years thereafter, if changes to the estimated amounts
11 determined in paragraphs (1) or (2), or both, as of the May
12 Revision, are enacted as part of the final budget, the Director of
13 Finance shall repeat, using the same methodology used in the May
14 Revision, the calculations described in paragraphs (3) and (4) using
15 the revenue projections and grant costs assumed in the enacted
16 budget.

17 (B) If a calculation is required pursuant to subparagraph (A),
18 the Department of Finance shall report the result of this calculation
19 to the appropriate policy and fiscal committees of the Legislature
20 upon enactment of the Budget Act.

21 (c) An increase in maximum aid payments calculated pursuant
22 to paragraph (3) of subdivision (b), or pursuant to paragraph (5)
23 of subdivision (b) if applicable, shall become effective on October
24 1 of the following fiscal year.

25 (d) (1) An increase in maximum aid payments provided in
26 accordance with this section shall be funded with growth revenues
27 from the Child Poverty and Family Supplemental Support
28 Subaccount in accordance with paragraph (3) of subdivision (e)
29 of Section 17600.15 and subdivision (f) of Section 17606.10, to
30 the extent funds are available in that subaccount.

31 (2) If funds received by the Child Poverty and Family
32 Supplemental Support Subaccount in a particular fiscal year are
33 insufficient to fully fund any increases to maximum aid payments
34 made pursuant to this section, the remaining cost for that fiscal
35 year will be addressed through existing provisional authority
36 included in the annual Budget Act. Additional grant increases shall
37 not be provided until and unless the ongoing cumulative costs of
38 all prior grant increases provided pursuant to this section are fully
39 funded by the Child Poverty and Family Supplemental Support
40 Subaccount.

1 (e) Notwithstanding Section 15200, counties shall not be
2 required to contribute a share of ~~cost~~ *the costs* to cover the ~~costs~~
3 ~~of~~ increases to maximum aid payments made pursuant to this
4 section.

5 *SEC. 73. Section 11460 of the Welfare and Institutions Code*
6 *is amended to read:*

7 11460. (a) Foster care providers shall be paid a per child per
8 month rate in return for the care and supervision of the AFDC-FC
9 child placed with them. The department is designated the single
10 organizational unit whose duty it shall be to administer a state
11 system for establishing rates in the AFDC-FC program. State
12 functions shall be performed by the department or by delegation
13 of the department to county welfare departments or Indian tribes,
14 consortia of tribes, or tribal organizations that have entered into
15 an agreement pursuant to Section 10553.1.

16 (b) "Care and supervision" includes food, clothing, shelter, daily
17 supervision, school supplies, a child's personal incidentals, liability
18 insurance with respect to a child, reasonable travel to the child's
19 home for visitation, and reasonable travel for the child to remain
20 in the school in which he or she is enrolled at the time of
21 placement. Reimbursement for the costs of educational travel, as
22 provided for in this subdivision, shall be made pursuant to
23 procedures determined by the department, in consultation with
24 representatives of county welfare and probation directors, and
25 additional stakeholders, as appropriate.

26 (1) For a child placed in a group home, care and supervision
27 shall also include reasonable administration and operational
28 activities necessary to provide the items listed in this subdivision.

29 (2) For a child placed in a group home, care and supervision
30 may also include reasonable activities performed by social workers
31 employed by the group home provider which are not otherwise
32 considered daily supervision or administration activities.

33 (c) It is the intent of the Legislature to establish the maximum
34 level of state participation in out-of-state foster care group home
35 program rates effective January 1, 1992.

36 (1) The department shall develop regulations that establish the
37 method for determining the level of state participation for each
38 out-of-state group home program. The department shall consider
39 all of the following methods:

1 (A) A standardized system based on the level of care and
2 services per child per month as detailed in Section 11462.

3 (B) A system which considers the actual allowable and
4 reasonable costs of care and supervision incurred by the program.

5 (C) A system which considers the rate established by the host
6 state.

7 (D) Any other appropriate methods as determined by the
8 department.

9 (2) State reimbursement for the AFDC-FC group home rate to
10 be paid to an out-of-state program on or after January 1, 1992,
11 shall only be paid to programs which have done both of the
12 following:

13 (A) Submitted a rate application to the department and received
14 a determination of the level of state participation.

15 (i) The level of state participation shall not exceed the current
16 fiscal year's standard rate for rate classification level 14.

17 (ii) The level of state participation shall not exceed the rate
18 determined by the ratesetting authority of the state in which the
19 facility is located.

20 (iii) The level of state participation shall not decrease for any
21 child placed prior to January 1, 1992, who continues to be placed
22 in the same out-of-state group home program.

23 (B) Agreed to comply with information requests, and program
24 and fiscal audits as determined necessary by the department.

25 (3) State reimbursement for an AFDC-FC rate paid on or after
26 January 1, 1993, shall only be paid to a group home organized and
27 operated on a nonprofit basis.

28 (d) A foster care provider that accepts payments, following the
29 effective date of this section, based on a rate established under this
30 section, shall not receive rate increases or retroactive payments as
31 the result of litigation challenging rates established prior to the
32 effective date of this section. This shall apply regardless of whether
33 a provider is a party to the litigation or a member of a class covered
34 by the litigation.

35 (e) Nothing shall preclude a county from using a portion of its
36 county funds to increase rates paid to family homes and foster
37 family agencies within that county, and to make payments for
38 specialized care increments, clothing allowances, or infant
39 supplements to homes within that county, solely at that county's
40 expense.

1 (f) Nothing shall preclude a county from providing a
2 supplemental rate to serve commercially sexually exploited foster
3 children to provide for the additional care and supervision needs
4 of these children. To the extent that federal financial participation
5 is available, it is the intent of the Legislature that the federal
6 funding shall be utilized.

7 SEC. 74. Section 11461.3 is added to the Welfare and
8 Institutions Code, to read:

9 11461.3. (a) The Approved Relative Caregiver Funding Option
10 Program is hereby established for the purpose of making the
11 amount paid to approved relative caregivers for the in-home care
12 of children placed with them who are ineligible for AFDC-FC
13 payments equal to the amount paid on behalf of children who are
14 eligible for AFDC-FC payments. This is an optional program for
15 counties choosing to participate, and in so doing, participating
16 counties agree to the terms of this section as a condition of their
17 participation. It is the intent of the Legislature that the funding
18 described in paragraph (1) of subdivision (e) for the Approved
19 Relative Caregiver Funding Option Program be appropriated,
20 and available for use from January through December of each
21 year, unless otherwise specified.

22 (b) Subject to subdivision (c), effective January 1, 2015, counties
23 shall pay an approved relative caregiver a per child per month
24 rate in return for the care and supervision, as defined in
25 subdivision (b) of Section 11460, of a child that is placed with the
26 relative caregiver that is equal to the basic rate paid to foster care
27 providers pursuant to subdivision (g) of Section 11461, if both of
28 the following conditions are met:

29 (1) The county with payment responsibility has notified the
30 department in writing by October 1 of the year before participation
31 begins of its decision to participate in the Approved Relative
32 Caregiver Funding Option Program.

33 (2) The related child placed in the home meets all of the
34 following requirements:

35 (A) The child resides in the State of California.

36 (B) The child is described by subdivision (b), (c), or (e) of
37 Section 11401 and is not eligible for AFDC-FC pursuant to
38 subdivision (a) of Section 11404.

1 (C) The child is not eligible for AFDC-FC while placed with
2 the approved relative caregiver because the child is not eligible
3 for federal financial participation in the AFDC-FC payment.

4 (c) A county's election to participate in the Approved Relative
5 Caregiver Funding Option Program shall affirmatively indicate
6 that the county understands and agrees to all of the following
7 conditions:

8 (1) Commencing October 1, 2014, the county shall notify the
9 department in writing of its decision to participate in the Approved
10 Relative Caregiver Funding Option Program. Failure to make
11 timely notification, without good cause as determined by the
12 department, shall preclude the county from participating in the
13 program for the upcoming year. Annually thereafter, any county
14 not presently participating who elects to do so shall notify the
15 department in writing no later than October 1 of its decision to
16 participate for the upcoming calendar year.

17 (2) The county shall confirm that it will make per child per
18 month payments to all approved relative caregivers on behalf of
19 eligible children in the amount specified in subdivision (b) for the
20 duration of the participation of the county in this program.

21 (3) The county shall confirm that it will be solely responsible
22 to pay any additional costs needed to make all payments pursuant
23 to subdivision (b) if the state and federal funds allocated to the
24 Approved Relative Caregiver Funding Option Program pursuant
25 to paragraph (1) of subdivision (e) are insufficient to make all
26 eligible payments.

27 (d) (1) A county deciding to opt out of the Approved Relative
28 Caregiver Funding Option Program shall provide at least 120
29 days' prior written notice of that decision to the department.
30 Additionally, the county shall provide at least 90 days' prior
31 written notice to the approved relative caregiver or caregivers
32 informing them that his or her per child per month payment will
33 be reduced and the date that the reduction will occur.

34 (2) The department shall presume all counties have opted out
35 of the Approved Relative Caregiver Funding Option Program if
36 the funding appropriated in subclause (II) of clause (i) of
37 subparagraph (B) of paragraph (1) of subdivision (e), including
38 any additional funds appropriated pursuant to clause (ii) of
39 subparagraph (B) of paragraph (1) of subdivision (e), is reduced,
40 unless a county notifies the department in writing of its intent to

1 *opt in within 60 days of enactment of the state budget. The counties*
2 *shall provide at least 90 days' prior written notice to the approved*
3 *relative caregiver or caregivers informing them that his or her per*
4 *child per month payment will be reduced, and the date that the*
5 *reduction will occur.*

6 (3) *Any reduction in payments received by an approved relative*
7 *caregiver on behalf of a child under this section that results from*
8 *a decision by a county, including the presumed opt-out pursuant*
9 *to paragraph (2), to not participate in the Approved Relative*
10 *Caregiver Funding Option Program shall be exempt from state*
11 *hearing jurisdiction under Section 10950.*

12 (e) (1) *The following funding shall be used for the Approved*
13 *Relative Caregiver Funding Option Program:*

14 (A) *The applicable regional per-child CalWORKs grant from*
15 *federal funds received as part of the TANF block grant program.*

16 (B) (i) *General Fund resources that do not count toward the*
17 *state's maintenance of effort requirements under Section*
18 *609(a)(7)(B)(i) of Title 42 of the United States Code. For this*
19 *purpose, the following money is hereby appropriated:*

20 (I) *The sum of thirty million dollars (\$30,000,000) from the*
21 *General Fund for the period January 1, 2015 through December*
22 *31, 2015.*

23 (II) *The sum of thirty million dollars (\$30,000,000) from the*
24 *General Fund in each calendar year thereafter, as cumulatively*
25 *adjusted annually by the California Necessities Index used for*
26 *each May Revision of the Governor's Budget, to be used in each*
27 *respective calendar year.*

28 (ii) *To the extent that the appropriation made in subclause (I)*
29 *is insufficient to fully fund the base caseload of approved relative*
30 *caregivers as of July 1, 2014, for the period of time described in*
31 *subclause (I), as jointly determined by the department and the*
32 *County Welfare Directors' Association and approved by the*
33 *Department of Finance on or before October 1, 2015, the amounts*
34 *specified in subclauses (I) and (II) shall be increased in the*
35 *respective amounts necessary to fully fund that base caseload.*
36 *Thereafter, the adjusted amount of subclause (II), and the other*
37 *terms of that provision, including an annual California Necessities*
38 *Index adjustment to its amount, shall apply.*

39 (C) *County funds only to the extent required under paragraph*
40 *(3) of subdivision (c).*

1 (D) This section is intended to appropriate the funding necessary
2 to fully fund the base caseload of approved relative caregivers,
3 defined as the number of approved relative caregivers caring for
4 a child who is not eligible to receive AFDC-FC payments, as of
5 July 1, 2014.

6 (2) Funds available pursuant to subparagraphs (A) and (B) of
7 paragraph (1) shall be allocated to participating counties
8 proportionate to the number of their approved relative caregiver
9 placements, using a methodology and timing developed by the
10 department, following consultation with county human services
11 agencies and their representatives.

12 (3) Notwithstanding subdivision (c), if in any calendar year the
13 entire amount of funding appropriated by the state for the Approved
14 Relative Caregiver Funding Option Program has not been fully
15 allocated to or utilized by counties, a county that has paid any
16 funds pursuant to subparagraph (C) of paragraph (1) of
17 subdivision (e) may request reimbursement for those funds from
18 the department. The authority of the department to approve the
19 requests shall be limited by the amount of available unallocated
20 funds.

21 (f) An approved relative caregiver receiving payments on behalf
22 of a child pursuant to this section shall not be eligible to receive
23 additional CalWORKs payments on behalf of the same child under
24 Section 11450.

25 (g) To the extent permitted by federal law, payments received
26 by the approved relative caregiver from the Approved Relative
27 Caregiver Funding Option Program shall not be considered income
28 for the purpose of determining other public benefits.

29 (h) Prior to referral of any individual or recipient, or that
30 person's case, to the local child support agency for child support
31 services pursuant to Section 17415 of the Family Code, the county
32 human services agency shall determine if an applicant or recipient
33 has good cause for noncooperation, as set forth in Section
34 11477.04. If the applicant or recipient claims good cause exception
35 at any subsequent time to the county human services agency or
36 the local child support agency, the local child support agency shall
37 suspend child support services until the county social services
38 agency determines the good cause claim, as set forth in Section
39 11477.04. If good cause is determined to exist, the local child
40 support agency shall suspend child support services until the

1 applicant or recipient requests their resumption, and shall take
2 other measures that are necessary to protect the applicant or
3 recipient and the children. If the applicant or recipient is the parent
4 of the child for whom aid is sought and the parent is found to have
5 not cooperated without good cause as provided in Section
6 11477.04, the applicant's or recipient's family grant shall be
7 reduced by 25 percent for the time the failure to cooperate lasts.

8 (i) Consistent with Section 17552 of the Family Code, if aid is
9 paid under this chapter on behalf of a child who is under the
10 jurisdiction of the juvenile court and whose parent or guardian is
11 receiving reunification services, the county human services agency
12 shall determine, prior to referral of the case to the local child
13 support agency for child support services, whether the referral is
14 in the best interest of the child, taking into account both of the
15 following:

16 (1) Whether the payment of support by the parent will pose a
17 barrier to the proposed reunification in that the payment of support
18 will compromise the parent's ability to meet the requirements of
19 the parent's reunification plan.

20 (2) Whether the payment of support by the parent will pose a
21 barrier to the proposed reunification in that the payment of support
22 will compromise the parent's current or future ability to meet the
23 financial needs of the child.

24 SEC. 75. Section 11477 of the Welfare and Institutions Code
25 is amended to read:

26 11477. As a condition of eligibility for aid paid under this
27 chapter, each applicant or recipient shall do all of the following:

28 (a) (1) Do either of the following:

29 (i) For applications received before October 1, 2009, assign to
30 the county any rights to support from any other person the applicant
31 or recipient may have on his or her own behalf or on behalf of any
32 other family member for whom the applicant or recipient is
33 applying for or receiving aid, not exceeding the total amount of
34 cash assistance provided to the family under this chapter. Receipt
35 of public assistance under this chapter shall operate as an
36 assignment by operation of law. An assignment of support rights
37 to the county shall also constitute an assignment to the state. If
38 support rights are assigned pursuant to this subdivision, the
39 assignee may become an assignee of record by the local child
40 support agency or other public official filing with the court clerk

1 an affidavit showing that an assignment has been made or that
 2 there has been an assignment by operation of law. This procedure
 3 does not limit any other means by which the assignee may become
 4 an assignee of record.

5 (ii) For applications received on or after October 1, 2009, assign
 6 to the county any rights to support from any other person the
 7 applicant or recipient may have on his or her own behalf, or on
 8 behalf of any other family member for whom the applicant or
 9 recipient is applying for or receiving aid. The assignment shall
 10 apply only to support that accrues during the period of time that
 11 the applicant is receiving assistance under this chapter, and shall
 12 not exceed the total amount of cash assistance provided to the
 13 family under this chapter. Receipt of public assistance under this
 14 chapter shall operate as an assignment by operation of law. An
 15 assignment of support rights to the county shall also constitute an
 16 assignment to the state. If support rights are assigned pursuant to
 17 this subdivision, the assignee may become an assignee of record
 18 by the local child support agency or other public official filing
 19 with the court clerk an affidavit showing that an assignment has
 20 been made or that there has been an assignment by operation of
 21 law. This procedure does not limit any other means by which the
 22 assignee may become an assignee of record.

23 (2) Support that has been assigned pursuant to paragraph (1)
 24 and that accrues while the family is receiving aid under this chapter
 25 shall be permanently assigned until the entire amount of aid paid
 26 has been reimbursed.

27 (3) If the federal government does not permit states to adopt the
 28 same order of distribution for preassistance and postassistance
 29 child support arrears that are assigned on or after October 1, 1998,
 30 support arrears that accrue before the family receives aid under
 31 this chapter that are assigned pursuant to this subdivision shall be
 32 assigned as follows:

33 (A) Child support assigned prior to January 1, 1998, shall be
 34 permanently assigned until aid is no longer received and the entire
 35 amount of aid has been reimbursed.

36 (B) Child support assigned on or after January 1, 1998, but prior
 37 to October 1, 2000, shall be temporarily assigned until aid under
 38 this chapter is no longer received and the entire amount of aid paid
 39 has been reimbursed or until October 1, 2000, whichever comes
 40 first.

1 (C) On or after October 1, 2000, support assigned pursuant to
2 this subdivision that was not otherwise permanently assigned shall
3 be temporarily assigned to the county until aid is no longer
4 received.

5 (D) On or after October 1, 2000, support that was temporarily
6 assigned pursuant to this subdivision shall, when a payment is
7 received from the federal tax intercept program, be temporarily
8 assigned until the entire amount of aid paid has been reimbursed.

9 (4) If the federal government permits states to adopt the same
10 order of distribution for preassistance and postassistance child
11 support arrears, child support arrears shall be assigned, as follows:

12 (A) Child support assigned pursuant to this subdivision prior
13 to October 1, 1998, shall be assigned until aid under this chapter
14 is no longer received and the entire amount has been reimbursed.

15 (B) On or after October 1, 1998, child support assigned pursuant
16 to this subdivision that accrued before the family receives aid under
17 this chapter and that was not otherwise permanently assigned, shall
18 be temporarily assigned until aid under this chapter is no longer
19 received.

20 (C) On or after October 1, 1998, support that was temporarily
21 assigned pursuant to this subdivision shall, when a payment is
22 received from the federal tax intercept program, be temporarily
23 assigned until the entire amount of aid paid has been reimbursed.

24 (b) (1) Cooperate with the county welfare department and local
25 child support agency in establishing the paternity of a child of the
26 applicant or recipient born out of wedlock with respect to whom
27 aid is claimed, and in establishing, modifying, or enforcing a
28 support order with respect to a child of the individual for whom
29 aid is requested or obtained, unless the applicant or recipient
30 qualifies for a good cause exception ~~as provided in~~ *pursuant to*
31 Section 11477.04. The granting of aid shall not be delayed or
32 denied if the applicant is otherwise eligible, if the applicant
33 completes the necessary forms and agrees to cooperate with the
34 local child support agency in securing support and determining
35 paternity, ~~where~~ *if* applicable. The local child support agency shall
36 have staff available, in person or by telephone, at all county welfare
37 offices and shall conduct an interview with each applicant to obtain
38 information necessary to establish paternity and establish, modify,
39 or enforce a support order at the time of the initial interview with
40 the welfare office. The local child support agency shall make the

1 determination of cooperation. If the applicant or recipient attests
 2 under penalty of perjury that he or she cannot provide the
 3 information required by this subdivision, the local child support
 4 agency shall make a finding regarding whether the individual could
 5 reasonably be expected to provide the ~~information~~, *information*
 6 before the local child support agency determines whether the
 7 individual is cooperating. In making the finding, the local child
 8 support agency shall consider all of the following:

- 9 (A) The age of the child for whom support is sought.
- 10 (B) The circumstances surrounding the conception of the child.
- 11 (C) The age or mental capacity of the parent or caretaker of the
 12 child for whom aid is being sought.
- 13 (D) The time that has elapsed since the parent or caretaker last
 14 had contact with the alleged father or obligor.

15 (2) Cooperation includes *all of* the following:

16 (A) Providing the name of the alleged parent or obligor and
 17 other information about that person if known to the applicant or
 18 recipient, such as address, social security number, telephone
 19 number, place of employment or school, and the names and
 20 addresses of relatives or associates.

21 (B) Appearing at interviews, hearings, and legal proceedings
 22 provided the applicant or recipient is provided with reasonable
 23 advance notice of the interview, hearing, or legal proceeding and
 24 does not have good cause not to appear.

25 (C) If paternity is at issue, submitting to genetic tests, including
 26 genetic testing of the child, if necessary.

27 (D) Providing any additional information known to or reasonably
 28 obtainable by the applicant or recipient necessary to establish
 29 paternity or to establish, modify, or enforce a child support order.

30 (3) A recipient or applicant shall not be required to sign a
 31 voluntary declaration of paternity, as set forth in Chapter 3
 32 (commencing with Section 7570) of Part 2 of Division 12 of the
 33 Family Code, as a condition of cooperation.

34 (c) *This section shall not apply if all of the adults are excluded*
 35 *from the assistance unit pursuant to Section 11251.3, 11454, or*
 36 *11486.5.*

37 (d) *It is the intent of the Legislature that the regular receipt of*
 38 *child support in the preceding reporting period be considered in*
 39 *determining reasonably anticipated income for the following*
 40 *reporting period.*

1 *SEC. 76. Chapter 5.2 (commencing with Section 16524.6) is*
2 *added to Part 4 of Division 9 of the Welfare and Institutions Code,*
3 *to read:*

4
5 *CHAPTER 5.2. COMMERCIALLY SEXUALLY EXPLOITED CHILDREN*
6 *PROGRAM*

7
8 *16524.6. The Legislature finds and declares that in order to*
9 *adequately serve children who have been sexually exploited, it is*
10 *necessary that counties develop and utilize a multidisciplinary*
11 *team approach to case management, service planning, and*
12 *provision of services, and that counties develop and utilize*
13 *interagency protocols to ensure services are provided as needed*
14 *to this population.*

15 *16524.7. (a) (1) There is hereby established the Commercially*
16 *Sexually Exploited Children Program. This program shall be*
17 *administered by the State Department of Social Services.*

18 *(2) The department, in consultation with the County Welfare*
19 *Directors Association of California, shall develop an allocation*
20 *methodology to distribute funding for the program. Funds allocated*
21 *pursuant to this section shall be utilized to cover expenditures*
22 *related to the costs of implementing the program, prevention and*
23 *intervention services, and training related to children who are*
24 *victims of commercial sexual exploitation.*

25 *(3) (A) Funds shall be provided to counties that elect to*
26 *participate in the program for the provision of training to county*
27 *children's services workers to identify, intervene, and provide case*
28 *management services to children who are victims of commercial*
29 *sexual exploitation and trafficking, and to foster caregivers for*
30 *the prevention and identification of potential victims.*

31 *(B) The department shall contract to provide training for county*
32 *workers and foster caregivers. Training shall be selected and*
33 *contracted for in consultation with the County Welfare Directors*
34 *Association, county children's services representatives, and other*
35 *stakeholders. The department shall consult and collaborate with*
36 *the California Community Colleges Chancellor's Office to provide*
37 *training for foster parents of licensed foster family homes.*

38 *(4) Funds provided to the counties electing to participate in the*
39 *program shall be used for prevention activities, intervention*
40 *activities, and services to children who are victims, or at risk of*

1 *becoming victims, of commercial sexual exploitation. These*
2 *activities and services may include, but are not limited to, all of*
3 *the following:*

4 *(A) Training foster children to help recognize and help avoid*
5 *commercial sexual exploitation. Counties may target training*
6 *activities to foster children who are at higher risk of sexual*
7 *exploitation.*

8 *(B) Engaging survivors of commercial sexual exploitation to:*
9 *(i) provide support to county staff who serve children who are*
10 *victims of commercial sexual exploitation; (ii) for activities that*
11 *may include training and technical assistance; and (iii) to serve*
12 *as advocates for and perform outreach and support to children*
13 *who are victims of commercial sexual exploitation.*

14 *(C) Consulting and coordinating with homeless youth shelters*
15 *and other service providers who work with children who are*
16 *disproportionately at risk of, or involved in, commercial sexual*
17 *exploitation, including, but not limited to, lesbian, gay, bisexual,*
18 *and transgender youth organizations, regarding outreach and*
19 *support to children who are victims of commercial sexual*
20 *exploitation.*

21 *(D) Hiring county staff trained and specialized to work with*
22 *children who are victims of commercial sexual exploitation to*
23 *support victims and their caregivers, and to provide case*
24 *management to support interagency and cross-departmental*
25 *response.*

26 *(E) Providing supplemental foster care rates for placement of*
27 *child victims of commercial sexual exploitation adjudged to be*
28 *within the definition of Section 300 to be paid to foster homes,*
29 *relatives, foster family agency certified homes, or other specialized*
30 *placements to provide for the increased care and supervision needs*
31 *of the victim in accordance with Section 11460.*

32 *(b) Funds allocated for the program shall not supplant funds*
33 *for existing programs.*

34 *(c) (1) In order to ensure timely access to services to which*
35 *commercially sexually exploited children are entitled to as*
36 *dependents in foster care, in participating counties, county agency*
37 *representatives from mental health, probation, public health, and*
38 *substance abuse disorders shall participate in the case planning*
39 *and assist in linking commercially sexually exploited children to*
40 *services that serve children who are in the child welfare system*

1 *and that are identified in the child’s case plan and may include*
2 *other stakeholders as determined by the county.*

3 *(2) The entities described in paragraph (1) shall provide input*
4 *to the child welfare services agency regarding the services and*
5 *supports needed for children to support treatment needs and aid*
6 *in their recovery and may assist in linking these children to services*
7 *that are consistent with their county plans submitted to the*
8 *department pursuant to subdivision (d).*

9 *(d) (1) A county electing to receive funding from the*
10 *Commercially Sexually Exploited Children Program pursuant to*
11 *this chapter shall submit a plan describing how the county intends*
12 *to utilize the funds allocated pursuant to paragraph (4) of*
13 *subdivision (a).*

14 *(2) The county shall submit a plan to the department pursuant*
15 *to a process developed by the department, in consultation with the*
16 *County Welfare Directors Association. The plan shall include*
17 *documentation indicating the county’s collaboration with county*
18 *partner agencies and children-focused entities, which shall include*
19 *the formation of a multidisciplinary team to serve children pursuant*
20 *to this chapter.*

21 *A multidisciplinary team serving a child pursuant to this chapter*
22 *shall include, but is not limited to, appropriate staff from the county*
23 *child welfare, probation, mental health, substance abuse disorder,*
24 *and public health departments. Staff from a local provider of*
25 *services to this population, local education agencies, and local*
26 *law enforcement, and survivors of commercial sexual exploitation*
27 *and trafficking may be included on the team.*

28 *16524.8. (a) Each county electing to receive funds from the*
29 *Commercially Sexually Exploited Children Program pursuant to*
30 *this chapter shall develop an interagency protocol to be utilized*
31 *in serving sexually exploited children. The county protocol shall*
32 *be developed by a team led by a representative of the county human*
33 *services department and shall include representatives from each*
34 *of the following agencies:*

35 *(1) The county probation department.*

36 *(2) The county mental health department.*

37 *(3) The county public health department.*

38 *(4) The juvenile court in the county.*

39 *The team may include, but shall not be limited to, representatives*
40 *from local education agencies, local law enforcement, survivors*

1 of sexual exploitation and trafficking, and other providers as
2 necessary.

3 (b) At a minimum the interagency protocol shall address the
4 provision of services to children who have been sexually exploited
5 and are within the definition of Section 300, including, but not
6 limited to, the use of a multidisciplinary team approach to provide
7 coordinated case management, service planning, and services to
8 children.

9 16524.9. The State Department of Social Services, in
10 consultation with the County Welfare Directors Association, shall
11 ensure that the Child Welfare Services/Case Management System
12 is capable of collecting data concerning children who are
13 commercially sexually exploited, including children who are
14 referred to the child abuse hotline, children currently served by
15 county child welfare and probation departments who are
16 subsequently identified as victims of commercial sexual
17 exploitation.

18 (a) The department shall disseminate any necessary instructions
19 on data entry to the county child welfare and probation department
20 staff.

21 (b) The department shall implement this section no later than
22 June 1, 2015.

23 16524.10. The State Department of Social Services, no later
24 than April 1, 2017, shall provide the following information to the
25 Legislature regarding the implementation of this chapter:

26 (a) The participating counties.

27 (b) The number of victims served by each county.

28 (c) The types of services provided.

29 (d) Innovative strategies relating to collaboration with children,
30 child service providers, and survivors of commercial sexual
31 exploitation regarding prevention, training, and services.

32 (e) The identification of further barriers and challenges to
33 preventing and serving commercially sexually exploited children.

34 16524.11. This chapter shall become operative on January 1,
35 2015.

36 SEC. 77. Section 18901.2 of the Welfare and Institutions Code
37 is amended to read:

38 18901.2. (a) It is the intent of the Legislature to create a
39 program in California that provides a nominal Low-Income Home
40 Energy Assistance Program (LIHEAP) service benefit, through

1 the LIHEAP block grant, to all recipient households of CalFresh
2 so that they are made aware of services available under LIHEAP
3 and so that some households may experience an increase in federal
4 Supplemental Nutrition Assistance Program benefits, as well as
5 benefit from paperwork reduction.

6 (b) To the extent permitted by federal law, the State Department
7 of Social Services (DSS) shall, in conjunction with the Department
8 of Community Services and Development (CSD), design,
9 implement, and maintain a utility assistance initiative: the “Heat
10 and Eat” program.

11 (1) The nominal LIHEAP service benefit shall be funded through
12 the LIHEAP block grant allocated for outreach activities in
13 accordance with state and federal requirements, and shall be
14 provided by the CSD to the DSS after receipt by the CSD of the
15 LIHEAP block grant funds from the federal funding authorities.

16 (2) The total amount transferred shall be the product of the
17 nominal LIHEAP service benefit established by the CSD in the
18 LIHEAP state plan multiplied by the number of CalFresh recipient
19 households as agreed upon annually by the CSD and the DSS.

20 (3) The total amount transferred shall be reduced by any
21 unexpended or reinvested amounts remaining from prior transfers
22 for the nominal LIHEAP service benefits as provided in
23 subparagraph (C) of paragraph (1) of subdivision (c).

24 (c) In implementing and maintaining the utility assistance
25 initiative, the State Department of Social Services shall do all of
26 the following:

27 (1) (A) Grant recipient households of CalFresh benefits pursuant
28 to this chapter a nominal LIHEAP service benefit out of the federal
29 LIHEAP block grant (42 U.S.C. Sec. 8621 et seq.).

30 (B) In establishing the nominal LIHEAP service benefit amount,
31 the department shall take into consideration that the benefit level
32 need not provide significant utility assistance.

33 (C) Any funds allocated for this purpose not expended by
34 CalFresh recipient households shall be recouped through the “Heat
35 and Eat” program and reinvested into the program on an annual
36 basis *basis*, as determined by both departments.

37 (2) Provide the nominal LIHEAP service benefit without
38 requiring the applicant or recipient to provide additional paperwork
39 or verification.

1 (3) To the extent permitted by federal law and to the extent
 2 federal funds are available, provide the nominal LIHEAP service
 3 benefit annually to each recipient of CalFresh benefits.

4 (4) (A) Deliver the nominal LIHEAP service benefit using the
 5 Electronic Benefit Transfer (EBT) system or other nonpaper
 6 delivery system.

7 (B) Notification of a recipient’s impending EBT dormant
 8 account status shall not be required when the remaining balance
 9 in a recipient’s account at the time the account becomes inactive
 10 is ninety-nine cents (\$0.99) or less of LIHEAP service benefits.

11 (5) Ensure that receipt of the nominal LIHEAP service benefit
 12 pursuant to this section shall not adversely affect a CalFresh
 13 recipient household’s eligibility, reduce a household’s CalFresh
 14 benefits, or disqualify the applicant or recipient of CalFresh
 15 benefits from receiving other nominal LIHEAP service benefits
 16 or other utility benefits for which they may qualify.

17 (d) Recipients of the nominal LIHEAP service benefit pursuant
 18 to this section shall remain subject to the additional eligibility
 19 requirements for LIHEAP assistance as outlined in the California
 20 LIHEAP state plan, *plan that is* developed by the CSD.

21 (e) (1) To the extent permitted by federal law, a CalFresh
 22 household receiving or anticipating receipt of nominal LIHEAP
 23 service benefits pursuant to the utility assistance initiative or any
 24 other law shall be entitled to use the full standard utility allowance
 25 (SUA) for the purposes of calculating CalFresh benefits. A
 26 CalFresh household shall be entitled to use the full SUA regardless
 27 of whether the nominal LIHEAP service benefit is actually
 28 redeemed.

29 (2) If use of the full SUA, instead of the homeless shelter
 30 deduction, results in a lower amount of CalFresh benefits for a
 31 homeless household, the homeless household shall be entitled to
 32 use the homeless shelter deduction instead of the full SUA.

33 (f) ~~The department This section shall implement the initiative~~
 34 ~~by become inoperative on July 1, 2014, and, as of January 1, 2013-~~
 35 ~~2015, is repealed, unless a later enacted statute, that becomes~~
 36 ~~operative on or before January 1, 2015, deletes or extends the~~
 37 ~~dates on which it becomes inoperative and is repealed.~~

38 SEC. 78. Section 18901.2 is added to the Welfare and
 39 Institutions Code, to read:

1 18901.2. (a) *There is hereby created the State Utility*
2 *Assistance Subsidy (SUAS), a state-funded energy assistance*
3 *program that shall provide energy assistance benefits to eligible*
4 *CalFresh households so that the households may receive a*
5 *standard utility allowance to be used to help meet its energy costs,*
6 *receive information about energy efficiency, and so that some*
7 *households may experience an increase in federal Supplemental*
8 *Nutrition Assistance Program benefits, as well as benefit from*
9 *paperwork reduction.*

10 (b) *To the extent required by federal law, the Department of*
11 *Community Services and Development shall delegate authority to*
12 *the State Department of Social Services to design, implement, and*
13 *maintain SUAS as a program created exclusively for purposes of*
14 *this section, similar to the federal Low-Income Home Energy*
15 *Assistance Program (LIHEAP) (42 U.S.C. Sec. 8621 et seq.).*

16 (c) *In designing, implementing, and maintaining the SUAS*
17 *program, the State Department of Social Services shall do all of*
18 *the following:*

19 (1) *Provide households that do not currently qualify for, nor*
20 *receive, a standard utility allowance, with a SUAS benefit in an*
21 *amount and frequency sufficient to meet federal requirements*
22 *specified in Section 2014(e)(6)(C)(iv) of Title 7 of the United States*
23 *Code if the household meets either of the following requirements:*

24 (A) *The household would become eligible for CalFresh benefits*
25 *if the standard utility allowance was provided.*

26 (B) *The household would receive increased benefits if the*
27 *standard utility allowance was provided.*

28 (2) *Provide the SUAS benefit without requiring the applicant*
29 *or recipient to provide additional paperwork or verification.*

30 (3) *Deliver the SUAS benefit using the Electronic Benefit*
31 *Transfer (EBT) system.*

32 (4) *Notwithstanding any other law, notification of a recipient's*
33 *impending EBT dormant account status shall not be required when*
34 *the remaining balance in a recipient's account at the time the*
35 *account becomes inactive is equal to or less than the value of one*
36 *year of SUAS benefits.*

37 (5) *Ensure that receipt of the SUAS benefit pursuant to this*
38 *section does not adversely affect a CalFresh recipient household's*
39 *eligibility, reduce a household's CalFresh benefits, or disqualify*
40 *the applicant or recipient of CalFresh benefits from receiving*

1 *other public benefits, including other utility benefits, for which it*
2 *may qualify.*

3 *(d) (1) To the extent permitted by federal law, a CalFresh*
4 *household that receives SUAS benefits in the month of application*
5 *for new cases or in the previous 12 months for existing cases is*
6 *entitled to use the full standard utility allowance for the purposes*
7 *of calculating CalFresh benefits. A CalFresh household shall be*
8 *entitled to use the full standard utility allowance regardless of*
9 *whether the SUAS benefit actually is expended by the household.*

10 *(2) If use of the full standard utility allowance, instead of the*
11 *homeless shelter deduction, results in a lower amount of CalFresh*
12 *benefits for a homeless household, the homeless household shall*
13 *be entitled to use the homeless shelter deduction instead of the full*
14 *standard utility allowance.*

15 *(e) This section shall not be implemented until funds are*
16 *appropriated for that purpose by the Legislature in the annual*
17 *Budget Act or related legislation.*

18 *(f) This section shall become operative on July 1, 2014.*

19 *SEC. 79. Section 18901.5 of the Welfare and Institutions Code*
20 *is amended to read:*

21 18901.5. (a) (1) The department shall establish a program of
22 categorical eligibility for CalFresh in accordance with Section 5(a)
23 of the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec.
24 2014(a)), and implementing regulations, to improve nutrition and
25 promote the retention and development of assets and resources for
26 needy households who meet all other federal Supplemental
27 Nutrition Assistance Program eligibility requirements. Categorical
28 eligibility for CalFresh shall also apply to any individual who is
29 a member of a household that will be receiving or is eligible to
30 receive cash assistance under Part 5 (commencing with Section
31 17000), or eligible to receive food assistance under Chapter 10.1
32 (commencing with Section 18930).

33 (2) The department, to the extent permitted by federal law, shall
34 design and implement a program of categorical eligibility for
35 CalFresh for the purpose of establishing the gross income limit
36 for the federal Temporary Assistance for Needy Families and state
37 maintenance of effort funded service that confers categorical
38 eligibility for any household that is categorically eligible pursuant
39 to paragraph (1), and that includes a member who ~~receives, or is~~

1 eligible to receive, *receives* medical assistance under Chapter 7
2 (commencing with Section 14000) of Part 3.

3 (b) The director shall implement the program established
4 pursuant to this section only with the appropriate federal
5 authorization and if implementation would not result in the loss
6 of federal financial participation.

7 ~~(c) Notwithstanding the rulemaking provisions This section~~
8 ~~shall become inoperative on July 1, 2014, and, as of the~~
9 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
10 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
11 ~~Code) and Section 10554, until emergency regulations are filed~~
12 ~~with the Secretary of State, the State Department of Social Services~~
13 ~~may implement the changes made by subdivision (a) through~~
14 ~~all-county letters or similar instructions from the director. The~~
15 ~~department shall adopt emergency regulations as necessary to~~
16 ~~implement those amendments January 1, 2015, is repealed, unless~~
17 ~~a later enacted statute, that becomes operative on or before January~~
18 ~~1, 2010. The program established pursuant to this section shall be~~
19 ~~established on 2015, deletes or before July 1, 2009, and shall be~~
20 ~~fully implemented as to new applicants for CalFresh extends the~~
21 ~~dates on or before January 1, 2010. which it becomes inoperative~~
22 ~~and is repealed.~~

23 (d) ~~The department shall adopt regulations to implement this~~
24 ~~section. The adoption, amendment, repeal, or readoption of a~~
25 ~~regulation authorized by this section is deemed to address an~~
26 ~~emergency, for purposes of Sections 11346.1 and 11349.6 of the~~
27 ~~Government Code, and the department is hereby exempted for this~~
28 ~~purpose from the requirements of subdivision (b) of Section~~
29 ~~11346.1 of the Government Code. The emergency regulations shall~~
30 ~~be exempt from review by the Office of Administrative Law. The~~
31 ~~department shall adopt final regulations implementing the program~~
32 ~~authorized by this section on or before July 1, 2010.~~

33 *SEC. 80. Section 18901.5 is added to the Welfare and*
34 *Institutions Code, to read:*

35 *18901.5. (a) The department shall establish a program of*
36 *categorical eligibility for CalFresh in accordance with Section*
37 *5(a) of the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec.*
38 *2014(a)), and implementing regulations, to improve nutrition and*
39 *promote the retention and development of assets and resources*
40 *for needy households who meet all other federal Supplemental*

1 *Nutrition Assistance Program eligibility requirements. Categorical*
2 *eligibility for CalFresh shall also apply to any individual who is*
3 *a member of a household that will be receiving or is eligible to*
4 *receive cash assistance under Part 5 (commencing with Section*
5 *17000), or eligible to receive food assistance under Chapter 10.1*
6 *(commencing with Section 18930).*

7 *(b) The director shall implement the program established*
8 *pursuant to this section only with the appropriate federal*
9 *authorization and if implementation would not result in the loss*
10 *of federal financial participation.*

11 *(c) This section shall become operative on July 1, 2014.*

12 *SEC. 81. Section 18906.55 of the Welfare and Institutions Code*
13 *is amended to read:*

14 18906.55. (a) (1) Notwithstanding Section 18906.5 or any
15 other law, as a result of the substantial fiscal pressures on counties
16 created by the unprecedented and unanticipated CalFresh caseload
17 growth associated with the economic downturn beginning in 2008,
18 and in order to provide fiscal relief to counties as a result of this
19 growth, a county that meets the maintenance of effort requirement
20 pursuant to Section 15204.4 entirely through expenditures for the
21 administration of CalFresh in the 2010–11, 2011–12, 2012–13,
22 2013–14, and ~~2013–14~~ 2014–15 fiscal years shall receive the full
23 General Fund allocation for administration of CalFresh without
24 paying the county's share of the nonfederal costs for the amount
25 above the maintenance of effort required by Section 15204.4.

26 (2) *For the 2015–16, 2016–17, and 2017–18 fiscal years, the*
27 *waived portion of each county's share of the nonfederal costs for*
28 *the amount above the maintenance of effort required by Section*
29 *15204.4 shall be reduced incrementally, so that there will be no*
30 *waiver of the county's share in the 2018–19 fiscal year and each*
31 *fiscal year thereafter. The waived portion of the county's share*
32 *shall be 75 percent in the 2015–16 fiscal year, 50 percent in the*
33 *2016–17 fiscal year, and 25 percent in the 2017–18 fiscal year of*
34 *the amount above the maintenance of effort required by Section*
35 *15204.4 that would be required to access the county's full General*
36 *Fund allocation for administration of CalFresh from the state.*
37 *Once a county satisfies its maintenance of effort obligation under*
38 *Section 15204.4, the department shall grant the county access to*
39 *the state funds for which the match is waived. Any county that*
40 *expends funds in excess of the amount required to meet the*

1 *maintenance of effort required by Section 15204.4 in the 2015–16,*
2 *2016–17, and 2017–18 fiscal years shall receive the amount of*
3 *General Fund moneys that the county would have otherwise*
4 *received based on the nonfederal sharing ratios in Section 18906.5,*
5 *up to the county’s full General Fund allocation for that fiscal year.*

6 (b) The full General Fund allocation for administration of
7 CalFresh pursuant to subdivision (a) shall equal 35 percent of the
8 total federal and nonfederal projected funding need for
9 administration of CalFresh. The methodology used for calculating
10 those projections shall remain the same as it was for the 2009–10
11 fiscal year for as long as this section remains in effect.

12 (c) ~~No relief~~ *Relief* to the county share of administrative costs
13 authorized by this section shall *not* result in any increased cost to
14 the General Fund as determined in subdivision (b).

15 (d) Subdivision (a) shall not be interpreted to prevent a county
16 from expending funds in excess of the amount required to meet
17 the maintenance of effort required by Section 15204.4.

18 (e) This section shall become inoperative on July 1, ~~2014,~~ 2018,
19 and, as of January 1, ~~2015,~~ 2019, is repealed, unless a later enacted
20 statute, that becomes operative on or before January 1, ~~2015,~~ 2019,
21 deletes or extends the dates on which it becomes inoperative and
22 is repealed.

23 *SEC. 82. (a) It is the intent of the Legislature that increased*
24 *staffing and funding resources for the State Department of Social*
25 *Service’s Community Care Licensing Division (CCLD)*
26 *appropriated in the Budget Act of 2014 be used to enhance the*
27 *CCLD’s structure and improve its operations, including the*
28 *recruitment and training of qualified licensing analysts and*
29 *managers, and to address the changing nature of licensed facilities.*
30 *These quality enhancement measures, once fully implemented, are*
31 *intended to improve the underlying foundation of CCLD’s*
32 *regulatory operations. It is further the intent of the Legislature,*
33 *once these actions are implemented to, over a specified period of*
34 *time, increase the frequency of facility inspections resulting in*
35 *annual inspections for some or all facility types.*

36 (b) *During the 2015–16 legislative budget subcommittee*
37 *hearings, the State Department of Social Services shall update the*
38 *Legislature on the status of the structural and quality enhancement*
39 *improvements described in subdivision (a), including all of the*
40 *following:*

1 (1) *The status of CCLD's filling of the authorized positions*
2 *included in the Budget Act of 2014 and current division staffing*
3 *levels, filled positions, and vacant positions.*

4 (2) *A description of the quality enhancement and program*
5 *improvement activities implemented to date, and the time frame*
6 *for implementing the remaining improvements.*

7 (3) *Based on the information provided in paragraphs (1) and*
8 *(2), and any other relevant factors, an estimated time frame for*
9 *beginning a ramp-up to increase the frequency of facility*
10 *inspections.*

11 SEC. 83. *Except as otherwise provided in this act, the*
12 *Department of Community Services and Development shall receive*
13 *and administer all state and federal funds that are allocated for*
14 *programs to provide energy assistance to qualified low-income*
15 *individuals, in accordance with subdivision (a) of Section 16367.6*
16 *of the Government Code.*

17 SEC. 84. (a) *Notwithstanding the rulemaking provisions of*
18 *the Administrative Procedure Act (Chapter 3.5 (commencing with*
19 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
20 *Code), the department may implement and administer the changes*
21 *made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 76, 77, and*
22 *78 of this act through all-county letters or similar instructions*
23 *until regulations are adopted.*

24 (b) *The department shall adopt emergency regulations*
25 *implementing these provisions no later than January 1, 2016. The*
26 *department may readopt any emergency regulation authorized by*
27 *this section that is the same as, or substantially equivalent to, any*
28 *emergency regulation previously adopted pursuant to this section.*
29 *The initial adoption of regulations pursuant to this section and*
30 *one readoption of emergency regulations shall be deemed to be*
31 *an emergency and necessary for the immediate preservation of*
32 *the public peace, health, safety, or general welfare. Initial*
33 *emergency regulations and the one readoption of emergency*
34 *regulations authorized by this section shall be exempt from review*
35 *by the Office of Administrative Law. The initial emergency*
36 *regulations and the one readoption of emergency regulations*
37 *authorized by this section shall be submitted to the Office of*
38 *Administrative Law for filing with the Secretary of State and each*
39 *shall remain in effect for no more than 180 days, by which time*
40 *final regulations shall be adopted.*

1 *SEC. 85. No reimbursement is required by this act pursuant*
2 *to Section 6 of Article XIII B of the California Constitution for*
3 *certain costs that may be incurred by a local agency or school*
4 *district because, in that regard, this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 *However, if the Commission on State Mandates determines that*
11 *this act contains other costs mandated by the state, reimbursement*
12 *to local agencies and school districts for those costs shall be made*
13 *pursuant to Part 7 (commencing with Section 17500) of Division*
14 *4 of Title 2 of the Government Code.*

15 *SEC. 86. This act is a bill providing for appropriations related*
16 *to the Budget Bill within the meaning of subdivision (e) of Section*
17 *12 of Article IV of the California Constitution, has been identified*
18 *as related to the budget in the Budget Bill, and shall take effect*
19 *immediately.*

20 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
21 ~~changes relating to the Budget Act of 2014.~~