

AMENDED IN SENATE AUGUST 28, 2014

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE AUGUST 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1477

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 to add Chapter 7 (commencing with Section 155) to Title 1 of Part 1 of the Code of Civil Procedure, to add Section 757 to the Evidence Code, to amend Sections 1546.1, 1546.2, 1569.481, 1569.482, and 1569.682 of the Health and Safety Code, to amend Sections 11461.3, 11462.04, 11477, and 12300.4 of, and to add Chapter 5.6 (commencing with Section 13300) to Part 3 of Division 9 of, the Welfare and Institutions Code, and to amend Section 88 of Chapter 29 of the Statutes of 2014, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1477, as amended, Committee on Budget. Human services.

(1) Existing federal law, the Immigration and Nationality Act, establishes a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court, and authorizes those aliens who have been granted special immigrant juvenile status to apply for an adjustment of status to that of a lawful permanent resident within the United States. Under federal regulations,

state juvenile courts are charged with making a preliminary determination of the child's dependency, as specified. Existing federal regulations define juvenile court to mean a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a minor to be a dependent or ward of the court. Existing law also establishes the jurisdiction of the probate court. Existing law regulates the establishment and termination of guardianships in probate court, and specifies that a guardian has the care, custody, and control of a ward. Existing law establishes the jurisdiction of the family court, which may make determinations about the custody of children.

This bill would provide that the superior court, including the juvenile, probate, or family court division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. The bill would require the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings. The bill would require records of these proceedings that are not otherwise protected by state confidentiality laws to remain confidential, and would also authorize the sealing of these records. The bill would require the Judicial Council to adopt any rules and forms needed to implement these provisions.

(2) Existing federal law, Title VI of the federal Civil Rights Act of 1964 and the Safe Streets Act of 1968, prohibit national origin discrimination by recipients of federal assistance.

The California Constitution provides that a person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings. Existing law requires that court interpreters' fees or other compensation be paid by the court in criminal cases, and by the litigants in civil cases, as specified. Existing law requires, in any action or proceeding under specified provisions of the Family Code relating to domestic violence, an interpreter to be provided by the court for a party who does not proficiently speak or understand the English language to interpret the proceedings in a language that the party understands and to assist communication between the party and his or her attorney.

This bill would state that existing law and authority to provide interpreters in civil court includes providing an interpreter for a child

in a proceeding in which a petitioner requests an order from the superior court to make the findings regarding special immigrant juvenile status.

(3) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities and residential care facilities for the elderly.

Existing law authorizes the department to appoint a temporary manager to assume the operation of a community care facility or residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist. To the extent department funds are used for the costs of the temporary manager or related expenses, existing law requires the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, requires that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility.

Existing law also authorizes 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 certain circumstances exist. To the extent that state funds are used to pay for the salary of the receiver or other related expenses, existing law requires the state be reimbursed from the revenues accruing to the facility or to the licensee or the entity related to the license, and to the extent that those revenues are insufficient, requires the unreimbursed amount constitute a lien on the assets of the facility or the proceeds from the sale of the facility.

This bill would instead provide that if the revenues are insufficient to reimburse the department for the costs of the temporary manager, the salary of the receiver, or related expenses, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and subsequent lien upon the assets of the facility or the proceeds from the sale thereof. The bill would make other related changes to these provisions. The bill would provide that liens placed against the personal and real property of a licensee for reimbursement of funds relating to the receivership be given judgment creditor priority.

(4) 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 specifies the amounts

of cash aid to be paid each month to CalWORKs recipients. Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

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. Under existing law, a child is eligible for AFDC-FC if he or she is placed in the approved home of a relative and is otherwise eligible for federal financial participation in the AFDC-FC payment, as specified. Existing law, beginning January 1, 2015, establishes the Approved Relative Caregiver Funding Option Program in counties choosing to participate, for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments.

Existing law requires that the related child placed in the home meet certain requirements in order to be eligible under the Approved Relative Caregiver Funding Option Program and requires that specified funding be used for the program.

This bill would require, for purposes of this program, that the care and placement of the child be the responsibility of the county welfare department or the county probation department. The bill would also, for purposes of funding the program, delete the requirement that the funding of the applicable per-child CalWORKs grant be limited to the federal funds received.

(5) Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates. Existing law prohibits the establishment of a new group home rate or change to an existing rate under the AFDC-FC program, except for exemptions granted by the department on a case-by-case basis. Existing law also limits, for the 2012–13 and 2013–14 fiscal years, exceptions for any program with a rate classification level below 10 to exceptions associated with a program change.

This bill would extend that limitation to the 2014–15 fiscal year.

(6) Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, 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. Existing law exempts 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 for a felony drug conviction, as specified, after December 31, 1997.

This bill would provide that if the income for an assistance unit that excludes any adults as described above includes reasonably anticipated income derived from child support, the amount established in specified provisions of law of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

(7) Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law authorizes certain Medi-Cal recipients to receive waiver personal care services, as defined, in order to allow the recipients to remain in their own homes.

Existing law requires that in-home supportive services and waiver personal care services be performed by providers within a workweek that does not exceed 66 hours per week, as reduced by a specified net percentage.

This bill would, if certain conditions are met, deem a provider authorized to work a recipient's county-approved adjusted hours for the week when a recipient's weekly authorized hours are adjusted and at the time of adjustment the recipient currently receives all authorized hours of services from one provider.

Existing law also requires the State Department of Health Care Services, if the provider of authorized waiver personal care services cannot provide authorized in-home supportive services to a recipient

as a result of the above-described workweek limitation, to work with the recipient to engage additional providers, as necessary.

This bill would delete that provision and instead require the State Department of Health Care Services to work with and assist recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver who are at or near their individual cost cap to avoid a reduction in the recipient's services that may result because of increased overtime pay for providers. The bill would require the department, as a part of this effort, to consider allowing the recipient to exceed the individual cost cap. The bill would require the department to provide timely information to waiver recipients regarding the steps that will be taken to implement this provision.

(8) Existing federal law, the Homeland Security Act of 2002, empowers the Director of the Office of Refugee Resettlement of the federal Department of Health and Human Services with functions under the immigration laws of the United States with respect to the care of unaccompanied alien children, as defined, including, but not limited to, coordinating and implementing the care and placement of unaccompanied alien children who are in federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each child, as provided. Existing law designates the State Department of Social Services as the single agency with full power to supervise every phase of the administration of public social services, except health care services and medical assistance.

This bill would require the State Department of Social Services, subject to the availability of funding, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state. The bill would require that the contracts awarded meet certain conditions.

(9) Existing law authorizes the State Department of Social Services to implement specified provisions of Chapter 29 of the Statutes of 2014 through all-county letters or similar instructions and requires the department to adopt emergency regulations implementing these provisions no later than January 1, 2016.

This bill would extend that authorization for all-county letters and similar instructions to additional provisions of Chapter 29 of the Statutes of 2014 that relate to the CalFresh program.

(10) This bill would provide that its provisions are severable.

(11) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(12) This bill would incorporate additional changes to Section 1569.682 of the Health and Safety Code made by this bill and AB 1899, to take effect if both bills are chaptered and this bill is chaptered last.

(13) Item 5180-151-0001 of Section 2.00 of the Budget Act of 2014 appropriated \$1,435,400,000 to the State Department of Social Services for local assistance for children and adult services, which includes, among other things, increased costs associated with cases of child abuse and neglect and revised federal requirements for child welfare case reviews, and funds for the Commercially Sexually Exploited Children Program. Item 5180-153-0001 of Section 2.00 of the Budget Act of 2014 also appropriated \$1,901,000 to the State Department of Social Services for local assistance for increased costs associated with revised county collection and reporting activities for cases of child abuse and neglect and revised federal requirements for child welfare case reviews.

This bill would revise these items by increasing the appropriation in Item 5180-151-0001 by \$1,686,000 for the Commercially Sexually Exploited Children Program, and by reducing the appropriation in Item 5180-153-0001 by \$1,686,000.

(14) This bill would provide that the continuous appropriation applicable to CalWORKs is not made for purposes of implementing the bill.

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

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

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

1 SECTION 1. Chapter 7 (commencing with Section 155) is
2 added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 7. SPECIAL IMMIGRANT JUVENILE FINDINGS

1
2
3 155. (a) A superior court has jurisdiction under California law
4 to make judicial determinations regarding the custody and care of
5 children within the meaning of the federal Immigration and
6 Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec.
7 204.11), which includes, but is not limited to, the juvenile, probate,
8 and family court divisions of the superior court. These courts may
9 make the findings necessary to enable a child to petition the United
10 States Citizenship and Immigration Service for classification as a
11 special immigrant juvenile pursuant to Section 1101 (a)(27)(J) of
12 Title 8 of the United States Code.

13 (b) (1) If an order is requested from the superior court making
14 the necessary findings regarding special immigrant juvenile status
15 pursuant to Section 1101(a)(27)(J) of Title 8 of the United States
16 Code, and there is evidence to support those findings, which may
17 consist of, but is not limited to, a declaration by the child who is
18 the subject of the petition, the court shall issue the order, which
19 shall include all of the following findings:

20 (A) The child was either of the following:

- 21 (i) Declared a dependent of the court.
- 22 (ii) Legally committed to, or placed under the custody of, a state
23 agency or department, or an individual or entity appointed by the
24 court. The court shall indicate the date on which the dependency,
25 commitment, or custody was ordered.

26 (B) That reunification of the child with one or both of the child's
27 parents was determined not to be viable because of abuse, neglect,
28 abandonment, or a similar basis pursuant to California law. The
29 court shall indicate the date on which reunification was determined
30 not to be viable.

31 (C) That it is not in the best interest of the child to be returned
32 to the child's, or his or her parent's, previous country of nationality
33 or country of last habitual residence.

34 (2) If requested by a party, the court may make additional
35 findings that are supported by evidence.

36 (c) In any judicial proceedings in response to a request that the
37 superior court make the findings necessary to support a petition
38 for classification as a special immigrant juvenile, information
39 regarding the child's immigration status that is not otherwise
40 protected by state confidentiality laws shall remain confidential

1 and shall be available for inspection only by the court, the child
2 who is the subject of the proceeding, the parties, the attorneys for
3 the parties, the child’s counsel, and the child’s guardian.

4 (d) In any judicial proceedings in response to a request that the
5 superior court make the findings necessary to support a petition
6 for classification as a special immigrant juvenile, records of the
7 proceedings that are not otherwise protected by state confidentiality
8 laws may be sealed using the procedure set forth in California
9 Rules of Court 2.550 and 2.551.

10 (e) The Judicial Council shall adopt any rules and forms needed
11 to implement this section.

12 SEC. 2. Section 757 is added to the Evidence Code, to read:

13 757. Pursuant to this chapter, other applicable law, and existing
14 Judicial Council policy, including the policy adopted on January
15 23, 2014, existing authority to provide interpreters in civil court
16 includes the authority to provide an interpreter in a proceeding in
17 which a petitioner requests an order from the superior court to
18 make the findings regarding special immigrant juvenile status
19 pursuant to Section 1101(a)(27)(J) of Title 8 of the United States
20 Code.

21 SEC. 3. Section 1546.1 of the Health and Safety Code, as added
22 by Section 11 of Chapter 29 of the Statutes of 2014, is amended
23 to read:

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

33 (2) A temporary manager appointed pursuant to this section
34 shall assume the operation of the facility in order to bring it into
35 compliance with the law, facilitate a transfer of ownership to a
36 new licensee, or ensure the orderly transfer of clients should the
37 facility be required to close. Upon a final decision and order of
38 revocation of the license or a forfeiture by operation of law, the
39 department shall immediately issue a provisional license to the
40 appointed temporary manager. Notwithstanding the applicable

1 sections of this code governing the revocation of a provisional
2 license, the provisional license issued to a temporary manager shall
3 automatically expire upon the termination of the temporary
4 manager. The temporary manager shall possess the provisional
5 license solely for purposes of carrying out the responsibilities
6 authorized by this section and the duties set forth in the written
7 agreement between the department and the temporary manager.
8 The temporary manager shall have no right to appeal the expiration
9 of the provisional license.

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

20 (c) The director may appoint a temporary manager when it is
21 determined that it is necessary to temporarily suspend any license
22 of a community care facility pursuant to Section 1550.5 and any
23 of the following circumstances exist:

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

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

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

39 (2) A person shall not impede the operation of a temporary
40 manager. The temporary manager’s access to, or possession of,

1 the property shall not be interfered with during the term of the
2 temporary manager appointment. There shall be an automatic stay
3 for a 60-day period subsequent to the appointment of a temporary
4 manager of any action that would interfere with the functioning
5 of the facility, including, but not limited to, termination of utility
6 services, attachments or set-offs of client trust funds, and
7 repossession of equipment in the facility.

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

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

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

19 (C) A new operator is licensed.

20 (D) The department closes the facility.

21 (E) A hearing or court order ends the temporary manager
22 appointment, including the appointment of a receiver under Section
23 1546.2.

24 (F) The appointment is terminated by the department or the
25 temporary manager.

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

39 (3) The director may rescind the appointment of a temporary
40 manager and appoint a new temporary manager at any time that

1 the director determines the temporary manager is not adhering to
2 the conditions of the appointment.

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

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

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

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

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

6 (h) (1) If the licensee of the community care facility petitions
7 the Office of Administrative Hearings pursuant to subdivision (f),
8 the appointment of the temporary manager by the director pursuant
9 to this section shall continue until it is terminated by the
10 administrative law judge or by the superior court, or it shall
11 continue until the conditions of subdivision (e) are satisfied,
12 whichever is earlier.

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

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

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

27 (1) Be qualified to oversee correction of deficiencies on the
28 basis of experience and education.

29 (2) Not be the subject of any pending actions by the department
30 or any other state agency nor have ever been excluded from a
31 department licensed facility or had a license or certification
32 suspended or revoked by an administrative action by the
33 department or any other state agency.

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

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

39 (j) Payment of the costs of the temporary manager shall comply
40 with the following requirements:

1 (1) Upon agreement with the licensee, the costs of the temporary
2 manager and any other expenses in connection with the temporary
3 management shall be paid directly by the facility while the
4 temporary manager is assigned to that facility. Failure of the
5 licensee to agree to the payment of those costs may result in the
6 payment of the costs by the department and subsequent required
7 reimbursement of the department by the licensee pursuant to this
8 section.

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

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

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

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

18 (3) May exceed the amount specified in paragraph (2) if the
19 department is otherwise unable to attract a qualified temporary
20 manager.

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

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

30 (B) Preserving client funds. The temporary manager shall be
31 entitled to, and shall take possession of, all property or assets of
32 clients that are in the possession of the licensee or administrator
33 of the facility. The temporary manager shall preserve all property,
34 assets, and records of clients of which the temporary manager takes
35 possession.

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

39 (D) Paying commercial creditors of the facility to the extent
40 required to operate the facility. The temporary manager shall honor

1 all leases, mortgages, and secured transactions affecting the
2 building in which the facility is located and all goods and fixtures
3 in the building, but only to the extent of payments that, in the case
4 of a rental agreement, are for the use of the property during the
5 period of the temporary management, or that, in the case of a
6 purchase agreement, come due during the period of the temporary
7 management.

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

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

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

24 (l) (1) To the extent department funds are advanced for the
25 costs of the temporary manager or for other expenses in connection
26 with the temporary management, the department shall be
27 reimbursed from the revenues accruing to the facility or to the
28 licensee or an entity related to the licensee. Any reimbursement
29 received by the department shall be redeposited in the account
30 from which the department funds were advanced. If the revenues
31 are insufficient to reimburse the department, the unreimbursed
32 amount shall constitute grounds for a monetary judgment in civil
33 court and a subsequent lien upon the assets of the facility or the
34 proceeds from the sale thereof. Pursuant to Chapter 2 (commencing
35 with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code
36 of Civil Procedure, a lien against the personal assets of the facility
37 or an entity related to the licensee based on the monetary judgment
38 obtained shall be filed with the Secretary of State on the forms
39 required for a notice of judgment lien. A lien against the real
40 property of the facility or an entity related to the licensee based

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

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

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

33 (n) The department may use funds from the emergency client
 34 contingency account pursuant to Section 1546 when needed to
 35 supplement the operation of the facility or the transfer of clients
 36 under the control of the temporary manager appointed under this
 37 section if facility revenues are unavailable or exhausted when
 38 needed. Pursuant to subdivision (l), the licensee shall be required
 39 to reimburse the department for any funds used from the emergency

1 client contingency account during the period of control of the
2 temporary manager and any incurred costs of collection.

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

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

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

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

16 (s) The department may adopt regulations for the administration
17 of this section.

18 SEC. 4. Section 1546.2 of the Health and Safety Code, as added
19 by Section 12 of Chapter 29 of the Statutes of 2014, is amended
20 to read:

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

36 (b) (1) Whenever circumstances exist indicating that continued
37 management of a community care facility by the current licensee
38 would present a substantial probability or imminent danger of
39 serious physical harm or death to the clients, or the facility is
40 closing or intends to terminate operation as a community care

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

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

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

35 (2) At the time of the hearing, the department shall advise the
36 licensee of the name of the proposed receiver. The receiver shall
37 be a certified community care facility administrator or other
38 responsible person or entity, as determined by the court, from a
39 list of qualified receivers established by the department, and, if
40 need be, with input from providers of residential care and consumer

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

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

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

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

34 (6) The licensee shall receive notice and a copy of the
35 application each time the receiver applies to the court or the
36 department for instructions regarding his or her duties under this
37 section, when an accounting pursuant to subdivision (i) is
38 submitted, and when any other report otherwise required under
39 this section is submitted. The licensee shall have an opportunity
40 to present objections or otherwise participate in those proceedings.

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

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

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

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

27 (2) Shall operate the facility in a manner that ensures the safety
28 and adequate care for the clients.

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

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

38 (5) Shall take title to all revenue coming to the facility in the
39 name of the receiver who shall use it for the following purposes
40 in descending order of priority:

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

8 (B) To preserve client funds. The receiver shall be entitled to,
9 and shall take, possession of all property or assets of clients that
10 are in the possession of the licensee or operator of the facility. The
11 receiver shall preserve all property, assets, and records of clients
12 of which the receiver takes possession.

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

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

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

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

33 (G) To ask the court for direction in the treatment of debts
34 incurred prior to the appointment, if the licensee's debts appear
35 extraordinary, of questionable validity, or unrelated to the normal
36 and expected maintenance and operation of the facility, or if
37 payment of the debts will interfere with the purposes of
38 receivership.

39 (g) (1) A person who is served with notice of an order of the
40 court appointing a receiver and of the receiver's name and address

1 shall be liable to pay the receiver, rather than the licensee, for any
2 goods or services provided by the community care facility after
3 the date of the order. The receiver shall give a receipt for each
4 payment and shall keep a copy of each receipt on file. The receiver
5 shall deposit amounts received in a special account and shall use
6 this account for all disbursements. Payment to the receiver pursuant
7 to this subdivision shall discharge the obligation to the extent of
8 the payment and shall not thereafter be the basis of a claim by the
9 licensee or any other person. A client shall not be evicted nor may
10 any contract or rights be forfeited or impaired, nor may any
11 forfeiture be effected or liability increased, by reason of an
12 omission to pay the licensee, operator, or other person a sum paid
13 to the receiver pursuant to this subdivision.

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

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

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

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

39 (3) If the receiver is in possession of real estate or goods subject
40 to a lease, mortgage, or security interest that the receiver is

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (4) Management of a community care facility operated by a
36 receiver pursuant to this section shall not be returned to the
37 licensee, to any person related to the licensee, or to any person
38 who served as a member of the facility's staff or who was
39 employed by the licensee prior to the appointment of the receiver
40 unless both of the following conditions are met:

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

6 (B) The court finds that the licensee has fully cooperated with
7 the department in the appointment and ongoing activities of a
8 receiver appointed pursuant to this section, and, if applicable, any
9 temporary manager appointed pursuant to Section 1546.1.

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

12 (A) If the owner closes the facility, or the sale or lease results
13 in the closure of the facility, the court shall determine if a transfer
14 plan is necessary. If the court so determines, the court shall adopt
15 and implement a transfer plan consistent with the provisions of
16 Section 1556.

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

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

37 (2) To the extent state funds are advanced for the salary of the
38 receiver or for other expenses in connection with the receivership,
39 as limited by subdivision (g), the state shall be reimbursed from
40 the revenues accruing to the facility or to the licensee or an entity

1 related to the licensee. Any reimbursement received by the state
2 shall be redeposited in the account from which the state funds were
3 advanced. If the revenues are insufficient to reimburse the state,
4 the unreimbursed amount shall constitute grounds for a monetary
5 judgment in civil court and a subsequent lien upon the assets of
6 the facility or the proceeds from the sale thereof. Pursuant to
7 Chapter 2 (commencing with Section 697.510) of Division 2 of
8 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
9 personal assets of the facility or an entity related to the licensee
10 based on the monetary judgment obtained shall be filed with the
11 Secretary of State on the forms required for a notice of judgment
12 lien. A lien against the real property of the facility or an entity
13 related to the licensee based on the monetary judgment obtained
14 shall be recorded with the county recorder of the county where the
15 facility of the licensee is located or where the real property of the
16 entity related to the licensee is located. The lien shall not attach
17 to the interests of a lessor, unless the lessor is operating the facility.
18 The authority to place a lien against the personal and real property
19 of the licensee for the reimbursement of any state funds expended
20 pursuant to this section shall be given judgment creditor priority.

21 (3) For purposes of this subdivision, “entity related to the
22 licensee” means an entity, other than a natural person, of which
23 the licensee is a subsidiary or an entity in which any person who
24 was obligated to disclose information under Section 1520 possesses
25 an interest that would also require disclosure pursuant to Section
26 1520.

27 (l) (1) This section does not impair the right of the owner of a
28 community care facility to dispose of his or her property interests
29 in the facility, but any facility operated by a receiver pursuant to
30 this section shall remain subject to that administration until
31 terminated by the court. The termination shall be promptly
32 effectuated, provided that the interests of the clients have been
33 safeguarded as determined by the court.

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

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

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

4 (3) The licensee shall not be liable for any occurrences during
5 the receivership except to the extent that the occurrences are the
6 result of the licensee's conduct.

7 (n) The department may adopt regulations for the administration
8 of this section. This section does not impair the authority of the
9 department to temporarily suspend licenses under Section 1550.5
10 or to reach a voluntary agreement with the licensee for alternate
11 management of a community care facility including the use of a
12 temporary manager under Section 1546.1. This section does not
13 authorize the department to interfere in a labor dispute.

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

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

20 SEC. 5. Section 1569.481 of the Health and Safety Code, as
21 added by Section 24 of Chapter 29 of the Statutes of 2014, is
22 amended to read:

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

33 (2) A temporary manager appointed pursuant to this section
34 shall assume the operation of the facility in order to bring it into
35 compliance with the law, facilitate a transfer of ownership to a
36 new licensee, or ensure the orderly transfer of residents should the
37 facility be required to close. Upon a final decision and order of
38 revocation of the license, issuance of a temporary suspension, or
39 a forfeiture by operation of law, the department shall immediately
40 issue a provisional license to the appointed temporary manager.

1 Notwithstanding the applicable sections of this code governing
2 the revocation of a provisional license, the provisional license
3 issued to a temporary manager shall automatically expire upon the
4 termination of the temporary manager. The temporary manager
5 shall possess the provisional license solely for purposes of carrying
6 out the responsibilities authorized by this section and the duties
7 set forth in the written agreement between the department and the
8 temporary manager. The temporary manager shall have no right
9 to appeal the expiration of the provisional license.

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

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

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

30 (2) The licensee is unwilling or unable to comply with the
31 requirements of Section 1569.525 or the requirements of Section
32 1569.682 regarding the safe and orderly relocation of residents
33 when ordered to do so by the department or when otherwise
34 required by law.

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

37 (d) (1) Upon appointment, the temporary manager shall
38 complete its application for a license to operate a residential care
39 facility for the elderly and take all necessary steps and make best
40 efforts to eliminate any substantial threat to the health and safety

1 to residents or complete the transfer of residents to alternative
2 placements pursuant to Section 1569.525 or 1569.682. For purposes
3 of a provisional license issued to a temporary manager, the
4 licensee's existing fire safety clearance shall serve as the fire safety
5 clearance for the temporary manager's provisional license.

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

15 (e) (1) The appointment of a temporary manager shall be
16 immediately effective and shall continue for a period not to exceed
17 60 days unless otherwise extended in accordance with paragraph
18 (2) of subdivision (h) at the discretion of the department or as
19 permitted by paragraph (2) of subdivision (d) of Section 1569.525,
20 or unless otherwise terminated earlier by any of the following
21 events:

22 (A) The temporary manager notifies the department, and the
23 department verifies, that the facility meets state and, if applicable,
24 federal standards for operation, and will be able to continue to
25 maintain compliance with those standards after the termination of
26 the appointment of the temporary manager.

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

28 (C) A new operator is licensed.

29 (D) The department closes the facility.

30 (E) A hearing or court order ends the temporary manager
31 appointment, including the appointment of a receiver under Section
32 1569.482.

33 (F) The appointment is terminated by the department or the
34 temporary manager.

35 (2) The appointment of a temporary manager shall authorize
36 the temporary manager to act pursuant to this section. The
37 appointment shall be made pursuant to a written agreement between
38 the temporary manager and the department that outlines the
39 circumstances under which the temporary manager may expend
40 funds. The department shall provide the licensee and administrator

1 with a copy of the accusation to appoint a temporary manager at
2 the time of appointment. The accusation shall notify the licensee
3 of the licensee’s right to petition the Office of Administrative
4 Hearings for a hearing to contest the appointment of the temporary
5 manager as described in subdivision (f) and shall provide the
6 licensee with a form and appropriate information for the licensee’s
7 use in requesting a hearing.

8 (3) The director may rescind the appointment of a temporary
9 manager and appoint a new temporary manager at any time that
10 the director determines the temporary manager is not adhering to
11 the conditions of the appointment.

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

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

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

39 (4) The decision of the administrative law judge is subject to
40 judicial review as provided in Section 1094.5 of the Code of Civil

1 Procedure by the superior court of the county where the facility is
2 located. This review may be requested by the licensee of the facility
3 or the department by filing a petition seeking relief from the order.
4 The petition may also request the issuance of temporary injunctive
5 relief pending the decision on the petition. The superior court shall
6 hold a hearing within 10 business days of the filing of the petition
7 and shall issue a decision on the petition within 10 days of the
8 hearing. The department may be represented by legal counsel
9 within the department for purposes of court proceedings authorized
10 under this section.

11 (g) If the licensee does not protest the appointment or does not
12 prevail at either the administrative hearing under paragraph (2) of
13 subdivision (f) or the superior court hearing under paragraph (4)
14 of subdivision (f), the temporary manager shall continue in
15 accordance with subdivision (e).

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

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

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

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

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

39 (2) Not be the subject of any pending actions by the department
40 or any other state agency nor have ever been excluded from a

1 department-licensed facility or had a license or certification
2 suspended or revoked by an administrative action by the
3 department or any other state agency.

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

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

9 (j) Payment of the costs of the temporary manager shall comply
10 with the following requirements:

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

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

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

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

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

28 (3) Direct costs may exceed the amount specified in paragraph
29 (2) if the department is otherwise unable to find a qualified
30 temporary manager.

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

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

1 (B) Preserving resident funds. The temporary manager shall be
2 entitled to, and shall take possession of, all property or assets of
3 residents that are in the possession of the licensee or administrator
4 of the facility. The temporary manager shall preserve all property,
5 assets, and records of residents of which the temporary manager
6 takes possession.

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

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

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

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

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

35 (l) (1) To the extent department funds are advanced for the
36 costs of the temporary manager or for other expenses in connection
37 with the temporary management, the department shall be
38 reimbursed from the revenues accruing to the facility or to the
39 licensee or an entity related to the licensee. Any reimbursement
40 received by the department shall be redeposited in the account

1 from which the department funds were advanced. If the revenues
 2 are insufficient to reimburse the department, the unreimbursed
 3 amount shall constitute grounds for a monetary judgment in civil
 4 court and a subsequent lien upon the assets of the facility or the
 5 proceeds from the sale thereof. Pursuant to Chapter 2 (commencing
 6 with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code
 7 of Civil Procedure, a lien against the personal assets of the facility
 8 or an entity related to the licensee based on the monetary judgment
 9 obtained shall be filed with the Secretary of State on the forms
 10 required for a notice of judgment lien. A lien against the real
 11 property of the facility or an entity related to the licensee based
 12 on the monetary judgment obtained shall be recorded with the
 13 county recorder of the county where the facility of the licensee is
 14 located or where the real property of the entity related to the
 15 licensee is located. The lien shall not attach to the interests of a
 16 lessor, unless the lessor is operating the facility. The authority to
 17 place a lien against the personal and real property of the licensee
 18 for the reimbursement of any state funds expended pursuant to this
 19 section shall be given judgment creditor priority.

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

25 (m) Appointment of a temporary manager under this section
 26 does not relieve the licensee of any responsibility for the care and
 27 supervision of residents under this chapter. The licensee, even if
 28 the license is deemed surrendered or the facility abandoned, shall
 29 be required to reimburse the department for all costs associated
 30 with operation of the facility during the period the temporary
 31 manager is in place that are not accounted for by using facility
 32 revenues or for the relocation of residents handled by the
 33 department if the licensee fails to comply with the relocation
 34 requirements of Section 1569.525 or 1569.682 when required by
 35 the department to do so. If the licensee fails to reimburse the
 36 department under this section, then the department, along with
 37 using its own remedies available under this chapter, may request
 38 that the Attorney General’s office, the city attorney’s office, or the
 39 local district attorney’s office seek any available criminal, civil,
 40 or administrative remedy, including, but not limited to, injunctive

1 relief, restitution, and damages in the same manner as provided
2 for in Chapter 5 (commencing with Section 17200) of Part 2 of
3 Division 7 of the Business and Professions Code.

4 (n) The department may use funds from the emergency resident
5 contingency account pursuant to Section 1569.48 when needed to
6 supplement the operation of the facility or the transfer of residents
7 under the control of the temporary manager appointed under this
8 section if facility revenues are unavailable or exhausted when
9 needed. Pursuant to subdivision (l), the licensee shall be required
10 to reimburse the department for any funds used from the emergency
11 resident contingency account during the period of control of the
12 temporary manager and any incurred costs of collection.

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

16 (p) Notwithstanding any other provision of law, the temporary
17 manager shall be liable only for damages resulting from gross
18 negligence in the operation of the facility or intentional tortious
19 acts.

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

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

26 (s) The department may adopt regulations for the administration
27 of this section.

28 SEC. 6. Section 1569.482 of the Health and Safety Code, as
29 added by Section 25 of Chapter 29 of the Statutes of 2014, is
30 amended to read:

31 1569.482. (a) It is the intent of the Legislature in enacting this
32 section to authorize the department to take quick, effective action
33 to protect the health and safety of residents of residential care
34 facilities for the elderly and to minimize the effects of transfer
35 trauma that accompany the abrupt transfer of residents through a
36 system whereby the department may apply for a court order
37 appointing a receiver to temporarily operate a residential care
38 facility for the elderly. The receivership is not intended to punish
39 a licensee or to replace attempts to secure cooperative action to
40 protect the residents' health and safety. The receivership is intended

1 to protect the residents in the absence of other reasonably available
2 alternatives. The receiver shall assume the operation of the facility
3 in order to bring it into compliance with law, facilitate a transfer
4 of ownership to a new licensee, or ensure the orderly transfer of
5 residents should the facility be required to close.

6 (b) (1) Whenever circumstances exist indicating that continued
7 management of a residential care facility by the current licensee
8 would present a substantial probability or imminent danger of
9 serious physical harm or death to the residents, or the facility is
10 closing or intends to terminate operation as a residential care
11 facility for the elderly and adequate arrangements for relocation
12 of residents have not been made at least 30 days prior to the closing
13 or termination, the director may petition the superior court for the
14 county in which the facility is located for an order appointing a
15 receiver to temporarily operate the facility in accordance with this
16 section.

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

28 (c) (1) If the director files a petition pursuant to subdivision (b)
29 for appointment of a receiver to operate a residential care facility
30 for the elderly, in accordance with Section 564 of the Code of Civil
31 Procedure, the director may also petition the court, in accordance
32 with Section 527 of the Code of Civil Procedure, for an order
33 appointing a temporary receiver. A temporary receiver appointed
34 by the court pursuant to this subdivision shall serve until the court
35 has made a final determination on the petition for appointment of
36 a receiver filed pursuant to subdivision (b). A receiver appointed
37 pursuant to this subdivision shall have the same powers and duties
38 as a receiver would have if appointed pursuant to subdivision (b).
39 Upon the director filing a petition for a receiver, the receiver shall
40 complete its application for a provisional license to operate a

1 residential care facility for the elderly. For purposes of a
2 provisional license issued to a receiver, the licensee's existing fire
3 safety clearance shall serve as the fire safety clearance for the
4 receiver's provisional license.

5 (2) At the time of the hearing, the department shall advise the
6 licensee of the name of the proposed receiver. The receiver shall
7 be a certified residential care facility for the elderly administrator
8 or other responsible person or entity, as determined by the court,
9 from a list of qualified receivers established by the department,
10 and, if need be, with input from providers of residential care and
11 consumer representatives. Persons appearing on the list shall have
12 experience in the delivery of care services to clients of community
13 care facilities, and, if feasible, shall have experience with the
14 operation of a residential care facility for the elderly, shall not be
15 the subject of any pending actions by the department or any other
16 state agency, and shall not have ever been excluded from a
17 department licensed facility nor have had a license or certification
18 suspended or revoked by an administrative action by the
19 department or any other state agency. The receivers shall have
20 sufficient background and experience in management and finances
21 to ensure compliance with orders issued by the court. The owner,
22 licensee, or administrator shall not be appointed as the receiver
23 unless authorized by the court.

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

38 (4) The court may permit the licensee to participate in the
39 continued operation of the facility during the pendency of any

1 receivership ordered pursuant to this section and shall issue an
2 order detailing the nature and scope of participation.

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

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

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

23 (e) When a receiver is appointed, the licensee may, at the
24 discretion of the court, be divested of possession and control of
25 the facility in favor of the receiver. If the court divests the licensee
26 of possession and control of the facility in favor of the receiver,
27 the department shall immediately issue a provisional license to the
28 receiver. Notwithstanding the applicable sections of this code
29 governing the revocation of a provisional license, the provisional
30 license issued to a receiver shall automatically expire upon the
31 termination of the receivership. The receiver shall possess the
32 provisional license solely for purposes of carrying out the
33 responsibilities authorized by this section and the duties ordered
34 by the court. The receiver shall have no right to appeal the
35 expiration of the provisional license.

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

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

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

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

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

10 (5) Shall take title to all revenue coming to the facility in the
11 name of the receiver who shall use it for the following purposes
12 in descending order of priority:

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

20 (B) To preserve resident funds. The receiver shall be entitled
21 to, and shall take, possession of all property or assets of residents
22 that are in the possession of the licensee or operator of the facility.
23 The receiver shall preserve all property, assets, and records of
24 residents of which the receiver takes possession.

25 (C) To contract for outside services as may be needed for the
26 operation of the residential care facility for the elderly. Any
27 contract for outside services in excess of five thousand dollars
28 (\$5,000) shall be approved by the court.

29 (D) To pay commercial creditors of the facility to the extent
30 required to operate the facility. Except as provided in subdivision
31 (h), the receiver shall honor all leases, mortgages, and secured
32 transactions affecting the building in which the facility is located
33 and all goods and fixtures in the building of which the receiver
34 has taken possession, but only to the extent of payments which,
35 in the case of a rental agreement, are for the use of the property
36 during the period of receivership, or which, in the case of a
37 purchase agreement, come due during the period of receivership.

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

39 (F) To do all things necessary and proper to maintain and operate
40 the facility in accordance with sound fiscal policies. The receiver

1 shall take action as is reasonably necessary to protect or conserve
2 the assets or property of which the receiver takes possession and
3 may use those assets or property only in the performance of the
4 powers and duties set out in this section and by order of the court.

5 (G) To ask the court for direction in the treatment of debts
6 incurred prior to the appointment, if the licensee's debts appear
7 extraordinary, of questionable validity, or unrelated to the normal
8 and expected maintenance and operation of the facility, or if
9 payment of the debts will interfere with the purposes of
10 receivership.

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

26 (2) This section shall not be construed to suspend, during the
27 temporary management by the receiver, any obligation of the
28 licensee for payment of local, state, or federal taxes. A licensee
29 shall not be held liable for acts or omissions of the receiver during
30 the term of the temporary management.

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

36 (h) (1) A receiver shall not be required to honor a lease,
37 mortgage, or secured transaction entered into by the licensee of
38 the facility and another party if the court finds that the agreement
39 between the parties was entered into for a collusive, fraudulent

1 purpose or that the agreement is unrelated to the operation of the
2 facility.

3 (2) A lease, mortgage, or secured transaction or an agreement
4 unrelated to the operation of the facility that the receiver is
5 permitted to dishonor pursuant to this subdivision shall only be
6 subject to nonpayment by the receiver for the duration of the
7 receivership, and the dishonoring of the lease, mortgage, security
8 interest, or other agreement, to this extent, by the receiver shall
9 not relieve the owner or operator of the facility from any liability
10 for the full amount due under the lease, mortgage, security interest,
11 or other agreement.

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

22 (4) Payment by the receiver of the amount determined by the
23 court to be reasonable is a defense to any action against the receiver
24 for payment or possession of the goods or real estate, subject to
25 the lease or mortgage, which is brought by any person who received
26 the notice required by this subdivision. However, payment by the
27 receiver of the amount determined by the court to be reasonable
28 shall not relieve the owner or operator of the facility from any
29 liability for the difference between the amount paid by the receiver
30 and the amount due under the original lease, mortgage, or security
31 interest.

32 (i) A monthly accounting shall be made by the receiver to the
33 department of all moneys received and expended by the receiver
34 on or before the 15th day of the following month or as ordered by
35 the court, and the remainder of income over expenses for that
36 month shall be returned to the licensee. A copy of the accounting
37 shall be provided to the licensee. The licensee or owner of the
38 residential care facility for the elderly may petition the court for
39 a determination as to the reasonableness of any expenditure made
40 pursuant to paragraph (5) of subdivision (f).

1 (j) (1) The receiver shall be appointed for an initial period of
2 not more than three months. The initial three-month period may
3 be extended for additional periods not exceeding three months, as
4 determined by the court pursuant to this section. At the end of one
5 month, the receiver shall report to the court on its assessment of
6 the probability that the residential care facility for the elderly will
7 meet state standards for operation by the end of the initial
8 three-month period and will continue to maintain compliance with
9 those standards after termination of the receiver's management.
10 If it appears that the facility cannot be brought into compliance
11 with state standards within the initial three-month period, the court
12 shall take appropriate action as follows:

13 (A) Extend the receiver's management for an additional three
14 months if there is a substantial likelihood that the facility will meet
15 state standards within that period and will maintain compliance
16 with the standards after termination of the receiver's management.
17 The receiver shall report to the court in writing upon the facility's
18 progress at the end of six weeks of any extension ordered pursuant
19 to this paragraph.

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

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

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

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

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

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

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

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

7 (4) Management of a residential care facility for the elderly
8 operated by a receiver pursuant to this section shall not be returned
9 to the licensee, to any person related to the licensee, or to any
10 person who served as a member of the facility's staff or who was
11 employed by the licensee prior to the appointment of the receiver
12 unless both of the following conditions are met:

13 (A) The department believes that it would be in the best interests
14 of the residents of the facility, requests that the court return the
15 operation of the facility to the former licensee, and provides clear
16 and convincing evidence to the court that it is in the best interests
17 of the facility's residents to take that action.

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

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

24 (A) If the owner closes the facility, or the sale or lease results
25 in the closure of the facility, the court shall determine if a transfer
26 plan is necessary. If the court so determines, the court shall adopt
27 and implement a transfer plan consistent with the provisions of
28 Section 1569.682.

29 (B) If the licensee proposes to sell or lease the facility and the
30 facility will continue to operate as a residential care facility for
31 the elderly, the court and the department shall reevaluate any
32 proposed transfer plan. If the court and the department determine
33 that the sale or lease of the facility will result in compliance with
34 licensing standards, the transfer plan and the receivership shall,
35 subject to those conditions that the court may impose and enforce,
36 be terminated upon the effective date of the sale or lease.

37 (k) (1) The salary of the receiver shall be set by the court
38 commensurate with community care facility industry standards,
39 giving due consideration to the difficulty of the duties undertaken,
40 and shall be paid from the revenue coming to the facility. If the

1 revenue is insufficient to pay the salary in addition to other
2 expenses of operating the facility, the receiver's salary shall be
3 paid from the emergency resident contingency account as provided
4 in Section 1569.48. State advances of funds in excess of five
5 thousand dollars (\$5,000) shall be approved by the director. Total
6 advances for encumbrances and expenditures shall not exceed the
7 sum of forty-nine thousand nine hundred ninety-nine dollars
8 (\$49,999) unless approved by the director in writing.

9 (2) To the extent state funds are advanced for the salary of the
10 receiver or for other expenses in connection with the receivership,
11 as limited by subdivision (g), the state shall be reimbursed from
12 the revenues accruing to the facility or to the licensee or an entity
13 related to the licensee. Any reimbursement received by the state
14 shall be redeposited in the account from which the state funds were
15 advanced. If the revenues are insufficient to reimburse the state,
16 the unreimbursed amount shall constitute grounds for a monetary
17 judgment in civil court and a subsequent lien upon the assets of
18 the facility or the proceeds from the sale thereof. Pursuant to
19 Chapter 2 (commencing with Section 697.510) of Division 2 of
20 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
21 personal assets of the facility or an entity related to the licensee
22 based on the monetary judgment obtained shall be filed with the
23 Secretary of State on the forms required for a notice of judgment
24 lien. A lien against the real property of the facility or an entity
25 related to the licensee based on the monetary judgment obtained
26 shall be recorded with the county recorder of the county where the
27 facility of the licensee is located or where the real property of the
28 entity related to the licensee is located. The lien shall not attach
29 to the interests of a lessor, unless the lessor is operating the facility.
30 The authority to place a lien against the personal and real property
31 of the licensee for the reimbursement of any state funds expended
32 pursuant to this section shall be given judgment creditor priority.

33 (3) For purposes of this subdivision, "entity related to the
34 licensee" means an entity, other than a natural person, of which
35 the licensee is a subsidiary or an entity in which any person who
36 was obligated to disclose information under Section 1569.15
37 possesses an interest that would also require disclosure pursuant
38 to Section 1569.15.

39 (l) (1) This section does not impair the right of the owner of a
40 residential care facility for the elderly to dispose of his or her

1 property interests in the facility, but any facility operated by a
2 receiver pursuant to this section shall remain subject to that
3 administration until terminated by the court. The termination shall
4 be promptly effectuated, provided that the interests of the residents
5 have been safeguarded as determined by the court.

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

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

12 (2) All governmental immunities otherwise applicable to the
13 State of California shall also apply in the use of a receiver in the
14 operation of a facility pursuant to this section.

15 (3) The licensee shall not be liable for any occurrences during
16 the receivership except to the extent that the occurrences are the
17 result of the licensee's conduct.

18 (n) The department may adopt regulations for the administration
19 of this section. This section does not impair the authority of the
20 department to temporarily suspend licenses under Section 1569.50
21 or to reach a voluntary agreement with the licensee for alternate
22 management of a community care facility including the use of a
23 temporary manager under Section 1569.481. This section does not
24 authorize the department to interfere in a labor dispute.

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

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

31 SEC. 7. Section 1569.682 of the Health and Safety Code is
32 amended to read:

33 1569.682. (a) A licensee of a licensed residential care facility
34 for the elderly shall, prior to transferring a resident of the facility
35 to another facility or to an independent living arrangement as a
36 result of the forfeiture of a license, as described in subdivision (a),
37 (b), or (f) of Section 1569.19, or a change of use of the facility
38 pursuant to the department's regulations, take all reasonable steps
39 to transfer affected residents safely and to minimize possible
40 transfer trauma, and shall, at a minimum, do all of the following:

- 1 (1) Prepare, for each resident, a relocation evaluation of the
2 needs of that resident, which shall include both of the following:
- 3 (A) Recommendations on the type of facility that would meet
4 the needs of the resident based on the current service plan.
- 5 (B) A list of facilities, within a 60-mile radius of the resident's
6 current facility, that meet the resident's present needs.
- 7 (2) Provide each resident or the resident's responsible person
8 with a written notice no later than 60 days before the intended
9 eviction. The notice shall include all of the following:
- 10 (A) The reason for the eviction, with specific facts to permit a
11 determination of the date, place, witnesses, and circumstances
12 concerning the reasons.
- 13 (B) A copy of the resident's current service plan.
- 14 (C) The relocation evaluation.
- 15 (D) A list of referral agencies.
- 16 (E) The right of the resident or resident's legal representative
17 to contact the department to investigate the reasons given for the
18 eviction pursuant to Section 1569.35.
- 19 (F) The contact information for the local long-term care
20 ombudsman, including address and telephone number.
- 21 (3) Discuss the relocation evaluation with the resident and his
22 or her legal representative within 30 days of issuing the notice of
23 eviction.
- 24 (4) Submit a written report of any eviction to the licensing
25 agency within five days.
- 26 (5) Upon issuing the written notice of eviction, a licensee shall
27 not accept new residents or enter into new admission agreements.
- 28 (6) (A) For paid preadmission fees in excess of five hundred
29 dollars (\$500), the resident is entitled to a refund in accordance
30 with all of the following:
- 31 (i) A 100-percent refund if preadmission fees were paid within
32 six months of notice of eviction.
- 33 (ii) A 75-percent refund if preadmission fees were paid more
34 than six months but not more than 12 months before notice of
35 eviction.
- 36 (iii) A 50-percent refund if preadmission fees were paid more
37 than 12 months but not more than 18 months before notice of
38 eviction.
- 39 (iv) A 25-percent refund if preadmission fees were paid more
40 than 18 months but less than 25 months before notice of eviction.

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

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

8 (7) If the resident gives notice five days before leaving the
9 facility, the licensee shall refund to the resident or his or her legal
10 representative a proportional per diem amount of any prepaid
11 monthly fees at the time the resident leaves the facility and the
12 unit is vacated. Otherwise the licensee shall pay the refund within
13 seven days from the date that the resident leaves the facility and
14 the unit is vacated.

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

20 (b) If seven or more residents of a residential care facility for
21 the elderly will be transferred as a result of the forfeiture of a
22 license or change in the use of the facility pursuant to subdivision
23 (a), the licensee shall submit a proposed closure plan to the
24 department for approval. The department shall approve or
25 disapprove the closure plan, and monitor its implementation, in
26 accordance with the following requirements:

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

30 (2) The closure plan shall meet the requirements described in
31 subdivision (a), and describe the staff available to assist in the
32 transfers. The department's review shall include a determination
33 as to whether the licensee's closure plan contains a relocation
34 evaluation for each resident.

35 (3) Within 15 working days of receipt, the department shall
36 approve or disapprove the closure plan prepared pursuant to this
37 subdivision, and, if the department approves the plan, it shall
38 become effective upon the date the department grants its written
39 approval of the plan.

1 (4) If the department disapproves a closure plan, the licensee
2 may resubmit an amended plan, which the department shall
3 promptly either approve or disapprove, within 10 working days
4 of receipt by the department of the amended plan. If the department
5 fails to approve a closure plan, it shall inform the licensee, in
6 writing, of the reasons for the disapproval of the plan.

7 (5) If the department fails to take action within 20 working days
8 of receipt of either the original or the amended closure plan, the
9 plan, or amended plan, as the case may be, shall be deemed
10 approved.

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

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

16 (c) (1) If a licensee fails to comply with the requirements of
17 this section, or if the director determines that it is necessary to
18 protect the residents of a facility from physical or mental abuse,
19 abandonment, or any other substantial threat to health or safety,
20 the department shall take any necessary action to minimize trauma
21 for the residents, including caring for the residents through the use
22 of a temporary manager or receiver as provided for in Sections
23 1569.481 and 1569.482 when the director determines the immediate
24 relocation of the residents is not feasible based on transfer trauma
25 or other considerations such as the unavailability of alternative
26 placements. The department shall contact any local agency that
27 may have assessment placement, protective, or advocacy
28 responsibility for the residents, and shall work together with those
29 agencies to locate alternative placement sites, contact relatives or
30 other persons responsible for the care of these residents, provide
31 onsite evaluation of the residents, and assist in the transfer of
32 residents.

33 (2) The participation of the department and local agencies in
34 the relocation of residents from a residential care facility for the
35 elderly shall not relieve the licensee of any responsibility under
36 this section. A licensee that fails to comply with the requirements
37 of this section shall be required to reimburse the department and
38 local agencies for the cost of providing the relocation services or
39 the costs incurred in caring for the residents through the use of a
40 temporary manager or receiver as provided for in Sections

1 1569.481 and 1569.482. If the licensee fails to provide the
2 relocation services required in this section, then the department
3 may request that the Attorney General’s office, the city attorney’s
4 office, or the local district attorney’s office seek injunctive relief
5 and damages in the same manner as provided for in Chapter 5
6 (commencing with Section 17200) of Part 2 of Division 7 of the
7 Business and Professions Code, including restitution to the
8 department of any costs incurred in caring for the residents through
9 the use of a temporary manager or receiver as provided for in
10 Sections 1569.481 and 1569.482.

11 (d) A licensee who fails to comply with requirements of this
12 section shall be liable for the imposition of civil penalties in the
13 amount of one hundred dollars (\$100) per violation per day for
14 each day that the licensee is in violation of this section, until such
15 time that the violation has been corrected. The civil penalties shall
16 be issued immediately following the written notice of violation.
17 However, if the violation does not present an immediate or
18 substantial threat to the health or safety of residents and the licensee
19 corrects the violation within three days after receiving the notice
20 of violation, the licensee shall not be liable for payment of any
21 civil penalties pursuant to this subdivision related to the corrected
22 violation.

23 (e) A resident of a residential care facility for the elderly covered
24 under this section may bring a civil action against any person, firm,
25 partnership, or corporation who owns, operates, establishes,
26 manages, conducts, or maintains a residential care facility for the
27 elderly who violates the rights of a resident, as set forth in this
28 section. Any person, firm, partnership, or corporation who owns,
29 operates, establishes, manages, conducts, or maintains a residential
30 care facility for the elderly who violates this section shall be
31 responsible for the acts of the facility’s employees and shall be
32 liable for costs and attorney’s fees. Any such residential care
33 facility for the elderly may also be enjoined from permitting the
34 violation to continue. The remedies specified in this section shall
35 be in addition to any other remedy provided by law.

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

39 SEC. 7.5. Section 1569.682 of the Health and Safety Code is
40 amended to read:

1 1569.682. (a) A licensee of a licensed residential care facility
2 for the elderly shall, prior to transferring a resident of the facility
3 to another facility or to an independent living arrangement as a
4 result of the forfeiture of a license, as described in subdivision (a),
5 (b), or (f) of Section 1569.19, or a change of use of the facility
6 pursuant to the department's regulations, take all reasonable steps
7 to transfer affected residents safely and to minimize possible
8 transfer trauma, and shall, at a minimum, do all of the following:
9 (1) Prepare, for each resident, a relocation evaluation of the
10 needs of that resident, which shall include both of the following:
11 (A) Recommendations on the type of facility that would meet
12 the needs of the resident based on the current service plan.
13 (B) A list of facilities, within a 60-mile radius of the resident's
14 current facility, that meet the resident's present needs.
15 (2) Provide each resident or the resident's responsible person
16 with a written notice no later than 60 days before the intended
17 eviction. The notice shall include all of the following:
18 (A) The reason for the eviction, with specific facts to permit a
19 determination of the date, place, witnesses, and circumstances
20 concerning the reasons.
21 (B) A copy of the resident's current service plan.
22 (C) The relocation evaluation.
23 (D) A list of referral agencies.
24 (E) The right of the resident or resident's legal representative
25 to contact the department to investigate the reasons given for the
26 eviction pursuant to Section 1569.35.
27 (F) The contact information for the local long-term care
28 ombudsman, including address and telephone number.
29 (3) Discuss the relocation evaluation with the resident and his
30 or her legal representative within 30 days of issuing the notice of
31 eviction.
32 (4) Submit a written report of any eviction to the licensing
33 agency within five days.
34 (5) Upon issuing the written notice of eviction, a licensee shall
35 not accept new residents or enter into new admission agreements.
36 (6) (A) For paid preadmission fees in excess of five hundred
37 dollars (\$500), the resident is entitled to a refund in accordance
38 with all of the following:
39 (i) A 100-percent refund if preadmission fees were paid within
40 six months of notice of eviction.

1 (ii) A 75-percent refund if preadmission fees were paid more
2 than six months but not more than 12 months before notice of
3 eviction.

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

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

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

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

16 (7) If the resident gives notice five days before leaving the
17 facility, the licensee shall refund to the resident or his or her legal
18 representative a proportional per diem amount of any prepaid
19 monthly fees at the time the resident leaves the facility and the
20 unit is vacated. Otherwise the licensee shall pay the refund within
21 seven days from the date that the resident leaves the facility and
22 the unit is vacated.

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

28 (b) If seven or more residents of a residential care facility for
29 the elderly will be transferred as a result of the forfeiture of a
30 license or change in the use of the facility pursuant to subdivision
31 (a), the licensee shall submit a proposed closure plan to the
32 department for approval. The department shall approve or
33 disapprove the closure plan, and monitor its implementation, in
34 accordance with the following requirements:

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

38 (2) The closure plan shall meet the requirements described in
39 subdivision (a), and describe the staff available to assist in the
40 transfers. The department's review shall include a determination

1 as to whether the licensee's closure plan contains a relocation
2 evaluation for each resident.

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

8 (4) If the department disapproves a closure plan, the licensee
9 may resubmit an amended plan, which the department shall
10 promptly either approve or disapprove, within 10 working days
11 of receipt by the department of the amended plan. If the department
12 fails to approve a closure plan, it shall inform the licensee, in
13 writing, of the reasons for the disapproval of the plan.

14 (5) If the department fails to take action within 20 working days
15 of receipt of either the original or the amended closure plan, the
16 plan, or amended plan, as the case may be, shall be deemed
17 approved.

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

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

23 (c) (1) If a licensee fails to comply with the requirements of
24 this section, or if the director determines that it is necessary to
25 protect the residents of a facility from physical or mental abuse,
26 abandonment, or any other substantial threat to health or safety,
27 the department shall take any necessary action to minimize trauma
28 for the residents, including caring for the residents through the use
29 of a temporary manager or receiver as provided for in Sections
30 1569.481 and 1569.482 when the director determines the immediate
31 relocation of the residents is not feasible based on transfer trauma
32 or other considerations such as the unavailability of alternative
33 placements. The department shall contact any local agency that
34 may have assessment placement, protective, or advocacy
35 responsibility for the residents, and shall work together with those
36 agencies to locate alternative placement sites, contact relatives or
37 other persons responsible for the care of these residents, provide
38 onsite evaluation of the residents, and assist in the transfer of
39 residents.

1 (2) The participation of the department and local agencies in
2 the relocation of residents from a residential care facility for the
3 elderly shall not relieve the licensee of any responsibility under
4 this section. A licensee that fails to comply with the requirements
5 of this section shall be required to reimburse the department and
6 local agencies for the cost of providing the relocation services or
7 the costs incurred in caring for the residents through the use of a
8 temporary manager or receiver as provided for in Sections
9 1569.481 and 1569.482. If the licensee fails to provide the
10 relocation services required in this section, then the department
11 may request that the Attorney General's office, the city attorney's
12 office, or the local district attorney's office seek injunctive relief
13 and damages in the same manner as provided for in Chapter 5
14 (commencing with Section 17200) of Part 2 of Division 7 of the
15 Business and Professions Code, including restitution to the
16 department of any costs incurred in caring for the residents through
17 the use of a temporary manager or receiver as provided for in
18 Sections 1569.481 and 1569.482.

19 (d) A licensee who fails to comply with requirements of this
20 section shall be liable for the imposition of civil penalties in the
21 amount of one hundred dollars (\$100) per violation per day for
22 each day that the licensee is in violation of this section, until such
23 time that the violation has been corrected. The civil penalties shall
24 be issued immediately following the written notice of violation.
25 However, if the violation does not present an immediate or
26 substantial threat to the health or safety of residents and the licensee
27 corrects the violation within three days after receiving the notice
28 of violation, the licensee shall not be liable for payment of any
29 civil penalties pursuant to this subdivision related to the corrected
30 violation.

31 (e) A licensee, on and after January 1, 2015, who fails to comply
32 with this section and abandons the facility and the residents in care
33 resulting in an immediate and substantial threat to the health and
34 safety of the abandoned residents, in addition to forfeiture of the
35 license pursuant to Section 1569.19, shall be excluded from
36 licensure in facilities licensed by the department without the right
37 to petition for reinstatement.

38 (f) A resident of a residential care facility for the elderly covered
39 under this section may bring a civil action against any person, firm,
40 partnership, or corporation who owns, operates, establishes,

1 manages, conducts, or maintains a residential care facility for the
 2 elderly who violates the rights of a resident, as set forth in this
 3 section. Any person, firm, partnership, or corporation who owns,
 4 operates, establishes, manages, conducts, or maintains a residential
 5 care facility for the elderly who violates this section shall be
 6 responsible for the acts of the facility’s employees and shall be
 7 liable for costs and attorney’s fees. Any such residential care
 8 facility for the elderly may also be enjoined from permitting the
 9 violation to continue. The remedies specified in this section shall
 10 be in addition to any other remedy provided by law.

11 (g) This section shall 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. 8. Section 11461.3 of the Welfare and Institutions Code,
 15 as added by Section 74 of Chapter 29 of the Statutes of 2014, is
 16 amended to read:

17 11461.3. (a) The Approved Relative Caregiver Funding Option
 18 Program is hereby established for the purpose of making the
 19 amount paid to approved relative caregivers for the in-home care
 20 of children placed with them who are ineligible for AFDC-FC
 21 payments equal to the amount paid on behalf of children who are
 22 eligible for AFDC-FC payments. This is an optional program for
 23 counties choosing to participate, and in so doing, participating
 24 counties agree to the terms of this section as a condition of their
 25 participation. It is the intent of the Legislature that the funding
 26 described in paragraph (1) of subdivision (e) for the Approved
 27 Relative Caregiver Funding Option Program be appropriated, and
 28 available for use from January through December of each year,
 29 unless otherwise specified.

30 (b) Subject to subdivision (c), effective January 1, 2015, counties
 31 shall pay an approved relative caregiver a per child per month rate
 32 in return for the care and supervision, as defined in subdivision
 33 (b) of Section 11460, of a child that is placed with the relative
 34 caregiver that is equal to the basic rate paid to foster care providers
 35 pursuant to subdivision (g) of Section 11461, if both of the
 36 following conditions are met:

37 (1) The county with payment responsibility has notified the
 38 department in writing by October 1 of the year before participation
 39 begins of its decision to participate in the Approved Relative
 40 Caregiver Funding Option Program.

1 (2) The related child placed in the home meets all of the
2 following requirements:

3 (A) The child resides in the State of California.

4 (B) The child is described by subdivision (b), (c), or (e) of
5 Section 11401 and the county welfare department or the county
6 probation department is responsible for the placement and care of
7 the child.

8 (C) The child is not eligible for AFDC-FC while placed with
9 the approved relative caregiver because the child is not eligible
10 for federal financial participation in the AFDC-FC payment.

11 (c) A county's election to participate in the Approved Relative
12 Caregiver Funding Option Program shall affirmatively indicate
13 that the county understands and agrees to all of the following
14 conditions:

15 (1) Commencing October 1, 2014, the county shall notify the
16 department in writing of its decision to participate in the Approved
17 Relative Caregiver Funding Option Program. Failure to make
18 timely notification, without good cause as determined by the
19 department, shall preclude the county from participating in the
20 program for the upcoming year. Annually thereafter, any county
21 not presently participating who elects to do so shall notify the
22 department in writing no later than October 1 of its decision to
23 participate for the upcoming calendar year.

24 (2) The county shall confirm that it will make per child per
25 month payments to all approved relative caregivers on behalf of
26 eligible children in the amount specified in subdivision (b) for the
27 duration of the participation of the county in this program.

28 (3) The county shall confirm that it will be solely responsible
29 to pay any additional costs needed to make all payments pursuant
30 to subdivision (b) if the state and federal funds allocated to the
31 Approved Relative Caregiver Funding Option Program pursuant
32 to paragraph (1) of subdivision (e) are insufficient to make all
33 eligible payments.

34 (d) (1) A county deciding to opt out of the Approved Relative
35 Caregiver Funding Option Program shall provide at least 120 days'
36 prior written notice of that decision to the department. Additionally,
37 the county shall provide at least 90 days' prior written notice to
38 the approved relative caregiver or caregivers informing them that
39 his or her per child per month payment will be reduced and the
40 date that the reduction will occur.

1 (2) The department shall presume all counties have opted out
2 of the Approved Relative Caregiver Funding Option Program if
3 the funding appropriated in subclause (II) of clause (i) of
4 subparagraph (B) of paragraph (1) of subdivision (e), including
5 any additional funds appropriated pursuant to clause (ii) of
6 subparagraph (B) of paragraph (1) of subdivision (e), is reduced,
7 unless a county notifies the department in writing of its intent to
8 opt in within 60 days of enactment of the state budget. The counties
9 shall provide at least 90 days' prior written notice to the approved
10 relative caregiver or caregivers informing them that his or her per
11 child per month payment will be reduced, and the date that the
12 reduction will occur.

13 (3) Any reduction in payments received by an approved relative
14 caregiver on behalf of a child under this section that results from
15 a decision by a county, including the presumed opt-out pursuant
16 to paragraph (2), to not participate in the Approved Relative
17 Caregiver Funding Option Program shall be exempt from state
18 hearing jurisdiction under Section 10950.

19 (e) (1) The following funding shall be used for the Approved
20 Relative Caregiver Funding Option Program:

21 (A) The applicable regional per-child CalWORKs grant.

22 (B) (i) General Fund resources that do not count toward the
23 state's maintenance of effort requirements under Section
24 609(a)(7)(B)(i) of Title 42 of the United States Code. For this
25 purpose, the following money is hereby appropriated:

26 (I) The sum of thirty million dollars (\$30,000,000) from the
27 General Fund for the period January 1, 2015 through December
28 31, 2015.

29 (II) The sum of thirty million dollars (\$30,000,000) from the
30 General Fund in each calendar year thereafter, as cumulatively
31 adjusted annually by the California Necessities Index used for each
32 May Revision of the Governor's Budget, to be used in each
33 respective calendar year.

34 (ii) To the extent that the appropriation made in subclause (I)
35 is insufficient to fully fund the base caseload of approved relative
36 caregivers as of July 1, 2014, for the period of time described in
37 subclause (I), as jointly determined by the department and the
38 County Welfare Directors' Association and approved by the
39 Department of Finance on or before October 1, 2015, the amounts
40 specified in subclauses (I) and (II) shall be increased in the

1 respective amounts necessary to fully fund that base caseload.
2 Thereafter, the adjusted amount of subclause (II), and the other
3 terms of that provision, including an annual California Necessities
4 Index adjustment to its amount, shall apply.

5 (C) County funds only to the extent required under paragraph
6 (3) of subdivision (c).

7 (D) This section is intended to appropriate the funding necessary
8 to fully fund the base caseload of approved relative caregivers,
9 defined as the number of approved relative caregivers caring for
10 a child who is not eligible to receive AFDC-FC payments, as of
11 July 1, 2014.

12 (2) Funds available pursuant to subparagraphs (A) and (B) of
13 paragraph (1) shall be allocated to participating counties
14 proportionate to the number of their approved relative caregiver
15 placements, using a methodology and timing developed by the
16 department, following consultation with county human services
17 agencies and their representatives.

18 (3) Notwithstanding subdivision (c), if in any calendar year the
19 entire amount of funding appropriated by the state for the Approved
20 Relative Caregiver Funding Option Program has not been fully
21 allocated to or utilized by counties, a county that has paid any
22 funds pursuant to subparagraph (C) of paragraph (1) of subdivision
23 (e) may request reimbursement for those funds from the
24 department. The authority of the department to approve the requests
25 shall be limited by the amount of available unallocated funds.

26 (f) An approved relative caregiver receiving payments on behalf
27 of a child pursuant to this section shall not be eligible to receive
28 additional CalWORKs payments on behalf of the same child under
29 Section 11450.

30 (g) To the extent permitted by federal law, payments received
31 by the approved relative caregiver from the Approved Relative
32 Caregiver Funding Option Program shall not be considered income
33 for the purpose of determining other public benefits.

34 (h) Prior to referral of any individual or recipient, or that
35 person's case, to the local child support agency for child support
36 services pursuant to Section 17415 of the Family Code, the county
37 human services agency shall determine if an applicant or recipient
38 has good cause for noncooperation, as set forth in Section
39 11477.04. If the applicant or recipient claims good cause exception
40 at any subsequent time to the county human services agency or

1 the local child support agency, the local child support agency shall
 2 suspend child support services until the county social services
 3 agency determines the good cause claim, as set forth in Section
 4 11477.04. If good cause is determined to exist, the local child
 5 support agency shall suspend child support services until the
 6 applicant or recipient requests their resumption, and shall take
 7 other measures that are necessary to protect the applicant or
 8 recipient and the children. If the applicant or recipient is the parent
 9 of the child for whom aid is sought and the parent is found to have
 10 not cooperated without good cause as provided in Section
 11 11477.04, the applicant's or recipient's family grant shall be
 12 reduced by 25 percent for the time the failure to cooperate lasts.

13 (i) Consistent with Section 17552 of the Family Code, if aid is
 14 paid under this chapter on behalf of a child who is under the
 15 jurisdiction of the juvenile court and whose parent or guardian is
 16 receiving reunification services, the county human services agency
 17 shall determine, prior to referral of the case to the local child
 18 support agency for child support services, whether the referral is
 19 in the best interest of the child, taking into account both of the
 20 following:

21 (1) Whether the payment of support by the parent will pose a
 22 barrier to the proposed reunification in that the payment of support
 23 will compromise the parent's ability to meet the requirements of
 24 the parent's reunification plan.

25 (2) Whether the payment of support by the parent will pose a
 26 barrier to the proposed reunification in that the payment of support
 27 will compromise the parent's current or future ability to meet the
 28 financial needs of the child.

29 SEC. 9. Section 11462.04 of the Welfare and Institutions Code
 30 is amended to read:

31 11462.04. (a) Notwithstanding any other law, no new group
 32 home rate or change to an existing rate shall be established pursuant
 33 to Section 11462. An application shall not be accepted or processed
 34 for any of the following:

- 35 (1) A new program.
- 36 (2) A new provider.
- 37 (3) A program change, such as a rate classification level (RCL)
 38 increase.
- 39 (4) A program capacity increase.
- 40 (5) A program reinstatement.

1 (b) Notwithstanding subdivision (a), the department may grant
2 exceptions as appropriate on a case-by-case basis, based upon a
3 written request and supporting documentation provided by county
4 placing agencies, including county welfare or probation directors.

5 (c) For the 2012–13, 2013–14, and 2014–15 fiscal years,
6 notwithstanding subdivision (b), for any program below RCL 10,
7 the only exception that may be sought and granted pursuant to this
8 section is for an application requesting a program change, such as
9 an RCL increase. The authority to grant other exceptions does not
10 apply to programs below RCL 10 during these fiscal years.

11 SEC. 10. Section 11477 of the Welfare and Institutions Code,
12 as amended by Section 75 of Chapter 29 of the Statutes of 2014,
13 is amended to read:

14 11477. As a condition of eligibility for aid paid under this
15 chapter, each applicant or recipient shall do all of the following:

16 (a) (1) Do either of the following:

17 (i) For applications received before October 1, 2009, assign to
18 the county any rights to support from any other person the applicant
19 or recipient may have on his or her own behalf or on behalf of any
20 other family member for whom the applicant or recipient is
21 applying for or receiving aid, not exceeding the total amount of
22 cash assistance provided to the family under this chapter. Receipt
23 of public assistance under this chapter shall operate as an
24 assignment by operation of law. An assignment of support rights
25 to the county shall also constitute an assignment to the state. If
26 support rights are assigned pursuant to this subdivision, the
27 assignee may become an assignee of record by the local child
28 support agency or other public official filing with the court clerk
29 an affidavit showing that an assignment has been made or that
30 there has been an assignment by operation of law. This procedure
31 does not limit any other means by which the assignee may become
32 an assignee of record.

33 (ii) For applications received on or after October 1, 2009, assign
34 to the county any rights to support from any other person the
35 applicant or recipient may have on his or her own behalf, or on
36 behalf of any other family member for whom the applicant or
37 recipient is applying for or receiving aid. The assignment shall
38 apply only to support that accrues during the period of time that
39 the applicant is receiving assistance under this chapter, and shall
40 not exceed the total amount of cash assistance provided to the

1 family under this chapter. Receipt of public assistance under this
2 chapter shall operate as an assignment by operation of law. An
3 assignment of support rights to the county shall also constitute an
4 assignment to the state. If support rights are assigned pursuant to
5 this subdivision, the assignee may become an assignee of record
6 by the local child support agency or other public official filing
7 with the court clerk an affidavit showing that an assignment has
8 been made or that there has been an assignment by operation of
9 law. This procedure does not limit any other means by which the
10 assignee may become an assignee of record.

11 (2) Support that has been assigned pursuant to paragraph (1)
12 and that accrues while the family is receiving aid under this chapter
13 shall be permanently assigned until the entire amount of aid paid
14 has been reimbursed.

15 (3) If the federal government does not permit states to adopt the
16 same order of distribution for preassistance and postassistance
17 child support arrears that are assigned on or after October 1, 1998,
18 support arrears that accrue before the family receives aid under
19 this chapter that are assigned pursuant to this subdivision shall be
20 assigned as follows:

21 (A) Child support assigned prior to January 1, 1998, shall be
22 permanently assigned until aid is no longer received and the entire
23 amount of aid has been reimbursed.

24 (B) Child support assigned on or after January 1, 1998, but prior
25 to October 1, 2000, shall be temporarily assigned until aid under
26 this chapter is no longer received and the entire amount of aid paid
27 has been reimbursed or until October 1, 2000, whichever comes
28 first.

29 (C) On or after October 1, 2000, support assigned pursuant to
30 this subdivision that was not otherwise permanently assigned shall
31 be temporarily assigned to the county until aid is no longer
32 received.

33 (D) On or after October 1, 2000, support that was temporarily
34 assigned pursuant to this subdivision shall, when a payment is
35 received from the federal tax intercept program, be temporarily
36 assigned until the entire amount of aid paid has been reimbursed.

37 (4) If the federal government permits states to adopt the same
38 order of distribution for preassistance and postassistance child
39 support arrears, child support arrears shall be assigned, as follows:

1 (A) Child support assigned pursuant to this subdivision prior
2 to October 1, 1998, shall be assigned until aid under this chapter
3 is no longer received and the entire amount has been reimbursed.

4 (B) On or after October 1, 1998, child support assigned pursuant
5 to this subdivision that accrued before the family receives aid under
6 this chapter and that was not otherwise permanently assigned, shall
7 be temporarily assigned until aid under this chapter is no longer
8 received.

9 (C) On or after October 1, 1998, support that was temporarily
10 assigned pursuant to this subdivision shall, when a payment is
11 received from the federal tax intercept program, be temporarily
12 assigned until the entire amount of aid paid has been reimbursed.

13 (b) (1) Cooperate with the county welfare department and local
14 child support agency in establishing the paternity of a child of the
15 applicant or recipient born out of wedlock with respect to whom
16 aid is claimed, and in establishing, modifying, or enforcing a
17 support order with respect to a child of the individual for whom
18 aid is requested or obtained, unless the applicant or recipient
19 qualifies for a good cause exception pursuant to Section 11477.04.
20 The granting of aid shall not be delayed or denied if the applicant
21 is otherwise eligible, if the applicant completes the necessary forms
22 and agrees to cooperate with the local child support agency in
23 securing support and determining paternity, if applicable. The local
24 child support agency shall have staff available, in person or by
25 telephone, at all county welfare offices and shall conduct an
26 interview with each applicant to obtain information necessary to
27 establish paternity and establish, modify, or enforce a support order
28 at the time of the initial interview with the welfare office. The local
29 child support agency shall make the determination of cooperation.
30 If the applicant or recipient attests under penalty of perjury that
31 he or she cannot provide the information required by this
32 subdivision, the local child support agency shall make a finding
33 regarding whether the individual could reasonably be expected to
34 provide the information before the local child support agency
35 determines whether the individual is cooperating. In making the
36 finding, the local child support agency shall consider all of the
37 following:

38 (A) The age of the child for whom support is sought.

39 (B) The circumstances surrounding the conception of the child.

1 (C) The age or mental capacity of the parent or caretaker of the
2 child for whom aid is being sought.

3 (D) The time that has elapsed since the parent or caretaker last
4 had contact with the alleged father or obligor.

5 (2) Cooperation includes all of the following:

6 (A) Providing the name of the alleged parent or obligor and
7 other information about that person if known to the applicant or
8 recipient, such as address, social security number, telephone
9 number, place of employment or school, and the names and
10 addresses of relatives or associates.

11 (B) Appearing at interviews, hearings, and legal proceedings
12 provided the applicant or recipient is provided with reasonable
13 advance notice of the interview, hearing, or legal proceeding and
14 does not have good cause not to appear.

15 (C) If paternity is at issue, submitting to genetic tests, including
16 genetic testing of the child, if necessary.

17 (D) Providing any additional information known to or reasonably
18 obtainable by the applicant or recipient necessary to establish
19 paternity or to establish, modify, or enforce a child support order.

20 (3) A recipient or applicant shall not be required to sign a
21 voluntary declaration of paternity, as set forth in Chapter 3
22 (commencing with Section 7570) of Part 2 of Division 12 of the
23 Family Code, as a condition of cooperation.

24 (c) (1) This section shall not apply if all of the adults are
25 excluded from the assistance unit pursuant to Section 11251.3,
26 11454, or 11486.5.

27 (2) It is the intent of the Legislature that the regular receipt of
28 child support in the preceding reporting period be considered in
29 determining reasonably anticipated income for the following
30 reporting period.

31 (3) In accordance with Sections 11265.2 and 11265.46, if the
32 income of an assistance unit described in paragraph (1) includes
33 reasonably anticipated income derived from child support, the
34 amount established in Section 17504 of the Family Code and
35 Section 11475.3 of this code of any amount of child support
36 received each month shall not be considered income or resources
37 and shall not be deducted from the amount of aid to which the
38 assistance unit otherwise would be eligible.

1 SEC. 11. Section 12300.4 of the Welfare and Institutions Code,
2 as added by Section 76 of Chapter 29 of the Statutes of 2014, is
3 amended to read:

4 12300.4. (a) Notwithstanding any other law, including, but
5 not limited to, Chapter 10 (commencing with Section 3500) of
6 Division 4 of Title 1 of the Government Code and Title 23
7 (commencing with Section 110000) of the Government Code, a
8 recipient who is authorized to receive in-home supportive services
9 pursuant to this article, or Section 14132.95, 14132.952, or
10 14132.956, administered by the State Department of Social
11 Services, or waiver personal care services pursuant to Section
12 14132.97, administered by the State Department of Health Care
13 Services, or any combination of these services, shall direct these
14 authorized services, and the authorized services shall be performed
15 by a provider or providers within a workweek and in a manner
16 that complies with the requirements of this section.

17 (b) (1) A workweek is defined as beginning at 12:00 a.m. on
18 Sunday and includes the next consecutive 168 hours, terminating
19 at 11:59 p.m. the following Saturday.

20 (2) A provider of services specified in subdivision (a) shall not
21 work a total number of hours within a workweek that exceeds 66,
22 as reduced by the net percentage defined by Sections 12301.02
23 and 12301.03, as applicable, and in accordance with subdivision
24 (d). The total number of hours worked within a workweek by a
25 provider is defined as the sum of the following:

26 (A) All hours worked providing authorized services specified
27 in subdivision (a).

28 (B) Travel time as defined in subdivision (f), only if federal
29 financial participation is not available to compensate for that travel
30 time. If federal financial participation is available for travel time
31 as defined in subdivision (f), the travel time shall not be included
32 in the calculation of the total weekly hours worked within a
33 workweek.

34 (3) (A) If the authorized in-home supportive services of a
35 recipient cannot be provided by a single provider as a result of the
36 limitation specified in paragraph (2), it is the responsibility of the
37 recipient to employ an additional provider or providers, as needed,
38 to ensure his or her authorized services are provided within his or
39 her total weekly authorized hours of services established pursuant
40 to subdivision (b) of Section 12301.1.

1 ~~(B) If the provider of authorized waiver personal care services~~
2 ~~cannot provide those services to a recipient as a result of the~~
3 ~~limitation specified in paragraph (2), the State Department of~~
4 ~~Health Care Services shall work with the recipient to engage~~
5 ~~additional providers, as necessary. It~~

6 (B) (i) It is the intent of the Legislature that this section shall
7 not result in reduced services authorized to recipients of waiver
8 personal care services defined in subdivision (a).

9 (ii) *The State Department of Health Care Services shall work*
10 *with and assist recipients receiving services pursuant to the*
11 *Nursing Facility/Acute Hospital Waiver who are at or near their*
12 *individual cost cap, as that term is used in the waiver, to avoid a*
13 *reduction in the recipient's services that may result because of*
14 *increased overtime pay for providers. As part of this effort, the*
15 *department shall consider allowing the recipient to exceed the*
16 *individual cost cap, if appropriate. The department shall provide*
17 *timely information to waiver recipients as to the steps that will be*
18 *taken to implement this clause.*

19 (4) (A) A provider shall inform each of his or her recipients of
20 the number of hours that the provider is available to work for that
21 recipient, in accordance with this section.

22 (B) A recipient, his or her authorized representative, or any
23 other entity, including any person or entity providing services
24 pursuant to Section 14186.35, shall not authorize any provider to
25 work hours that exceed the applicable limitation or limitations of
26 this section.

27 (C) A recipient may authorize a provider to work hours in excess
28 of the recipient's weekly authorized hours established pursuant to
29 Section 12301.1 without notification of the county welfare
30 department, in accordance with both of the following:

31 (i) The authorization does not result in more than 40 hours of
32 authorized services per week being provided.

33 (ii) The authorization does not exceed the recipient's authorized
34 hours of monthly services pursuant to paragraph (1) of subdivision
35 (b) of Section 12301.1.

36 (5) For providers of in-home supportive services, the State
37 Department of Social Services or a county may terminate the
38 provider from providing services under the IHSS program if a
39 provider continues to violate the limitations of this section on
40 multiple occasions.

1 (c) Notwithstanding any other law, only federal law and
2 regulations regarding overtime compensation apply to providers
3 of services defined in subdivision (a).

4 (d) A provider of services defined in subdivision (a) is subject
5 to all of the following, as applicable to his or her situation:

6 (1) (A) A provider who works for one individual recipient of
7 those services shall not work a total number of hours within a
8 workweek that exceeds 66 hours, as reduced by the net percentage
9 defined by Sections 12301.02 and 12301.03, as applicable. In no
10 circumstance shall the provision of these services by that provider
11 to the individual recipient exceed the total weekly hours of the
12 services authorized to that recipient, except as additionally
13 authorized pursuant to subparagraph (C) of paragraph (4) of
14 subdivision (b). If multiple providers serve the same recipient, it
15 shall continue to be the responsibility of that recipient or his or
16 her authorized representative to schedule the work of his or her
17 providers to ensure the authorized services of the recipient are
18 provided in accordance with this section.

19 (B) When a recipient's weekly authorized hours are adjusted
20 pursuant to subparagraph (C) of paragraph (1) of subdivision (b)
21 of Section 12301.1 and exceed 66 hours, as reduced by the net
22 percentage defined by Sections 12301.02 and 12301.03, as
23 applicable, and at the time of adjustment the recipient currently
24 receives all authorized hours of service from one provider, that
25 provider shall be deemed authorized to work the recipient's
26 county-approved adjusted hours for that week, but only if the
27 additional hours of work, based on the adjustment, do not exceed
28 the total number of hours worked that are compensable at an
29 overtime pay rate that the provider would have been authorized to
30 work in that month if the weekly hours had not been adjusted.

31 (2) A provider of in-home supportive services described in
32 subdivision (a) who serves multiple recipients is not authorized
33 to, and shall not, work more than 66 total hours in a workweek,
34 as reduced by the net percentage defined by Sections 12301.02
35 and 12301.03, as applicable, regardless of the number of recipients
36 for whom the provider provides services authorized by subdivision
37 (a). Providers are subject to the limits of each recipient's total
38 authorized weekly hours of in-home supportive services described
39 in subdivision (a), except as additionally authorized pursuant to
40 subparagraph (C) of paragraph (4) of subdivision (b).

1 (e) Recipients and providers shall be informed of the limitations
2 and requirements contained in this section, through notices at
3 intervals and on forms as determined by the State Department of
4 Social Services or the State Department of Health Care Services,
5 as applicable, following consultation with stakeholders.

6 (f) (1) A provider of services described in subdivision (a) shall
7 not engage in travel time in excess of seven hours per week. For
8 the purposes of this subdivision, “travel time” means time spent
9 traveling directly from a location where authorized services
10 specified in subdivision (a) are provided to one recipient, to another
11 location where authorized services are to be provided to another
12 recipient. A provider shall coordinate hours of work with his or
13 her recipients to comply with this section.

14 (2) The hourly wage to compensate a provider for travel time
15 described in this subdivision when the travel is between two
16 counties shall be the hourly wage of the destination county.

17 (3) Travel time, and compensation for that travel time, between
18 a recipient of authorized in-home supportive services specified in
19 subdivision (a) and a recipient of authorized waiver personal care
20 services specified in subdivision (a), shall be attributed to the
21 program authorizing services for the recipient to whom the provider
22 is traveling.

23 (4) Hours spent by a provider while engaged in travel time shall
24 not be deducted from the authorized hours of service of any
25 recipient of services specified in subdivision (a).

26 (5) The State Department of Social Services and the State
27 Department of Health Care Services shall issue guidance and
28 processes for travel time between recipients that will assist the
29 provider and recipient to comply with this subdivision. Each county
30 shall provide technical assistance to providers and recipients, as
31 necessary, to implement this subdivision.

32 (g) A provider of authorized in-home supportive services
33 specified in subdivision (a) shall timely submit, deliver, or mail,
34 verified by postmark or request for delivery, a signed payroll
35 timesheet within two weeks after the end of each bimonthly payroll
36 period. Notwithstanding any other law, a provider who submits
37 an untimely payroll timesheet for providing authorized in-home
38 supportive services specified in subdivision (a) shall be paid by
39 the state within 30 days of the receipt of the signed payroll
40 timesheet.

1 (h) This section does not apply to a contract entered into
2 pursuant to Section 12302 or 12302.6 for authorized in-home
3 supportive services. Contract rates negotiated pursuant to Section
4 12302 or 12302.6 shall be based on costs consistent with a 40-hour
5 workweek.

6 (i) The state and counties are immune from any liability resulting
7 from implementation of this section.

8 (j) Any action authorized under this section that is implemented
9 in a program authorized pursuant to Section 14132.95, 14132.97,
10 14132.952, or 14132.956 shall be compliant with federal Medicaid
11 requirements, as determined by the State Department of Health
12 Care Services.

13 (k) 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 State Department of Social Services and the State
17 Department of Health Care Services may implement, interpret, or
18 make specific this section by means of all-county letters or similar
19 instructions, without taking any regulatory action.

20 (l) (1) This section shall become operative only when the
21 regulatory amendments made by RIN 1235-AA05 to Part 552 of
22 Title 29 of the Code of Federal Regulations are deemed effective,
23 either on the date specified in RIN 1235-AA05 or at a later date
24 specified by the Federal Department of Labor, whichever is later.

25 (2) If the regulatory amendments described in paragraph (1)
26 become only partially effective by the date specified in paragraph
27 (1), this section shall become operative only for those persons for
28 whom federal financial participation is available as of that date.

29 SEC. 12. The Legislature finds and declares that the number
30 of unaccompanied, undocumented minors in California has surged
31 in recent months, often overwhelming the agencies and
32 organizations that care for these minors and help to determine their
33 immigration status. Legal representation for unaccompanied
34 undocumented minors in California is important to assist these
35 minors in navigating through federal immigration proceedings as
36 well as related state court actions.

37 SEC. 13. Chapter 5.6 (commencing with Section 13300) is
38 added to Part 3 of Division 9 of the Welfare and Institutions Code,
39 to read:

1 Immigration Review or meet the requirements to receive funding
2 from the Trust Fund Program administered by the State Bar of
3 California.

4 (b) Provide for legal services to unaccompanied undocumented
5 minors on a fee-per-case basis, as determined by the department,
6 which shall include all administrative and supervisory costs and
7 court fees.

8 (c) Require reporting, monitoring, or audits of services provided,
9 as determined by the department.

10 (d) Require contractors to coordinate efforts with the federal
11 Office of Refugee Resettlement Legal Access Project in order to
12 respond to and assist or represent unaccompanied undocumented
13 minors who could benefit from the services provided under this
14 chapter.

15 (e) Require contractors to maintain adequate legal malpractice
16 insurance and to indemnify and hold the state harmless from any
17 claims that arise from the legal services provided pursuant to this
18 chapter.

19 13302. Notwithstanding any other law:

20 (a) Contracts awarded pursuant to this chapter shall be exempt
21 from the personal services contracting requirements of Article 4
22 (commencing with Section 19130) of Chapter 5 of Part 2 of
23 Division 5 of Title 2 of the Government Code.

24 (b) Contracts awarded pursuant to this chapter shall be exempt
25 from the Public Contract Code and the State Contracting Manual,
26 and shall not be subject to the approval of the Department of
27 General Services.

28 (c) The client information and records of legal services provided
29 pursuant to this chapter shall be subject to the requirements of
30 Section 10850 and shall be exempt from inspection under the
31 California Public Records Act (Chapter 3.5 (commencing with
32 Section 6250) of Division 7 of Part 1 of the Government Code).

33 (d) The state shall be immune from any liability resulting from
34 the implementation of this chapter.

35 SEC. 14. Section 88 of Chapter 29 of the Statutes of 2014 is
36 amended to read:

37 SEC. 88. (a) Notwithstanding the rulemaking provisions of
38 the Administrative Procedure Act (Chapter 3.5 (commencing with
39 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
40 Code), the department may implement and administer the changes

1 made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80,
2 81, 82, and 83 of Chapter 29 of the Statutes of 2014 through
3 all-county letters or similar instructions until regulations are
4 adopted.

5 (b) The department shall adopt emergency regulations
6 implementing these provisions no later than January 1, 2016. The
7 department may readopt any emergency regulation authorized by
8 this section that is the same as, or substantially equivalent to, any
9 emergency regulation previously adopted pursuant to this section.
10 The initial adoption of regulations pursuant to this section and one
11 readoption of emergency regulations shall be deemed to be an
12 emergency and necessary for the immediate preservation of the
13 public peace, health, safety, or general welfare. Initial emergency
14 regulations and the one readoption of emergency regulations
15 authorized by this section shall be exempt from review by the
16 Office of Administrative Law. The initial emergency regulations
17 and the one readoption of emergency regulations authorized by
18 this section shall be submitted to the Office of Administrative Law
19 for filing with the Secretary of State and each shall remain in effect
20 for no more than 180 days, by which time final regulations shall
21 be adopted.

22 SEC. 15. The provisions of this act are severable. If any
23 provision of this act or its application is held invalid, that invalidity
24 shall not affect other provisions or applications that can be given
25 effect without the invalid provision or application.

26 SEC. 16. The Legislature finds and declares that Section 1 of
27 this act, which adds Chapter 7 (commencing with Section 155) to
28 Part 1 of Title 1 to the Code of Civil Procedure, ~~imposes and~~
29 *Section 13 of this act, which adds Chapter 5.6 (commencing with*
30 *Section 13300) to Part 3 of Division 9 of the Welfare and*
31 *Institutions Code, impose* a limitation on the public’s right of access
32 to the meetings of public bodies or the writings of public officials
33 and agencies within the meaning of Section 3 of Article I of the
34 California Constitution. Pursuant to that constitutional provision,
35 the Legislature makes the following findings to demonstrate the
36 interest protected by this limitation and the need for protecting
37 that interest:

38 ~~In~~

39 (a) *In* order to protect the privacy interests of those minors who
40 are seeking special immigrant juvenile status, it is essential to

1 maintain the confidentiality of the records described in Section 1
2 of this act.

3 *(b) In order to protect the privacy interests of unaccompanied*
4 *undocumented minors and to protect records covered by the*
5 *attorney client privilege, it is essential to maintain the*
6 *confidentiality of the records described in Section 13 of this act.*

7 SEC. 17. Section 7.5 of this bill incorporates amendments to
8 Section 1569.682 of the Health and Safety Code proposed by both
9 this bill and Assembly Bill 1899. It shall only become operative
10 if (1) both bills are enacted and become effective on or before
11 January 1, 2015, but this bill becomes operative first, (2) each bill
12 amends Section 1569.682 of the Health and Safety Code, and (3)
13 this bill is enacted after Assembly Bill 1899, in which case Section
14 1569.682 of the Health and Safety Code, as amended by Section
15 7 of this bill, shall remain operative only until the operative date
16 of Assembly Bill 1899, at which time Section 7.5 of this bill shall
17 become operative.

18 SEC. 18. The amount of one million six hundred eighty-six
19 thousand dollars (\$1,686,000) is hereby appropriated to the State
20 Department of Social Services in augmentation of Item
21 5180-151-0001 of Section 2.00 of the Budget Act of 2014, for
22 Program 25.30 for the Commercially Sexually Exploited Children
23 Program, and the total amount appropriated in Item 5180-153-0001
24 of Section 2.00 of the Budget Act of 2014 is hereby reduced by
25 the amount of one million six hundred eighty-six thousand dollars
26 (\$1,686,000) to offset that appropriation.

27 SEC. 19. No appropriation pursuant to Section 15200 of the
28 Welfare and Institutions Code is made for purposes of this act.

29 SEC. 20. This act is a bill providing for appropriations related
30 to the Budget Bill within the meaning of subdivision (e) of Section
31 12 of Article IV of the California Constitution, has been identified
32 as related to the budget in the Budget Bill, and shall take effect
33 immediately.

O