

Senate Bill No. 856

CHAPTER 30

An act to amend Section 854.1 of, and to amend, repeal, and add Section 95014 of, the Government Code, to amend Sections 1502 and 1524 of, to add Article 9.7 (commencing with Section 1567.80) to Chapter 3 of Division 2 of, and to add and repeal Article 9.5 (commencing with Section 1567.61) of Chapter 3 of Division 2 of, the Health and Safety Code, and to amend Sections 4418.25, 4418.7, 4474.2, 4474.3, 4514, 4519.6, 4648, 4659.1, 4681.6, 4691.6, 4691.9, 6504.5, and 6509 of, to amend, repeal, and add Section 7505 of, to add Section 4436 to, to add Article 8 (commencing with Section 4698) to Chapter 6 of Division 4.5 of, and to add and repeal Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of, the Welfare and Institutions Code, relating to developmental services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 20, 2014. Filed with
Secretary of State June 20, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 856, Committee on Budget and Fiscal Review. Developmental services.

(1) Existing law, the California Community Care Facilities Act, provides for the licensing and regulation of community care facilities, as defined, by the State Department of Social Services. A violation of the act is a misdemeanor.

This bill would license as a community care facility an enhanced behavioral supports home, which is a facility certified by the State Department of Developmental Services and licensed by the State Department of Social Services as an adult residential facility or a group home, with a maximum of 4 clients, that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting, and that is eligible for federal Medicaid funding. The bill would require the State Department of Developmental Services to establish a pilot program, until January 1, 2020, for the operation of up to 6 enhanced behavioral supports homes, as specified, each fiscal year in which the pilot program is in effect and to the extent funding is available. The bill would require an enhanced behavioral supports home to be certified by the State Department of Developmental Services, and its plan of operation approved by both the State Department of Developmental Services and the State Department of Social Services prior to being licensed as a community care facility.

This bill would also include within the definition of a community care facility a community crisis home. The bill would define a community crisis home as a facility that has a maximum of 8 clients, conforms to certain federal regulations, is eligible for federal Medicaid home and community-based services funding, is certified by the State Department of Developmental Services, and is licensed by the State Department of Social Services as an adult residential facility. A community crisis home would provide 24-hour nonmedical care to individuals with developmental disabilities receiving regional center service, in need of crisis intervention services, and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease.

This bill would require the State Department of Developmental Services, using community placement plan funds, to establish a community-based residential option consisting of community crisis homes, as specified. The bill would authorize the State Department of Developmental Services to issue a certificate of program approval to a qualified community crisis home. The bill would also require a community crisis home to have been issued a certificate of program approval by the State Department of Developmental Services, and its plan of operation to have been approved by both the State Department of Developmental Services and the State Department of Social Services, prior to licensure by the State Department of Social Services as a community care facility. The bill would prohibit either the certificate or the license from being issued until the publication of emergency regulations by the State Department of Developmental Services, as provided.

By expanding the definition of a community care facility, this bill would change the definition of an existing crime, creating a state-mandated local program.

(2) Existing law establishes the State Department of Developmental Services and sets forth its powers and duties, including, but not limited to, the administration of state developmental centers and the administration and oversight of community programs providing services to consumers with developmental disabilities and their families.

This bill would require the department to evaluate enhanced behavioral supports homes, community crisis homes, and the acute crisis centers at the Fairview Developmental Center and the Sonoma Developmental Center, and to provide the evaluations to the budget committees and appropriate policy committees of the Legislature, as specified. The bill would require the evaluation for each facility to include specified information, including, but not limited to, comparative summary information regarding the characteristics of the persons served and their immediate past residential settings.

(3) Existing law specifies procedures for the commitment of persons with developmental disabilities to the department for purposes of placement and treatment, including, among others, that a written report be submitted to the court containing a specified evaluation of the person alleged to have

a developmental disability. Existing law requires that treatment, services, and supports be provided in natural community settings to the maximum extent possible, and authorizes the department to contract with regional centers to provide services and supports to individuals with developmental disabilities.

Under existing law, those services and supports are contained in an individual program plan, developed in accordance with prescribed requirements. Existing law also requires the department to establish a statewide specialized resource service to reduce reliance on out-of-state placements and developmental centers and mental health facilities for which federal funding is not available. Existing law requires regional centers to complete, and update annually as part of the individual program planning process for as long as the consumer resides in the developmental center, a comprehensive assessment of specified consumers residing in a developmental center and requires that this assessment be provided to the individual program planning team in order to assist the planning team in determining the least restrictive environment for the consumer. Under existing law, the regional center is required to also provide, to the extent appropriate, relevant information from the statewide specialized resource service to the individual program planning team. Existing law requires that the clients' rights advocate for the regional center be notified of each individual program plan meeting that includes discussion of the results of the assessment, and authorizes the advocate to participate in the meeting unless the consumer objects on his or her own behalf.

This bill would additionally require the regional center to provide the comprehensive assessment, or updated assessment, and relevant information from the statewide specialized resource service to the clients' rights advocate for the regional center and the superior court with jurisdiction over the consumer's placement at the developmental center, including the consumer's attorney of record and other parties known to the regional center, as specified. The bill would require the comprehensive assessment, or updated assessment, to be provided to the court as part of the report described above in specified circumstances. The bill would also require the regional center to provide a copy of the most recent comprehensive assessment or updated assessment to notify the clients' rights advocate of the time, date, and location of each individual program plan meeting that includes discussion of the results of the comprehensive assessment and updates to that assessment as soon as practicable following the completion of the comprehensive assessment or update and not less than 30 calendar days prior to the meeting.

(4) Existing law requires the confidentiality of all information and records obtained in the course of providing intake, assessment, and services pursuant to specified provisions of existing law to persons with developmental disabilities and authorizes disclosure in certain cases, including to the courts and designated parties as part of a regional center report or assessment in compliance with specified statutory or regulatory requirements.

This bill would authorize a regional center to, when a comprehensive assessment has been conducted or updated pursuant to specified provisions

of existing law, provide the assessment to the regional center clients' rights advocate.

(5) Existing law requires a regional center to immediately notify the appropriate regional resource development project, the consumer, and the consumer's parents, legal guardian, or conservator if the regional center determines, or is informed by the consumer's parents, legal guardian, conservator, or authorized representative that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, or the regional center is notified by a court of a potential admission to a developmental center.

This bill would additionally require the regional center to notify the clients' rights advocate for the regional center in the circumstances described above.

(6) Existing law generally prohibits a regional center from purchasing new residential services from institutions for mental disease, including in emergencies when a regional center cannot locate alternate services to meet the consumer's needs. Existing law requires a regional center, as soon as possible within 30 days of admission due to an emergency, to complete an assessment and convene an individual program plan meeting immediately following the assessment, to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility to the community. Existing law requires the clients' rights advocate to be notified of each admission and individual program planning meeting pursuant these provisions and authorizes the clients' rights advocate to participate in all individual program planning meetings unless the consumer objects on his or her own behalf.

This bill would require the notification to the clients' rights advocate described above to be provided as soon as practicable, but not less than 7 calendar days prior to the meeting, and require the notification to include the date, time and location of the meeting.

(7) Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families. The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act, and further requires the regional centers to comply with that act and its implementing regulations, as specified.

This bill would, beginning January 1, 2015, revise the definition of an eligible infant or toddler for purposes of eligibility for services.

(8) Existing law authorizes a regional center to pay any applicable copayment or coinsurance for a service or support required by a consumer's individual program plan if the service is paid for by the health care service plan or health insurance policy of the consumer or his or her parent, guardian, or caregiver and, among other conditions, the family or the consumer, as applicable, has an annual gross income that does not exceed 400% of the

federal poverty level. Existing law prohibits a regional center from paying health care service plan or health insurance policy deductibles.

This bill would delete that prohibition against payment of deductibles and would authorize a regional center to pay any applicable deductible for a service or support required by a consumer's individual program plan if the support or service is paid for by the health care service plan or health insurance policy of the consumer or his or her parent, guardian, or caregiver, and other specified conditions are satisfied.

(9) Existing law requires the department and regional centers to annually collaborate to determine the most appropriate methods to collect and compile meaningful data in a uniform manner, as specified, related to the payment of copayments and coinsurance by each regional center.

This bill would also require the department and regional centers to include in that collaboration the most appropriate methods to collect and compile meaningful data in a uniform manner related to the payment of deductibles by each regional center.

(10) Existing law prohibits the admission of a person to a developmental center except under certain circumstances, including when the person is experiencing an acute crisis and is committed by a court to the Fairview Developmental Center.

This bill, commencing January 1, 2015, would additionally authorize the admission of a person to the acute crisis center at Sonoma Developmental Center upon commitment by a court due to an acute crisis. The bill would require the acute crisis center at the Fairview Developmental Center and the acute crisis center at the Sonoma Developmental Center to each consist of a unit that is distinct from other residential units in the developmental center and to each serve no more than 5 residents. The bill would authorize crisis center residents to participate in day, work, and recreation programs, and other developmental center facility activities, outside of the acute crisis unit, when the individual program plan identifies it is appropriate and consistent with the individual's treatment plan. The bill would further require the acute crisis centers to assist the consumer with transitioning back to his or her residence, as specified.

(11) Existing law details a process for the transition of an individual from a developmental center to a community living arrangement, including a requirement that the department provide followup services to help ensure a smooth transition to the community. Under existing law, whenever the State Department of Developmental Services proposes the closure of a developmental center, the department is required to submit a detailed plan to the Legislature by a specified date that includes a description of the services that will no longer be provided by the center and potential job opportunities for developmental center employees and other efforts made to mitigate the effect of the closure on employees. Existing law authorizes the department to operate a facility, provide employees to assist in the operation of a facility, or provide other necessary services if the department determines that the activity will assist in meeting the goal of the orderly closures of specified developmental centers and requires the department to

annually prepare a report on the use of the department's employees in this regard. Existing law makes specified public contracting conflict-of-interest provisions inapplicable to those employees.

This bill would expand those provisions to authorize the department to operate a facility, provide employees to assist in the operation of a facility, or provide other necessary services and supports if the department determines that the activity will assist in meeting the goal of successfully transitioning developmental center residents to community living or deflecting the admission of individuals with developmental disabilities to a developmental center, an institution for mental disease, an out-of-state placement, a general acute care hospital, or an acute psychiatric hospital. The bill would require the department to annually prepare a report on the use of the department's employees in this regard, and would exempt those employees from specified public contracting conflict-of-interest provisions. The bill would also require the report to include specified recommendations.

(12) Existing law sets forth the rules relating to the liability of governmental agencies for tort injury caused by the action or omission of its officers or employees, including the operation of mental institutions or medical facilities. Existing law defines a mental institution or medical facility for purposes of those provisions to include a facility where a public employee provides services relating to the closure of specified developmental centers.

This bill would expand the definition of a "mental institution" or "medical facility" for purposes of those provisions to include a facility where a public employee provides services and supports to individuals transitioning from a developmental center to the community or to individuals at risk of admission to a developmental center, an institution for mental disease, an out-of-state placement, a general acute care hospital, or an acute psychiatric hospital.

(13) Existing law requires the department to enter into contracts with private nonprofit corporations to operate regional centers that provide community services and support for consumers and their families, including, but not limited to, residential placement. Existing law sets forth the department's and the regional center's authority to negotiate provider rates, and sets forth certain limitations. Existing law authorizes prescribed provider rate increases and prohibits others.

Existing law, commencing July 1, 2014, increases the state minimum wage to no less than \$9 per hour.

This bill would, notwithstanding existing law, authorize adjustment in prescribed provider rates commencing July 1, 2014, as necessary to adjust employee wages to meet the new state minimum wage law.

The bill would, commencing January 1, 2015, require an increase of the in-home respite service agency rate schedule and the rates for personal assistance and supported living services by 5.82%, subject to funding being appropriated for these purposes, as specified.

(14) The Budget Act of 2011 appropriated \$2,289,463,000 to the State Department of Developmental Services for regional centers, payable from the General Fund.

This bill would, notwithstanding any other law, provide that this appropriation is available for liquidation of encumbrances through June 30, 2015. The bill would also reappropriate the unencumbered balance of \$13,048,000 of that appropriation for the purposes provided for in the appropriation and make that amount available for encumbrance or expenditure until June 30, 2015, and for liquidation through June 30, 2017.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

Appropriation: yes.

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

SECTION 1. Section 854.1 of the Government Code is amended to read:

854.1. (a) It is the intent of the Legislature to ensure continuity of care for individuals with developmental disabilities transitioning from a developmental center to the community and to prevent the unnecessary institutionalization and hospitalization of these individuals.

(b) In the effort to achieve these goals, it is the intent of the Legislature to seek and implement recommendations that include all of the following services to retain developmental center staff as employees:

(1) Crisis management teams that provide behavioral, medical, and dental treatment, training, and technical assistance.

(2) Specialized services, including adaptive equipment design and fabrication, and medical, dental, psychological, and assessment services.

(3) Staff support in community homes to assist individuals with behavioral or psychiatric needs.

(c) As used in this chapter, the terms “mental institution” or “medical facility” also include a developmental services facility. For the purposes of this chapter “developmental services facility” means any facility or place where a public employee provides services and supports to individuals transitioning from a developmental center to the community or to individuals with developmental disabilities at risk of admission to a developmental center, an institution for mental disease, an out-of-state placement, a general acute care hospital, or an acute psychiatric hospital.

SEC. 2. Section 95014 of the Government Code is amended to read:

95014. (a) The term “eligible infant or toddler” for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and applicable regulations, is documented by means of assessment and

evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

(1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents. A significant difference is defined as a 33-percent delay in one developmental area before 24 months of age, or, at 24 months of age or older, either a delay of 50 percent in one developmental area or a 33-percent delay in two or more developmental areas. The age for use in determination of eligibility for the Early Intervention Program shall be the age of the infant or toddler on the date of the initial referral to the Early Intervention Program.

(2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

(b) Regional centers and local educational agencies shall be responsible for ensuring that eligible infants and toddlers are served as follows:

(1) The State Department of Developmental Services and regional centers shall be responsible for the provision of appropriate early intervention services that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all infants eligible under Section 95014, except for those infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations.

(2) The State Department of Education and local educational agencies shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations, and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(c) For infants and toddlers and their families who are eligible to receive services from both a regional center and a local educational agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local educational agencies and that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.). The local educational agency shall provide special education services up to its funded program capacity as established annually by the State Department of Education in consultation with the State Department of Developmental Services and the Department of Finance.

(d) No agency or multidisciplinary team, including any agency listed in Section 95012, shall presume or determine eligibility, including eligibility for medical services, for any other agency. However, regional centers and local educational agencies shall coordinate intake, evaluation, assessment, and individualized family service plans for infants and toddlers and their families who are served by an agency.

(e) Upon termination of the program pursuant to Section 95003, the State Department of Developmental Services shall be responsible for the payment of services pursuant to this title.

(f) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. Section 95014 is added to the Government Code, to read:

95014. (a) The term "eligible infant or toddler" for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

(1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents. A significant difference is defined as a 33-percent delay in one or more developmental areas.

(2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high

probability of leading to developmental delay if the delay is not evident at the time of diagnosis.

(3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which are diagnosed by qualified personnel recognized by, or part of, a multidisciplinary team, including the parents.

(b) Regional centers and local educational agencies shall be responsible for ensuring that eligible infants and toddlers are served as follows:

(1) The State Department of Developmental Services and regional centers shall be responsible for the provision of appropriate early intervention services that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for all infants eligible under Section 95014, except for those infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations.

(2) The State Department of Education and local educational agencies shall be responsible for the provision of appropriate early intervention services in accordance with Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) for infants with solely a visual, hearing, or severe orthopedic impairment, or any combination of those impairments, who meet the criteria in Sections 56026 and 56026.5 of the Education Code, and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of, Title 5 of the California Code of Regulations, and who are not eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(c) For infants and toddlers and their families who are eligible to receive services from both a regional center and a local educational agency, the regional center shall be the agency responsible for providing or purchasing appropriate early intervention services that are beyond the mandated responsibilities of local educational agencies and that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.). The local educational agency shall provide special education services up to its funded program capacity as established annually by the State Department of Education in consultation with the State Department of Developmental Services and the Department of Finance.

(d) No agency or multidisciplinary team, including any agency listed in Section 95012, shall presume or determine eligibility, including eligibility for medical services, for any other agency. However, regional centers and local educational agencies shall coordinate intake, evaluation, assessment, and individualized family service plans for infants and toddlers and their families who are served by an agency.

(e) Upon termination of the program pursuant to Section 95003, the State Department of Developmental Services shall be responsible for the payment of services pursuant to this title.

(f) This section shall become operative on January 1, 2015.

SEC. 4. Section 1502 of the Health and Safety Code is amended to read: 1502. As used in this chapter:

(a) “Community care facility” means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) “Residential facility” means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) “Adult day program” means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) “Foster family agency” means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) “Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions

Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) “Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) “Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) “Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a full-service adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(10) “Noncustodial adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a noncustodial adoption agency shall be accredited and

in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

(11) “Transitional shelter care facility” means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) “Transitional housing placement provider” means an organization licensed by the department pursuant to Section 1559.110 and Section 16522.1 of the Welfare and Institutions Code to provide transitional housing to foster children at least 16 years of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, to promote their transition to adulthood. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(13) “Group home” means a residential facility that provides 24-hour care and supervision to children, delivered at least in part by staff employed by the licensee in a structured environment. The care and supervision provided by a group home shall be nonmedical, except as otherwise permitted by law.

(14) “Runaway and homeless youth shelter” means a group home licensed by the department to operate a program pursuant to Section 1502.35 to provide voluntary, short-term, shelter and personal services to runaway youth or homeless youth, as defined in paragraph (2) of subdivision (a) of Section 1502.35.

(15) “Enhanced behavioral supports home” means a facility certified by the State Department of Developmental Services pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services as an adult residential facility or a group home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting. An enhanced behavioral supports home shall have a maximum capacity of four consumers, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home-and community-based services funding.

(16) “Community crisis home” means a facility certified by the State Department of Developmental Services pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80), as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center service, in need of crisis intervention services, and who would otherwise be at risk of admission to

the acute crisis center at Fairview Developmental Center, Sonoma Developmental Center, an acute general hospital, acute psychiatric hospital, an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5 of the Welfare and Institutions Code, or an out-of-state placement. A community crisis home shall have a maximum capacity of eight consumers, as defined in subdivision (a) of Section 1567.80, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(b) “Department” or “state department” means the State Department of Social Services.

(c) “Director” means the Director of Social Services.

SEC. 5. Section 1524 of the Health and Safety Code is amended to read:

1524. A license shall be forfeited by operation of law when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) (1) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(2) This subdivision shall not apply to a licensed foster family home, a home certified by a licensed foster family agency, or a home approved pursuant to Sections 309, 361.4, and 361.45 of the Welfare and Institutions Code. When a foster family home licensee, certified home parent, or a person approved to care for children pursuant to Sections 309, 361.4, and 361.45 of the Welfare and Institutions Code moves to a new location, the existing license, certification, or approval may be transferred to the new location. All caregivers to whom this paragraph applies shall be required to meet all applicable licensing laws and regulations at the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.

(f) The licensee abandons the facility.

(g) When the certification issued by the State Department of Developmental Services to a licensee of an Adult Residential Facility for Persons with Special Health Care Needs, licensed pursuant to Article 9 (commencing with Section 1567.50), is rescinded.

(h) When the certification issued by the State Department of Developmental Services to a licensee of an enhanced behavioral supports home, licensed pursuant to Article 9.5 (commencing with Section 1567.61), is rescinded.

(i) When the certificate of program approval issued by the State Department of Developmental Services, pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, to a licensee of a community crisis home, licensed pursuant to Article 9.7 (commencing with Section 1567.80), is rescinded.

SEC. 6. Article 9.5 (commencing with Section 1567.61) is added to Chapter 3 of Division 2 of the Health and Safety Code, to read:

Article 9.5. Enhanced Behavioral Supports Homes

1567.61. As used in this article the following terms apply:

(a) “Consumer” or “client” means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512 of the Welfare and Institutions Code and applicable regulations and for whom the regional center has accepted responsibility.

(b) “Individual behavior supports plan” means the plan that identifies and documents the behavior and intensive support and service needs of a consumer and details the strategies to be employed and services to be provided to address those needs, and includes the entity responsible for providing those services and timelines for when each identified individual behavior support will commence.

(c) “Individual behavior supports team” means those individuals who develop, monitor, and revise the individual behavior supports plan for consumers residing in an enhanced behavioral supports home, pursuant to subdivision (d) of Section 4684.80 of the Welfare and Institutions Code.

1567.62. (a) Each enhanced behavioral supports home shall be licensed as an adult residential facility or a group home and certified by the State Department of Developmental Services.

(b) A certificate of program approval issued by the State Department of Developmental Services shall be a condition of licensure for the enhanced behavioral supports home by the State Department of Social Services.

(c) An enhanced behavioral supports home shall not be licensed by the State Department of Social Services until the certificate of program approval, granted by the State Department of Developmental Services, has been received.

(d) Placements of dual agency clients into enhanced behavioral supports homes that are licensed as group homes shall be subject to the limitations on the duration of the placement set forth in Sections 319.2 and 319.3 of, and subparagraph (A) of paragraph (8) and subparagraph (A) of paragraph (9) of subdivision (e) of Section 361.2 of, the Welfare and Institutions Code.

(e) For the purpose of this article, dual agency clients are foster children in temporary custody of the child welfare agency under Section 319 of the

Welfare and Institutions Code or under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code who are also either a consumer of regional center services, or who are receiving services under the California Early Intervention Services Act (Title 14 (the age of commencing with Section 45000) of the Government Code) but who are under three years of age and have not yet been determined to have a developmental disability.

(f) The State Department of Social Services shall not be responsible for any of the following:

(1) Developing and approving a consumer's individual behavior supports plan in conjunction with the consumer's individual behavior supports team.

(2) (A) Oversight of any services that may be provided by a licensed health professional or licensed mental health professional to a consumer.

(B) Services provided by a licensed health or licensed mental health professional means services that may only be provided under the authority of the licensed health service provider's or licensed mental health service provider's professional license.

(g) Subdivision (f) shall not limit the State Department of Social Services' ability to enforce Chapter 3 (commencing with Section 1500), and applicable regulations.

1567.63. The license applicant shall submit a facility program plan to the State Department of Developmental Services for approval and submit the approved plan to the State Department of Social Services as part of the facility plan of operation. The plan of operation shall be approved by the State Department of Social Services prior to licensure.

1567.64. The State Department of Social Services shall adopt regulations to address, at a minimum, staffing structure, staff qualifications, and training. Training requirements shall include a minimum of 16 hours of emergency intervention training. "Emergency intervention training" means the techniques the licensee will use to prevent injury to, and maintain safety for, consumers who are a danger to themselves or others and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraints.

1567.65. If the State Department of Social Services determines that urgent action is necessary to protect a consumer residing in an enhanced behavioral supports home from physical or mental abuse, abandonment, or any other substantial threat to their health and safety, the State Department of Social Services shall notify the State Department of Developmental Services. The State Department of Developmental Services may request that the regional center or centers take action within 24 hours, which may include, as appropriate, the removal of a consumer from the enhanced behavioral supports home or obtaining alternative or additional services. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section.

1567.66. An enhanced behavioral supports home employing secured perimeters shall comply with Section 1531.15 and applicable regulations.

1567.67. (a) The State Department of Social Services shall revoke the enhanced behavioral supports home's facility license if the State Department of Developmental Services has decertified an enhanced behavioral supports home program certification pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code.

(b) The State Department of Developmental Services and regional centers shall, for purposes of assisting in licensing, provide the State Department of Social Services with all available documentation and evidentiary support that was submitted to the State Department of Developmental Services in connection with certification by an applicant for licensure under this article.

1567.68. (a) A license shall not be issued pursuant to this article before emergency regulations for this article filed by the State Department of Developmental Services have been published.

(b) Emergency regulations to implement this article may be adopted by the director of the State Department of Social Services in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). These regulations shall be developed in consultation with system stakeholders. The initial adoption of the emergency regulations and one re-adoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first re-adoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(c) The adoption, initial amendment, repeal, or re-adoption of a regulation authorized by this section is deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Social Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section. The emergency regulations may be re-adopted and remain in effect until approval of the certificate of compliance.

1567.69. Nothing in this article shall interfere with the authority of the State Department of Social Services to temporarily suspend or revoke the license of an enhanced behavioral supports home pursuant to Section 1550 of the Health and Safety Code.

1567.70. This article shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 7. Article 9.7 (commencing with Section 1567.80) is added to Chapter 3 of Division 2 of the Health and Safety Code, to read:

Article 9.7. Community Crisis Home Licensure

1567.80. For the purposes of this article, the following definitions apply:

(a) “Consumer” or “client” means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512 of the Welfare and Institutions Code and applicable regulations, and for whom the regional center has accepted responsibility.

(b) “Individual behavior support plan” means the plan that identifies and documents the behavioral and intensive support and service needs of a consumer and details the strategies to be employed, and services to be provided, to address those needs, and includes the entity responsible for providing those services and timelines for when each identified individual behavioral support will commence.

1567.81. (a) (1) Each community crisis home shall be licensed as an adult residential facility, pursuant to this article, and certified by the State Department of Developmental Services, pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code.

(2) Notwithstanding whether a community crisis home is licensed for more than six consumers, subdivisions (a) and (b) of Section 1524.5 shall apply.

(b) A certificate of program approval issued by the State Department of Developmental Services, pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, shall be a condition of licensure for the community crisis home by the State Department of Social Services.

(c) A community crisis home shall not be licensed by the State Department of Social Services until the certificate of program approval, issued by the State Department of Developmental Services, has been received.

(d) The State Department of Social Services shall not be responsible for any of the following:

(1) Developing and approving a consumer’s individual behavior support plan in conjunction with the consumer’s individual behavior support team.

(2) Oversight of any services that may be provided by a licensed health or licensed mental health professional to a consumer. “Services provided by a licensed health or licensed mental health professional” means services that may only be provided under the authority of the licensed health or licensed mental health service provider’s professional license.

(e) Subdivision (d) does not limit the State Department of Social Services’ ability to enforce this chapter and applicable regulations.

1567.82. The State Department of Social Services’ regulations shall address at least both of the following:

(a) Staffing structure, staff qualifications, and training.

(b) Training requirements shall include a minimum of 16 hours of emergency intervention training. “Emergency intervention training” shall include the techniques the licensee will use to prevent injury and maintain safety regarding consumers who are a danger to self or others and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraints.

1567.83. (a) When the State Department of Social Services determines that urgent action is necessary to protect consumers residing in a community crisis home from physical or mental abuse, abandonment, or any other substantial threat to their health and safety, the State Department of Social Services shall notify the State Department of Developmental Services. The State Department of Developmental Services may request that the regional center or centers take action within 24 hours, which may include, as appropriate, the removal of a consumer from the community crisis home or obtaining alternative or additional services. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section.

(b) Nothing in this article shall interfere with the authority of the State Department of Social Services to temporarily suspend or revoke the license of a community crisis home pursuant to Section 1550.

1567.84. The licensee shall submit the facility program plan approved by the State Department of Developmental Services, pursuant to Section 4698 of the Welfare and Institutions Code, to the State Department of Social Services as part of the facility plan of operation. The plan of operation shall be approved by the State Department of Social Services prior to licensure.

1567.85. If applicable, a community crisis home shall be in compliance with Section 1531.15 and the applicable regulations.

1567.86. (a) The State Department of Social Services shall revoke the community crisis home’s facility license if the State Department of Developmental Services has rescinded a community crisis home’s certificate of program approval.

(b) The State Department of Developmental Services and regional centers shall provide the State Department of Social Services all available documentation and evidentiary support necessary for the licensing and administration of community crisis homes and enforcement of this article and the applicable regulations.

1567.87. (a) A license shall not be issued pursuant to this article until the publication in Title 17 of the California Code of Regulations of emergency regulations filed by the State Department of Developmental Services pursuant to Section 4698.1 of the Welfare and Institutions Code.

(b) Emergency regulations to implement this article may be adopted by the Director of Social Services in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). These emergency regulations shall be developed in consultation with system stakeholders. The initial

adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

(c) The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Social Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section. The emergency regulations may be readopted and remain in effect until approval of the certificate of compliance.

SEC. 8. Section 4418.25 of the Welfare and Institutions Code is amended to read:

4418.25. (a) The department shall establish policies and procedures for the development of an annual community placement plan by regional centers. The community placement plan shall be based upon an individual program plan process as referred to in subdivision (a) of Section 4418.3 and shall be linked to the development of the annual State Budget. The department's policies shall address statewide priorities, plan requirements, and the statutory roles of regional centers, developmental centers, and regional resource development projects in the process of assessing consumers for community living and in the development of community resources.

(b) (1) To reduce reliance on developmental centers and mental health facilities, including institutions for mental disease as described in Part 5 (commencing with Section 5900) of Division 5, for which federal funding is not available, and out-of-state placements, the department shall establish a statewide specialized resource service that does all of the following:

(A) Tracks the availability of specialty residential beds and services.

(B) Tracks the availability of specialty clinical services.

(C) Coordinates the need for specialty services and supports in conjunction with regional centers.

(D) Identifies, subject to federal reimbursement, developmental center services and supports that can be made available to consumers residing in the community, when no other community resource has been identified.

(2) By September 1, 2012, regional centers shall provide the department with information about all specialty resources developed with the use of community placement plan funds and shall make these resources available to other regional centers.

(3) When allocating funding for community placement plans, priority shall be given to the development of needed statewide specialty services and supports, including regional community crisis homes.

(4) If approved by the director, funding may be allocated to facilities that meet the criteria of Sections 1267.75 and 1531.15 of the Health and Safety Code.

(5) The department shall not provide community placement plan funds to develop programs that are ineligible for federal funding participation unless approved by the director.

(c) (1) The community placement plan shall provide for dedicated funding for comprehensive assessments of developmental center residents, for identified costs of moving individuals from developmental centers to the community, and for deflection of individuals from developmental center admission. The plans shall, where appropriate, include budget requests for regional center operations, assessments, resource development, and ongoing placement costs. These budget requests are intended to provide supplemental funding to regional centers. The plan is not intended to limit the department's or regional centers' responsibility to otherwise conduct assessments and individualized program planning, and to provide needed services and supports in the least restrictive, most integrated setting in accord with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(2) (A) Regional centers shall complete a comprehensive assessment of any consumer residing in a developmental center on July 1, 2012, who meets both of the following criteria:

(i) The consumer is not committed pursuant to Section 1370.1 of the Penal Code.

(ii) The consumer has not had such an assessment in the prior two years.

(B) The assessment shall include input from the regional center, the consumer, and, when appropriate, the consumer's family, legal guardian, conservator, or authorized representative, and shall identify the types of community-based services and supports available to the consumer that would enable the consumer to move to a community setting. Necessary services and supports not currently available in the community setting shall be considered for development pursuant to community placement planning and funding.

(C) Regional centers shall specify in the annual community placement plan how they will complete the required assessment and the timeframe for completing the assessment for each consumer. Initial assessments pursuant to this paragraph for individuals residing in a developmental center on July 1, 2012, shall be completed by December 31, 2015, unless a regional center demonstrates to the department that an extension of time is necessary and the department grants such an extension.

(D) The assessment completed in the prior two years, or the assessment completed pursuant to the requirements of this section, including any updates pursuant to subparagraph (E), shall be provided to both of the following:

(i) The individual program planning team and clients' rights advocate for the regional center in order to assist the planning team in determining the least restrictive environment for the consumer.

(ii) The superior court with jurisdiction over the consumer's placement at the developmental center, including the consumer's attorney of record and other parties known to the regional center. For judicial proceedings pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6, the comprehensive assessment shall be included in the regional center's written report required by Section 6504.5. For all other proceedings, the regional center shall provide the comprehensive assessment to the court and parties to the case at least 14 days in advance of any regularly scheduled judicial review. This clause shall not apply to consumers committed pursuant to Section 1370.1 of the Penal Code.

(E) The assessments described in subparagraph (D) shall be updated annually as part of the individual program planning process for as long as the consumer resides in the developmental center. To the extent appropriate, the regional center shall also provide relevant information from the statewide specialized resource service. The regional center shall notify the clients' rights advocate for the regional center of the time, date, and location of each individual program plan meeting that includes discussion of the results of the comprehensive assessment and updates to that assessment. The regional center shall provide this notice as soon as practicable following the completion of the comprehensive assessment or update and not less than 30 calendar days prior to the meeting. The clients' rights advocate may participate in the meeting unless the consumer objects on his or her own behalf.

(d) The department shall review, negotiate, and approve regional center community placement plans for feasibility and reasonableness, including recognition of each regional centers' current developmental center population and their corresponding placement level, as well as each regional centers' need to develop new and innovative service models. The department shall hold regional centers accountable for the development and implementation of their approved plans. The regional centers shall report, as required by the department, on the outcomes of their plans. The department shall make aggregate performance data for each regional center available, upon request, as well as data on admissions to, and placements from, each developmental center.

(e) Funds allocated by the department to a regional center for a community placement plan developed under this section shall be controlled through the regional center contract to ensure that the funds are expended for the purposes allocated. Funds allocated for community placement plans that are not used for that purpose may be transferred to Item 4300-003-0001 for expenditure in the state developmental centers if their population exceeds the budgeted level. Any unspent funds shall revert to the General Fund.

(f) Commencing May 1, 2013, and then on April 1, 2014, and on April 1 annually thereafter, the department shall provide to the fiscal and appropriate policy committees of the Legislature information on efforts to

serve consumers with challenging service needs, including, but not limited to, all of the following:

(1) For each regional center, the number of consumers admitted to each developmental center, including the legal basis for the admissions.

(2) For each regional center, the number of consumers described in paragraph (2) of subdivision (a) of Section 7505 who were admitted to Fairview Developmental Center by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6, and the number and lengths of stay of consumers, including those who have transitioned back to a community living arrangement.

(3) Outcome data related to the assessment process set forth in Section 4418.7, including the number of consumers who received assessments pursuant to Section 4418.7 and the outcomes of the assessments. Each regional center, commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter, shall provide the department with information on alternative community services and supports provided to those consumers who were able to remain in the community following the assessments, and the unmet service needs that resulted in any consumers being admitted to Fairview Developmental Center.

(4) Progress in the development of needed statewide specialty services and supports, including regional community crisis options, as provided in paragraph (3) of subdivision (b). Each regional center shall provide the department with a report containing the information described in this paragraph commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter.

(5) Progress in reducing reliance on mental health facilities ineligible for federal Medicaid funding, and out-of-state placements.

(6) Information on the utilization of facilities serving consumers with challenging service needs that utilize delayed egress devices and secured perimeters, pursuant to Section 1267.75 or 1531.15 of the Health and Safety Code, including the number of admissions, reasons for admissions, and lengths of stay of consumers, including those who have transitioned to less restrictive living arrangements.

(7) If applicable, any recommendations regarding additional rate exceptions or modifications beyond those allowed for under existing law that the department identifies as necessary to meet the needs of consumers with challenging service needs.

(g) Each regional center, commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter, shall provide information to the department regarding the facilities described in paragraph (6) of subdivision (f), including, but not limited to, the number of admissions, reasons for admissions, and lengths of stay of consumers, including those who have transitioned to less restrictive living arrangements.

SEC. 9. Section 4418.7 of the Welfare and Institutions Code is amended to read:

4418.7. (a) (1) If the regional center determines, or is informed by the consumer's parents, legal guardian, conservator, or authorized representative

that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, or the regional center is notified by a court of a potential admission to a developmental center consistent with Section 7505, the regional center shall immediately notify the appropriate regional resource development project, the consumer, the consumer's parents, legal guardian, or conservator, and the regional center clients' rights advocate.

(2) For purposes of this section, notification to the clients' rights advocate for the consumer's regional center shall include a copy of the most recent comprehensive assessment or updated assessment, and the time, date, and location of an individual program plan meeting held pursuant to subdivision (b). The regional center shall provide this notice as soon as practicable but not less than seven calendar days prior to the meeting.

(b) In these cases, the regional resource development project shall immediately arrange for an assessment of the situation, including, visiting the consumer, if appropriate, determining barriers to successful integration, and recommending the most appropriate means necessary to assist the consumer to remain in the community. The regional center shall request assistance from the statewide specialized resource service pursuant to Section 4418.25 as necessary in order to determine the most appropriate means necessary to assist the consumer to remain in the community and shall provide the information obtained from the statewide specialized resource service to the regional resource developmental project. If, based on the assessment, the regional resource development project determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports on an emergency basis. An individual program plan meeting, including the regional resource development project's representative, shall be convened as soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports. The regional resource development project shall follow up with the regional center as to the success of the recommended interventions until the consumer's living arrangement is stable.

(c) (1) If the regional resource development project determines, based on the assessment conducted pursuant to subdivision (b), that the consumer referred to the regional resource development project by the court cannot be safely served in the developmental center, the department shall notify the court in writing.

(2) (A) If the regional resource development project, in consultation with the regional center, the consumer, and the consumer's parents, legal guardian, or conservator, when appropriate, determines that admittance to a state developmental center is necessary due to an acute crisis, as defined in paragraph (1) of subdivision (d), the regional center shall immediately pursue the obtainment of a court order for short-term admission and crisis stabilization.

(B) (i) The regional resource development project, in consultation with the regional center, the consumer, and, when appropriate, the consumer's

parents, legal guardian, conservator, or authorized representative, shall not make a determination that admittance to a state developmental center is necessary due to an acute crisis as defined in paragraph (1) of subdivision (d) unless the determination includes a regional center report detailing all considered community-based services and supports, including a community crisis home certified pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5, and an explanation of why those options could not meet the consumer's needs at the time of such a determination.

(ii) For purposes of complying with clause (i), the regional center shall not be required to consider out-of-state placements or mental health facilities, including institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, that are ineligible for federal Medicaid funding.

(d) (1) For purposes of this section, an "acute crisis" means a situation in which the consumer meets the criteria of Section 6500 and, as a result of the consumer's behavior, all of the following are met:

(A) There is imminent risk for substantial harm to self or others.

(B) The service and support needs of the consumer cannot be met in the community, including with supplemental services as set forth in subparagraph (E) of paragraph (9) of subdivision (a) of Section 4648 and emergency and crisis intervention services as set forth in paragraph (10) of subdivision (a) of Section 4648.

(C) Due to serious and potentially life-threatening conditions, the consumer requires a more restrictive environment for crisis stabilization.

(2) For purposes of paragraph (1), out-of-state placements or mental health facilities and other facilities, including institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding is not available, shall not be deemed to be supplemental services or emergency and crisis intervention services.

(e) When an admission occurs due to an acute crisis, all of the following shall apply:

(1) As soon as possible following admission to a developmental center, a comprehensive assessment shall be completed by the regional center in coordination with the developmental center. The comprehensive assessment shall include the identification of the services and supports needed for crisis stabilization and the timeline for identifying or developing the services and supports needed to transition the consumer back to the community. The regional center shall immediately submit a copy of the comprehensive assessment to the committing court. Immediately following the assessment, and not later than 30 days following admission, the regional center and the developmental center shall jointly convene an individual program plan meeting to determine the services and supports needed for crisis stabilization and to develop a plan to transition the consumer into community living pursuant to Section 4418.3. The clients' rights advocate for the regional center shall be notified of the admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(2) If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of crisis stabilization. If crisis services continue to be necessary, the regional center shall submit to the department an updated transition plan and a request for an extension of stay at the developmental center of up to 90 days.

(3) (A) A consumer shall reside in the developmental center no longer than six months before being placed into a community living arrangement pursuant to Section 4418.3, unless, prior to the end of the six months, all of the following have occurred:

(i) The regional center has conducted an additional comprehensive assessment based on information provided by the regional center, and the department determines that the consumer continues to be in an acute crisis.

(ii) The individual program planning team has developed a plan that identifies the specific services and supports necessary to transition the consumer into the community, and the plan includes a timeline to obtain or develop those services and supports.

(iii) The committing court has reviewed and, if appropriate, extended the commitment.

(B) The clients' rights advocate for the regional center shall be notified of the proposed extension pursuant to clause (iii) of subparagraph (A) and the individual program plan meeting to consider the extension, and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(C) (i) In no event shall a consumer's placement at the developmental center exceed one year unless both of the following occur:

(I) The regional center demonstrates significant progress toward implementing the plan specified in clause (ii) of subparagraph (A) identifying the specific services and supports necessary to transition the consumer into the community.

(II) Extraordinary circumstances exist beyond the regional center's control that have prevented the regional center from obtaining those services and supports within the timeline based on the plan.

(ii) If both of the circumstances described in subclauses (I) and (II) exist, the regional center may request, and the committing court may grant, an additional extension of the commitment, not to exceed 30 days.

(D) Consumers placed in the community after admission to a developmental center pursuant to this section shall be considered to have moved from a developmental center for purposes of Section 4640.6.

(f) The department shall collect data on the outcomes of efforts to assist at-risk consumers to remain in the community. The department shall make aggregate data on the implementation of the requirements of this section available, upon request.

(g) (1) Notwithstanding any other law or regulation, commencing July 1, 2012, and until December 31, 2014, Fairview Developmental Center shall be the only developmental center authorized to admit a consumer pursuant to a court order for an acute crisis as described in this section.

(2) Commencing January 1, 2015, admissions to a developmental center pursuant to a court order for an acute crisis as described in this section shall be limited to the acute crisis center at the Fairview Developmental Center and the acute crisis center at the Sonoma Developmental Center.

(h) The acute crisis center at the Fairview Developmental Center and the acute crisis center at the Sonoma Developmental Center shall each consist of one unit that is distinct from other residential units at the developmental center and shall each serve no more than five consumers. Crisis center residents may participate in day, work, and recreation programs, and other developmental center facility activities, outside of the acute crisis unit, when the individual program plan identifies it is appropriate and consistent with the individual's treatment plan. The acute crisis centers shall assist the consumer with transitioning back to his or her prior residence, or an alternative community-based residential setting, within the timeframe described in this section.

SEC. 10. Section 4436 is added to the Welfare and Institutions Code, to read:

4436. (a) In order to provide the information necessary to assess the impact of implementing the recommendations of the report submitted by the California Health and Human Services Agency, pursuant to Section 14 of Chapter 25 of the Statutes of 2013, the State Department of Developmental Services shall evaluate enhanced behavioral supports homes, established pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5, community crisis homes, established pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5, and the acute crisis centers at the Fairview Developmental Center and the Sonoma Developmental Center, as described in subdivision (h) of Section 4418.7.

(b) The evaluation for enhanced behavioral supports homes and community crisis homes shall include information, by regional center catchment area, regarding the number of homes approved, the number of homes opened, the number of beds, the number of placements in a home from outside the regional center catchment area, comparative summary information regarding the characteristics of the persons served in these homes, immediate past residential settings, vacancy rates, and the established fixed facility rates and individual rates.

(c) The evaluation for community crisis homes and the acute crisis centers at the Fairview Developmental Center and the Sonoma Developmental Center shall include comparative information regarding characteristics of the persons served, immediate past residential settings, staffing requirements, the average monthly occupancy, the average length of time to secure placement into the home or center, the average length of stay, the regional center of origin for placements, the number of placements from outside the regional center of origin, the number of individuals with multiple stays, the number of residents whose discharge was delayed due to the unavailability of a residential placement, and the per capita and total cost for each home or center.

(d) The evaluation for enhanced behavioral supports homes shall also include the number of beds in the homes utilizing delayed egress devices in combination with secured perimeters, the extent to which the statewide limit established in regulation on the total number of beds permitted in homes with delayed egress devices in combination with secured perimeters is exceeded, the number of residents requiring out-of-home crisis intervention services, the nature of the services provided, and the ability of residents to return to the same home after temporary placement in another facility.

(e) (1) Notwithstanding Section 10231.5 of the Government Code, the department shall provide the evaluations of enhanced behavioral supports homes and community crisis homes to the budget committees and appropriate policy committees of the Legislature annually, commencing on January 10 of the year after the first enhanced behavioral supports home or community crisis home is opened and services have commenced.

(2) Notwithstanding Section 10231.5 of the Government Code, the department shall provide the evaluations for the acute crisis centers at the following facilities to the budget committees and appropriate policy committees of the Legislature annually:

(A) The Fairview Developmental Center, commencing on January 10, 2015.

(B) The Sonoma Developmental Center, commencing on January 10, 2016.

SEC. 11. Section 4474.2 of the Welfare and Institutions Code is amended to read:

4474.2. (a) Notwithstanding any other law, the department may operate any facility, provide its employees to assist in the operation of any facility, or provide other necessary services and supports if, in the discretion of the department, it determines that the activity will assist in meeting the goal of successfully transitioning developmental center residents to community living or deflecting the admission of individuals with developmental disabilities to a developmental center, an institution for mental disease, an out-of-state placement, a general acute care hospital, or an acute psychiatric hospital. The department may contract with any entity for the use of the department's employees to provide services and supports in furtherance of this goal.

(b) The department shall prepare a report on the use of the department's employees in providing services in the community pursuant to this section. The report shall include data on the number and classification of state employees working in the community program. The report shall include recommendations on whether the program should be continued or ways in which the program may be improved. Notwithstanding Section 10231.5 of the Government Code, the report shall be submitted with the Governor's proposed budget for the 2015–16 fiscal year to the fiscal committees of both houses of the Legislature and annually thereafter.

SEC. 12. Section 4474.3 of the Welfare and Institutions Code is amended to read:

4474.3. The provisions of Section 10411 of the Public Contract Code shall not apply to any person who provides developmental services and supports to individuals transitioning from a developmental center to community living or to individuals with developmental disabilities at risk of admission to a developmental center, an institution for mental disease, an out-of-state placement, a general acute care hospital, or an acute psychiatric hospital, pursuant to Section 4474.2.

SEC. 13. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vended by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that this chapter shall not be construed to compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, dependent ward, or conservatee, and his or her parent, guardian, conservator, limited conservator with access to confidential records, or authorized representative, designates, in writing, persons to whom records or information may be disclosed, except that this chapter shall not be construed to compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in

confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, if the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

“ _____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person’s parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, and Section 6502 of the Welfare and Institutions Code.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that this article shall

not be construed to compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on “multidisciplinary personnel” teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident that is not related to the diagnosis and treatment of the resident’s physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Public Health, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure

that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Public Health or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Public Health or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Public Health or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board that licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) (1) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in any provision listed in Section 16590 of the Penal Code.

(2) This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the

patient or the circumstances of his or her treatment unless relevant to the crime involved.

(3) This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Division of Juvenile Facilities and Department of Corrections and Rehabilitation or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

(t) (1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or

the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final except for the actual records and documents submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(4) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing

authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

(u) To the person appointed as the developmental services decisionmaker for a minor, dependent, or ward pursuant to Section 319, 361, or 726.

(v) To a protection and advocacy agency established pursuant to Section 4901, to the extent that the information is incorporated within any of the following:

(1) An unredacted facility evaluation report form or an unredacted complaint investigation report form of the State Department of Social Services. This information shall remain confidential and subject to the confidentiality requirements of subdivision (f) of Section 4903.

(2) An unredacted citation report, unredacted licensing report, unredacted survey report, unredacted plan of correction, or unredacted statement of deficiency of the State Department of Public Health, prepared by authorized licensing personnel or authorized representatives described in subdivision (n). This information shall remain confidential and subject to the confidentiality requirements of subdivision (f) of Section 4903.

(w) When a comprehensive assessment is conducted or updated pursuant to Section 4418.25, 4418.7, or 4648, a regional center is authorized to provide the assessment to the regional center clients' rights advocate, who provides service pursuant to Section 4433.

SEC. 14. Section 4519.6 of the Welfare and Institutions Code is amended to read:

4519.6. The department and the regional centers shall annually collaborate to determine the most appropriate methods to collect and compile meaningful data in a uniform manner, as specified in Section 4519.5, related to the payment of copayments, coinsurance, and deductibles by each regional center.

SEC. 15. Section 4648 of the Welfare and Institutions Code is amended to read:

4648. In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities, including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with

developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.

(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or any part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department, regional centers, vendors and the individual or agency requesting vendorization.

(C) Regulations shall include, but not be limited to: the vendor application process, and the basis for accepting or denying an application; the qualification and requirements for each category of services that may be provided to a regional center consumer through a vendor; requirements for emergency vendorization; procedures for termination of vendorization; the procedure for an individual or an agency to appeal any vendorization decision made by the department or regional center.

(D) A regional center may vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity. A facility already licensed on January 1, 1999, shall continue to be vendorized at their full licensed capacity until the facility agrees to vendorization at a reduced capacity.

(E) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not newly vendor a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, unless the facility qualifies for receipt of federal funds under the Medicaid Program.

(4) Notwithstanding subparagraph (B) of paragraph (3), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, any provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

(5) In order to ensure the maximum flexibility and availability of appropriate services and supports for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of services and supports identified as necessary to the implementation of a consumer's individual program plan. The system of payment shall include provision for a rate to ensure that the provider can meet the special needs of consumers and provide quality services and supports in the least restrictive setting as required by law.

(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) Where appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available, shall be reviewed, and the least costly available provider of comparable service, including the cost of transportation, who is able to accomplish all or part of the consumer's individual program plan, consistent with the particular needs of the consumer and family as identified in the individual program plan, shall be selected. In determining the least costly provider, the availability of federal financial participation shall be considered. The consumer shall not be required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

(E) The consumer's choice of providers, or, where appropriate, the consumer's parent's, legal guardian's, authorized representative's, or conservator's choice of providers.

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those

appointed pursuant to subdivision (d) of Section 4548, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

(8) Regional center funds shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

(9) (A) A regional center may, directly or through an agency acting on behalf of the center, provide placement in, purchase of, or follow-along services to persons with developmental disabilities in, appropriate community living arrangements, including, but not limited to, support service for consumers in homes they own or lease, foster family placements, health care facilities, and licensed community care facilities. In considering appropriate placement alternatives for children with developmental disabilities, approval by the child's parent or guardian shall be obtained before placement is made.

(B) Effective July 1, 2012, notwithstanding any other law or regulation to the contrary, a regional center shall not purchase residential services from a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds. This prohibition on regional center purchase of residential services shall not apply to any of the following:

(i) A residential facility with a licensed capacity of 16 or more beds that has been approved to participate in the department's Home and Community Based Services Waiver or another existing waiver program or certified to participate in the Medi-Cal program.

(ii) A residential facility service provider that has a written agreement and specific plan prior to July 1, 2012, with the vendoring regional center to downsize the existing facility by transitioning its residential services to living arrangements of 15 beds or less or restructure the large facility to meet federal Medicaid eligibility requirements on or before June 30, 2013.

(iii) A residential facility licensed as a mental health rehabilitation center by the State Department of Mental Health or successor agency under any of the following circumstances:

(I) The facility is eligible for Medicaid reimbursement.

(II) The facility has a department-approved plan in place by June 30, 2013, to transition to a program structure eligible for federal Medicaid funding, and this transition will be completed by June 30, 2014. The department may grant an extension for the date by which the transition will be completed if the facility demonstrates that it has made significant progress toward transition, and states with specificity the timeframe by which the transition will be completed and the specified steps that will be taken to accomplish the transition. A regional center may pay for the costs of care and treatment of a consumer residing in the facility on June 30, 2012, until June 30, 2013, inclusive, and, if the facility has a department-approved plan

in place by June 30, 2013, may continue to pay the costs under this subparagraph until June 30, 2014, or until the end of any period during which the department has granted an extension.

(III) There is an emergency circumstance in which the regional center determines that it cannot locate alternate federally eligible services to meet the consumer's needs. Under such an emergency circumstance, an assessment shall be completed by the regional center as soon as possible and within 30 days of admission. An individual program plan meeting shall be convened immediately following the assessment to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility into the community. If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of placement in the facility. Commencing October 1, 2012, this determination shall be made after also considering resource options identified by the statewide specialized resource service. If it is determined that emergency services continue to be necessary, the regional center shall submit an updated transition plan that can cover a period of up to 90 days. In no event shall placements under these emergency circumstances exceed 180 days.

(C) (i) Effective July 1, 2012, notwithstanding any other law or regulation to the contrary, a regional center shall not purchase new residential services from, or place a consumer in, institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding is not available. Effective July 1, 2013, this prohibition applies regardless of the availability of federal funding.

(ii) The prohibition described in clause (i) shall not apply to emergencies, as determined by the regional center, when a regional center cannot locate alternate services to meet the consumer's needs. As soon as possible within 30 days of admission due to an emergency, an assessment shall be completed by the regional center. An individual program plan meeting shall be convened immediately following the assessment, to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility to the community. If transition is not expected within 90 days of admission, an emergency program plan meeting shall be held to discuss the status of the transition and to determine if the consumer is still in need of placement in the facility. If emergency services continue to be necessary, the regional center shall submit an updated transition plan to the department for an extension of up to 90 days. Placement shall not exceed 180 days.

(iii) To the extent feasible, prior to any admission, the regional center shall consider resource options identified by the statewide specialized resource service established pursuant to subdivision (b) of Section 4418.25.

(iv) The clients' rights advocate shall be notified of each admission and individual program planning meeting pursuant to this subparagraph and may participate in all individual program planning meetings unless the consumer objects on his or her own behalf. For purposes of this clause,

notification to the clients' rights advocate shall include a copy of the most recent comprehensive assessment or updated assessment and the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(v) Regional centers shall complete a comprehensive assessment of any consumer residing in an institution for mental disease as of July 1, 2012, for which federal Medicaid funding is not available, and for any consumer residing in an institution for mental disease as of July 1, 2013, without regard to federal funding. The comprehensive assessment shall be completed prior to the consumer's next scheduled individual program plan meeting and shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to the community. Effective October 1, 2012, the regional center shall also consider resource options identified by the statewide specialized resource service. For each individual program plan meeting convened pursuant to this subparagraph, the clients' rights advocate for the regional center shall be notified of the meeting and may participate in the meeting unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(D) Each person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audiotapes, when necessary to meet the communication needs of consumers.

(E) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with developmental disabilities in the living arrangement of their own choice. Crisis services shall first be provided without disrupting a person's living arrangement. If crisis intervention services are unsuccessful, emergency housing shall be available in the person's home community. If dislocation cannot be avoided, every effort shall be made to return the person to his or her living arrangement of choice, with all necessary supports, as soon as possible.

(11) Among other service and support options, planning teams shall consider the use of paid roommates or neighbors, personal assistance, technical and financial assistance, and all other service and support options which would result in greater self-sufficiency for the consumer and cost-effectiveness to the state.

(12) When facilitation as specified in an individual program plan requires the services of an individual, the facilitator shall be of the consumer's choosing.

(13) The community support may be provided to assist individuals with developmental disabilities to fully participate in community and civic life, including, but not limited to, programs, services, work opportunities, business, and activities available to persons without disabilities. This facilitation shall include, but not be limited to, any of the following:

(A) Outreach and education to programs and services within the community.

(B) Direct support to individuals which would enable them to more fully participate in their community.

(C) Developing unpaid natural supports when possible.

(14) When feasible and recommended by the individual program planning team, for purposes of facilitating better and cost-effective services for consumers or family members, technology, including telecommunication technology, may be used in conjunction with other services and supports. Technology in lieu of a consumer's in-person appearances at judicial proceedings or administrative due process hearings may be used only if the consumer or, when appropriate, the consumer's parent, legal guardian, conservator, or authorized representative, gives informed consent. Technology may be used in lieu of, or in conjunction with, in-person training for providers, as appropriate.

(15) Other services and supports may be provided as set forth in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

(16) Notwithstanding any other provision of law or regulation to the contrary, effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice. For regional center consumers receiving these services as part of

their individual program plan (IPP) or individualized family service plan (IFSP) on July 1, 2009, this prohibition shall apply on August 1, 2009.

(b) (1) Advocacy for, and protection of, the civil, legal, and service rights of persons with developmental disabilities as established in this division.

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, when appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that agency or individual provider in upgrading the quality of services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority, or request the area board to investigate the possible noncompliance.

(e) When necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) Where there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

(h) At least annually, regional centers shall provide the consumer, his or her parents, legal guardian, conservator, or authorized representative a statement of services and supports the regional center purchased for the

purpose of ensuring that they are delivered. The statement shall include the type, unit, month, and cost of services and supports purchased.

SEC. 16. Section 4659.1 of the Welfare and Institutions Code is amended to read:

4659.1. (a) If a service or support provided pursuant to a consumer's individual program plan under this division or individualized family service plan pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) is paid for, in whole or in part, by the health care service plan or health insurance policy of the consumer's parent, guardian, or caregiver, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the parent, guardian, or caregiver is responsible if all of the following conditions are met:

(1) The consumer is covered by his or her parent's, guardian's, or caregiver's health care service plan or health insurance policy.

(2) The family has an annual gross income that does not exceed 400 percent of the federal poverty level.

(3) There is no other third party having liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10).

(b) If a service or support provided to a consumer 18 years of age or older, pursuant to his or her individual program plan, is paid for in whole or in part by the consumer's health care service plan or health insurance policy, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the consumer is responsible if both of the following conditions are met:

(1) The consumer has an annual gross income that does not exceed 400 percent of the federal poverty level.

(2) There is no other third party having liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10).

(c) Notwithstanding paragraph (2) of subdivision (a) or paragraph (1) of subdivision (b), a regional center may pay a copayment, coinsurance, or deductible associated with the health care service plan or health insurance policy for a service or support provided pursuant to a consumer's individual program plan or individualized family service plan if the family's or consumer's income exceeds 400 percent of the federal poverty level, the service or support is necessary to successfully maintain the child at home or the adult consumer in the least-restrictive setting, and the parents or consumer demonstrate one or more of the following:

(1) The existence of an extraordinary event that impacts the ability of the parent, guardian, or caregiver to meet the care and supervision needs of the child or impacts the ability of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy, to pay the copayment, coinsurance, or deductible.

(2) The existence of catastrophic loss that temporarily limits the ability to pay of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy and creates a direct economic impact on the family or adult consumer. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters and accidents involving major injuries to an immediate family member.

(3) Significant unreimbursed medical costs associated with the care of the consumer or another child who is also a regional center consumer.

(d) The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy shall self-certify the family's gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income.

(e) The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy is responsible for notifying the regional center when a change in income occurs that would result in a change in eligibility for coverage of the health care service plan or health insurance policy copayments, coinsurance, or deductibles.

(f) Documentation submitted pursuant to this section shall be considered records obtained in the course of providing intake, assessment, and services and shall be confidential pursuant to Section 4514.

(g) This section shall not be implemented in a manner that is inconsistent with the requirements of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

SEC. 17. Section 4681.6 of the Welfare and Institutions Code is amended to read:

4681.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(2) A regional center shall not negotiate a rate with a new residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the department its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) For purposes of this section, “residential service provider” includes Adult Residential Facilities for Persons with Special Health Care Needs, as described in Section 4684.50.

(d) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 18. Article 3.6 (commencing with Section 4684.80) is added to Chapter 6 of Division 4.5 of the Welfare and Institutions Code, to read:

Article 3.6. Enhanced Behavioral Supports Homes

4684.80. (a) “Enhanced behavioral supports home” means a facility certified by the State Department of Developmental Services and licensed by the State Department of Social Services pursuant to Section 1567.62 of the Health and Safety Code as an adult residential facility or a group home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting. An enhanced behavioral supports home shall have a maximum capacity of four consumers, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(b) “Enhanced behavioral services and supports” means additional staffing supervision, facility characteristics, or other services and supports to address a consumer’s challenging behaviors, which are beyond what is typically available in other community facilities licensed as an adult residential facility or a group home to serve individuals in a community setting rather than an institution.

(c) “Individual behavior supports plan” means the plan that identifies and documents the behavior and intensive support and service needs of a consumer and details the strategies to be employed and services to be provided to address those needs, and includes the entity responsible for

providing those services and timelines for when each identified individual behavior support will commence.

(d) “Individual behavior supports team” means those individuals who develop, monitor, and revise the individual behavior supports plan for consumers residing in an enhanced behavioral supports home. The team shall, at a minimum, be composed of all of the following individuals:

(1) Regional center service coordinator and other regional center representatives, as necessary.

(2) Consumer and, where appropriate, his or her conservator or authorized representative.

(3) Service provider’s board-certified behavior analyst or qualified behavior modification professional.

(4) Enhanced behavioral supports home administrator.

(5) Regional center clients’ rights advocate, unless the consumer objects on his or her own behalf to participation by the clients’ rights advocate.

(6) Others deemed necessary by the consumer, or his or her conservator or authorized representative, for developing a comprehensive and effective individual behavior supports plan.

4684.81. (a) The department shall implement a pilot project using community placement plan funds, as appropriated in the State Department of Developmental Services’ annual budget, to test the effectiveness of providing enhanced behavioral supports in homelike community settings. The enhanced behavioral supports homes shall be for purposes of providing intensive behavioral services and supports to adults and children with developmental disabilities who need intensive services and supports due to challenging behaviors that cannot be managed in a community setting without the availability of enhanced behavioral services and supports, and who are at risk of institutionalization or out-of-state placement, or are transitioning to the community from a developmental center, other state-operated residential facility, institution for mental disease, or out-of-state placement.

(b) An enhanced behavioral supports home may only be established in an adult residential facility or a group home approved through a regional center community placement plan pursuant to Section 4418.25.

(c) No more than six enhanced behavioral supports homes may be approved by the State Department of Developmental Services each fiscal year in which the pilot program is in effect and to the extent funding is available for this purpose, each for no more than four individuals with developmental disabilities. The homes shall be located throughout the state, as determined by the State Department of Developmental Services, based on regional center requests.

(d) Each enhanced behavioral supports home shall be licensed as an adult residential facility or a group home pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) and certified by the State Department of Developmental Services, shall exceed the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013

of Title 17 of the California Code of Regulations, and shall meet all applicable statutory and regulatory requirements applicable to a facility licensed as an adult residential facility or a group home for facility licensing, seclusion, and restraint, including Division 1.5 (commencing with Section 1180) of the Health and Safety Code, and the use of behavior modification interventions, subject to any additional requirements applicable to enhanced behavioral supports homes established by statute or by regulation promulgated pursuant to this article and Article 9.5 (commencing with Section 1567.61) of Chapter 3 of Division 2 of the Health and Safety Code.

(e) A regional center shall not place a consumer in an enhanced behavioral supports home unless the program is certified by the State Department of Developmental Services and the facility is licensed by the State Department of Social Services.

(f) The State Department of Developmental Services shall be responsible for granting the certificate of program approval for an enhanced behavioral supports home.

(g) The State Department of Developmental Services may, pursuant to Section 4684.85, decertify any enhanced behavioral supports home that does not comply with program requirements. Upon decertification of an enhanced behavioral supports home, the State Department of Developmental Services shall report the decertification to the State Department of Social Services. The State Department of Social Services shall revoke the license of the enhanced behavioral supports home that has been decertified pursuant to Section 1550 of the Health and Safety Code.

(h) If the State Department of Developmental Services determines that urgent action is necessary to protect a consumer residing in an enhanced behavioral supports home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the State Department of Developmental Services may request that the regional center or centers remove the consumer from the enhanced behavioral supports home or direct the regional center or centers to obtain alternative or additional services for the consumers within 24 hours of that determination. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section.

(i) Enhanced behavioral supports homes shall have a facility program plan approved by the State Department of Developmental Services.

(1) The facility program plan approved by the State Department of Developmental Services shall be submitted to the State Department of Social Services for inclusion in the facility plan of operation.

(2) The vendoring regional center and each consumer's regional center shall have joint responsibility for monitoring and evaluating the services provided in the enhanced behavioral supports home. Monitoring shall include at least quarterly, or more frequently if specified in the consumer's individual program plan, face-to-face, onsite case management visits with each consumer by his or her regional center and at least quarterly quality assurance

visits by the vendoring regional center. The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with their monitoring responsibilities.

(j) The State Department of Developmental Services shall establish by regulation a rate methodology for enhanced behavioral supports homes that includes a fixed facility component for residential services and an individualized services and supports component based on each consumer's needs as determined through the individual program plan process, which may include assistance with transitioning to a less restrictive community residential setting.

(k) (1) The established facility rate for a full month of service, as defined in regulations adopted pursuant to this article, shall be paid based on the licensed capacity of the facility once the facility reaches maximum capacity, despite the temporary absence of one or more consumers from the facility or subsequent temporary vacancies created by consumers moving from the facility. Prior to the facility reaching licensed capacity, the facility rate shall be prorated based on the number of consumers residing in the facility.

When a consumer is temporarily absent from the facility, including when a consumer is in need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center may, based on consumer need, continue to fund individual services, in addition to paying the facility rate. Individual consumer services funded by the regional center during a consumer's absence from the facility shall be approved by the regional center director and shall only be approved in 14-day increments. The regional center shall maintain documentation of the need for these services and the regional center director's approval.

(2) An enhanced behavioral supports home using delayed egress devices, in compliance with Section 1531.1 of the Health and Safety Code, may utilize secured perimeters, in compliance with Section 1531.15 of the Health and Safety Code and applicable regulations. No more than two enhanced behavioral supports homes using delayed egress devices in combination with secured perimeters may be certified by the State Department of Developmental Services during the first year of the pilot program, one in northern California and one in southern California, and no more than one additional home using delayed egress devices in combination with a secured perimeter may be certified by the State Department of Developmental Services in each subsequent year of the pilot program. No more than six enhanced behavioral supports homes that use delayed egress devices in combination with a secured perimeter shall be certified during the pilot program. Enhanced behavioral supports homes shall not be counted for purposes of the statewide limit established in regulations on the total number of beds permitted in homes with delayed egress devices in combination with secured perimeters pursuant to subdivision (k) of Section 1531.15 of the Health and Safety Code. The department shall make reasonable efforts to include enhanced behavioral supports homes within the statewide limit.

4684.82. The vendoring regional center shall, before placing any consumer into an enhanced behavioral supports home, ensure that the home

has a license issued by the State Department of Social Services for not more than four individuals with developmental disabilities, is certified by the State Department of Developmental Services, and has a contract with the regional center that meets the contracting requirements established by the State Department of Developmental Services through regulations promulgated pursuant to this article. Under no circumstances shall the contract extend beyond the stated termination date, which shall not be longer than January 1, 2020.

4684.83. The enhanced behavioral supports home provider shall be responsible for coordinating the development and updating of each consumer's individual behavior supports plan with the consumer's individual behavior supports team. The initial individual behavior supports plan shall be developed within one week of the consumer's admission to the enhanced behavioral supports home.

4684.84. (a) The regional center shall have responsibility for monitoring and evaluating the implementation of the consumer's individual behavior supports plan objectives.

(b) A regional center qualified behavior modification professional shall visit, with or without notice, the consumer, in person, at least monthly in the enhanced behavioral supports home, or more frequently if specified in the consumer's individual behavior supports plan. At least four of these visits, annually, shall be unannounced.

(c) The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with the requirements of this article. The monitoring shall include onsite visits to all the enhanced behavioral supports homes at least every six months for the duration of the pilot project.

(d) The State Department of Developmental Services shall conduct a review of the pilot project in consultation with stakeholders. The review shall be completed and the results of the review shall be shared in writing with the State Department of Social Services no later than September 1, 2018.

4684.85. (a) In addition to any other contract termination provisions, a regional center may terminate its contract with an enhanced behavioral supports home when the regional center determines that the home is unable to maintain substantial compliance with state laws, regulations, or its contract with the regional center, or the home demonstrates an inability to ensure the health and safety of the consumers.

(b) The enhanced behavioral supports home may appeal a regional center's decision to terminate its contract by sending to the executive director of the contracting regional center a detailed statement containing the reasons and facts demonstrating why the termination is inappropriate. The appeal shall be received by the regional center within 10 working days from the date of the letter terminating the contract. The executive director shall respond with his or her decision within 10 working days of the date of receipt of the appeal from the enhanced behavioral supports home. The executive director shall submit his or her decision to the State Department of Developmental Services and the State Department of Social Services on

the same date that it is signed. The decision of the executive director shall be the final administrative decision.

(c) The Director of Developmental Services may rescind an enhanced behavioral supports home program certification when, in his or her sole discretion, an enhanced behavioral supports home does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of the consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit his or her decision whether to rescind an enhanced behavioral supports home program certification to the State Department of Social Services and the regional center with his or her recommendation as to whether to revoke the enhanced behavioral supports home's residential care facility license, for which the State Department of Social Services shall revoke the license of the enhanced behavioral supports home pursuant to Section 1550 of the Health and Safety Code.

(d) The State Department of Developmental Services and regional centers shall, for purposes of assisting in licensing, provide the State Department of Social Services with all available documentation and evidentiary support that was submitted to the State Department of Developmental Services in connection with certification by an applicant for licensure under this article.

4684.86. (a) A certification for an enhanced behavioral supports home shall not be issued before emergency regulations filed by the State Department of Developmental Services pursuant to this article have been published. These regulations shall be developed in consultation with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers. The regulations shall address at least the following:

(1) Program standards, including program design requirements, staffing structure, staff qualifications, and training. Training requirements shall include:

(A) A minimum of 16 hours of emergency intervention training, which shall include the techniques the licensee will use to prevent injury and maintain safety regarding consumers who are a danger to self or others and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraints.

(B) Additional training for direct care staff to address the specialized needs of the consumers, including training in emergency interventions.

(2) Requirements and timelines for the development and updating of consumers' individual behavior supports plans.

(3) Admission and continued stay requirements.

(4) Requirements for ensuring that appropriate services and supports are provided at the time of admission to meet the consumer's immediate needs pending development of the consumer's individual behavior supports plan.

(5) The rate methodology.

(6) Consumer rights and protections.

(b) The adoption, initial amendment, repeal, or readoption of a regulation authorized by this section is deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. These regulations shall be developed in consultation with system stakeholders. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section. The emergency regulations may be readopted and remain in effect until approval of the certificate of compliance.

4684.87. This article shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 19. Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), (e), (f), (g), and (h), and Section 4691.9.

(b) Notwithstanding any other law or regulation, the department shall not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2008, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other law or regulation, neither the department nor any regional center shall approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other law or regulation, the department shall not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the

anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other law or regulation, except as set forth in subdivision (f), the department shall not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

(f) Notwithstanding any other law or regulation, commencing July 1, 2014, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary in order to pay employees who, prior to July 1, 2014, were being compensated at a wage that is less than the minimum wage established on and after July 1, 2014, by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment pursuant to this subdivision shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(g) Notwithstanding any other law or regulation, commencing July 1, 2014, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department due to the impacts of the increased minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(h) Notwithstanding any other law or regulation, commencing January 1, 2015, the in-home respite service agency rate schedule authorized by the department and in operation December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers.

SEC. 20. Section 4691.9 of the Welfare and Institutions Code is amended to read:

4691.9. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June

30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(2) A regional center shall not negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with providers regarding rates if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the increased minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) Notwithstanding any other law or regulation, commencing January 1, 2015, rates for personal assistance and supported living services in effect on December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers. As used in this subdivision, both of the following definitions shall apply:

(1) "Personal assistance" is limited only to those services provided by vendors classified by the regional center as personal assistance providers, pursuant to the miscellaneous services provisions contained in Title 17 of the California Code of Regulations.

(2) "Supported living services" are limited only to those services defined as supported living services in Title 17 of the California Code of Regulations.

(d) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 21. Article 8 (commencing with Section 4698) is added to Chapter 6 of Division 4.5 of the Welfare and Institutions Code, to read:

Article 8. Community Crisis Home Certification

4698. (a) (1) “Community crisis home” means a facility certified by the State Department of Developmental Services pursuant to this article, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code, as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center services and in need of crisis intervention services who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5. A community crisis home shall have a maximum capacity of eight consumers.

(2) “Consumer” or “client” means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512 and applicable regulations and for whom the regional center has accepted responsibility.

(b) (1) The State Department of Developmental Services, using Community Placement Plan funds, shall establish a community-based residential option consisting of community crisis homes for adults with developmental disabilities receiving regional center services who require crisis intervention services and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5.

(2) The State Department of Developmental Services may issue a certificate of program approval to a community crisis home qualified pursuant to this article.

(c) A community crisis home shall not be licensed by the State Department of Social Services until the certificate of program approval, issued pursuant to this article by the State Department of Developmental Services, has been received.

(1) A community crisis home shall be certified only if approved through a regional center community placement plan pursuant to Section 4418.25. Each home shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

(2) A consumer shall not be placed in a community crisis home unless the program is certified by the State Department of Developmental Services, pursuant to this article, and the facility is licensed by the State Department

of Social Services, pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code.

(3) A certificate of program approval, issued pursuant to this article by the State Department of Developmental Services, shall be a condition of licensure for the community crisis home by the State Department of Social Services, pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code.

(4) Community crisis homes shall exceed the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013 of Title 17 of the California Code of regulations, and shall meet all applicable statutory and regulatory requirements for facility licensing, the use of behavior modification interventions, and seclusion and restraint, including Division 1.5 (commencing with Section 1180) of the Health and Safety Code, and that are applicable to facilities licensed as adult residential facilities.

(d) Community crisis homes shall have a facility program plan approved by the State Department of Developmental Services. The facility program plan approved by the State Department of Developmental Services shall be submitted to the State Department of Social Services for inclusion in the facility plan of operation, pursuant to Section 1567.84 of the Health and Safety Code.

(e) The local regional center and each consumer's regional center shall have joint responsibility for monitoring and evaluating the provision of services in the community crisis home. Monitoring shall include at least monthly face-to-face, onsite case management visits with each consumer by his or her regional center and at least quarterly quality assurance visits by the vendor regional center. The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with their monitoring responsibilities.

(f) A consumer's regional center shall also notify the clients' rights advocate of each community crisis home admission. Unless the consumer objects on his or her own behalf, the clients' rights advocate may participate in developing the plan to transition the consumer to his or her prior residence or an alternative community-based residential setting with needed services and supports.

(g) The State Department of Developmental Services shall establish by regulation a rate methodology for community crisis homes that includes a fixed facility component for residential services and an individualized services and supports component based on each consumer's needs as determined through the individual program plan process, which may include assistance with returning to the consumer's prior living arrangement or transitioning to an alternative community residential setting.

(h) If the State Department of Developmental Services determines that urgent action is necessary to protect a consumer residing in a community crisis home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the State Department of Developmental Services may request that the regional center or centers

remove the consumer from the community crisis home or direct the regional center or centers to obtain alternative or additional services for the consumer within 24 hours of that determination. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section.

(i) The Director of Developmental Services shall rescind a community crisis home's certificate of program approval when, in his or her sole discretion, a community crisis home does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit his or her decision rescinding a community crisis home's certificate of program approval to the State Department of Social Services and the regional center with his or her recommendation as to whether to revoke the community crisis home license, and the State Department of Social Services shall revoke the license of the community crisis home pursuant to Section 1550 of the Health and Safety Code.

(j) The State Department of Developmental Services and regional centers shall provide the State Department of Social Services all available documentation and evidentiary support necessary for the licensing and administration of community crisis homes and enforcement of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and the applicable regulations.

4698.1. (a) A certificate of program approval shall not be issued pursuant to this article until the publication in Title 17 of the California Code of Regulations of emergency regulations filed by the State Department of Developmental Services. These regulations shall be developed in consultation with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers. The regulations shall address at least all of the following:

(1) Program standards, including program design requirements, staffing structure, staff qualifications, and training. Training requirements shall include all of the following:

(A) A minimum of 16 hours of emergency intervention training, which shall include the techniques the facility will use to prevent injury and maintain safety regarding consumers who are a danger to self or others and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraint.

(B) Additional training for direct care staff to address the specialized needs of the consumers, including training in emergency interventions.

(2) Requirements and timelines for the development and updating of each consumer's individual program plan, including time-limited objectives and a plan to transition the consumer to his or her prior residence or an alternative community-based residential setting with needed services and supports. In developing these regulations, the department shall place a high

priority on transitioning the consumer to his or her prior residence, when that is the preferred objective in the consumer's individual program plan.

(3) Procedures and requirements for identifying and providing supplemental and ancillary staffing and supports, including therapeutic, behavioral, and clinical services and supports, based on individual consumer need.

(4) The rate methodology.

(5) Consumer rights and protections.

(b) The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Developmental Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. These emergency regulations shall be developed in consultation with system stakeholders. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section. The emergency regulations may be readopted and remain in effect until approval of the certificate of compliance.

SEC. 22. Section 6504.5 of the Welfare and Institutions Code is amended to read:

6504.5. (a) Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500), or the designee of the director, to examine the person alleged to have a developmental disability.

(b) Within 15 judicial days after his or her appointment, the regional center director or designee shall submit to the court in writing a report containing his or her evaluation of the person alleged to have a developmental disability. If the person is an individual described in paragraph (2) of subdivision (a) of Section 7505, the report shall include the results of the assessment conducted pursuant to subdivision (b) of Section 4418.7. The report shall contain a recommendation of a facility or facilities in which the alleged developmentally disabled person may be placed. The report shall include any comprehensive assessment, or updated assessment, conducted by the regional center pursuant to paragraph (2) of subdivision (c) of Section 4418.25.

(c) The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment. In determining the least restrictive residential placement, consideration shall be given to public safety. If placement into or out of a developmental center is recommended, the regional center director or designee simultaneously shall submit the report to the executive director of the developmental center or his or her designee. The executive director of the developmental center or his or her designee may, within 15 days of receiving the regional center report, submit to the court a written report evaluating the ability of the

developmental center to achieve the purposes of treatment for this person and whether the developmental center placement can adequately provide the security measures or systems required to protect the public health and safety from the potential dangers posed by the person's known behaviors.

(d) The reports prepared by the regional center director and developmental center director, if applicable, shall also address suitable interim placements for the person as provided for in Section 6506.

SEC. 23. Section 6509 of the Welfare and Institutions Code is amended to read:

6509. (a) If the court finds that the person has a developmental disability, and is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any of the following:

(1) Any licensed community care facility, as defined in Section 1504, or any health facility, as defined in Section 1250, other than a developmental center or state-operated facility.

(2) The acute crisis center at Fairview Developmental Center, if the person meets the criteria for admission pursuant to paragraph (2) of subdivision (a) of Section 7505.

(3) On or after January 1, 2015, the acute crisis center at Sonoma Developmental Center, if the person meets the criteria for admission pursuant to paragraph (3) of subdivision (a) of Section 7505.

(4) The secure treatment program at Porterville Developmental Center, if the person meets the criteria for admission pursuant to paragraph (3) of subdivision (a) of Section 7505.

(5) Any other appropriate placement permitted by law.

(b) (1) The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to that placement that the court finds to be the most appropriate and least restrictive alternative. If the court finds that release of the person can be made subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

(2) The court, however, may commit a person with a developmental disability who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(c) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part

2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code, the court shall order the State Department of Developmental Services to give notice of that finding to the designated placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(d) If the State Department of Developmental Services decides that a change in placement is necessary, it shall notify, in writing, the court of commitment, the district attorney, the attorney of record for the person, and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

SEC. 24. Section 7505 of the Welfare and Institutions Code is amended to read:

7505. (a) Notwithstanding any other law, commencing July 1, 2012, the State Department of Developmental Services shall not admit anyone to a developmental center unless the person has been determined eligible for services under Division 4.5 (commencing with Section 4500) and the person is:

(1) Committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Section 1370.1 of the Penal Code.

(2) Committed by a court to Fairview Developmental Center pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 due to an acute crisis, pursuant to Section 4418.7.

(3) Committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 as a result of involvement with the criminal justice system, and the court has determined the person is mentally incompetent to stand trial.

(4) A person described in Section 4508.

(5) A juvenile committed to Porterville Developmental Center, secure treatment program, pursuant to Section 709.

(b) Under no circumstances shall the State Department of Developmental Services admit a person to a developmental center after July 1, 2012, as a result of a criminal conviction or when the person is competent to stand trial for the criminal offense and the admission is ordered in lieu of trial.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 25. Section 7505 is added to the Welfare and Institutions Code, to read:

7505. (a) Notwithstanding any other law, the State Department of Developmental Services shall not admit anyone to a developmental center unless the person has been determined eligible for services under Division 4.5 (commencing with Section 4500) and the person is:

(1) Committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Section 1370.1 of the Penal Code.

(2) Committed by a court to the acute crisis center at Fairview Developmental Center, or the acute crisis center at Sonoma Developmental Center, pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 due to an acute crisis, pursuant to Section 4418.7.

(3) Committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 as a result of involvement with the criminal justice system, and the court has determined the person is mentally incompetent to stand trial.

(4) A person described in Section 4508.

(5) A juvenile committed to Porterville Developmental Center, secure treatment program, pursuant to Section 709.

(b) Under no circumstances shall the State Department of Developmental Services admit a person to a developmental center after July 1, 2012, as a result of a criminal conviction or when the person is competent to stand trial for the criminal offense and the admission is ordered in lieu of trial.

(c) This section shall become operative on January 1, 2015.

SEC. 26. Notwithstanding any other law, Item 4300-101-0001 of Section 2.00 of the Budget Act of 2011 (Chapter 33 of the Statutes of 2011) is available for liquidation of encumbrances through June 30, 2015. The unencumbered balance of thirteen million forty-eight thousand dollars (\$13,048,000) of the amount appropriated by Item 4300-101-0001 of Section 2.00 of the Budget Act of 2011 (Chapter 33 of the Statutes of 2011) is reappropriated for the purposes provided for in the appropriation and is available for encumbrance or expenditure until June 30, 2015, and for liquidation through June 30, 2017.

SEC. 27. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 28. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.