

AMENDED IN ASSEMBLY AUGUST 12, 2014

**SENATE BILL**

**No. 873**

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**Introduced by Committee on Budget and Fiscal Review**

January 9, 2014

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~~An act relating to the Budget Act of 2014.~~ *An act to amend Sections 1546.1, 1546.2, 1569.481, 1569.482, and 1569.682 of the Health and Safety Code, to amend Sections 11461.3, 11462.04, 11477, and 12300.4 of the Welfare and Institutions Code, and to amend Section 88 of Chapter 29 of the Statutes of 2014, relating to human services, and making an appropriation therefor; to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

SB 873, as amended, Committee on Budget and Fiscal Review.  
~~Budget Act of 2014.~~ *Human services.*

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

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

*Existing law also authorizes the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3 months, subject to extension by the department, when certain circumstances exist. To the extent that state funds are used to pay for the salary of the receiver or other related expenses, existing law requires the state be reimbursed from the revenues accruing to the facility or to the licensee or the entity related to the license, and to the extent that those revenues are insufficient, requires the unreimbursed amount constitute a lien on the assets of the facility or the proceeds from the sale of the facility.*

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

*(2) Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law specifies the amounts of cash aid to be paid each month to CalWORKs recipients. Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.*

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

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

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

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

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

*(4) Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained. Existing law exempts from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court for a felony drug conviction, as specified, after December 31, 1997.*

*This bill would provide that if the income for an assistance unit that excludes any adults as described above includes reasonably anticipated income derived from child support, the first \$50 of any amount of child support received each month shall not be considered income or*

resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

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

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

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

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

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

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

collection and reporting activities for cases of child abuse and neglect and revised federal requirements for child welfare case reviews.

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

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

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

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

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

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

1 SECTION 1. Section 1546.1 of the Health and Safety Code, as  
2 added by Section 11 of Chapter 29 of the Statutes of 2014, is  
3 amended to read:

4 1546.1. (a) (1) It is the intent of the Legislature in enacting  
5 this section to authorize the department to take quick, effective  
6 action to protect the health and safety of clients of community care  
7 facilities and to minimize the effects of transfer trauma that  
8 accompany the abrupt transfer of clients by appointing a temporary  
9 manager to assume the operation of a facility that is found to be  
10 in a condition in which continued operation by the licensee or his  
11 or her representative presents a substantial probability of imminent  
12 danger of serious physical harm or death to the clients.

13 (2) A temporary manager appointed pursuant to this section  
14 shall assume the operation of the facility in order to bring it into  
15 compliance with the law, facilitate a transfer of ownership to a  
16 new licensee, or ensure the orderly transfer of clients should the  
17 facility be required to close. Upon a final decision and order of  
18 revocation of the license or a forfeiture by operation of law, the  
19 department shall immediately issue a provisional license to the  
20 appointed temporary manager. Notwithstanding the applicable  
21 sections of this code governing the revocation of a provisional  
22 license, the provisional license issued to a temporary manager shall

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

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

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

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

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

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

37 (2) A person shall not impede the operation of a temporary  
38 manager. The temporary manager’s access to, or possession of,  
39 the property shall not be interfered with during the term of the  
40 temporary manager appointment. There shall be an automatic stay

1 for a 60-day period subsequent to the appointment of a temporary  
2 manager of any action that would interfere with the functioning  
3 of the facility, including, but not limited to, termination of utility  
4 services, attachments or set-offs of client trust funds, and  
5 repossession of equipment in the facility.

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

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

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

17 (C) A new operator is licensed.

18 (D) The department closes the facility.

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

22 (F) The appointment is terminated by the department or the  
23 temporary manager.

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

37 (3) The director may rescind the appointment of a temporary  
38 manager and appoint a new temporary manager at any time that  
39 the director determines the temporary manager is not adhering to  
40 the conditions of the appointment.

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

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

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

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

39 (g) If the licensee of the community care facility does not protest  
40 the appointment or does not prevail at either the administrative

1 hearing under paragraph (2) of subdivision (f) or the superior court  
2 hearing under paragraph (4) of subdivision (f), the temporary  
3 manager shall continue in accordance with subdivision (e).

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

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

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

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

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

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

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

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

37 (j) Payment of the costs of the temporary manager shall comply  
38 with the following requirements:

39 (1) Upon agreement with the licensee, the costs of the temporary  
40 manager and any other expenses in connection with the temporary

1 management shall be paid directly by the facility while the  
2 temporary manager is assigned to that facility. Failure of the  
3 licensee to agree to the payment of those costs may result in the  
4 payment of the costs by the department and subsequent required  
5 reimbursement of the department by the licensee pursuant to this  
6 section.

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

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

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

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

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

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

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

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

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

37 (D) Paying commercial creditors of the facility to the extent  
38 required to operate the facility. The temporary manager shall honor  
39 all leases, mortgages, and secured transactions affecting the  
40 building in which the facility is located and all goods and fixtures

1 in the building, but only to the extent of payments that, in the case  
2 of a rental agreement, are for the use of the property during the  
3 period of the temporary management, or that, in the case of a  
4 purchase agreement, come due during the period of the temporary  
5 management.

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

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

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

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

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

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

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

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

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

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

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

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

14 (s) The department may adopt regulations for the administration  
15 of this section.

16 *SEC. 2. Section 1546.2 of the Health and Safety Code, as added*  
17 *by Section 12 of Chapter 29 of the Statutes of 2014, is amended*  
18 *to read:*

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

34 (b) (1) Whenever circumstances exist indicating that continued  
35 management of a community care facility by the current licensee  
36 would present a substantial probability or imminent danger of  
37 serious physical harm or death to the clients, or the facility is  
38 closing or intends to terminate operation as a community care  
39 facility and adequate arrangements for relocation of clients have  
40 not been made at least 30 days prior to the closing or termination,

1 the director may petition the superior court for the county in which  
2 the community care facility is located for an order appointing a  
3 receiver to temporarily operate the community care facility in  
4 accordance with this section.

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

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

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

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

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

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

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

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

39 (d) A person shall not impede the operation of a receivership  
40 created under this section. The receiver's access to, or possession

1 of, the property shall not be interfered with during the term of the  
2 receivership. There shall be an automatic stay for a 60-day period  
3 subsequent to the appointment of a receiver of any action that  
4 would interfere with the functioning of the facility, including, but  
5 not limited to, cancellation of insurance policies executed by the  
6 licensees, termination of utility services, attachments or setoffs of  
7 client trust funds and working capital accounts, and repossession  
8 of equipment in the facility.

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

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

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

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

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

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

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

39 (A) To pay wages to staff. The receiver shall have full power  
40 to hire, direct, manage, and discharge employees of the facility,

1 subject to any contractual rights they may have. The receiver shall  
2 pay employees at the same rate of compensation, including  
3 benefits, that the employees would have received from the licensee  
4 or wages necessary to provide adequate staff for the protection of  
5 the clients and compliance with the law.

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

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

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

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

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

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

37 (g) (1) A person who is served with notice of an order of the  
38 court appointing a receiver and of the receiver's name and address  
39 shall be liable to pay the receiver, rather than the licensee, for any  
40 goods or services provided by the community care facility after

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

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

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

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

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

37 (3) If the receiver is in possession of real estate or goods subject  
38 to a lease, mortgage, or security interest that the receiver is  
39 permitted to avoid pursuant to paragraph (1), and if the real estate  
40 or goods are necessary for the continued operation of the facility,

1 the receiver may apply to the court to set a reasonable rent, price,  
2 or rate of interest to be paid by the receiver during the duration of  
3 the receivership. The court shall hold a hearing on this application  
4 within 15 days. The receiver shall send notice of the application  
5 to any known owner of the property involved at least 10 days prior  
6 to the hearing.

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

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

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

38 (A) Extend the receiver's management for an additional three  
39 months if there is a substantial likelihood that the facility will meet  
40 state standards within that period and will maintain compliance

1 with the standards after termination of the receiver's management.  
2 The receiver shall report to the court in writing upon the facility's  
3 progress at the end of six weeks of any extension ordered pursuant  
4 to this paragraph.

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

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

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

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

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

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

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

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

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

38 (A) The department believes that it would be in the best interests  
39 of the clients of the facility, requests that the court return the  
40 operation of the facility to the former licensee, and provides clear

1 and convincing evidence to the court that it is in the best interests  
2 of the facility's clients to take that action.

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

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

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

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

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

34 (2) To the extent state funds are advanced for the salary of the  
35 receiver or for other expenses in connection with the receivership,  
36 as limited by subdivision (g), the state shall be reimbursed from  
37 the revenues accruing to the facility or to the licensee or an entity  
38 related to the licensee. Any reimbursement received by the state  
39 shall be redeposited in the account from which the state funds were  
40 advanced. If the revenues are insufficient to reimburse the state,

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

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

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

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

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

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

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

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

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

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

17 *SEC. 3. Section 1569.481 of the Health and Safety Code, as*  
18 *added by Section 24 of Chapter 29 of the Statutes of 2014, is*  
19 *amended to read:*

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

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

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

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

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

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

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

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

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

1 licensee's existing fire safety clearance shall serve as the fire safety  
2 clearance for the temporary manager's provisional license.

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

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

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

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

25 (C) A new operator is licensed.

26 (D) The department closes the facility.

27 (E) A hearing or court order ends the temporary manager  
28 appointment, including the appointment of a receiver under Section  
29 1569.482.

30 (F) The appointment is terminated by the department or the  
31 temporary manager.

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

1 Hearings for a hearing to contest the appointment of the temporary  
2 manager as described in subdivision (f) and shall provide the  
3 licensee with a form and appropriate information for the licensee's  
4 use in requesting a hearing.

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

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

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

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

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

1 The petition may also request the issuance of temporary injunctive  
2 relief pending the decision on the petition. The superior court shall  
3 hold a hearing within 10 business days of the filing of the petition  
4 and shall issue a decision on the petition within 10 days of the  
5 hearing. The department may be represented by legal counsel  
6 within the department for purposes of court proceedings authorized  
7 under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 proceeds from the sale thereof.—~~The Pursuant to Chapter 2~~  
2 *(commencing with Section 697.510) of Division 2 of Title 9 of Part*  
3 *2 of the Code of Civil Procedure, a lien against the personal assets*  
4 *of the facility or an entity related to the licensee based on the*  
5 *monetary judgment obtained shall be filed with the Secretary of*  
6 *State on the forms required for a notice of judgment lien. A lien*  
7 *against the real property of the facility or an entity related to the*  
8 *licensee based on the monetary judgment obtained shall be*  
9 *recorded with the county recorder of the county where the facility*  
10 *of the licensee is located or where the real property of the entity*  
11 *related to the licensee is located. The lien shall not attach to the*  
12 *interests of a lessor, unless the lessor is operating the facility. The*  
13 *authority to place a lien against the personal and real property of*  
14 *the licensee for the reimbursement of any state funds expended*  
15 *pursuant to this section shall be given judgment creditor priority.*

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

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

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

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

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

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

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

23 (s) The department may adopt regulations for the administration  
24 of this section.

25 *SEC. 4. Section 1569.482 of the Health and Safety Code, as*  
26 *added by Section 25 of Chapter 29 of the Statutes of 2014, is*  
27 *amended to read:*

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

1 of ownership to a new licensee, or ensure the orderly transfer of  
2 residents should the facility be required to close.

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

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

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

1 safety clearance shall serve as the fire safety clearance for the  
2 receiver's provisional license.

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

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

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

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

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

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

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

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

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

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

39 (3) Shall have the same rights to possession of the building in  
40 which the facility is located, and of all goods and fixtures in the

1 building at the time the petition for receivership is filed, as the  
2 licensee and administrator would have had if the receiver had not  
3 been appointed.

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

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

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

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

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

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

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

37 (F) To do all things necessary and proper to maintain and operate  
38 the facility in accordance with sound fiscal policies. The receiver  
39 shall take action as is reasonably necessary to protect or conserve  
40 the assets or property of which the receiver takes possession and

1 may use those assets or property only in the performance of the  
2 powers and duties set out in this section and by order of the court.

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

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

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

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

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

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

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

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

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

39 (j) (1) The receiver shall be appointed for an initial period of  
40 not more than three months. The initial three-month period may

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (k) (1) The salary of the receiver shall be set by the court  
35 commensurate with community care facility industry standards,  
36 giving due consideration to the difficulty of the duties undertaken,  
37 and shall be paid from the revenue coming to the facility. If the  
38 revenue is insufficient to pay the salary in addition to other  
39 expenses of operating the facility, the receiver's salary shall be  
40 paid from the emergency resident contingency account as provided

1 in Section 1569.48. State advances of funds in excess of five  
2 thousand dollars (\$5,000) shall be approved by the director. Total  
3 advances for encumbrances and expenditures shall not exceed the  
4 sum of forty-nine thousand nine hundred ninety-nine dollars  
5 (\$49,999) unless approved by the director in writing.

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

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

36 (l) (1) This section does not impair the right of the owner of a  
37 residential care facility for the elderly to dispose of his or her  
38 property interests in the facility, but any facility operated by a  
39 receiver pursuant to this section shall remain subject to that  
40 administration until terminated by the court. The termination shall

1 be promptly effectuated, provided that the interests of the residents  
2 have been safeguarded as determined by the court.

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

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

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

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

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

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

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

28 *SEC. 5. Section 1569.682 of the Health and Safety Code is*  
29 *amended to read:*

30 1569.682. (a) A licensee of a licensed residential care facility  
31 for the elderly shall, prior to transferring a resident of the facility  
32 to another facility or to an independent living arrangement as a  
33 result of the forfeiture of a license, as described in subdivision (a),  
34 (b), or (f) of Section 1569.19, or a change of use of the facility  
35 pursuant to the department's regulations, take all reasonable steps  
36 to transfer affected residents safely and to minimize possible  
37 transfer trauma, and shall, at a minimum, do all of the following:

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

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

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

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

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

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

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

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

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

38 (4) If the department disapproves a closure plan, the licensee  
39 may resubmit an amended plan, which the department shall  
40 promptly either approve or disapprove, within 10 working days

1 of receipt by the department of the amended plan. If the department  
2 fails to approve a closure plan, it shall inform the licensee, in  
3 writing, of the reasons for the disapproval of the plan.

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

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

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

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

30 (2) The participation of the department and local agencies in  
31 the relocation of residents from a residential care facility for the  
32 elderly shall not relieve the licensee of any responsibility under  
33 this section. A licensee that fails to comply with the requirements  
34 of this section shall be required to reimburse the department and  
35 local agencies for the cost of providing the relocation services or  
36 the costs incurred in caring for the residents through the use of a  
37 temporary manager *or receiver* as provided for in ~~Section~~  
38 ~~1569.481~~ *Sections 1569.481 and 1569.482*. If the licensee fails  
39 to provide the relocation services required in this section, then the  
40 department may request that the Attorney General's office, the

1 city attorney's office, or the local district attorney's office seek  
2 injunctive relief and damages in the same manner as provided for  
3 in Chapter 5 (commencing with Section 17200) of Part 2 of  
4 Division 7 of the Business and Professions Code, including  
5 restitution to the department of any costs incurred in caring for the  
6 residents through the use of a temporary manager *or receiver* as  
7 provided for in ~~Section 1569.481~~. *Sections 1569.481 and 1569.482.*

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

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

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

36 *SEC. 6. Section 11461.3 of the Welfare and Institutions Code,*  
37 *as added by Section 74 of Chapter 29 of the Statutes of 2014, is*  
38 *amended to read:*

39 11461.3. (a) The Approved Relative Caregiver Funding Option  
40 Program is hereby established for the purpose of making the

1 amount paid to approved relative caregivers for the in-home care  
2 of children placed with them who are ineligible for AFDC-FC  
3 payments equal to the amount paid on behalf of children who are  
4 eligible for AFDC-FC payments. This is an optional program for  
5 counties choosing to participate, and in so doing, participating  
6 counties agree to the terms of this section as a condition of their  
7 participation. It is the intent of the Legislature that the funding  
8 described in paragraph (1) of subdivision (e) for the Approved  
9 Relative Caregiver Funding Option Program be appropriated, and  
10 available for use from January through December of each year,  
11 unless otherwise specified.

12 (b) Subject to subdivision (c), effective January 1, 2015, counties  
13 shall pay an approved relative caregiver a per child per month rate  
14 in return for the care and supervision, as defined in subdivision  
15 (b) of Section 11460, of a child that is placed with the relative  
16 caregiver that is equal to the basic rate paid to foster care providers  
17 pursuant to subdivision (g) of Section 11461, if both of the  
18 following conditions are met:

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

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

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

26 (B) The child is described by subdivision (b), (c), or (e) of  
27 Section 11401 ~~and is not eligible for AFDC-FC pursuant to~~  
28 ~~subdivision (a) of Section 11404.~~ *and the county welfare*  
29 *department or the county probation department is responsible for*  
30 *the placement and care of the child.*

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

34 (c) A county's election to participate in the Approved Relative  
35 Caregiver Funding Option Program shall affirmatively indicate  
36 that the county understands and agrees to all of the following  
37 conditions:

38 (1) Commencing October 1, 2014, the county shall notify the  
39 department in writing of its decision to participate in the Approved  
40 Relative Caregiver Funding Option Program. Failure to make

1 timely notification, without good cause as determined by the  
2 department, shall preclude the county from participating in the  
3 program for the upcoming year. Annually thereafter, any county  
4 not presently participating who elects to do so shall notify the  
5 department in writing no later than October 1 of its decision to  
6 participate for the upcoming calendar year.

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

11 (3) The county shall confirm that it will be solely responsible  
12 to pay any additional costs needed to make all payments pursuant  
13 to subdivision (b) if the state and federal funds allocated to the  
14 Approved Relative Caregiver Funding Option Program pursuant  
15 to paragraph (1) of subdivision (e) are insufficient to make all  
16 eligible payments.

17 (d) (1) A county deciding to opt out of the Approved Relative  
18 Caregiver Funding Option Program shall provide at least 120 days'  
19 prior written notice of that decision to the department. Additionally,  
20 the county shall provide at least 90 days' prior written notice to  
21 the approved relative caregiver or caregivers informing them that  
22 his or her per child per month payment will be reduced and the  
23 date that the reduction will occur.

24 (2) The department shall presume all counties have opted out  
25 of the Approved Relative Caregiver Funding Option Program if  
26 the funding appropriated in subclause (II) of clause (i) of  
27 subparagraph (B) of paragraph (1) of subdivision (e), including  
28 any additional funds appropriated pursuant to clause (ii) of  
29 subparagraph (B) of paragraph (1) of subdivision (e), is reduced,  
30 unless a county notifies the department in writing of its intent to  
31 opt in within 60 days of enactment of the state budget. The counties  
32 shall provide at least 90 days' prior written notice to the approved  
33 relative caregiver or caregivers informing them that his or her per  
34 child per month payment will be reduced, and the date that the  
35 reduction will occur.

36 (3) Any reduction in payments received by an approved relative  
37 caregiver on behalf of a child under this section that results from  
38 a decision by a county, including the presumed opt-out pursuant  
39 to paragraph (2), to not participate in the Approved Relative

1 Caregiver Funding Option Program shall be exempt from state  
2 hearing jurisdiction under Section 10950.

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

5 (A) The applicable regional per-child CalWORKs grant from  
6 federal funds received as part of the TANF block grant program.  
7 grant.

8 (B) (i) General Fund resources that do not count toward the  
9 state's maintenance of effort requirements under Section  
10 609(a)(7)(B)(i) of Title 42 of the United States Code. For this  
11 purpose, the following money is hereby appropriated:

12 (I) The sum of thirty million dollars (\$30,000,000) from the  
13 General Fund for the period January 1, 2015 through December  
14 31, 2015.

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

20 (ii) To the extent that the appropriation made in subclause (I)  
21 is insufficient to fully fund the base caseload of approved relative  
22 caregivers as of July 1, 2014, for the period of time described in  
23 subclause (I), as jointly determined by the department and the  
24 County Welfare Directors' Association and approved by the  
25 Department of Finance on or before October 1, 2015, the amounts  
26 specified in subclauses (I) and (II) shall be increased in the  
27 respective amounts necessary to fully fund that base caseload.  
28 Thereafter, the adjusted amount of subclause (II), and the other  
29 terms of that provision, including an annual California Necessities  
30 Index adjustment to its amount, shall apply.

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

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

38 (2) Funds available pursuant to subparagraphs (A) and (B) of  
39 paragraph (1) shall be allocated to participating counties  
40 proportionate to the number of their approved relative caregiver

1 placements, using a methodology and timing developed by the  
2 department, following consultation with county human services  
3 agencies and their representatives.

4 (3) Notwithstanding subdivision (c), if in any calendar year the  
5 entire amount of funding appropriated by the state for the Approved  
6 Relative Caregiver Funding Option Program has not been fully  
7 allocated to or utilized by counties, a county that has paid any  
8 funds pursuant to subparagraph (C) of paragraph (1) of subdivision  
9 (e) may request reimbursement for those funds from the  
10 department. The authority of the department to approve the requests  
11 shall be limited by the amount of available unallocated funds.

12 (f) An approved relative caregiver receiving payments on behalf  
13 of a child pursuant to this section shall not be eligible to receive  
14 additional CalWORKs payments on behalf of the same child under  
15 Section 11450.

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

20 (h) Prior to referral of any individual or recipient, or that  
21 person's case, to the local child support agency for child support  
22 services pursuant to Section 17415 of the Family Code, the county  
23 human services agency shall determine if an applicant or recipient  
24 has good cause for noncooperation, as set forth in Section  
25 11477.04. If the applicant or recipient claims good cause exception  
26 at any subsequent time to the county human services agency or  
27 the local child support agency, the local child support agency shall  
28 suspend child support services until the county social services  
29 agency determines the good cause claim, as set forth in Section  
30 11477.04. If good cause is determined to exist, the local child  
31 support agency shall suspend child support services until the  
32 applicant or recipient requests their resumption, and shall take  
33 other measures that are necessary to protect the applicant or  
34 recipient and the children. If the applicant or recipient is the parent  
35 of the child for whom aid is sought and the parent is found to have  
36 not cooperated without good cause as provided in Section  
37 11477.04, the applicant's or recipient's family grant shall be  
38 reduced by 25 percent for the time the failure to cooperate lasts.

39 (i) Consistent with Section 17552 of the Family Code, if aid is  
40 paid under this chapter on behalf of a child who is under the

1 jurisdiction of the juvenile court and whose parent or guardian is  
2 receiving reunification services, the county human services agency  
3 shall determine, prior to referral of the case to the local child  
4 support agency for child support services, whether the referral is  
5 in the best interest of the child, taking into account both of the  
6 following:

7 (1) Whether the payment of support by the parent will pose a  
8 barrier to the proposed reunification in that the payment of support  
9 will compromise the parent's ability to meet the requirements of  
10 the parent's reunification plan.

11 (2) Whether the payment of support by the parent will pose a  
12 barrier to the proposed reunification in that the payment of support  
13 will compromise the parent's current or future ability to meet the  
14 financial needs of the child.

15 *SEC. 7. Section 11462.04 of the Welfare and Institutions Code*  
16 *is amended to read:*

17 11462.04. (a) Notwithstanding any other law, no new group  
18 home rate or change to an existing rate shall be established pursuant  
19 to Section 11462. An application shall not be accepted or processed  
20 for any of the following:

21 (1) A new program.

22 (2) A new provider.

23 (3) A program change, such as a rate classification level (RCL)  
24 increase.

25 (4) A program capacity increase.

26 (5) A program reinstatement.

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

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

37 *SEC. 8. Section 11477 of the Welfare and Institutions Code,*  
38 *as amended by Section 75 of Chapter 29 of the Statutes of 2014,*  
39 *is amended to read:*

1 11477. As a condition of eligibility for aid paid under this  
2 chapter, each applicant or recipient shall do all of the following:

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

4 (i) For applications received before October 1, 2009, assign to  
5 the county any rights to support from any other person the applicant  
6 or recipient may have on his or her own behalf or on behalf of any  
7 other family member for whom the applicant or recipient is  
8 applying for or receiving aid, not exceeding the total amount of  
9 cash assistance provided to the family under this chapter. Receipt  
10 of public assistance under this chapter shall operate as an  
11 assignment by operation of law. An assignment of support rights  
12 to the county shall also constitute an assignment to the state. If  
13 support rights are assigned pursuant to this subdivision, the  
14 assignee may become an assignee of record by the local child  
15 support agency or other public official filing with the court clerk  
16 an affidavit showing that an assignment has been made or that  
17 there has been an assignment by operation of law. This procedure  
18 does not limit any other means by which the assignee may become  
19 an assignee of record.

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

38 (2) Support that has been assigned pursuant to paragraph (1)  
39 and that accrues while the family is receiving aid under this chapter

1 shall be permanently assigned until the entire amount of aid paid  
2 has been reimbursed.

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

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

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

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

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

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

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

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

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

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

- 26 (A) The age of the child for whom support is sought.
- 27 (B) The circumstances surrounding the conception of the child.
- 28 (C) The age or mental capacity of the parent or caretaker of the  
29 child for whom aid is being sought.
- 30 (D) The time that has elapsed since the parent or caretaker last  
31 had contact with the alleged father or obligor.

32 (2) Cooperation includes all of the following:

- 33 (A) Providing the name of the alleged parent or obligor and  
34 other information about that person if known to the applicant or  
35 recipient, such as address, social security number, telephone  
36 number, place of employment or school, and the names and  
37 addresses of relatives or associates.
- 38 (B) Appearing at interviews, hearings, and legal proceedings  
39 provided the applicant or recipient is provided with reasonable

1 advance notice of the interview, hearing, or legal proceeding and  
2 does not have good cause not to appear.

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

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

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

12 (c) (1) This section shall not apply if all of the adults are  
13 excluded from the assistance unit pursuant to Section 11251.3,  
14 11454, or 11486.5.

15 ~~(d)~~

16 (2) It is the intent of the Legislature that the regular receipt of  
17 child support in the preceding reporting period be considered in  
18 determining reasonably anticipated income for the following  
19 reporting period.

20 (3) *In accordance with Sections 11265.2 and 11265.46, if the*  
21 *income of an assistance unit described in paragraph (1) includes*  
22 *reasonably anticipated income derived from child support, the*  
23 *first fifty dollars (\$50) of any amount of child support received*  
24 *each month shall not be considered income or resources and shall*  
25 *not be deducted from the amount of aid to which the assistance*  
26 *unit otherwise would be eligible.*

27 *SEC. 9. Section 12300.4 of the Welfare and Institutions Code,*  
28 *as added by Section 76 of Chapter 29 of the Statutes of 2014, is*  
29 *amended to read:*

30 12300.4. (a) Notwithstanding any other law, including, but  
31 not limited to, Chapter 10 (commencing with Section 3500) of  
32 Division 4 of Title 1 of the Government Code and Title 23  
33 (commencing with Section 110000) of the Government Code, a  
34 recipient who is authorized to receive in-home supportive services  
35 pursuant to this article, or Section 14132.95, 14132.952, or  
36 14132.956, administered by the State Department of Social  
37 Services, or waiver personal care services pursuant to Section  
38 14132.97, administered by the State Department of Health Care  
39 Services, or any combination of these services, shall direct these  
40 authorized services, and the authorized services shall be performed

1 by a provider or providers within a workweek and in a manner  
2 that complies with the requirements of this section.

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

6 (2) A provider of services specified in subdivision (a) shall not  
7 work a total number of hours within a workweek that exceeds 66,  
8 as reduced by the net percentage defined by Sections 12301.02  
9 and 12301.03, as applicable, and in accordance with subdivision  
10 (d). The total number of hours worked within a workweek by a  
11 provider is defined as the sum of the following:

12 (A) All hours worked providing authorized services specified  
13 in subdivision (a).

14 (B) Travel time as defined in subdivision (f), only if federal  
15 financial participation is not available to compensate for that travel  
16 time. If federal financial participation is available for travel time  
17 as defined in subdivision (f), the travel time shall not be included  
18 in the calculation of the total weekly ~~authorized hours of services.~~  
19 *hours worked within a workweek.*

20 (3) (A) If the authorized in-home supportive services of a  
21 recipient cannot be provided by a single provider as a result of the  
22 limitation specified in paragraph (2), it is the responsibility of the  
23 recipient to employ an additional provider or providers, as needed,  
24 to ensure his or her authorized services are provided within his or  
25 her total weekly authorized hours of services established pursuant  
26 to subdivision (b) of Section 12301.1.

27 (B) If the provider of authorized waiver personal care services  
28 cannot provide those services to a recipient as a result of the  
29 limitation specified in paragraph (2), the State Department of  
30 Health Care Services shall work with the recipient to engage  
31 additional providers, as necessary. It is the intent of the Legislature  
32 that this section shall not result in reduced services authorized to  
33 recipients of waiver personal care services defined in subdivision  
34 (a).

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

38 (B) A recipient, his or her authorized representative, or any  
39 other entity, including any person or entity providing services  
40 pursuant to Section 14186.35, shall not authorize any provider to

1 work hours that exceed the applicable limitation or limitations of  
2 this section.

3 (C) A recipient may authorize a provider to work hours in excess  
4 of the recipient’s weekly authorized hours established pursuant to  
5 Section 12301.1 without notification of the county welfare  
6 department, in accordance with both of the following:

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

9 (ii) The authorization does not exceed the recipient’s authorized  
10 hours of monthly services pursuant to paragraph (1) of subdivision  
11 (b) of Section 12301.1.

12 (5) For providers of in-home supportive services, the State  
13 Department of Social Services or a county may terminate the  
14 provider from providing services under the IHSS program if a  
15 provider continues to violate the limitations of this section on  
16 multiple occasions.

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

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

22 (1) (A) A provider who works for ~~an~~ *one* individual recipient  
23 of those services shall not work a total number of hours within a  
24 workweek that exceeds 66 hours, as reduced by the net percentage  
25 defined by Sections 12301.02 and 12301.03, as applicable. In no  
26 circumstance shall the provision of these services by that provider  
27 to the individual recipient exceed the total weekly hours of the  
28 services authorized to that recipient, except as additionally  
29 authorized pursuant to subparagraph (C) of paragraph (4) of  
30 subdivision (b). If multiple providers serve the same recipient, it  
31 shall continue to be the responsibility of that recipient or his or  
32 her authorized representative to schedule the work of his or her  
33 providers to ensure the authorized services of the recipient are  
34 provided in accordance with this section.

35 (B) *When a recipient’s weekly authorized hours are adjusted*  
36 *pursuant to subparagraph (C) of paragraph (1) of subdivision (b)*  
37 *of Section 12301.1 and exceed 66 hours, as reduced by the net*  
38 *percentage defined by Sections 12301.02 and 12301.03, as*  
39 *applicable, and at the time of adjustment the recipient currently*  
40 *receives all authorized hours of service from one provider, that*

1 *provider shall be deemed authorized to work the recipient's*  
2 *county-approved adjusted hours for that week, but only if the*  
3 *additional hours of work, based on the adjustment, do not exceed*  
4 *the total number of hours worked that are compensable at an*  
5 *overtime pay rate that the provider would have been authorized*  
6 *to work in that month if the weekly hours had not been adjusted.*

7 (2) A provider of in-home supportive services described in  
8 subdivision (a) who serves multiple recipients is not authorized  
9 to, and shall not, work more than 66 total hours in a workweek,  
10 as reduced by the net percentage defined by Sections 12301.02  
11 and 12301.03, as applicable, regardless of the number of recipients  
12 for whom the provider provides services authorized by subdivision  
13 (a). Providers are subject to the limits of each recipient's total  
14 authorized weekly hours of in-home supportive services described  
15 in subdivision (a), except as additionally authorized pursuant to  
16 subparagraph (C) of paragraph (4) of subdivision (b).

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

22 (f) (1) A provider of services described in subdivision (a) shall  
23 not engage in travel time in excess of seven hours per week. For  
24 the purposes of this subdivision, "travel time" means time spent  
25 traveling directly from a location where authorized services  
26 specified in subdivision (a) are provided to one recipient, to another  
27 location where authorized services are to be provided to another  
28 recipient. A provider shall coordinate hours of work with his or  
29 her ~~recipient or recipients~~ to comply with this section.

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

33 (3) Travel time, and compensation for that travel time, between  
34 a recipient of authorized in-home supportive services specified in  
35 subdivision (a) and a recipient of authorized waiver personal care  
36 services specified in subdivision (a), shall be attributed to the  
37 program authorizing services for the recipient to whom the provider  
38 is traveling.

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

4 (5) The State Department of Social Services and the State  
5 Department of Health Care Services shall issue guidance and  
6 processes for travel time between recipients that will assist the  
7 provider and recipient to comply with this subdivision. Each county  
8 shall provide technical assistance to providers and recipients, as  
9 necessary, to implement this subdivision.

10 (g) A provider of authorized in-home supportive services  
11 specified in subdivision (a) shall timely submit, deliver, or mail,  
12 verified by postmark or request for delivery, a signed payroll  
13 timesheet within two weeks after the end of each bimonthly payroll  
14 period. Notwithstanding any other law, a provider who submits  
15 an untimely payroll timesheet for providing authorized in-home  
16 supportive services specified in subdivision (a) shall be paid by  
17 the state within 30 days of the receipt of the signed payroll  
18 timesheet.

19 (h) This section does not apply to a contract entered into  
20 pursuant to Section 12302 or 12302.6 for authorized in-home  
21 supportive services. Contract rates negotiated pursuant to Section  
22 12302 or 12302.6 shall be based on costs consistent with a 40-hour  
23 workweek.

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

26 (j) Any action authorized under this section that is implemented  
27 in a program authorized pursuant to Section 14132.95, 14132.97,  
28 14132.952, or 14132.956 shall be compliant with federal Medicaid  
29 requirements, as determined by the State Department of Health  
30 Care Services.

31 (k) Notwithstanding the rulemaking provisions of the  
32 Administrative Procedure Act (Chapter 3.5 (commencing with  
33 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
34 Code), the State Department of Social Services and the State  
35 Department of Health Care Services may implement, interpret, or  
36 make specific this section by means of all-county letters or similar  
37 instructions, without taking any regulatory action.

38 (l) (1) This section shall become operative only when the  
39 regulatory amendments made by RIN 1235-AA05 to Part 552 of  
40 Title 29 of the Code of Federal Regulations are deemed effective,

1 either on the date specified in RIN 1235-AA05 or at a later date  
2 specified by the Federal Department of Labor, whichever is later.

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

7 *SEC. 10. Section 88 of Chapter 29 of the Statutes of 2014 is*  
8 *amended to read:*

9 SEC. 88. (a) Notwithstanding the rulemaking provisions of  
10 the Administrative Procedure Act (Chapter 3.5 (commencing with  
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
12 Code), the department may implement and administer the changes  
13 made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80,  
14 ~~and 81 of this act~~ 81, 82, and 83 of Chapter 29 of the Statutes of  
15 2014 through all-county letters or similar instructions until  
16 regulations are adopted.

17 (b) The department shall adopt emergency regulations  
18 implementing these provisions no later than January 1, 2016. The  
19 department may readopt any emergency regulation authorized by  
20 this section that is the same as, or substantially equivalent to, any  
21 emergency regulation previously adopted pursuant to this section.  
22 The initial adoption of regulations pursuant to this section and one  
23 readoption of emergency regulations shall be deemed to be an  
24 emergency and necessary for the immediate preservation of the  
25 public peace, health, safety, or general welfare. Initial emergency  
26 regulations and the one readoption of emergency regulations  
27 authorized by this section shall be exempt from review by the  
28 Office of Administrative Law. The initial emergency regulations  
29 and the one readoption of emergency regulations authorized by  
30 this section shall be submitted to the Office of Administrative Law  
31 for filing with the Secretary of State and each shall remain in effect  
32 for no more than 180 days, by which time final regulations shall  
33 be adopted.

34 *SEC. 11. The amount of one million six hundred eighty-six*  
35 *thousand dollars (\$1,686,000) is hereby appropriated to the State*  
36 *Department of Social Services in augmentation of Item*  
37 *5180-151-0001 of Section 2.00 of the Budget Act of 2014, for*  
38 *Program 25.30 for the Commercially Sexually Exploited Children*  
39 *Program, and the total amount appropriated in Item*  
40 *5180-153-0001 of Section 2.00 of the Budget Act of 2014 is hereby*

1 *reduced by the amount of one million six hundred eighty-six*  
2 *thousand dollars (\$1,686,000) to offset that appropriation.*

3 *SEC. 12. No appropriation pursuant to Section 15200 of the*  
4 *Welfare and Institutions Code is made for purposes of this act.*

5 *SEC. 13. This act is a bill providing for appropriations related*  
6 *to the Budget Bill within the meaning of subdivision (e) of Section*  
7 *12 of Article IV of the California Constitution, has been identified*  
8 *as related to the budget in the Budget Bill, and shall take effect*  
9 *immediately.*

10 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
11 ~~changes relating to the Budget Act of 2014.~~