

AMENDED IN ASSEMBLY AUGUST 22, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 873, as amended, Committee on Budget and Fiscal Review. Human services.

*(1) Existing federal law, the Immigration and Nationality Act, establishes a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court, and authorizes those aliens who have been granted special immigrant juvenile status to apply for an adjustment of status to that of a lawful permanent resident within the United States. Under federal regulations, state juvenile courts are charged with making a preliminary determination of the child's dependency, as specified. Existing federal regulations define juvenile court to mean a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.*

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

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

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

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

*This bill would state that existing law and authority to provide interpreters in civil court includes providing an interpreter for a child in a proceeding in which a petitioner requests an order from the superior court to make the findings regarding special immigrant juvenile status.*

*(1)*

*(3) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities,*

including community care facilities and residential care facilities for the elderly.

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

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

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

(2)

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

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

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

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

(3)

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

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

(4)

(6) Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support

agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained. Existing law exempts from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court for a felony drug conviction, as specified, after December 31, 1997.

This bill would provide that if the income for an assistance unit that excludes any adults as described above includes reasonably anticipated income derived from child support, the ~~first \$50 amount established in specified provisions of law~~ of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

(5)

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

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

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

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

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

*This bill would delete that provision and instead require the State Department of Health Care Services to take all necessary and timely steps, and to timely inform the recipient of the steps that will be taken, to ensure that recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver or the In-Home Operations Waiver who are at or near the individual cost cap do not lose services and are not forced to alter existing provider relationships because of increased overtime pay for providers, including allowing the recipient to exceed the individual cost cap.*

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

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

~~(6)~~

*(9) 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.

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

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

*This bill would make legislative findings to that effect.*

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

~~(7)~~

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

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

~~(8)~~

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

~~(9)~~

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

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

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

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

3  
4             *CHAPTER 7. SPECIAL IMMIGRANT JUVENILE FINDINGS*  
5

6     155. (a) *A superior court has jurisdiction under California*  
7     *law to make judicial determinations regarding the custody and*  
8     *care of children within the meaning of the federal Immigration*  
9     *and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R.*  
10    *Sec. 204.11), which includes, but is not limited to, the juvenile,*  
11    *probate, and family court divisions of the superior court. These*  
12    *courts may make the findings necessary to enable a child to petition*  
13    *the United States Citizenship and Immigration Service for*  
14    *classification as a special immigrant juvenile pursuant to Section*  
15    *1101 (a)(27)(J) of Title 8 of the United States Code.*

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

23        (A) *The child was either of the following:*

24           (i) *Declared a dependent of the court.*

25           (ii) *Legally committed to, or placed under the custody of, a state*  
26    *agency or department, or an individual or entity appointed by the*  
27    *court. The court shall indicate the date on which the dependency,*  
28    *commitment, or custody was ordered.*

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

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

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

1 (c) In any judicial proceedings in response to a request that the  
2 superior court make the findings necessary to support a petition  
3 for classification as a special immigrant juvenile, information  
4 regarding the child's immigration status that is not otherwise  
5 protected by state confidentiality laws shall remain confidential  
6 and shall be available for inspection only by the court, the child  
7 who is the subject of the proceeding, the parties, the attorneys for  
8 the parties, the child's counsel, and the child's guardian.

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

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

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

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

26 **SECTION 1.**

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

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

39 (2) A temporary manager appointed pursuant to this section  
40 shall assume the operation of the facility in order to bring it into

1 compliance with the law, facilitate a transfer of ownership to a  
2 new licensee, or ensure the orderly transfer of clients should the  
3 facility be required to close. Upon a final decision and order of  
4 revocation of the license or a forfeiture by operation of law, the  
5 department shall immediately issue a provisional license to the  
6 appointed temporary manager. Notwithstanding the applicable  
7 sections of this code governing the revocation of a provisional  
8 license, the provisional license issued to a temporary manager shall  
9 automatically expire upon the termination of the temporary  
10 manager. The temporary manager shall possess the provisional  
11 license solely for purposes of carrying out the responsibilities  
12 authorized by this section and the duties set forth in the written  
13 agreement between the department and the temporary manager.  
14 The temporary manager shall have no right to appeal the expiration  
15 of the provisional license.

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

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

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

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

36 (d) (1) Upon appointment, the temporary manager shall  
37 complete its application for a license to operate a community care  
38 facility and take all necessary steps and make best efforts to  
39 eliminate any substantial threat to the health and safety to clients  
40 or complete the transfer of clients to alternative placements

1 pursuant to Section 1556. For purposes of a provisional license  
2 issued to a temporary manager, the licensee's existing fire safety  
3 clearance shall serve as the fire safety clearance for the temporary  
4 manager's provisional license.

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

14 (e) (1) The appointment of a temporary manager shall be  
15 immediately effective and shall continue for a period not to exceed  
16 60 days unless otherwise extended in accordance with paragraph  
17 (2) of subdivision (h) at the discretion of the department or  
18 otherwise terminated earlier by any of the following 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 1546.2.

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

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

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

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

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

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

12 (h) (1) If the licensee of the community care facility petitions  
13 the Office of Administrative Hearings pursuant to subdivision (f),  
14 the appointment of the temporary manager by the director pursuant  
15 to this section shall continue until it is terminated by the  
16 administrative law judge or by the superior court, or it shall  
17 continue until the conditions of subdivision (e) are satisfied,  
18 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 on the  
34 basis of experience and education.

35 (2) Not be the subject of any pending actions by the department  
36 or any other state agency nor have ever been excluded from a  
37 department licensed facility or had a license or certification  
38 suspended or revoked by an administrative action by the  
39 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) May exceed the amount specified in paragraph (2) if the  
26 department is otherwise unable to attract a qualified temporary  
27 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 client funds. The temporary manager shall be  
38 entitled to, and shall take possession of, all property or assets of  
39 clients 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 clients of which the temporary manager takes  
2 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) Doing all things necessary and proper to maintain and  
16 operate the facility in accordance with sound fiscal policies. The  
17 temporary manager shall take action as is reasonably necessary to  
18 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 out 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 make no 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 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. Pursuant to Chapter 2 (commencing  
2 with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code  
3 of Civil Procedure, a lien against the personal assets of the facility  
4 or an entity related to the licensee based on the monetary judgment  
5 obtained shall be filed with the Secretary of State on the forms  
6 required for a notice of judgment lien. A lien against the real  
7 property of the facility or an entity related to the licensee based  
8 on the monetary judgment obtained shall be recorded with the  
9 county recorder of the county where the facility of the licensee is  
10 located or where the real property of the entity related to the  
11 licensee is located. The lien shall not attach to the interests of a  
12 lessor, unless the lessor is operating the facility. The authority to  
13 place a lien against the personal and real property of the licensee  
14 for the reimbursement of any state funds expended pursuant to this  
15 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 1520 possesses an interest  
20 that would also require disclosure pursuant to Section 1520.

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

1 (n) The department may use funds from the emergency client  
2 contingency account pursuant to Section 1546 when needed to  
3 supplement the operation of the facility or the transfer of clients  
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 client 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 facility that serves  
11 six or fewer persons and is also the principal residence of the  
12 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. 2.~~

26 *SEC. 4.* Section 1546.2 of the Health and Safety Code, as added  
27 by Section 12 of Chapter 29 of the Statutes of 2014, is amended  
28 to read:

29 1546.2. (a) It is the intent of the Legislature in enacting this  
30 section to authorize the department to take quick, effective action  
31 to protect the health and safety of residents of community care  
32 facilities and to minimize the effects of transfer trauma that  
33 accompany the abrupt transfer of clients through a system whereby  
34 the department may apply for a court order appointing a receiver  
35 to temporarily operate a community care facility. The receivership  
36 is not intended to punish a licensee or to replace attempts to secure  
37 cooperative action to protect the clients' health and safety. The  
38 receivership is intended to protect the clients in the absence of  
39 other reasonably available alternatives. The receiver shall assume  
40 the operation of the facility in order to bring it into compliance

1 with law, facilitate a transfer of ownership to a new licensee, or  
2 ensure the orderly transfer of clients should the facility be required  
3 to close.

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

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

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

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

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

35 (4) The court may permit the licensee to participate in the  
36 continued operation of the facility during the pendency of any  
37 receivership ordered pursuant to this section and shall issue an  
38 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 of  
19 client trust funds and working capital accounts, and repossession  
20 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 clients.

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 clients and to any other persons receiving services from  
7 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 client funds. The receiver shall be entitled to,  
19 and shall take, possession of all property or assets of clients that  
20 are in the possession of the licensee or operator of the facility. The  
21 receiver shall preserve all property, assets, and records of clients  
22 of which the receiver takes possession.

23 (C) To contract for outside services as may be needed for the  
24 operation of the community care facility. Any contract for outside  
25 services in excess of five thousand dollars (\$5,000) shall be  
26 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 community care facility after  
13 the date of the order. The receiver shall give a receipt for each  
14 payment and shall keep a copy of each receipt on file. The receiver  
15 shall deposit amounts received in a special account and shall use  
16 this account for all disbursements. Payment to the receiver pursuant  
17 to this subdivision shall discharge the obligation to the extent of  
18 the payment and shall not thereafter be the basis of a claim by the  
19 licensee or any other person. A client shall not be evicted nor may  
20 any contract or rights be forfeited or impaired, nor may any  
21 forfeiture be effected or liability increased, by reason of an  
22 omission to pay the licensee, operator, or other person a sum paid  
23 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 community care facility may petition the court for a determination  
37 as to the reasonableness of any expenditure made pursuant to  
38 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 community care facility will meet state  
5 standards for operation by the end of the initial three-month period  
6 and will continue to maintain compliance with those standards  
7 after termination of the receiver's management. If it appears that  
8 the facility cannot be brought into compliance with state standards  
9 within the initial three-month period, the court shall take  
10 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 Article 5 (commencing with Section 1550)  
20 and extend the receiver's management for the period necessary to  
21 transfer clients in accordance with the transfer plan, but for not  
22 more than three months from the date of initial appointment of a  
23 receiver, or 14 days, whichever is greater. An extension of an  
24 additional three months may be granted if deemed necessary by  
25 the court.

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

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

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

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

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

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

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

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

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

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

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

22 (A) If the owner closes the facility, or the sale or lease results  
23 in the closure of the facility, the court shall determine if a transfer  
24 plan is necessary. If the court so determines, the court shall adopt  
25 and implement a transfer plan consistent with the provisions of  
26 Section 1556.

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

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

1 paid from the emergency client contingency account as provided  
2 in Section 1546. State advances of funds in excess of five thousand  
3 dollars (\$5,000) shall be approved by the director. Total advances  
4 for encumbrances and expenditures shall not exceed the sum of  
5 forty-nine thousand nine hundred ninety-nine dollars (\$49,999)  
6 unless approved by the director in writing.

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

31 (3) For purposes of this subdivision, “entity related to the  
32 licensee” means an entity, other than a natural person, of which  
33 the licensee is a subsidiary or an entity in which any person who  
34 was obligated to disclose information under Section 1520 possesses  
35 an interest that would also require disclosure pursuant to Section  
36 1520.

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

1 terminated by the court. The termination shall be promptly  
2 effectuated, provided that the interests of the clients have been  
3 safeguarded as determined by the court.

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

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

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

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

16 (n) The department may adopt regulations for the administration  
17 of this section. This section does not impair the authority of the  
18 department to temporarily suspend licenses under Section 1550.5  
19 or to reach a voluntary agreement with the licensee for alternate  
20 management of a community care facility including the use of a  
21 temporary manager under Section 1546.1. This section does not  
22 authorize the department to interfere in a labor dispute.

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

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

29 ~~SEC. 3.~~

30 *SEC. 5.* Section 1569.481 of the Health and Safety Code, as  
31 added by Section 24 of Chapter 29 of the Statutes of 2014, is  
32 amended to read:

33 1569.481. (a) (1) It is the intent of the Legislature in enacting  
34 this section to authorize the department to take quick, effective  
35 action to protect the health and safety of residents of residential  
36 care facilities for the elderly and to minimize the effects of transfer  
37 trauma that accompany the abrupt transfer of residents by  
38 appointing a temporary manager to assume the operation of a  
39 facility that is found to be in a condition in which continued  
40 operation by the licensee or his or her representative presents a

1 substantial probability of imminent danger of serious physical  
2 harm or death to the residents.

3 (2) A temporary manager appointed pursuant to this section  
4 shall assume the operation of the facility in order to bring it into  
5 compliance with the law, facilitate a transfer of ownership to a  
6 new licensee, or ensure the orderly transfer of residents should the  
7 facility be required to close. Upon a final decision and order of  
8 revocation of the license, issuance of a temporary suspension, or  
9 a forfeiture by operation of law, the department shall immediately  
10 issue a provisional license to the appointed temporary manager.  
11 Notwithstanding the applicable sections of this code governing  
12 the revocation of a provisional license, the provisional license  
13 issued to a temporary manager shall automatically expire upon the  
14 termination of the temporary manager. The temporary manager  
15 shall possess the provisional license solely for purposes of carrying  
16 out the responsibilities authorized by this section and the duties  
17 set forth in the written agreement between the department and the  
18 temporary manager. The temporary manager shall have no right  
19 to appeal the expiration of the provisional license.

20 (b) For purposes of this section, “temporary manager” means  
21 the person, corporation, or other entity appointed temporarily by  
22 the department as a substitute facility licensee or administrator  
23 with authority to hire, terminate, reassign staff, obligate facility  
24 funds, alter facility procedures, and manage the facility to correct  
25 deficiencies identified in the facility’s operation. The temporary  
26 manager shall have the final authority to direct the care and  
27 supervision activities of any person associated with the facility,  
28 including superseding the authority of the licensee and the  
29 administrator.

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

34 (1) The director determines that it is necessary to temporarily  
35 suspend the license of a residential care facility for the elderly  
36 pursuant to Section 1569.50 and the immediate relocation of the  
37 residents is not feasible based on transfer trauma, lack of available  
38 alternative placements, or other emergency considerations for the  
39 health and safety of the residents.

1 (2) The licensee is unwilling or unable to comply with the  
2 requirements of Section 1569.525 or the requirements of Section  
3 1569.682 regarding the safe and orderly relocation of residents  
4 when ordered to do so by the department or when otherwise  
5 required by law.

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

8 (d) (1) Upon appointment, the temporary manager shall  
9 complete its application for a license to operate a residential care  
10 facility for the elderly and take all necessary steps and make best  
11 efforts to eliminate any substantial threat to the health and safety  
12 to residents or complete the transfer of residents to alternative  
13 placements pursuant to Section 1569.525 or 1569.682. For purposes  
14 of a provisional license issued to a temporary manager, the  
15 licensee's existing fire safety clearance shall serve as the fire safety  
16 clearance for the temporary manager's provisional license.

17 (2) A person shall not impede the operation of a temporary  
18 manager. The temporary manager's access to, or possession of,  
19 the property shall not be interfered with during the term of the  
20 temporary manager appointment. There shall be an automatic stay  
21 for a 60-day period subsequent to the appointment of a temporary  
22 manager of any action that would interfere with the functioning  
23 of the facility, including, but not limited to, termination of utility  
24 services, attachments, or setoffs of resident trust funds, and  
25 repossession of equipment in the facility.

26 (e) (1) The appointment of a temporary manager shall be  
27 immediately effective and shall continue for a period not to exceed  
28 60 days unless otherwise extended in accordance with paragraph  
29 (2) of subdivision (h) at the discretion of the department or as  
30 permitted by paragraph (2) of subdivision (d) of Section 1569.525,  
31 or unless otherwise terminated earlier by any of the following  
32 events:

33 (A) The temporary manager notifies the department, and the  
34 department verifies, that the facility meets state and, if applicable,  
35 federal standards for operation, and will be able to continue to  
36 maintain compliance with those standards after the termination of  
37 the appointment of the temporary manager.

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

39 (C) A new operator is licensed.

40 (D) The department closes the facility.

1 (E) A hearing or court order ends the temporary manager  
2 appointment, including the appointment of a receiver under Section  
3 1569.482.

4 (F) The appointment is terminated by the department or the  
5 temporary manager.

6 (2) The appointment of a temporary manager shall authorize  
7 the temporary manager to act pursuant to this section. The  
8 appointment shall be made pursuant to a written agreement between  
9 the temporary manager and the department that outlines the  
10 circumstances under which the temporary manager may expend  
11 funds. The department shall provide the licensee and administrator  
12 with a copy of the accusation to appoint a temporary manager at  
13 the time of appointment. The accusation shall notify the licensee  
14 of the licensee's right to petition the Office of Administrative  
15 Hearings for a hearing to contest the appointment of the temporary  
16 manager as described in subdivision (f) and shall provide the  
17 licensee with a form and appropriate information for the licensee's  
18 use in requesting a hearing.

19 (3) The director may rescind the appointment of a temporary  
20 manager and appoint a new temporary manager at any time that  
21 the director determines the temporary manager is not adhering to  
22 the conditions of the appointment.

23 (f) (1) The licensee of a residential care facility for the elderly  
24 may contest the appointment of the temporary manager by filing  
25 a petition for an order to terminate the appointment of the  
26 temporary manager with the Office of Administrative Hearings  
27 within 15 days from the date of mailing of the accusation to appoint  
28 a temporary manager under subdivision (e). On the same day as  
29 the petition is filed with the Office of Administrative Hearings,  
30 the licensee shall serve a copy of the petition to the office of the  
31 director.

32 (2) Upon receipt of a petition under paragraph (1), the Office  
33 of Administrative Hearings shall set a hearing date and time within  
34 10 business days of the receipt of the petition. The office shall  
35 promptly notify the licensee and the department of the date, time,  
36 and place of the hearing. The office shall assign the case to an  
37 administrative law judge. At the hearing, relevant evidence may  
38 be presented pursuant to Section 11513 of the Government Code.  
39 The administrative law judge shall issue a written decision on the  
40 petition within 10 business days of the conclusion of the hearing.

1 The 10-day time period for holding the hearing and for rendering  
2 a decision may be extended by the written agreement of the parties.

3 (3) The administrative law judge shall uphold the appointment  
4 of the temporary manager if the department proves, by a  
5 preponderance of the evidence, that the circumstances specified  
6 in subdivision (c) applied to the facility at the time of the  
7 appointment. The administrative law judge shall order the  
8 termination of the temporary manager if the burden of proof is not  
9 satisfied.

10 (4) The decision of the administrative law judge is subject to  
11 judicial review as provided in Section 1094.5 of the Code of Civil  
12 Procedure by the superior court of the county where the facility is  
13 located. This review may be requested by the licensee of the facility  
14 or the department by filing a petition seeking relief from the order.  
15 The petition may also request the issuance of temporary injunctive  
16 relief pending the decision on the petition. The superior court shall  
17 hold a hearing within 10 business days of the filing of the petition  
18 and shall issue a decision on the petition within 10 days of the  
19 hearing. The department may be represented by legal counsel  
20 within the department for purposes of court proceedings authorized  
21 under this section.

22 (g) If the licensee does not protest the appointment or does not  
23 prevail at either the administrative hearing under paragraph (2) of  
24 subdivision (f) or the superior court hearing under paragraph (4)  
25 of subdivision (f), the temporary manager shall continue in  
26 accordance with subdivision (e).

27 (h) (1) If the licensee petitions the Office of Administrative  
28 Hearings pursuant to subdivision (f), the appointment of the  
29 temporary manager by the director pursuant to this section shall  
30 continue until it is terminated by the administrative law judge or  
31 by the superior court, or it shall continue until the conditions of  
32 subdivision (e) are satisfied, whichever is earlier.

33 (2) At any time during the appointment of the temporary  
34 manager, the director may request an extension of the appointment  
35 by filing a petition for hearing with the Office of Administrative  
36 Hearings and serving a copy of the petition on the licensee. The  
37 office shall proceed as specified in paragraph (2) of subdivision  
38 (f). The administrative law judge may extend the appointment of  
39 the temporary manager an additional 60 days upon a showing by

1 the department that the conditions specified in subdivision (c)  
2 continue to exist.

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

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

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

11 (2) Not be the subject of any pending actions by the department  
12 or any other state agency nor have ever been excluded from a  
13 department-licensed facility or had a license or certification  
14 suspended or revoked by an administrative action by the  
15 department or any other state agency.

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

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

21 (j) Payment of the costs of the temporary manager shall comply  
22 with the following requirements:

23 (1) Upon agreement with the licensee, the costs of the temporary  
24 manager and any other expenses in connection with the temporary  
25 management shall be paid directly by the facility while the  
26 temporary manager is assigned to that facility. Failure of the  
27 licensee to agree to the payment of those costs may result in the  
28 payment of the costs by the department and subsequent required  
29 reimbursement of the department by the licensee pursuant to this  
30 section.

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

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

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

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

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

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

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

13 (B) Preserving resident funds. The temporary manager shall be  
14 entitled to, and shall take possession of, all property or assets of  
15 residents that are in the possession of the licensee or administrator  
16 of the facility. The temporary manager shall preserve all property,  
17 assets, and records of residents of which the temporary manager  
18 takes possession.

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

22 (D) Paying commercial creditors of the facility to the extent  
23 required to operate the facility. The temporary manager shall honor  
24 all leases, mortgages, and secured transactions affecting the  
25 building in which the facility is located and all goods and fixtures  
26 in the building, but only to the extent of payments that, in the case  
27 of a rental agreement, are for the use of the property during the  
28 period of the temporary management, or that, in the case of a  
29 purchase agreement, come due during the period of the temporary  
30 management.

31 (E) Performing all acts that are necessary and proper to maintain  
32 and operate the facility in accordance with sound fiscal policies.  
33 The temporary manager shall take action as is reasonably necessary  
34 to protect or conserve the assets or property of which the temporary  
35 manager takes possession and may use those assets or property  
36 only in the performance of the powers and duties set forth in this  
37 section.

38 (2) Expenditures by the temporary manager in excess of five  
39 thousand dollars (\$5,000) shall be approved by the director. Total  
40 encumbrances and expenditures by the temporary manager for the

1 duration of the temporary management shall not exceed the sum  
2 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)  
3 unless approved by the director in writing.

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

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

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

37 (m) Appointment of a temporary manager under this section  
38 does not relieve the licensee of any responsibility for the care and  
39 supervision of residents under this chapter. The licensee, even if  
40 the license is deemed surrendered or the facility abandoned, shall

1 be required to reimburse the department for all costs associated  
2 with operation of the facility during the period the temporary  
3 manager is in place that are not accounted for by using facility  
4 revenues or for the relocation of residents handled by the  
5 department if the licensee fails to comply with the relocation  
6 requirements of Section 1569.525 or 1569.682 when required by  
7 the department to do so. If the licensee fails to reimburse the  
8 department under this section, then the department, along with  
9 using its own remedies available under this chapter, may request  
10 that the Attorney General’s office, the city attorney’s office, or the  
11 local district attorney’s office seek any available criminal, civil,  
12 or administrative remedy, including, but not limited to, injunctive  
13 relief, restitution, and damages in the same manner as provided  
14 for in Chapter 5 (commencing with Section 17200) of Part 2 of  
15 Division 7 of the Business and Professions Code.

16 (n) The department may use funds from the emergency resident  
17 contingency account pursuant to Section 1569.48 when needed to  
18 supplement the operation of the facility or the transfer of residents  
19 under the control of the temporary manager appointed under this  
20 section if facility revenues are unavailable or exhausted when  
21 needed. Pursuant to subdivision (l), the licensee shall be required  
22 to reimburse the department for any funds used from the emergency  
23 resident contingency account during the period of control of the  
24 temporary manager and any incurred costs of collection.

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

28 (p) Notwithstanding any other provision of law, the temporary  
29 manager shall be liable only for damages resulting from gross  
30 negligence in the operation of the facility or intentional tortious  
31 acts.

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

35 (r) A licensee shall not be liable for any occurrences during the  
36 temporary management under this section except to the extent that  
37 the occurrences are the result of the licensee’s conduct.

38 (s) The department may adopt regulations for the administration  
39 of this section.

1     ~~SEC. 4.~~

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

5     1569.482. (a) It is the intent of the Legislature in enacting this  
6 section to authorize the department to take quick, effective action  
7 to protect the health and safety of residents of residential care  
8 facilities for the elderly and to minimize the effects of transfer  
9 trauma that accompany the abrupt transfer of residents through a  
10 system whereby the department may apply for a court order  
11 appointing a receiver to temporarily operate a residential care  
12 facility for the elderly. The receivership is not intended to punish  
13 a licensee or to replace attempts to secure cooperative action to  
14 protect the residents' health and safety. The receivership is intended  
15 to protect the residents in the absence of other reasonably available  
16 alternatives. The receiver shall assume the operation of the facility  
17 in order to bring it into compliance with law, facilitate a transfer  
18 of ownership to a new licensee, or ensure the orderly transfer of  
19 residents should the facility be required to close.

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

31     (2) The petition shall allege the facts upon which the action is  
32 based and shall be supported by an affidavit of the director. A copy  
33 of the petition and affidavits, together with an order to appear and  
34 show cause why temporary authority to operate the residential care  
35 facility for the elderly should not be vested in a receiver pursuant  
36 to this section, shall be delivered to the licensee, administrator, or  
37 a responsible person at the facility to the attention of the licensee  
38 and administrator. The order shall specify a hearing date, which  
39 shall be not less than 10, nor more than 15, days following delivery

1 of the petition and order upon the licensee, except that the court  
2 may shorten or lengthen the time upon a showing of just cause.

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

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

39 (3) If at the conclusion of the hearing, which may include oral  
40 testimony and cross-examination at the option of any party, the

1 court determines that adequate grounds exist for the appointment  
2 of a receiver and that there is no other reasonably available remedy  
3 to protect the residents, the court may issue an order appointing a  
4 receiver to temporarily operate the residential care facility for the  
5 elderly and enjoining the licensee from interfering with the receiver  
6 in the conduct of his or her duties. In these proceedings, the court  
7 shall make written findings of fact and conclusions of law and  
8 shall require an appropriate bond to be filed by the receiver and  
9 paid for by the licensee. The bond shall be in an amount necessary  
10 to protect the licensee in the event of any failure on the part of the  
11 receiver to act in a reasonable manner. The bond requirement may  
12 be waived by the licensee.

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

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

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

27 (d) A person shall not impede the operation of a receivership  
28 created under this section. The receiver's access to, or possession  
29 of, the property shall not be interfered with during the term of the  
30 receivership. There shall be an automatic stay for a 60-day period  
31 subsequent to the appointment of a receiver of any action that  
32 would interfere with the functioning of the facility, including, but  
33 not limited to, cancellation of insurance policies executed by the  
34 licensees, termination of utility services, attachments, or setoffs  
35 of resident trust funds and working capital accounts and  
36 repossession of equipment in the facility.

37 (e) When a receiver is appointed, the licensee may, at the  
38 discretion of the court, be divested of possession and control of  
39 the facility in favor of the receiver. If the court divests the licensee  
40 of possession and control of the facility in favor of the receiver,

1 the department shall immediately issue a provisional license to the  
2 receiver. Notwithstanding the applicable sections of this code  
3 governing the revocation of a provisional license, the provisional  
4 license issued to a receiver shall automatically expire upon the  
5 termination of the receivership. The receiver shall possess the  
6 provisional license solely for purposes of carrying out the  
7 responsibilities authorized by this section and the duties ordered  
8 by the court. The receiver shall have no right to appeal the  
9 expiration of the provisional license.

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

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

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

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

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

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

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

34 (B) To preserve resident funds. The receiver shall be entitled  
35 to, and shall take, possession of all property or assets of residents  
36 that are in the possession of the licensee or operator of the facility.  
37 The receiver shall preserve all property, assets, and records of  
38 residents of which the receiver takes possession.

39 (C) To contract for outside services as may be needed for the  
40 operation of the residential care facility for the elderly. Any

1 contract for outside services in excess of five thousand dollars  
2 (\$5,000) shall be approved by the court.

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

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

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

19 (G) To ask the court for direction in the treatment of debts  
20 incurred prior to the appointment, if the licensee's debts appear  
21 extraordinary, of questionable validity, or unrelated to the normal  
22 and expected maintenance and operation of the facility, or if  
23 payment of the debts will interfere with the purposes of  
24 receivership.

25 (g) (1) A person who is served with notice of an order of the  
26 court appointing a receiver and of the receiver's name and address  
27 shall be liable to pay the receiver, rather than the licensee, for any  
28 goods or services provided by the residential care facility for the  
29 elderly after the date of the order. The receiver shall give a receipt  
30 for each payment and shall keep a copy of each receipt on file.  
31 The receiver shall deposit amounts received in a special account  
32 and shall use this account for all disbursements. Payment to the  
33 receiver pursuant to this subdivision shall discharge the obligation  
34 to the extent of the payment and shall not thereafter be the basis  
35 of a claim by the licensee or any other person. A resident shall not  
36 be evicted nor may any contract or rights be forfeited or impaired,  
37 nor may any forfeiture be effected or liability increased, by reason  
38 of an omission to pay the licensee, operator, or other person a sum  
39 paid to the receiver pursuant to this subdivision.

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

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

11 (h) (1) A receiver shall not be required to honor a lease,  
12 mortgage, or secured transaction entered into by the licensee of  
13 the facility and another party if the court finds that the agreement  
14 between the parties was entered into for a collusive, fraudulent  
15 purpose or that the agreement is unrelated to the operation of the  
16 facility.

17 (2) A lease, mortgage, or secured transaction or an agreement  
18 unrelated to the operation of the facility that the receiver is  
19 permitted to dishonor pursuant to this subdivision shall only be  
20 subject to nonpayment by the receiver for the duration of the  
21 receivership, and the dishonoring of the lease, mortgage, security  
22 interest, or other agreement, to this extent, by the receiver shall  
23 not relieve the owner or operator of the facility from any liability  
24 for the full amount due under the lease, mortgage, security interest,  
25 or other agreement.

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

36 (4) Payment by the receiver of the amount determined by the  
37 court to be reasonable is a defense to any action against the receiver  
38 for payment or possession of the goods or real estate, subject to  
39 the lease or mortgage, which is brought by any person who received  
40 the notice required by this subdivision. However, payment by the

1 receiver of the amount determined by the court to be reasonable  
2 shall not relieve the owner or operator of the facility from any  
3 liability for the difference between the amount paid by the receiver  
4 and the amount due under the original lease, mortgage, or security  
5 interest.

6 (i) A monthly accounting shall be made by the receiver to the  
7 department of all moneys received and expended by the receiver  
8 on or before the 15th day of the following month or as ordered by  
9 the court, and the remainder of income over expenses for that  
10 month shall be returned to the licensee. A copy of the accounting  
11 shall be provided to the licensee. The licensee or owner of the  
12 residential care facility for the elderly may petition the court for  
13 a determination as to the reasonableness of any expenditure made  
14 pursuant to paragraph (5) of subdivision (f).

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

27 (A) Extend the receiver's management for an additional three  
28 months if there is a substantial likelihood that the facility will meet  
29 state standards within that period and will maintain compliance  
30 with the standards after termination of the receiver's management.  
31 The receiver shall report to the court in writing upon the facility's  
32 progress at the end of six weeks of any extension ordered pursuant  
33 to this paragraph.

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

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

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

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

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

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

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

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

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

26 (A) The department believes that it would be in the best interests  
27 of the residents of the facility, requests that the court return the  
28 operation of the facility to the former licensee, and provides clear  
29 and convincing evidence to the court that it is in the best interests  
30 of the facility's residents to take that action.

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

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

37 (A) If the owner closes the facility, or the sale or lease results  
38 in the closure of the facility, the court shall determine if a transfer  
39 plan is necessary. If the court so determines, the court shall adopt

1 and implement a transfer plan consistent with the provisions of  
2 Section 1569.682.

3 (B) If the licensee proposes to sell or lease the facility and the  
4 facility will continue to operate as a residential care facility for  
5 the elderly, the court and the department shall reevaluate any  
6 proposed transfer plan. If the court and the department determine  
7 that the sale or lease of the facility will result in compliance with  
8 licensing standards, the transfer plan and the receivership shall,  
9 subject to those conditions that the court may impose and enforce,  
10 be terminated upon the effective date of the sale or lease.

11 (k) (1) The salary of the receiver shall be set by the court  
12 commensurate with community care facility industry standards,  
13 giving due consideration to the difficulty of the duties undertaken,  
14 and shall be paid from the revenue coming to the facility. If the  
15 revenue is insufficient to pay the salary in addition to other  
16 expenses of operating the facility, the receiver's salary shall be  
17 paid from the emergency resident contingency account as provided  
18 in Section 1569.48. State advances of funds in excess of five  
19 thousand dollars (\$5,000) shall be approved by the director. Total  
20 advances for encumbrances and expenditures shall not exceed the  
21 sum of forty-nine thousand nine hundred ninety-nine dollars  
22 (\$49,999) unless approved by the director in writing.

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

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

7 (3) For purposes of this subdivision, “entity related to the  
8 licensee” means an entity, other than a natural person, of which  
9 the licensee is a subsidiary or an entity in which any person who  
10 was obligated to disclose information under Section 1569.15  
11 possesses an interest that would also require disclosure pursuant  
12 to Section 1569.15.

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

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

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

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

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

32 (n) The department may adopt regulations for the administration  
33 of this section. This section does not impair the authority of the  
34 department to temporarily suspend licenses under Section 1569.50  
35 or to reach a voluntary agreement with the licensee for alternate  
36 management of a community care facility including the use of a  
37 temporary manager under Section 1569.481. This section does not  
38 authorize the department to interfere in a labor dispute.

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

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

7 ~~SEC. 5.~~

8 *SEC. 7.* Section 1569.682 of the Health and Safety Code is  
9 amended to read:

10 1569.682. (a) A licensee of a licensed residential care facility  
11 for the elderly shall, prior to transferring a resident of the facility  
12 to another facility or to an independent living arrangement as a  
13 result of the forfeiture of a license, as described in subdivision (a),  
14 (b), or (f) of Section 1569.19, or a change of use of the facility  
15 pursuant to the department’s regulations, take all reasonable steps  
16 to transfer affected residents safely and to minimize possible  
17 transfer trauma, and shall, at a minimum, do all of the following:

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

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

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

24 (2) Provide each resident or the resident’s responsible person  
25 with a written notice no later than 60 days before the intended  
26 eviction. The notice shall include all of the following:

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

30 (B) A copy of the resident’s current service plan.

31 (C) The relocation evaluation.

32 (D) A list of referral agencies.

33 (E) The right of the resident or resident’s legal representative  
34 to contact the department to investigate the reasons given for the  
35 eviction pursuant to Section 1569.35.

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

38 (3) Discuss the relocation evaluation with the resident and his  
39 or her legal representative within 30 days of issuing the notice of  
40 eviction.

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

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

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

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

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

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

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

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

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

25 (7) If the resident gives notice five days before leaving the  
26 facility, the licensee shall refund to the resident or his or her legal  
27 representative a proportional per diem amount of any prepaid  
28 monthly fees at the time the resident leaves the facility and the  
29 unit is vacated. Otherwise the licensee shall pay the refund within  
30 seven days from the date that the resident leaves the facility and  
31 the unit is vacated.

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

37 (b) If seven or more residents of a residential care facility for  
38 the elderly will be transferred as a result of the forfeiture of a  
39 license or change in the use of the facility pursuant to subdivision  
40 (a), the licensee shall submit a proposed closure plan to the

1 department for approval. The department shall approve or  
2 disapprove the closure plan, and monitor its implementation, in  
3 accordance with the following requirements:

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

7 (2) The closure plan shall meet the requirements described in  
8 subdivision (a), and describe the staff available to assist in the  
9 transfers. The department's review shall include a determination  
10 as to whether the licensee's closure plan contains a relocation  
11 evaluation for each resident.

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

17 (4) If the department disapproves a closure plan, the licensee  
18 may resubmit an amended plan, which the department shall  
19 promptly either approve or disapprove, within 10 working days  
20 of receipt by the department of the amended plan. If the department  
21 fails to approve a closure plan, it shall inform the licensee, in  
22 writing, of the reasons for the disapproval of the plan.

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

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

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

32 (c) (1) If a licensee fails to comply with the requirements of  
33 this section, or if the director determines that it is necessary to  
34 protect the residents of a facility from physical or mental abuse,  
35 abandonment, or any other substantial threat to health or safety,  
36 the department shall take any necessary action to minimize trauma  
37 for the residents, including caring for the residents through the use  
38 of a temporary manager or receiver as provided for in Sections  
39 1569.481 and 1569.482 when the director determines the immediate  
40 relocation of the residents is not feasible based on transfer trauma

1 or other considerations such as the unavailability of alternative  
2 placements. The department shall contact any local agency that  
3 may have assessment placement, protective, or advocacy  
4 responsibility for the residents, and shall work together with those  
5 agencies to locate alternative placement sites, contact relatives or  
6 other persons responsible for the care of these residents, provide  
7 onsite evaluation of the residents, and assist in the transfer of  
8 residents.

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

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

39 (e) A resident of a residential care facility for the elderly covered  
40 under this ~~section~~, *section* may bring a civil action against any

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

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

15 *SEC. 7.5. Section 1569.682 of the Health and Safety Code is*  
16 *amended to read:*

17 1569.682. (a) A licensee of a licensed residential care facility  
18 for the elderly shall, prior to transferring a resident of the facility  
19 to another facility or to an independent living arrangement as a  
20 result of the forfeiture of a license, as described in subdivision (a),  
21 (b), or (f) of Section 1569.19, or a change of use of the facility  
22 pursuant to the department's regulations, take all reasonable steps  
23 to transfer affected residents safely and to minimize possible  
24 transfer trauma, and shall, at a minimum, do all of the following:

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

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

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

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

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

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

38 (C) The relocation evaluation.

39 (D) A list of referral agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) (1) If a licensee fails to comply with the requirements of  
2 this section, ~~and~~ *or* if the director determines that it is necessary  
3 to protect the residents of a facility from physical or mental abuse,  
4 abandonment, or any other substantial threat to health or safety,  
5 the department shall take any necessary action to minimize trauma  
6 for the residents, including caring for the residents through the use  
7 of a temporary manager *or receiver* as provided for in ~~Section~~  
8 ~~1569.481~~ *Sections 1569.481 and 1569.482* when the director  
9 determines the immediate relocation of the residents is not feasible  
10 based on transfer trauma or other considerations such as the  
11 unavailability of alternative placements. The department shall  
12 contact any local agency that may have assessment placement,  
13 protective, or advocacy responsibility for the residents, and shall  
14 work together with those agencies to locate alternative placement  
15 sites, contact relatives or other persons responsible for the care of  
16 these residents, provide onsite evaluation of the residents, and  
17 assist in the transfer of residents.

18 (2) The participation of the department and local agencies in  
19 the relocation of residents from a residential care facility for the  
20 elderly shall not relieve the licensee of any responsibility under  
21 this section. A licensee that fails to comply with the requirements  
22 of this section shall be required to reimburse the department and  
23 local agencies for the cost of providing the relocation services or  
24 the costs incurred in caring for the residents through the use of a  
25 temporary manager *or receiver* as provided for in ~~Section~~  
26 ~~1569.481~~ *Sections 1569.481 and 1569.482*. If the licensee fails  
27 to provide the relocation services required in this section, then the  
28 department may request that the Attorney General's office, the  
29 city attorney's office, or the local district attorney's office seek  
30 injunctive relief and damages in the same manner as provided for  
31 in Chapter 5 (commencing with Section 17200) of Part 2 of  
32 Division 7 of the Business and Professions Code, including  
33 restitution to the department of any costs incurred in caring for the  
34 residents through the use of a temporary manager *or receiver* as  
35 provided for in ~~Section 1569.481~~ *Sections 1569.481 and 1569.482*.

36 (d) A licensee who fails to comply with requirements of this  
37 section shall be liable for the imposition of civil penalties in the  
38 amount of one hundred dollars (\$100) per violation per day for  
39 each day that the licensee is in violation of this section, until such  
40 time that the violation has been corrected. The civil penalties shall

1 be issued immediately following the written notice of violation.  
 2 However, if the violation does not present an immediate or  
 3 substantial threat to the health or safety of residents and the licensee  
 4 corrects the violation within three days after receiving the notice  
 5 of violation, the licensee shall not be liable for payment of any  
 6 civil penalties pursuant to this subdivision related to the corrected  
 7 violation.

8 *(e) A licensee, on and after January 1, 2015, who fails to comply*  
 9 *with this section and abandons the facility and the residents in*  
 10 *care resulting in an immediate and substantial threat to the health*  
 11 *and safety of the abandoned residents, in addition to forfeiture of*  
 12 *the license pursuant to Section 1569.19, shall be excluded from*  
 13 *licensure in facilities licensed by the department without the right*  
 14 *to petition for reinstatement.*

15 ~~(e)~~

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

29 ~~(f)~~

30 *(g) This section shall not apply to a licensee that has obtained*  
 31 *a certificate of authority to offer continuing care contracts, as*  
 32 *defined in paragraph (8) of subdivision (c) of Section 1771.*

33 ~~SEC. 6.~~

34 *SEC. 8. Section 11461.3 of the Welfare and Institutions Code,*  
 35 *as added by Section 74 of Chapter 29 of the Statutes of 2014, is*  
 36 *amended to read:*

37 11461.3. (a) The Approved Relative Caregiver Funding Option  
 38 Program is hereby established for the purpose of making the  
 39 amount paid to approved relative caregivers for the in-home care  
 40 of children placed with them who are ineligible for AFDC-FC

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

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

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

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

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

24 (B) The child is described by subdivision (b), (c), or (e) of  
25 Section 11401 and the county welfare department or the county  
26 probation department is responsible for the placement and care of  
27 the child.

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

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

35 (1) Commencing October 1, 2014, the county shall notify the  
36 department in writing of its decision to participate in the Approved  
37 Relative Caregiver Funding Option Program. Failure to make  
38 timely notification, without good cause as determined by the  
39 department, shall preclude the county from participating in the  
40 program for the upcoming year. Annually thereafter, any county

1 not presently participating who elects to do so shall notify the  
2 department in writing no later than October 1 of its decision to  
3 participate for the upcoming calendar year.

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

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

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

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

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

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

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

2 (B) (i) General Fund resources that do not count toward the  
3 state's maintenance of effort requirements under Section  
4 609(a)(7)(B)(i) of Title 42 of the United States Code. For this  
5 purpose, the following money is hereby appropriated:

6 (I) The sum of thirty million dollars (\$30,000,000) from the  
7 General Fund for the period January 1, 2015 through December  
8 31, 2015.

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

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

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

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

32 (2) Funds available pursuant to subparagraphs (A) and (B) of  
33 paragraph (1) shall be allocated to participating counties  
34 proportionate to the number of their approved relative caregiver  
35 placements, using a methodology and timing developed by the  
36 department, following consultation with county human services  
37 agencies and their representatives.

38 (3) Notwithstanding subdivision (c), if in any calendar year the  
39 entire amount of funding appropriated by the state for the Approved  
40 Relative Caregiver Funding Option Program has not been fully

1 allocated to or utilized by counties, a county that has paid any  
2 funds pursuant to subparagraph (C) of paragraph (1) of subdivision  
3 (e) may request reimbursement for those funds from the  
4 department. The authority of the department to approve the requests  
5 shall be limited by the amount of available unallocated funds.

6 (f) An approved relative caregiver receiving payments on behalf  
7 of a child pursuant to this section shall not be eligible to receive  
8 additional CalWORKs payments on behalf of the same child under  
9 Section 11450.

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

14 (h) Prior to referral of any individual or recipient, or that  
15 person's case, to the local child support agency for child support  
16 services pursuant to Section 17415 of the Family Code, the county  
17 human services agency shall determine if an applicant or recipient  
18 has good cause for noncooperation, as set forth in Section  
19 11477.04. If the applicant or recipient claims good cause exception  
20 at any subsequent time to the county human services agency or  
21 the local child support agency, the local child support agency shall  
22 suspend child support services until the county social services  
23 agency determines the good cause claim, as set forth in Section  
24 11477.04. If good cause is determined to exist, the local child  
25 support agency shall suspend child support services until the  
26 applicant or recipient requests their resumption, and shall take  
27 other measures that are necessary to protect the applicant or  
28 recipient and the children. If the applicant or recipient is the parent  
29 of the child for whom aid is sought and the parent is found to have  
30 not cooperated without good cause as provided in Section  
31 11477.04, the applicant's or recipient's family grant shall be  
32 reduced by 25 percent for the time the failure to cooperate lasts.

33 (i) Consistent with Section 17552 of the Family Code, if aid is  
34 paid under this chapter on behalf of a child who is under the  
35 jurisdiction of the juvenile court and whose parent or guardian is  
36 receiving reunification services, the county human services agency  
37 shall determine, prior to referral of the case to the local child  
38 support agency for child support services, whether the referral is  
39 in the best interest of the child, taking into account both of the  
40 following:

1 (1) Whether the payment of support by the parent will pose a  
2 barrier to the proposed reunification in that the payment of support  
3 will compromise the parent’s ability to meet the requirements of  
4 the parent’s reunification plan.

5 (2) Whether the payment of support by the parent will pose a  
6 barrier to the proposed reunification in that the payment of support  
7 will compromise the parent’s current or future ability to meet the  
8 financial needs of the child.

9 ~~SEC. 7.~~

10 *SEC. 9.* Section 11462.04 of the Welfare and Institutions Code  
11 is amended to read:

12 11462.04. (a) Notwithstanding any other law, no new group  
13 home rate or change to an existing rate shall be established pursuant  
14 to Section 11462. An application shall not be accepted or processed  
15 for any of the following:

- 16 (1) A new program.
- 17 (2) A new provider.
- 18 (3) A program change, such as a rate classification level (RCL)  
19 increase.
- 20 (4) A program capacity increase.
- 21 (5) A program reinstatement.

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

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

32 ~~SEC. 8.~~

33 *SEC. 10.* Section 11477 of the Welfare and Institutions Code,  
34 as amended by Section 75 of Chapter 29 of the Statutes of 2014,  
35 is amended to read:

36 11477. As a condition of eligibility for aid paid under this  
37 chapter, each applicant or recipient shall do all of the following:

- 38 (a) (1) Do either of the following:
  - 39 (i) For applications received before October 1, 2009, assign to  
40 the county any rights to support from any other person the applicant

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

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

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

37 (3) If the federal government does not permit states to adopt the  
38 same order of distribution for preassistance and postassistance  
39 child support arrears that are assigned on or after October 1, 1998,  
40 support arrears that accrue before the family receives aid under

1 this chapter that are assigned pursuant to this subdivision shall be  
2 assigned as follows:

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

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

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

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

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

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

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

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

34 (b) (1) Cooperate with the county welfare department and local  
35 child support agency in establishing the paternity of a child of the  
36 applicant or recipient born out of wedlock with respect to whom  
37 aid is claimed, and in establishing, modifying, or enforcing a  
38 support order with respect to a child of the individual for whom  
39 aid is requested or obtained, unless the applicant or recipient  
40 qualifies for a good cause exception pursuant to Section 11477.04.

1 The granting of aid shall not be delayed or denied if the applicant  
2 is otherwise eligible, if the applicant completes the necessary forms  
3 and agrees to cooperate with the local child support agency in  
4 securing support and determining paternity, if applicable. The local  
5 child support agency shall have staff available, in person or by  
6 telephone, at all county welfare offices and shall conduct an  
7 interview with each applicant to obtain information necessary to  
8 establish paternity and establish, modify, or enforce a support order  
9 at the time of the initial interview with the welfare office. The local  
10 child support agency shall make the determination of cooperation.  
11 If the applicant or recipient attests under penalty of perjury that  
12 he or she cannot provide the information required by this  
13 subdivision, the local child support agency shall make a finding  
14 regarding whether the individual could reasonably be expected to  
15 provide the information before the local child support agency  
16 determines whether the individual is cooperating. In making the  
17 finding, the local child support agency shall consider all of the  
18 following:

- 19 (A) The age of the child for whom support is sought.  
20 (B) The circumstances surrounding the conception of the child.  
21 (C) The age or mental capacity of the parent or caretaker of the  
22 child for whom aid is being sought.  
23 (D) The time that has elapsed since the parent or caretaker last  
24 had contact with the alleged father or obligor.
- 25 (2) Cooperation includes all of the following:
- 26 (A) Providing the name of the alleged parent or obligor and  
27 other information about that person if known to the applicant or  
28 recipient, such as address, social security number, telephone  
29 number, place of employment or school, and the names and  
30 addresses of relatives or associates.  
31 (B) Appearing at interviews, hearings, and legal proceedings  
32 provided the applicant or recipient is provided with reasonable  
33 advance notice of the interview, hearing, or legal proceeding and  
34 does not have good cause not to appear.  
35 (C) If paternity is at issue, submitting to genetic tests, including  
36 genetic testing of the child, if necessary.  
37 (D) Providing any additional information known to or reasonably  
38 obtainable by the applicant or recipient necessary to establish  
39 paternity or to establish, modify, or enforce a child support order.

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

5 (c) (1) This section shall not apply if all of the adults are  
6 excluded from the assistance unit pursuant to Section 11251.3,  
7 11454, or 11486.5.

8 (2) It is the intent of the Legislature that the regular receipt of  
9 child support in the preceding reporting period be considered in  
10 determining reasonably anticipated income for the following  
11 reporting period.

12 (3) In accordance with Sections 11265.2 and 11265.46, if the  
13 income of an assistance unit described in paragraph (1) includes  
14 reasonably anticipated income derived from child support, the ~~first~~  
15 ~~fifty dollars (\$50)~~ *amount established in Section 17504 of the*  
16 *Family Code and Section 11475.3 of the Welfare and Institutions*  
17 *Code* of any amount of child support received each month shall  
18 not be considered income or resources and shall not be deducted  
19 from the amount of aid to which the assistance unit otherwise  
20 would be eligible.

21 ~~SEC. 9.~~

22 *SEC. 11.* Section 12300.4 of the Welfare and Institutions Code,  
23 as added by Section 76 of Chapter 29 of the Statutes of 2014, is  
24 amended to read:

25 12300.4. (a) Notwithstanding any other law, including, but  
26 not limited to, Chapter 10 (commencing with Section 3500) of  
27 Division 4 of Title 1 of the Government Code and Title 23  
28 (commencing with Section 110000) of the Government Code, a  
29 recipient who is authorized to receive in-home supportive services  
30 pursuant to this article, or Section 14132.95, 14132.952, or  
31 14132.956, administered by the State Department of Social  
32 Services, or waiver personal care services pursuant to Section  
33 14132.97, administered by the State Department of Health Care  
34 Services, or any combination of these services, shall direct these  
35 authorized services, and the authorized services shall be performed  
36 by a provider or providers within a workweek and in a manner  
37 that complies with the requirements of this section.

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

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

7 (A) All hours worked providing authorized services specified  
8 in subdivision (a).

9 (B) Travel time as defined in subdivision (f), only if federal  
10 financial participation is not available to compensate for that travel  
11 time. If federal financial participation is available for travel time  
12 as defined in subdivision (f), the travel time shall not be included  
13 in the calculation of the total weekly hours worked within a  
14 workweek.

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

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

30 *(B) The State Department of Health Care Services shall take*  
31 *all necessary and timely steps to ensure that recipients receiving*  
32 *services pursuant to the Nursing Facility/Acute Hospital Waiver*  
33 *or the In-Home Operations Waiver who are at or near the*  
34 *individual cost cap, as that term is used in the applicable waiver,*  
35 *do not lose services and are not forced to alter existing provider*  
36 *relationships because of increased overtime pay for providers,*  
37 *including allowing the recipient to exceed the individual cost cap.*  
38 *The department shall provide timely information to waiver*  
39 *recipients as to the steps that will be taken.*

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

4 (B) A recipient, his or her authorized representative, or any  
5 other entity, including any person or entity providing services  
6 pursuant to Section 14186.35, shall not authorize any provider to  
7 work hours that exceed the applicable limitation or limitations of  
8 this section.

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

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

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

18 (5) For providers of in-home supportive services, the State  
19 Department of Social Services or a county may terminate the  
20 provider from providing services under the IHSS program if a  
21 provider continues to violate the limitations of this section on  
22 multiple occasions.

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

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

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

1 (B) When a recipient's weekly authorized hours are adjusted  
2 pursuant to subparagraph (C) of paragraph (1) of subdivision (b)  
3 of Section 12301.1 and exceed 66 hours, as reduced by the net  
4 percentage defined by Sections 12301.02 and 12301.03, as  
5 applicable, and at the time of adjustment the recipient currently  
6 receives all authorized hours of service from one provider, that  
7 provider shall be deemed authorized to work the recipient's  
8 county-approved adjusted hours for that week, but only if the  
9 additional hours of work, based on the adjustment, do not exceed  
10 the total number of hours worked that are compensable at an  
11 overtime pay rate that the provider would have been authorized to  
12 work in that month if the weekly hours had not been adjusted.

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

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

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

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

39 (3) Travel time, and compensation for that travel time, between  
40 a recipient of authorized in-home supportive services specified in

1 subdivision (a) and a recipient of authorized waiver personal care  
2 services specified in subdivision (a), shall be attributed to the  
3 program authorizing services for the recipient to whom the provider  
4 is traveling.

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

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

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

23 (h) This section does not apply to a contract entered into  
24 pursuant to Section 12302 or 12302.6 for authorized in-home  
25 supportive services. Contract rates negotiated pursuant to Section  
26 12302 or 12302.6 shall be based on costs consistent with a 40-hour  
27 workweek.

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

30 (j) Any action authorized under this section that is implemented  
31 in a program authorized pursuant to Section 14132.95, 14132.97,  
32 14132.952, or 14132.956 shall be compliant with federal Medicaid  
33 requirements, as determined by the State Department of Health  
34 Care Services.

35 (k) Notwithstanding the rulemaking provisions of the  
36 Administrative Procedure Act (Chapter 3.5 (commencing with  
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
38 Code), the State Department of Social Services and the State  
39 Department of Health Care Services may implement, interpret, or

1 make specific this section by means of all-county letters or similar  
2 instructions, without taking any regulatory action.

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

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

12 *SEC. 12. The Legislature finds and declares that the number*  
13 *of unaccompanied, undocumented minors in California has surged*  
14 *in recent months, often overwhelming the agencies and*  
15 *organizations that care for these minors and help to determine*  
16 *their immigration status. Legal representation for unaccompanied*  
17 *undocumented minors in California is important to assist these*  
18 *minors in navigating through federal immigration proceedings as*  
19 *well as related state court actions.*

20 *SEC. 13. Chapter 5.6 (commencing with Section 13300) is*  
21 *added to Part 3 of Division 9 of the Welfare and Institutions Code,*  
22 *to read:*

23

24 *CHAPTER 5.6. LEGAL COUNSEL FOR UNACCOMPANIED*  
25 *UNDOCUMENTED MINORS*

26

27 *13300. (a) Subject to the availability of funding in the act that*  
28 *added this chapter or the annual Budget Act, the department shall*  
29 *contract, as described in Section 13301, with qualified nonprofit*  
30 *legal services organizations to provide legal services to*  
31 *unaccompanied undocumented minors who are transferred to the*  
32 *care and custody of the federal Office of Refugee Resettlement and*  
33 *who are present in this state.*

34 *(b) Legal services provided in accordance with subdivision (a)*  
35 *shall be for the sole purpose of providing legal representation to*  
36 *unaccompanied undocumented minors who are in the physical*  
37 *custody of the federal Office of Refugee Resettlement or who are*  
38 *residing with a family member or other sponsor.*

1 (c) For purposes of this chapter, the term “unaccompanied  
2 undocumented minors” means unaccompanied alien children as  
3 defined in Section 279(g)(2) of Title 6 of the United States Code.

4 (d) For purposes of this chapter, the term “legal services”  
5 includes culturally and linguistically appropriate services provided  
6 by attorneys, paralegals, interpreters and other support staff for  
7 state court proceedings, federal immigration proceedings, and  
8 any appeals arising from those proceedings.

9 13301. Contracts awarded pursuant to Section 13300 shall  
10 fulfill all of the following:

11 (a) Be executed only with nonprofit legal services organizations  
12 that meet all of the following requirements:

13 (1) Have at least three years of experience handling asylum,  
14 T-Visa, U-Visa, or special immigrant juvenile status cases and  
15 have represented at least 25 individuals in these matters.

16 (2) Have experience in representing individuals in removal  
17 proceedings and asylum applications.

18 (3) Have conducted trainings on these issues for practitioners  
19 beyond their staff.

20 (4) Have experience guiding and supervising the work of  
21 attorneys whom themselves do not regularly participate in this  
22 area of the law but nevertheless work pro bono on the types of  
23 cases described in paragraph (1).

24 (5) Are accredited by the Board of Immigration Appeals under  
25 the United States Department of Justice’s Executive Office for  
26 Immigration Review or meet the requirements to receive funding  
27 from the Trust Fund Program administered by the State Bar of  
28 California.

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

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

35 (d) Require contractors to coordinate efforts with the federal  
36 Office of Refugee Resettlement Legal Access Project in order to  
37 respond to and assist or represent unaccompanied undocumented  
38 minors who could benefit from the services provided under this  
39 chapter.

1 (e) *Require contractors to maintain adequate legal malpractice*  
2 *insurance and to indemnify and hold the state harmless from any*  
3 *claims that arise from the legal services provided pursuant to this*  
4 *chapter.*

5 *13302. Notwithstanding any other law:*

6 (a) *Contracts awarded pursuant to this chapter shall be exempt*  
7 *from the personal services contracting requirements of Article 4*  
8 *(commencing with Section 19130) of Chapter 5 of Part 2 of*  
9 *Division 5 of Title 2 of the Government Code.*

10 (b) *Contracts awarded pursuant to this chapter shall be exempt*  
11 *from the Public Contract Code and the State Contracting Manual,*  
12 *and shall not be subject to the approval of the Department of*  
13 *General Services.*

14 (c) *The client information and records of legal services provided*  
15 *pursuant to this chapter shall be subject to the requirements of*  
16 *Section 10850 and shall be exempt from inspection under the*  
17 *California Public Records Act (Chapter 3.5 (commencing with*  
18 *Section 6250) of Division 7 of Part 1 of the Government Code).*

19 (d) *The state shall be immune from any liability resulting from*  
20 *the implementation of this chapter.*

21 ~~SEC. 10.~~

22 *SEC. 14.* Section 88 of Chapter 29 of the Statutes of 2014 is  
23 amended to read:

24 SEC. 88. (a) Notwithstanding the rulemaking provisions of  
25 the Administrative Procedure Act (Chapter 3.5 (commencing with  
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
27 Code), the department may implement and administer the changes  
28 made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80,  
29 81, 82, and 83 of Chapter 29 of the Statutes of 2014 through  
30 all-county letters or similar instructions until regulations are  
31 adopted.

32 (b) The department shall adopt emergency regulations  
33 implementing these provisions no later than January 1, 2016. The  
34 department may readopt any emergency regulation authorized by  
35 this section that is the same as, or substantially equivalent to, any  
36 emergency regulation previously adopted pursuant to this section.  
37 The initial adoption of regulations pursuant to this section and one  
38 readoption of emergency regulations shall be deemed to be an  
39 emergency and necessary for the immediate preservation of the  
40 public peace, health, safety, or general welfare. Initial emergency

1 regulations and the one readoption of emergency regulations  
2 authorized by this section shall be exempt from review by the  
3 Office of Administrative Law. The initial emergency regulations  
4 and the one readoption of emergency regulations authorized by  
5 this section shall be submitted to the Office of Administrative Law  
6 for filing with the Secretary of State and each shall remain in effect  
7 for no more than 180 days, by which time final regulations shall  
8 be adopted.

9 *SEC. 15. The provisions of this act are severable. If any*  
10 *provision of this act or its application is held invalid, that invalidity*  
11 *shall not affect other provisions or applications that can be given*  
12 *effect without the invalid provision or application.*

13 *SEC. 16. The Legislature finds and declares that Section 1 of*  
14 *this act, which adds Chapter 7 (commencing with Section 155) to*  
15 *Part 1 of Title 1 to the Code of Civil Procedure, imposes a*  
16 *limitation on the public's right of access to the meetings of public*  
17 *bodies or the writings of public officials and agencies within the*  
18 *meaning of Section 3 of Article I of the California Constitution.*  
19 *Pursuant to that constitutional provision, the Legislature makes*  
20 *the following findings to demonstrate the interest protected by this*  
21 *limitation and the need for protecting that interest:*

22 *In order to protect the privacy interests of those minors who are*  
23 *seeking special immigrant juvenile status, it is essential to maintain*  
24 *the confidentiality of the records described in Section 1 of this act.*

25 *SEC. 17. Section 7.5 of this bill incorporates amendments to*  
26 *Section 1569.682 of the Health and Safety Code proposed by both*  
27 *this bill and Assembly Bill 1899. It shall only become operative if*  
28 *(1) both bills are enacted and become effective on or before*  
29 *January 1, 2015, but this bill becomes operative first, (2) each bill*  
30 *amends Section 1569.682 of the Health and Safety Code, and (3)*  
31 *this bill is enacted after Assembly Bill 1899, in which case Section*  
32 *1569.682 of the Health and Safety Code, as amended by Section*  
33 *7 of this bill, shall remain operative only until the operative date*  
34 *of Assembly Bill 1899, at which time Section 7.5 of this bill shall*  
35 *become operative.*

36 ~~SEC. 11.~~

37 *SEC. 18. The amount of one million six hundred eighty-six*  
38 *thousand dollars (\$1,686,000) is hereby appropriated to the State*  
39 *Department of Social Services in augmentation of Item*  
40 *5180-151-0001 of Section 2.00 of the Budget Act of 2014, for*

1 Program 25.30 for the Commercially Sexually Exploited Children  
2 Program, and the total amount appropriated in Item 5180-153-0001  
3 of Section 2.00 of the Budget Act of 2014 is hereby reduced by  
4 the amount of one million six hundred eighty-six thousand dollars  
5 (\$1,686,000) to offset that appropriation.

6 ~~SEC. 12.~~

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

9 ~~SEC. 13.~~

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