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AMENDED IN ASSEMBLY JUNE 29, 1998
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AMENDED IN SENATE JUNE 3, 1997
AMENDED IN SENATE MAY 5, 1997
AMENDED IN SENATE APRIL 7, 1997

SENATE BILL

No. 933

Introduced by Senator Thompson

February 27, 1997

An act to add ~~Section 7911~~ *Sections 7911, 7911.1, and 7912* to the Family Code, to amend Sections 1522, 1522.03, 1522.04, ~~1522.4, 1534, 1538, 1538.5, 1522.1, 1522.4, 1534, 1538, 1538.5, 1548~~ 1550, 1558, 1558.1, 1563, 1568.082, 1568.09, 1568.092, 1568.093, 1569.17, 1569.172, 1569.50, 1569.58, 1569.59, 1569.617, 1596.603, 1596.871, 1596.8713, ~~1596.877, 1596.885, 1596.8897,~~ and 1596.8898 of, to add Sections 1520.1, 1520.11, 1522.02, 1522.41, 1522.42, 1522.43, 1534.5, 1568.042, 1569.1515, and 1596.952 to, the Health and Safety Code, to amend Section 11174.3 of the Penal Code, and to amend Sections 366, 727.1, 827, 10609.3, 11402, ~~11462, 16501, and 16501.1~~ of, to ~~add Sections 361.21, 5867.5, 11402.4,~~ *11461, 11462, 11463, 11465, 16501.1, and 18358.30* of, to *add Sections 361.21, 5867.5, 11466.21, 16501.2,* and 16516.5 to, to ~~add Chapter 5 (commencing with Section 1350)~~ to Part 1 of Division 2 of, to *add Chapter 2.5* (commencing with Section 16160) to Part 4 of, and to add Chapter 12.86 (commencing with Section 18987.6) to Part 6

of, Division 9 of, and to repeal Sections 11404.5 and 11467 of, the Welfare and Institutions Code, relating to human services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 933, as amended, M. Thompson. Foster care.

Existing law adopts the Interstate Compact for Children to cooperate in the interstate placement of children and enters California into the compact with all other jurisdictions joining the compact.

This bill would require the State Department of Social Services or its designee to investigate any threat to the health and safety of children placed by a California county social services agency or probation department pursuant to the compact. The bill would require the department to require certified out-of-state group homes to comply with California reporting requirements for all children. The bill would authorize the Compact Administrator to suspend temporarily new placements in out-of-state group homes pending completion of certain investigations.

Existing law imposes various requirements that are required to be met as a condition of licensing of community care facilities, including group homes, and provides for the licensure of those entities by the State Department of Social Services.

This bill would require group homes to operate with a provisional license during the first 12 months of operation, and would require the department to take certain actions during this period of operation. It would permit the department, under certain circumstances, to extend the provisional license for up to an additional 6 months.

This bill would impose the additional requirement that prior to becoming a member of a board of directors of a group home persons sign a statement that they understand their duties and obligations in that capacity, as a condition of licensing the group home. The bill would require a group home provider to schedule quarterly meetings and report the minutes of the meeting to the State Department of Social



Services. The bill would require the board of directors to discuss licensing issues.

This bill would require the department to identify and distribute to all group home providers detailed information designed to educate members of the board of directors of the group homes on their roles and responsibilities and would specify that, as a condition to a group home receiving a payment rate, the board of directors of the group home shall sign a form indicating they have read and understood the requirements. The bill would require a board of directors of any group home, in order to receive a payment rate, to schedule and conduct meetings annually to review documents determined by the department, including, but not limited to, licensing information, and to adopt regulations requiring the board of directors of a group home to make timely submissions of the minutes of their meetings, to appropriate agencies.

The bill would require any corporation that applies for licensure as a community care facility to list the facilities that any member of the board of directors, executive director, or executive officer, of the corporation, or executive director, has been licensed to operate, been employed in, or served as a member of the board of directors, executive officer, or an officer, and would prohibit the department from issuing a license to any corporate applicant that has such a member who is not eligible to work at a community care facility, and would permit the department to revoke the license of any corporation with a director, executive officer, or officer, who is not eligible to work in a community care facility, subject to giving the applicant notice and an opportunity to remove that individual.

Existing law requires that before issuing a license or special permit to any person to operate or manage a community care facility the State Department of Social Services determine if any person or any director or officer of an applicant corporation has ever been convicted of certain crimes and requires the department to deny the application in the case of a conviction of one or more of those crimes. ~~The~~

This bill would require applicants to submit a second set of fingerprints for purposes of searching criminal records of the



Federal Bureau of Investigation, and would authorize the issuance of a license when the fingerprints have been submitted and all licensing qualifications have been met, except for the receipt of criminal history information from the Federal Bureau of Investigation subject to revocation if the department determines the person has a criminal record. The bill would, in limited circumstances, authorize the Director of Social Services to grant an exemption from the denial of the licensure if the director determines that the person convicted of a crime is of such good character as to justify issuance of the license or special permit.

The bill would authorize the department to create substitute group home employee registries for persons working at more than one facility licensed by the department to submit fingerprint cards and child abuse index information for child care registries.

Existing law states the intent of the Legislature that the Department of Justice charge a fee to cover its services provided in determining if any applicant or director or officer of a corporate applicant has been convicted of certain crimes.

This bill would authorize the Department of Justice to charge the fee.

The bill would also specify procedures to be followed when the Department of Justice cannot ascertain information concerning an applicant's criminal record check within a specified period.

This bill would require that the State Department of Social Services implement regulations regarding the roles and duties of a group home facility manager in overseeing a group home's operation and the time each spends at the group home and the inclusion of that information in the facility's plan of operation.

The bill would prohibit any group home or foster family agency or employee or director thereof to offer gifts or other remuneration to any employee of the State Department of Social Services or placement agency or employee of the court that exceeds certain limits. The bill would also prohibit the employees of the department from accepting any gift of any type from any group home or foster family agency licensee, employee, or director, and would make violation of that



prohibition a misdemeanor. By creating a new crime, this bill would result in a state-mandated local program.

The bill would require the Director of Social Services to establish a certification program to ensure that administrators of group home facilities have appropriate training and certification.

Existing law creates the Certification Fund from which moneys, upon appropriation by the Legislature, shall be expended by the State Department of Social Services for the purpose of administering the residential care facilities for the elderly certification program.

This bill would, for the 1998–99 fiscal year, appropriate the sum of not to exceed \$250,000 from the Certification Fund to the State Department of Social Services for administration of the group home facility certification program. It would require repayment of this appropriation upon receipt of fees received pursuant to that program.

The bill would also impose other duties upon group homes, including the duty to develop a daily schedule of activities, and requirements relating to the maintenance of reports and other documents pertaining to the facility.

Existing law requires the periodic inspection and evaluation for quality of care of every licensed community care facility.

This bill would authorize the State Department of Social Services to interview children who are clients of group homes at any public or private agency at which they may be found.

Existing law authorizes the department to revoke or suspend a license and to deny an application for a license for a community care facility on certain grounds.

This bill would authorize the State Department of Social Services to take those actions on the grounds of engaging in acts of financial malfeasance concerning the operation of a community care facility.

Existing law authorizes the State Department of Social Services to prohibit a licensed community care facility from employing or continuing to employ, or allowing contact with clients of a licensed facility, any person who has violated certain rules or regulations, engaged in certain conduct, or been denied an exemption to work or be present in a facility after having been convicted of certain crimes.



This bill would authorize the State Department of Social Services also to prohibit any person to whom those prohibitions apply from being a member of the board of directors, an executive director, or an officer of a community care facility, and would revise the procedures for implementation of the prohibition.

Existing law requires the Director of Social Services to ensure that licensing personnel at the department have appropriate training to carry out the requirements of law applicable to licensing community care facilities.

This bill would revise the scope of those areas of training required in the state development program to include providing group home and foster family agency licensing personnel with a minimum of 24 hours of training per year ~~that reflects the unique needs to increase their understanding~~ of children in group homes, *certified homes*, and foster family homes.

Under existing law, the State Department of Social Services also licenses residential care facilities for persons with chronic, life-threatening illnesses, residential care facilities for the elderly, and child day care facilities.

The bill would set forth provisions applicable to these facilities similar to the foregoing provisions relating to fingerprint and criminal history requirements, financial malfeasance, and removal of directors and officers.

Since a violation of licensing provisions for those facilities covered by the bill is a crime, imposition of the foregoing requirements on these facilities would result in a state-mandated local program.

Existing law provides for the placement of children who are determined to be wards of the court in facilities outside of the state.

This bill would specify circumstances in which the minor placed in a facility outside of the state may be removed and returned to the court for a review of the suitability of continued placement out of the state.

~~The bill would require the implementation of a program of funding various services for children who are at risk of being determined wards of the court or who are under juvenile court supervision or supervision of the probation department.~~



~~The bill would establish the continuously appropriated Youth Services Program Development Fund and would appropriate an unspecified amount from the General Fund to that fund for the purposes of the fund.~~

Existing law requires counties to maintain a specified level of children's mental health services.

This bill would require counties that receive full system of care funding, as determined by the State Department of Mental Health, to provide to county social services and probation departments mental health screening, assessment, and participation in multidisciplinary and specialty mental health treatment services for children who are placed out of the home in group care, for those children who meet the definition of medical necessity, to the extent resources are available, and would require the State Department of Mental Health to develop an estimate of the extent to which assessment and treatment resources are available to meet the needs of children placed out of home in group care and who are at risk of that placement. The bill would require the State Department of Mental Health ~~and~~, the State Department of Social Services, *and the Judicial Council* to develop a procedure for review of treatment plans for children receiving prescribed psychiatric medication and who are placed in out-of-home care.

Existing law requires the State Department of Social Services to complete a comprehensive evaluation of the Independent Living Program, in consultation with county Independent Living Program administrators, and to develop and implement a transitional housing model for youth who are preparing for emancipation from foster care.

This bill would state the intent of the Legislature that the foster care state plan be amended to ensure that all eligible children up to the age of 21 years may be served by the Independent Living Program.

Existing law provides for the provision of various benefits under the CalWORKs program for children who have been placed in foster care.

~~This bill would require the State Department of Social Services, at the option of each county, to serve as a County Ombudsman Pilot Project, and would require the department~~



~~to consult with pilot counties and other interested parties on the establishment of a county ombudsman program to provide a local link between community care licensing, foster care ratesetting, and placing agencies regarding out-of-home care.~~

Existing law requires the department to adopt regulations requiring the use of the standard form for program statements and the level of care assessment instrument and process to determine the appropriate placement in out-of-home care.

~~This bill would repeal that requirement, and would require the department, in collaboration with specified parties, to issue a report containing best practice guidelines for assessments of families and children receiving foster care and child welfare services to all county placing agencies and the courts, current best practice guidelines for the assessment of a child and the child's family unit. The bill would require the department to solicit participation by counties in a pilot program to evaluate the assessment procedure conduct a pilot project to test the effectiveness of using best practice standards for the assessment of children and families receiving child welfare and foster care services.~~

The bill would also revise the procedures for the establishment of a rate classification level and for an existing group home requesting a rate classification level increase under the foster care program *and under the intensive foster care program.*

Existing law provides for the reimbursement of foster care providers through the CalWORKs program, using a combination of federal, state, and county funds.

This bill would provide for an increase in those provider rates. Since state funds are continuously appropriated for the reimbursement of those providers, this bill would increase the continuous appropriation, thereby resulting in an appropriation.

The bill would also require group home providers, as a condition of receiving a rate under the foster care payment provisions of the CalWORKs program, to ensure that all documents that verify the provision of services in certain areas of child care, social work, and mental health be contemporaneously signed by the individual providing the



services and by the group home representative responsible for preparing the document.

The bill would require an annual ~~single independent~~ financial ~~and compliance~~ audit of ~~nonprofit organizations~~ licensed as a foster family agency or group home, and would make ~~timely~~ submission of the audit by foster family agencies and group home programs a condition to receiving a rate under the foster care program, *except for certain new programs.*

The bill would require the State Department of Social Services to ~~establish~~ *convene* and preside over a community care facilities law enforcement task force to identify and recommend to the appropriate committees of the Legislature specific statutory and regulatory changes to permit efficient and effective criminal prosecution of, and to permit efficient and effective civil recovery of public funds from individuals associated with illegal activities surrounding public funds paid to providers for the care of, and delivery of services to, clients of community care facilities.

Existing law establishes procedures for the determination of the level of care required by children placed in foster care, requires that the level of care assessment instrument address the safety needs of the child, and requires the State Department of Social Services to develop a standard form for program statements for ratesetting, community care licensing, and county placement purposes for various types of foster care provider facilities. Existing law also requires the State Departments of Social Services and Mental Health to report to the Legislature on the level of care instrument by January 1, 1995.

This bill would repeal those requirements.

~~Existing law authorizes the State Department of Social Services to abolish, by regulation, the time periods for which emergency child welfare services shall be funded.~~

~~This bill would repeal that authority, and would, instead, specify that state and federal reimbursement for emergency shelter care shall be available for 60 days.~~

~~The bill would require counties to report, by July 1, 1999, and annually thereafter, on the number of children, the circumstances requiring stays of longer than 30 days, and the~~



~~ages of children receiving emergency shelter care and the county's efforts to develop additional resources to limit the length of stay in emergency shelter care. By requiring counties to meet this requirement, this bill would result in a state-mandated local program.~~

This bill would also require that foster children placed in group homes by county welfare departments or county probation departments shall be visited at least once monthly by a county social worker or probation officer, and would require the state to pay 100% of the costs of those visits.

Existing law provides for various services for children and families.

~~This bill would require the State Department of Social Services to implement an independent ombudsman program for children in foster care by January 1, 2000~~ *Office of the State Foster Care Ombudsperson to be established in the Health and Welfare Agency with prescribed powers and duties.*

This bill would authorize any county to ~~contract~~ *enter into performance agreements* with private, nonprofit agencies to encourage innovation in the delivery of children's services, to develop services not available in the community, and to promote change in the child welfare services system. It would permit the Director of Social Services to waive foster care regulations when necessary to implement these county programs.

The bill would require the State Department of Social Services to implement certain of its provisions through the adoption of emergency regulations.

This bill would also require the Health and Welfare Agency to conduct a reexamination of the role of the foster care system and, if necessary, submit recommendations to the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 7911 is added to the Family
2 Code, to read:

3 7911. The Legislature finds and declares all of the
4 following:

5 (a) ~~(1)~~—The health and safety of California children
6 placed out of state pursuant to the provisions of the
7 Interstate Compact on the Placement of Children are a
8 matter of statewide concern.

9 ~~(2)~~—

10 (b) The Legislature therefore affirms its intention that
11 the State Department of Social Services has full authority
12 to require ~~the approval of an assessment and placement~~
13 ~~recommendation by a county multidisciplinary team~~
14 ~~prior to placing placement of a child in an out-of-state~~
15 ~~group home, and to investigate allegations that minors in~~
16 ~~out-of-state group homes meet all California group home~~
17 ~~licensing standards.~~

18 ~~(3)~~—

19 (c) This section is declaratory of existing law with
20 respect to the Governor’s designation of the State
21 Department of Social Services to act as the compact
22 administrator and of that department to act as the single
23 state agency charged with supervision of public social
24 services under Section 10600 of the Welfare and
25 Institutions Code.

26 ~~(b)~~—



1 SEC. 1.2. Section 7911.1 is added to the Family Code,
2 to read:

3 7911.1. (a) Notwithstanding any other provision of
4 law, the State Department of Social Services or its
5 designee ~~may~~ shall investigate any threat to the health
6 and safety of children placed by a California county social
7 services agency or probation department pursuant to the
8 provisions of the Interstate Compact on the Placement of
9 Children. This authority shall include the authority to
10 interview children in private or review their file at the
11 out-of-state facility or wherever the child or files may be
12 a the time of the investigation. *Notwithstanding any*
13 *other provisions of law, the State Department of Social*
14 *Services or its designee shall require certified out-of-state*
15 *group homes to comply with the reporting requirements*
16 *applicable to group homes licensed in California pursuant*
17 *to Title 22 of the California Code of Regulations for each*
18 *child in care regardless of whether he or she is a California*
19 *placement, by submitting a copy of the required reports*
20 *to the Compact Administrator within regulatory*
21 *timeframes. The Compact Administrator within one*
22 *business day of receiving a serious events report shall*
23 *verbally notify the appropriate placement agencies and*
24 *within five working days of receiving a written report*
25 *from the out-of-state group home, forward a copy of the*
26 *written report to the appropriate placement agencies.*

27 (c) Any contract, memorandum of understanding, or
28 agreement entered into pursuant to paragraph (b) of
29 Article 5 of the Interstate Compact on the Placement of
30 Children regarding the placement of a child out of state
31 by a California county social services agency or probation
32 department shall include the language set forth in
33 subdivision (b).

34 (d) The State Department of Social Services or its
35 designee shall perform initial and continuing inspection
36 of out-of-state group homes in order to either certify that
37 the out-of-state group home meets all licensure standards
38 required of group homes operated in California or that
39 the department has granted a waiver to a specific
40 licensing standard upon a finding that there exists no



1 adverse impact to health and safety. Any failure by an
2 out-of-state group home facility to make children
3 available as required by subdivision (b) for a private
4 interview or make files available for review shall be
5 grounds to deny or discontinue the certification. The
6 State Department of Social Services shall grant or deny
7 an initial certification or a waiver under this subdivision
8 to an out-of-state group home facility within ~~four months~~
9 ~~of the effective date of this act.~~

10 ~~(e) Within 60 days after the certification required by~~
11 ~~subdivision (d) 12 months of the effective date of this~~
12 ~~section. Certifications made pursuant to this subdivision~~
13 ~~shall be reviewed annually.~~

14 *(e) Within six months of the effective date of this*
15 *section, a county shall be required to obtain an assessment*
16 *and placement recommendation by a county*
17 *multidisciplinary team that the child's current*
18 *out-of-state placement in a group home is appropriate. for*
19 *each child in an out-of-state group home facility subject*
20 *to subdivision (a).*

21 (f) Any failure by an out-of-state group home to obtain
22 or maintain its certification as required by subdivision (d)
23 shall preclude the use of any public funds, whether
24 county, state, or federal, in the payment for the
25 placement of ~~all children~~ *any child* in that out-of-state
26 group home, pursuant to the Interstate Compact on the
27 Placement of Children.

28 (g) *A multidisciplinary team shall consist of*
29 *participating member from county social services, county*
30 *mental health, county probation, county superintendents*
31 *of schools, and other members as determined by the*
32 *county.*

33 (h) (1) *The department may deny, suspend, or*
34 *discontinue the certification to the out-of-state group*
35 *home if the department makes a finding that the group*
36 *home is not operating in compliance with the*
37 *requirements of subdivision (d).*

38 (2) *Any judicial proceeding to contest the*
39 *department's determination as to the status of the*
40 *out-of-state group home certificate shall be held in*



1 *California pursuant to Section 1085 of the Code of Civil*
2 *Procedure.*

3 (i) This section shall not impact placements made
4 pursuant to Chapter 26.5 (commencing with Section
5 7570) of Division 7 of Title 1 of the Government Code
6 relating to seriously emotionally disturbed children.

7 SEC. 1.5. *Section 7912 is added to the Family Code, to*
8 *read:*

9 7912. (a) *The Legislature finds and declares that the*
10 *health and safety of children in out-of-state group home*
11 *care pursuant to the Interstate Compact on the*
12 *Placement of Children is a matter of statewide concern.*
13 *The Legislature therefore affirms its intention that*
14 *children placed in out-of-state group homes be accorded*
15 *the same personal rights and safeguards of a child placed*
16 *in a California group home. This section is in clarification*
17 *of existing law.*

18 (b) *The Compact Administrator may temporarily*
19 *suspend any new placements in an out-of-state group*
20 *home, for a period not to exceed 100 days, pending the*
21 *completion of an investigation, pursuant to subdivision*
22 *(a) of Section 7911.1, regarding a threat to the health and*
23 *safety of children in care. During any suspension period*
24 *the department or its designee shall have staff daily onsite*
25 *at the out-of-state group home.*

26 SEC. 1.7. *Section 1520.1 is added to the Health and*
27 *Safety Code, to read:*

28 1520.1. *In addition to Section 1520, applicants for a*
29 *group home facility license shall meet the following*
30 *requirements:*

31 (a) (1) *During the first 12 months of operation, the*
32 *facility shall operate with a provisional license. After eight*
33 *months of operation, the department shall conduct a*
34 *comprehensive review of the facility for compliance with*
35 *all applicable laws and regulations and help develop a*
36 *plan of correction with the provisional licensee, if*
37 *appropriate. By the end of the 12th month of operation,*
38 *the department shall determine if the ~~license should be~~*
39 *~~converted to a permanent license.~~ permanent license*
40 *should be issued.*



1 (2) If the department determines that the group home
2 is in substantial compliance with licensing standards,
3 notwithstanding Section 1525.5, the department may
4 extend the provisional license for up to an additional six
5 months for either of the following reasons:

6 (A) The group home requires additional time to be in
7 full compliance with licensing standards.

8 (B) After 12 months of operation, the group home is
9 not operating at 50 percent of its licensed capacity.

10 (3) By no later than the *first business day of the* 17th
11 month of operation, the department shall conduct an
12 additional review of a facility for which a provisional
13 license is extended pursuant to paragraph (2), in order to
14 determine ~~whether the license should be converted to a~~
15 ~~permanent license.~~ *whether a permanent license should*
16 *be issued.*

17 (4) The department may deny a group home license
18 application at any time during the term of the provisional
19 license to protect the health and safety of clients. If the
20 department denies the application, the group home shall
21 cease operation immediately. Continued operation of the
22 facility after the department denies the application or the
23 provisional license expires shall constitute unlicensed
24 operation.

25 (5) When the department notifies a city or county
26 planning authority pursuant to subdivision (c) of Section
27 1520.5, the department shall briefly describe the
28 provisional licensing process and the timelines provided
29 for under that process, as well as provide the name,
30 address, and telephone number of the district office
31 licensing the facility where a complaint or comment
32 about the group home's operation may be filed.

33 (b) (1) After the production of the booklet provided
34 for in paragraph (2), every member of the group home's
35 board of directors shall, prior to becoming a member of
36 the board of directors sign a statement that the board
37 member understands his or her legal duties and
38 obligations as a member of the board of directors and that
39 the group home's operation is governed by laws and
40 regulations that are enforced by the department, as set



1 forth in the booklet. The applicant, provisional licensee,
2 and licensee shall have this statement available for
3 inspection by the department. For members of the board
4 of directors when the booklet is produced, the licensee
5 shall obtain this statement by the next scheduled meeting
6 of the board of directors. Compliance with this paragraph
7 shall be a condition of ~~a group home receiving a rate from~~
8 ~~the department.~~ *licensure.*

9 (2) No later than March 1, 1999, the department, in
10 cooperation with the Department of Justice and in
11 consultation with group home providers, shall develop
12 and distribute to every group home provider detailed
13 information designed to educate members of the group
14 home provider's board of directors of their roles and
15 responsibilities as board members of a public benefit
16 corporation under the laws of this state. The information
17 shall be included in a booklet, which shall include, but not
18 be limited to, all of the following:

19 (A) The financial responsibilities of a member of the
20 board of directors.

21 (B) Disclosure requirements for self-dealing
22 transactions.

23 (C) Legal requirements pertaining to articles of
24 incorporation, bylaws, length of board member terms,
25 voting procedures, board meetings, quorums, minutes of
26 board meetings, and, as provided for in subdivision (f),
27 board member duties.

28 (D) A general overview of the laws and regulations
29 governing the group home's operation that are enforced
30 by the department.

31 (c) All financial records submitted by a facility to the
32 department, or that are submitted as part of an audit of
33 the facility, including, but not limited to, employee
34 timecards and timesheets, shall be signed and dated by
35 the employee and by the group home representative who
36 is responsible for ensuring the accuracy of the
37 information contained in the record, and shall contain an
38 affirmative statement that the signatories understand
39 that the information contained in the document is correct



1 to the best of their knowledge and that submission of false
2 or misleading information may be prosecuted as a crime.

3 (d) An applicant, provisional licensee, or licensee shall
4 maintain, submit, and sign financial documents to verify
5 the legitimacy and accuracy of these documents. These
6 documents include, but are not limited to, the group
7 home application, any financial documents and plans of
8 corrections submitted to the department, and time
9 sheets.

10 (e) (1) It is the intent of the Legislature that a group
11 home have either representatives on its board of
12 directors, as listed in paragraph (2), or a community
13 advisory board, that meets at least annually.

14 (2) The representatives on the board of directors or
15 the community advisory board members should consist of
16 at least the following persons:

17 (A) A member of the facility's board of directors.

18 (B) Members of the community where the facility is
19 located.

20 (C) Neighbors of the facility.

21 (D) Current or former clients of the facility.

22 (E) A representative from a local law enforcement or
23 other city or county representative.

24 (f) Each group home provider shall schedule and
25 conduct quarterly meetings of its board of directors.
26 During these quarterly meetings, the board of directors
27 shall review and discuss licensing reports, financial and
28 program audit reports of its group home operations,
29 special incident reports, and any administrative action
30 against the licensee or its employees. The minutes shall
31 reflect the board's discussion of these documents and the
32 group home's operation. The licensee shall make
33 available the minutes of group home board of directors
34 meetings to the department.

35 SEC. 2. Section 1520.11 is added to the Health and
36 Safety Code, to read:

37 1520.11. (a) A corporation that applies for licensure
38 with the department shall list the facilities that any
39 member of the board of directors, an executive director,
40 or any officer has been licensed to operate, been



1 employed in, or served as a member of the board of
2 directors, the executive director, or an officer.

3 (b) The department shall not issue a provisional
4 license or license to any corporate applicant that has a
5 member of the board of directors, an executive director,
6 or an officer, who is not eligible for licensure pursuant to
7 Section 1520.3 or Section 1558.1.

8 (c) The department may revoke the license of any
9 corporate licensee that has a member of the board of
10 directors, an executive director, or an officer, who is not
11 eligible for licensure pursuant to Section 1520.3 or Section
12 1558.1.

13 (d) Prior to instituting an administrative action
14 pursuant to either subdivision (b) or (c), the department
15 shall notify the applicant or licensee of the person's
16 ineligibility to be a member of the board of directors, an
17 executive director, or an officer of the applicant or
18 ~~licensee, and shall give the applicant or licensee 15 days~~
19 ~~to remove the person from that position.~~ *licensee. The*
20 *licensee shall remove the person from that position*
21 *within 15 days or, if the person has client contact, he or*
22 *she shall be removed immediately upon notification.*

23 SEC. 3. Section 1522 of the Health and Safety Code is
24 amended to read:

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



1 community care clients may pose a risk to the clients'
2 health and safety.

3 (a) Before issuing a license or special permit to any
4 person or persons to operate or manage a community
5 care facility, the State Department of Social Services shall
6 secure from an appropriate law enforcement agency a
7 criminal record to determine whether the applicant or
8 any other person specified in subdivision (b) has ever
9 been convicted of a crime other than a minor traffic
10 violation or arrested for any crime specified in Section 290
11 of the Penal Code, for violating Section 245 or 273.5,
12 subdivision (b) of Section 273a or, prior to January 1, 1994,
13 paragraph (2) of Section 273a of the Penal Code, or for
14 any crime for which the department cannot grant an
15 exemption if the person was convicted and the person has
16 not been exonerated. That criminal history information
17 shall include the full criminal record, of any of those
18 persons, and subsequent arrest information pursuant to
19 Section 11105.2 of the Penal Code. No fee shall be charged
20 by the Department of Justice or the State Department of
21 Social Services for the fingerprinting of an applicant for
22 a license or special permit to operate a facility providing
23 nonmedical board, room, and care for six or less children
24 or for obtaining a criminal record of the applicant
25 pursuant to this section. The following shall apply to the
26 criminal record information:

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

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

39 (3) If no criminal record information has been
40 recorded, the Department of Justice shall provide the

1 applicant and the State Department of Social Services
2 with a statement of that fact.

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

9 (5) An applicant and any other person specified in
10 subdivision (b) shall submit a second set of fingerprints
11 to the Department of Justice for the purpose of searching
12 the criminal records of the Federal Bureau of
13 Investigation, in addition to the criminal records search
14 required by this subdivision. If an applicant ~~meets and~~
15 *persons listed in subdivision (b) meet* all other conditions
16 for licensure, except receipt of the Federal Bureau of
17 Investigation's criminal history information for the
18 applicant and persons listed in subdivision (b), the
19 department may issue a license if the applicant and each
20 person described by subdivision (b) has signed and
21 submitted a statement that he or she has never been
22 convicted of a crime in the United States, other than a
23 traffic infraction as defined in paragraph (1) of
24 subdivision (a) of Section 42001 of the Vehicle Code. If,
25 after licensure, the department determines that the
26 licensee or person specified in subdivision (b) has a
27 criminal record, the license may be revoked pursuant to
28 Section 1550. The department may also suspend the
29 license pending an administrative hearing pursuant to
30 Section 1550.5.

31 (b) In addition to the applicant, this section shall be
32 applicable to criminal convictions of the following
33 persons:

34 (1) Adults responsible for administration or direct
35 supervision of staff.

36 (2) Any person, other than a client, residing in the
37 facility.

38 (3) Any person who provides client assistance in
39 dressing, grooming, bathing, or personal hygiene.



1 (4) (A) Any staff person, volunteer, or employee who
2 has contact with the clients. A volunteer shall be exempt
3 from the requirements of this subdivision if the volunteer
4 is a relative of a client in care at the facility and is not used
5 to replace or supplement staff in providing direct care
6 and supervision of clients.

7 (B) A volunteer in an adult residential facility shall be
8 exempt from the requirements of this subdivision if he or
9 she is a relative, significant other, or close friend of a client
10 receiving care in the facility and the volunteer is not used
11 to replace or supplement staff in providing direct care
12 and supervision of clients.

13 (5) Except for staff members of social rehabilitation
14 facilities serving minors with alcohol or drug abuse
15 problems, staff members of social rehabilitation facilities,
16 other than those specified in paragraphs (1) and (2), are
17 exempt from fingerprinting requirements.

18 (6) If the applicant is a firm, partnership, association,
19 or corporation, the chief executive officer or other person
20 serving in like capacity.

21 (7) Additional officers of the governing body of the
22 applicant, or other persons with a financial interest in the
23 applicant, as determined necessary by the department by
24 regulation. The criteria used in the development of these
25 regulations shall be based on the person's capability to
26 exercise substantial influence over the operation of the
27 facility.

28 (c) (1) Subsequent to initial licensure, any person
29 specified in subdivision (b) and not exempted from
30 fingerprinting shall, as a condition to employment,
31 residence, or presence in a community care facility, be
32 fingerprinted and sign a declaration under penalty of
33 perjury regarding any prior criminal convictions. The
34 licensee shall submit these fingerprints to the
35 Department of Justice, along with a second set of
36 fingerprints for the purpose of searching the records of
37 the Federal Bureau of Investigation, or to comply with
38 paragraph (1) of subdivision (h), prior to the person's
39 employment, residence, or initial presence in the
40 community care facility. These fingerprints shall be on a



1 card provided by the State Department of Social Services
2 for the purpose of obtaining a permanent set of
3 fingerprints and shall be submitted to the Department of
4 Justice by the licensee or sent by electronic transmission
5 in a manner approved by the State Department of Social
6 Services. A licensee's failure to submit fingerprints to the
7 Department of Justice, or to comply with paragraph (1)
8 of subdivision (h), as required in this section, shall result
9 in the citation of a deficiency and an immediate
10 assessment of civil penalties in the amount of one
11 hundred dollars (\$100) per violation. The department
12 may assess civil penalties for continued violations as
13 permitted by Section 1548. The fingerprints shall then be
14 submitted to the State Department of Social Services for
15 processing. Upon request of the licensee, who shall
16 enclose a self-addressed stamped postcard for this
17 purpose, the Department of Justice shall verify receipt of
18 the fingerprints.

19 (2) Within 14 calendar days of the receipt of the
20 fingerprints, the Department of Justice shall notify the
21 State Department of Social Services of the criminal
22 record information, as provided for in subdivision (a). If
23 no criminal record information has been recorded, the
24 Department of Justice shall provide the licensee and the
25 State Department of Social Services with a statement of
26 that fact within 14 calendar days of receipt of the
27 fingerprints. Documentation of the individual's
28 clearance or exemption shall be maintained by the
29 licensee and be available for inspection. If new
30 fingerprints are required for processing, the Department
31 of Justice shall, within 14 calendar days from the date of
32 receipt of the fingerprints, notify the licensee that the
33 fingerprints were illegible. When live-scan technology is
34 operational, as defined in Section 1522.04, the
35 Department of Justice shall notify the department, as
36 required by that section, and notify the licensee by mail
37 within 14 days of electronic transmission of the
38 fingerprints to the Department of Justice if the person has
39 no criminal history recorded. A violation of the
40 regulations adopted pursuant to Section 1522.04 shall



1 result in the citation of a deficiency and an immediate
2 assessment of civil penalties in the amount of one
3 hundred dollars (\$100) per violation. The department
4 may assess civil penalties for continued violations as
5 permitted by Section 1548.

6 (3) Except for persons specified in paragraph (2) of
7 subdivision (b), the licensee shall endeavor to ascertain
8 the previous employment history of persons required to
9 be fingerprinted under this subdivision. If it is
10 determined by the State Department of Social Services,
11 on the basis of the fingerprints submitted to the
12 Department of Justice, that the person has been
13 convicted of, or is awaiting trial for, a sex offense against
14 a minor, or has been convicted for an offense specified in
15 Section 243.4, 273a, or 273d or subdivision (a) or (b) of
16 Section 368 of the Penal Code, or a felony, the State
17 Department of Social Services shall notify the licensee to
18 act immediately to terminate the person's employment,
19 remove the person from the community care facility, or
20 bar the person from entering the community care facility.
21 The State Department of Social Services may
22 subsequently grant an exemption pursuant to subdivision
23 (g). If the conviction or arrest was for another crime,
24 except a minor traffic violation, the licensee shall, upon
25 notification by the State Department of Social Services,
26 act immediately to either (1) terminate the person's
27 employment, remove the person from the community
28 care facility, or bar the person from entering the
29 community care facility; or (2) seek an exemption
30 pursuant to subdivision (g). The State Department of
31 Social Services shall determine if the person shall be
32 allowed to remain in the facility until a decision on the
33 exemption is rendered. A licensee's failure to comply
34 with the department's prohibition of employment,
35 contact with clients, or presence in the facility as required
36 by this paragraph shall be grounds for disciplining the
37 licensee pursuant to Section 1550.

38 (4) The department may issue an exemption on its
39 own motion pursuant to subdivision (g) if the person's
40 criminal history indicates that the person is of good



1 character based on the age, seriousness, and frequency of
2 the conviction or convictions. The department, in
3 consultation with interested parties, shall develop
4 regulation to establish the criteria to grant an exemption
5 pursuant to this paragraph.

6 (5) Concurrently with notifying the licensee pursuant
7 to paragraph (3), the department shall notify the affected
8 individual of his or her right to seek an exemption
9 pursuant to subdivision (g). The individual may seek an
10 exemption only if the licensee terminates the person's
11 employment or removes the person from the facility after
12 receiving notice from the department pursuant to
13 paragraph (3).

14 (d) (1) Before issuing a license, special permit, or
15 certificate of approval to any person or persons to operate
16 or manage a foster family home or certified family home
17 as described in Section 1506, the State Department of
18 Social Services or other approving authority shall secure
19 from an appropriate law enforcement agency a criminal
20 record to determine whether the applicant or any person
21 specified in subdivision (b) has ever been convicted of a
22 crime other than a minor traffic violation or arrested for
23 any crime specified in Section 290 of the Penal Code or
24 arrested for violating Section 245 or 273.5, subdivision (b)
25 of Section 273a or, prior to January 1, 1994, paragraph (2)
26 of Section 273a of the Penal Code, or for any crime for
27 which the department cannot grant an exemption if the
28 person was convicted and the person has not been
29 exonerated. That criminal history information shall
30 include the full criminal record, if any, of those persons.
31 No fee shall be charged by the Department of Justice or
32 the State Department of Social Services for the
33 fingerprinting of an applicant for a license, special
34 permit, or certificate of approval described in this
35 subdivision. The record, if any, shall be taken into
36 consideration when evaluating a prospective applicant.
37 The following shall apply to the criminal record
38 information:

39 (A) If the applicant or other persons specified in
40 subdivision (b) have convictions that would make the



1 applicant's home unfit as a foster family home or a
2 certified family home, the license, special permit, or
3 certificate of approval shall be denied.

4 (B) If the State Department of Social Services finds
5 that the applicant, or any person specified in subdivision
6 (b) is awaiting trial for a crime other than a minor traffic
7 violation, the State Department of Social Services or
8 other approving authority shall cease processing the
9 application until the conclusion of the trial.

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

14 (D) An applicant for a foster family home license or to
15 be certified as a family home, and any other person
16 specified in subdivision (b), shall submit a second set of
17 fingerprints to the Department of Justice for the purpose
18 of searching the criminal records of the Federal Bureau
19 of Investigation, in addition to the criminal records search
20 required by subdivision (a). If an applicant meets all
21 other conditions for licensure, except receipt of the
22 Federal Bureau of Investigation's criminal history
23 information for the applicant and persons listed in
24 subdivision (b), the department may issue a license, or
25 the foster family agency may issue a certificate of
26 approval, if the applicant and each person described by
27 subdivision (b) has signed and submitted a statement that
28 he or she has never been convicted of a crime in the
29 United States, other than a traffic infraction as defined in
30 paragraph (1) of subdivision (a) of Section 42001 of the
31 Vehicle Code. If, after licensure or certification, the
32 department determines that the licensee, certified foster
33 parent, or person specified in subdivision (b) has a
34 criminal record, the license may be revoked pursuant to
35 Section 1550 and the certificate of approval revoked
36 pursuant to subdivision (b) of Section 1534. The
37 department may also suspend the license pending an
38 administrative hearing pursuant to Section 1550.5.

39 (2) Any person specified in this subdivision shall, as a
40 part of the application, be fingerprinted and sign a



1 declaration under penalty of perjury regarding any prior
2 criminal convictions or arrests for any crime against a
3 child, for spousal or cohabitant abuse, or any crime for
4 which the department cannot grant an exemption if the
5 person was convicted and shall submit these fingerprints
6 to the licensing agency or other approving authority.

7 (3) (A) The foster family agency shall obtain
8 fingerprints from certified home applicants and from
9 persons specified in subdivision (b) and shall submit
10 them directly to the Department of Justice or send them
11 by electronic transmission in a manner approved by the
12 State Department of Social Services. A foster home
13 licensee or foster family agency shall submit these
14 fingerprints to the Department of Justice, along with a
15 second set of fingerprints for the purpose of searching the
16 records of the Federal Bureau of Investigation, or to
17 comply with paragraph (1) of subdivision (h) prior to the
18 person's employment, residence, or initial presence. A
19 licensee's failure to submit fingerprints to the
20 Department of Justice, or to comply with paragraph (1)
21 of subdivision (h), as required in this section, shall result
22 in the citation of a deficiency, and the immediate
23 assessment of civil penalties of one hundred dollars
24 (\$100) per violation. The State Department of Social
25 Services may assess civil penalties for continued
26 violations, as permitted by Section 1548. The fingerprints
27 shall then be submitted to the State Department of Social
28 Services for processing.

29 (B) Upon request of the licensee, who shall enclose a
30 self-addressed stamped envelop for this purpose, the
31 Department of Justice shall verify receipt of fingerprints.
32 Within five working days of the receipt of the criminal
33 record or information regarding criminal convictions
34 from the Department of Justice, the department shall
35 notify the applicant of any criminal arrests or convictions.
36 If no arrests or convictions are recorded, the Department
37 of Justice shall provide the foster home licensee or the
38 foster family agency with a statement of that fact
39 concurrent with providing the information to the State
40 Department of Social Services.



1 (4) If the State Department of Social Services finds
2 that the applicant, or any other person specified in
3 subdivision (b), has been convicted of a crime other than
4 a minor traffic violation, the application shall be denied,
5 unless the director grants an exemption pursuant to
6 subdivision (g).

7 (5) If the State Department of Social Services finds
8 after licensure or the granting of the certificate of
9 approval that the licensee, certified foster parent, or any
10 other person specified in paragraph (2) of subdivision
11 (b), has been convicted of a crime other than a minor
12 traffic violation, the license or certificate of approval may
13 be revoked by the department or the foster family
14 agency, whichever is applicable, unless the director
15 grants an exemption pursuant to subdivision (g). A
16 licensee's failure to comply with the department's
17 prohibition of employment, contact with clients, or
18 presence in the facility as required by paragraph (3) of
19 subdivision (c) shall be grounds for disciplining the
20 licensee pursuant to Section 1550.

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

35 (f) (1) For purposes of this section or any other
36 provision of this chapter, a conviction means a plea or
37 verdict of guilty or a conviction following a plea of nolo
38 contendere. Any action which the State Department of
39 Social Services is permitted to take following the
40 establishment of a conviction may be taken when the



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

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

25 (g) (1) After review of the record, the director may
26 grant an exemption from disqualification for a license or
27 special permit as specified in paragraphs (1) and (4) of
28 subdivision (a), or for a license, special permit, or
29 certificate of approval as specified in paragraphs (4) and
30 (5) of subdivision (d), or for employment, residence, or
31 presence in a community care facility as specified in
32 paragraphs (2), (3), and (4) of subdivision (c), if the
33 director has substantial and convincing evidence to
34 support a reasonable belief that the applicant and the
35 person convicted of the crime, if other than the applicant,
36 are of such good character as to justify issuance of the
37 license or special permit or granting an exemption for
38 purposes of subdivision (c). Except as otherwise provided
39 in this subdivision, no exemption shall be granted
40 pursuant to this subdivision if the conviction was for an



1 offense specified in Section 220, 243.4, or 264.1,
2 subdivision (a) of Section 273a or, prior to January 1, 1994,
3 paragraph (1) of Section 273a, Section 273d, 288, or 289,
4 subdivision (a) of Section 290, or subdivision (a) or (b) of
5 Section 368 of the Penal Code, or was a conviction of
6 another crime against an individual specified in
7 subdivision (c) of Section 667.5 of the Penal Code. The
8 director may grant an exemption if the employee or
9 prospective employee, who was convicted of a crime
10 against an individual prescribed in paragraph (1), (2),
11 (7), or (8) of subdivision (c) of Section 667.5 of the Penal
12 Code, has been rehabilitated as provided in Section
13 4852.03 of the Penal Code, has maintained the conduct
14 required in Section 4852.05 of the Penal Code for at least
15 10 years, and has the recommendation of the district
16 attorney representing the employee's county of
17 residence, or if the employee or prospective employee
18 has received a certificate of rehabilitation pursuant to
19 Chapter 3.5 (commencing with Section 4852.01) of Title
20 6 of Part 3 of the Penal Code.

21 (2) The department shall not prohibit a person from
22 being employed or having contact with clients in a facility
23 on the basis of a denied criminal record exemption
24 request or arrest information unless the department
25 complies with the requirements of Section 1558.

26 (h) (1) For purposes of compliance with this section,
27 the department may permit an individual to transfer a
28 current criminal records clearance, as defined in
29 subdivision (a), from one facility to another, as long as the
30 criminal record clearance has been processed through a
31 state licensing district office, and is being transferred to
32 another state licensing district office. The request shall be
33 in writing to the department, and shall include a copy of
34 the person's driver's license or valid identification card
35 issued by the Department of Motor Vehicles, or a valid
36 photo identification issued by another state or the United
37 States government if the person is not a California
38 resident. Upon request of the licensee, who shall enclose
39 a self-addressed stamped envelope for this purpose, the



1 department shall verify whether the individual has a
2 clearance that can be transferred.

3 (2) The State Department of Social Services shall hold
4 criminal record clearances in its active files for a
5 minimum of two years after an employee is no longer
6 employed at a licensed facility in order for the criminal
7 record clearance to be transferred.

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

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

20 (k) (1) The Department of Justice shall coordinate
21 with the State Department of Social Services to establish
22 and implement an automated live-scan processing system
23 for fingerprints in the district offices of the Community
24 Care Licensing Division of the State Department of
25 Social Services by July 1, 1999. These live-scan processing
26 units shall be connected to the main system at the
27 Department of Justice by July 1, 1999, and shall become
28 part of that department's pilot project in accordance with
29 its long-range plan. The State Department of Social
30 Services may charge a fee for the costs of processing a set
31 of live-scan fingerprints.

32 (2) The Department of Justice shall provide a report
33 to the Senate and Assembly fiscal committees, the
34 Assembly Human Services Committee, and to the Senate
35 Health and Human Services Committee by February 15,
36 1999, regarding the completion of backlogged criminal
37 record clearance requests for all facilities licensed by the
38 department and the progress on implementing the
39 automated live-scan processing system in the district
40 offices pursuant to paragraph (1).



1 (l) Amendments to the provisions of this section made
2 in the 1998 calendar year shall be implemented
3 commencing 60 days after the effective date of the act
4 amending this section in the 1998 calendar year, except
5 those provisions for the submission of fingerprints for
6 searching the records of the Federal Bureau of
7 Investigation, which shall be implemented commencing
8 January 1, 1999.

9 SEC. 4. Section 1522.02 is added to the Health and
10 Safety Code, to read:

11 1522.02. The department may adopt regulations to
12 create substitute employee registries for persons working
13 at more than one facility licensed pursuant to this
14 chapter, Chapter 3.01 (commencing with Section
15 1568.01), Chapter 3.2 (commencing with Section 1569),
16 Chapter 3.4 (commencing with Section 1569.70),
17 Chapter 3.5 (commencing with Section 1596.90), or
18 Chapter 3.6 (commencing with Section 1597.30), in order
19 to permit these registries to submit fingerprint cards, and
20 child abuse index information for child care registries so
21 that these facilities have available cleared care staff.

22 SEC. 5. Section 1522.03 of the Health and Safety Code
23 is amended to read:

24 1522.03. The Department of Justice may charge a fee
25 sufficient to cover its cost in providing services in
26 accordance with Section 1522 to comply with the 14-day
27 requirement for provision to the department of the
28 criminal record information, as contained in subdivision
29 (c) of Section 1522.

30 SEC. 6. Section 1522.04 of the Health and Safety Code
31 is amended to read:

32 1522.04. (a) The Legislature recognizes the need to
33 generate timely and accurate positive fingerprint
34 identification of applicants as a condition of issuing
35 licenses, permits, or certificates of approval for persons to
36 operate or provide direct care services in a community
37 care facility, or the other residential care facility, child
38 day care facility, or foster family agency, licensed by the
39 department pursuant to this chapter, Chapter 3.01
40 (commencing with Section 1568.01), Chapter 3.2



1 (commencing with Section 1569), Chapter 3.4
2 (commencing with Section 1596.70), Chapter 3.5
3 (commencing with Section 1596.90), or Chapter 3.6
4 (commencing with Section 1597.30), or certified family
5 home. Therefore, the Legislature supports the use of the
6 fingerprint live-scan technology, as identified in the
7 long-range plan of the Department of Justice, for fully
8 automating the processing of fingerprints and other data
9 by the year 1999, otherwise known as the California
10 Crime Information Intelligence System (CAL-CII) to be
11 used for applicant fingerprints. Therefore, when
12 live-scan technology is operational, individuals shall be
13 required to obtain either a criminal record clearance
14 from the Department of Justice or a criminal record
15 exemption from the State Department of Social Services,
16 before their initial presence in a community care facility.
17 The regulations shall also cover the submission of
18 fingerprint information to the Federal Bureau of
19 Investigation.

20 (b) Upon implementation of an electronic
21 fingerprinting system with terminals located statewide
22 and managed by the Department of Justice, the
23 Department of Justice shall ascertain the criminal history
24 information required pursuant to subdivision (a) of
25 Section 1522.04. If the Department of Justice cannot
26 ascertain the information required pursuant to that
27 subdivision within three working days, the Department
28 of Justice shall notify the State Department of Social
29 Services, or county licensing agencies, either by
30 telephone and by subsequent confirmation in writing by
31 first-class mail, or by electronic or facsimile transmission.
32 At its discretion, the Department of Justice may forward
33 one copy of the fingerprint cards to any other bureau of
34 investigation it may deem necessary in order to verify any
35 record of previous arrests or convictions of the
36 fingerprinted individual.

37 (c) For purposes of this section, live-scan technology
38 is operational when the Department of Justice and the
39 district offices of the Community Care Licensing Division
40 of the department live-scan sites are operational and the



1 department is receiving 95 percent of its total responses
2 indicating either no evidence of recorded criminal
3 information or evidence of recorded criminal
4 information, from the Department of Justice within three
5 business days.

6 *SEC. 6.5. Section 1522.1 of the Health and Safety Code*
7 *is amended to read:*

8 1522.1. Prior to granting a license to, or otherwise
9 approving, any individual to care for children, the
10 department shall check the Child Abuse Registry
11 pursuant to paragraph (3) of subdivision (b) of Section
12 11170 of the Penal Code. *The Department of Justice shall*
13 *maintain and continually update an index of reports of*
14 *child abuse by providers and shall inform the department*
15 *of subsequent reports received from the child abuse*
16 *index pursuant to Section 11170 of the Penal Code and the*
17 *criminal history. The department shall investigate any*
18 *reports received from the Child Abuse Registry. The*
19 *investigation shall include, but not be limited to, the*
20 *review of the investigation report and file prepared by*
21 *the child protective agency which investigated the child*
22 *abuse report. The department shall not deny a license*
23 *based upon a report from the Child Abuse Registry unless*
24 *child abuse is substantiated.*

25 *SEC. 7. Section 1522.4 of the Health and Safety Code*
26 *is amended to read:*

27 1522.4. (a) In addition to any other requirements of
28 this chapter and except for foster family homes, small
29 family homes, and certified family homes of foster family
30 agencies, all of the following apply to any community care
31 facility providing 24-hour care for children:

32 (1) The facility shall have one or more facility
33 managers. "Facility manager," as used in this section,
34 means a person on the premises with the authority and
35 responsibility necessary to manage and control the
36 day-to-day operation of a community care facility and
37 supervise the clients. The facility manager, licensee, and
38 administrator, or any combination thereof, may be the
39 same person provided he or she meets all applicable
40 requirements. If the administrator is also the facility



1 manager for the same facility, this person shall be limited
2 to the administration and management of only one
3 facility.

4 (2) The facility manager shall have at least one year of
5 experience working with the client group served, or
6 equivalent education or experience, as determined by
7 the department.

8 (3) A facility manager shall be at the facility at all times
9 when one or more clients are present. To ensure
10 adequate supervision of clients when clients are at the
11 facility outside of their normal schedule, a current
12 telephone number where the facility manager can be
13 reached shall be provided to the clients, licensing agency,
14 school, and any other agency or person as the department
15 determines is necessary. The facility manager shall
16 instruct these agencies and individuals to notify him or
17 her when clients will be returning to the facility outside
18 of the normal hours.

19 (4) The Legislature intends to upgrade the quality of
20 care in licensed facilities. For the purposes of Sections
21 1533 and 1534, the licensed facility shall be inspected and
22 evaluated for quality of care at least once each year,
23 without advance notice and as often as necessary, without
24 advance notice, to ensure the quality of care being
25 provided.

26 Paragraphs (1), (2), and (3) shall apply only to new
27 facilities licensed for six or fewer children which apply for
28 a license after January 1, 1985, and all other new facilities
29 licensed for seven or more children which apply for a
30 license after January 1, 1988. Existing facilities licensed for
31 seven or more children shall comply by January 1, 1989.

32 (b) No employee of the state or county employed in
33 the administration of this chapter or employed in a
34 position that is in any way concerned with facilities
35 licensed under this chapter shall hold a license or have a
36 direct or indirect financial interest in a facility described
37 in subdivision (a).

38 The department, by regulation, shall make the
39 determination pursuant to the purposes of this section
40 and chapter, as to what employment is in the



1 administration of this chapter or in any way concerned
2 with facilities licensed under this chapter and what
3 financial interest is direct or indirect.

4 This subdivision does not prohibit the state or county
5 from securing a license for, or operating, a facility that is
6 otherwise required to be licensed under this chapter.

7 (c) (1) No group home or foster family agency
8 licensee, or employee, member of the board of directors,
9 or officer of a group home or foster family agency
10 licensee, shall offer gifts or other remuneration of any
11 type to any employee of the State Department of Social
12 Services or placement agency that exceeds the monetary
13 limits for gifts to employees of the State of California
14 pursuant to Title 9 (commencing with Section 81000) of
15 the Government Code and regulations adopted
16 thereunder by the Fair Political Practices Commission.

17 (2) No employee of the department or a placement
18 agency shall accept any gift or other remuneration of any
19 type from a group home or foster family agency licensee
20 or employee, member of the board of directors, or officer
21 of a group home or foster family agency licensee that
22 exceeds the monetary limits for gifts to employees of the
23 State of California in Title 9 (commencing with Section
24 81000) of the Government Code and regulations adopted
25 thereunder by the Fair Political Practices Commission.

26 (3) Violation of this subdivision is punishable as a
27 misdemeanor.

28 (4) The Legislature requests that the Judicial Council
29 study whether the California Code of Judicial Ethics
30 should be amended to further limit or bar gifts from
31 group home facilities and foster family agencies to judicial
32 officers and employees of the court and to report its
33 findings to the Legislature by July 1, 1999.

34 SEC. 8. Section 1522.41 is added to the Health and
35 Safety Code, to read:

36 1522.41. (a) The director, in consultation and
37 collaboration with county placement officials, group
38 home provider organizations, the Director of Mental
39 Health and the Director of Developmental Services, shall
40 develop and establish a certification program to ensure



1 that administrators of group home facilities have
2 appropriate training to provide the care and services for
3 which a license or certificate is issued.

4 (b) (1) In addition to any other requirements or
5 qualifications required by the department, an
6 administrator of a group home facility shall successfully
7 complete a department approved certification program
8 pursuant to subdivision (c) prior to employment. An
9 administrator employed in a group home on the effective
10 date of this section shall meet the requirements of
11 paragraph (2) of subdivision (c).

12 (2) In those cases where the individual is both the
13 licensee and the administrator of a facility, the individual
14 shall comply with all of the licensee and administrator
15 requirements of this section.

16 (3) Failure to comply with this section shall constitute
17 cause for revocation of the license of the facility.

18 (4) The licensee shall notify the department within 10
19 days of any change in administrators.

20 (c) (1) The administrator certification programs shall
21 require a minimum of 40 hours of classroom instruction
22 that provides training on a uniform core of knowledge in
23 each of the following areas:

24 (A) Laws, regulations, and policies and procedural
25 standards that impact the operations of the type of facility
26 for which the applicant will be an administrator.

27 (B) Business operations.

28 (C) Management and supervision of staff.

29 (D) Psychosocial and educational needs of the facility
30 residents.

31 (E) Community and support services.

32 (F) Physical needs for facility residents.

33 (G) Administration, storage, misuse, and interaction
34 of medication used by facility residents.

35 (H) Resident admission, retention, and assessment
36 procedures.

37 (I) Nonviolent emergency intervention and reporting
38 requirements.

39 (2) The department shall adopt separate program
40 requirements for initial certification for persons who are



1 employed as group home administrators on the effective
2 date of this section. A person employed as an
3 administrator of a group home facility on the effective
4 date of this section, shall obtain a certificate by
5 completing the training and testing requirements
6 imposed by the department within 12 months of the
7 effective date of the regulations implementing this
8 section. After the effective date of this section, these
9 administrators shall meet the requirements imposed by
10 the department on all other group home administrators
11 for certificate renewal.

12 (3) Individuals applying for certification under this
13 section shall successfully complete an approved
14 certification program, pass a written test administered by
15 the department within 60 days of completing the
16 program, and submit to the department the
17 documentation required by subdivision (d) within 30
18 days after being notified of having passed the test. The
19 department may extend these time deadlines for good
20 cause. The department shall notify the applicant of his or
21 her test results within 30 days of administering the test.

22 (d) The department shall not begin the process of
23 issuing a certificate until receipt of all of the following:

24 (1) A certificate of completion of the administrator
25 training required pursuant to this chapter.

26 (2) The fee required for issuance of the certificate. A
27 fee of one hundred dollars (\$100) shall be charged by the
28 department to cover the costs of processing the
29 application for certification.

30 (3) Documentation from the applicant that he or she
31 has passed the written test.

32 (4) Submission of fingerprints pursuant to Section
33 1522. The department may waive the submission for those
34 persons who have a current clearance on file.

35 (5) That person is at least 21 years of age.

36 (e) It shall be unlawful for any person not certified
37 under this section to hold himself or herself out as a
38 certified administrator of a group home facility. Any
39 person willfully making any false representation as being



1 a certified administrator or facility manager is guilty of a
2 misdemeanor.

3 (f) (1) Certificates issued under this section shall be
4 renewed every two years and renewal shall be
5 conditional upon the certificate holder submitting
6 documentation of completion of 40 classroom hours of
7 continuing education related to the core of knowledge
8 specified in subdivision (c). For purposes of this section,
9 an individual who is a group home facility administrator
10 and who is required to complete the continuing
11 education hours required by the regulations of the
12 Department of Developmental Services, and approved
13 by the regional center, may have up to 24 of the required
14 continuing education course hours credited toward the
15 40-hour continuing education requirement of this
16 section. Community college course hours approved by
17 the regional centers shall be accepted by the department
18 for certification.

19 (2) Every administrator of a group home facility shall
20 complete the continuing education requirements of this
21 subdivision.

22 (3) Certificates issued under this section shall expire
23 every two years on the anniversary date of the initial
24 issuance of the certificate, except that any administrator
25 receiving his or her initial certification on or after July 1,
26 1999, shall make an irrevocable election to have his or her
27 recertification date for any subsequent recertification
28 either on the date two years from the date of issuance of
29 the certificate or on the individual's birthday during the
30 second calendar year following certification. The
31 department shall send a renewal notice to the certificate
32 holder 90 days prior to the expiration date of the
33 certificate. If the certificate is not renewed prior to its
34 expiration date, reinstatement shall only be permitted
35 after the certificate holder has paid a delinquency fee
36 equal to three times the renewal fee and has provided
37 evidence of completion of the continuing education
38 required.

39 (4) To renew a certificate, the certificate holder shall,
40 on or before the certificate expiration date, request



1 renewal by submitting to the department documentation
2 of completion of the required continuing education
3 courses and pay the renewal fee of one hundred dollars
4 (\$100), irrespective of receipt of the department's
5 notification of the renewal. A renewal request
6 postmarked on or before the expiration of the certificate
7 shall be proof of compliance with this paragraph.

8 (5) A suspended or revoked certificate shall be subject
9 to expiration as provided for in this section. If
10 reinstatement of the certificate is approved by the
11 department, the certificate holder, as a condition
12 precedent to reinstatement, shall submit proof of
13 compliance with paragraphs (1) and (2) of subdivision
14 (f), and shall pay a fee in an amount equal to the renewal
15 fee, plus the delinquency fee, if any, accrued at the time
16 of its revocation or suspension. Delinquency fees, if any,
17 accrued subsequent to the time of its revocation or
18 suspension and prior to an order for reinstatement, shall
19 be waived for a period of 12 months to allow the
20 individual sufficient time to complete the required
21 continuing education units and to submit the required
22 documentation. Individuals whose certificates will expire
23 within 90 days after the order for reinstatement may be
24 granted a three-month extension to renew their
25 certificates during which time the delinquency fees shall
26 not accrue.

27 (6) A certificate that is not renewed within four years
28 after its expiration shall not be renewed, restored,
29 reissued, or reinstated except upon completion of a
30 certification training program, passing any test that may
31 be required of an applicant for a new certificate at that
32 time, and paying the appropriate fees provided for in this
33 section.

34 (7) A fee of twenty-five dollars (\$25) shall be charged
35 for the reissuance of a lost certificate.

36 (8) A certificate holder shall inform the department of
37 his or her employment status and change of mailing
38 address within 30 days of any change.



1 (g) Unless otherwise ordered by the department, the
2 certificate shall be considered forfeited under either of
3 the following conditions:

4 (1) The department has revoked any license held by
5 the administrator after the department issued the
6 certificate.

7 (2) The department has issued an exclusion order
8 against the administrator pursuant to Sections 1558,
9 1568.092, 1569.58, or 1596.8897, after the department
10 issued the certificate, and the administrator did not
11 appeal the exclusion order or, after the appeal, the
12 department issued a decision and order that upheld the
13 exclusion order.

14 (h) (1) The department, in consultation and
15 collaboration with county placement officials, provider
16 organizations, the State Department of Mental Health,
17 and the State Department of Developmental Services,
18 shall establish, by regulation, the program content, the
19 testing instrument, the process for approving
20 certification training programs, and criteria to be used in
21 authorizing individuals, organizations, or educational
22 institutions to conduct certification training programs
23 and continuing education courses. The department may
24 also grant continuing education hours for continuing
25 courses offered by accredited educational institutions
26 that are consistent with the requirements in this section.
27 The department may deny vendor approval to any
28 agency or person in any of the following circumstances:

29 (A) The applicant has not provided the department
30 with evidence satisfactory to the department of the
31 ability of the applicant to satisfy the requirements of
32 vendorization set out in the regulations adopted by the
33 department pursuant to subdivision (j).

34 (B) The applicant person or agency has a conflict of
35 interest in that the person or agency places its clients in
36 group home facilities.

37 (C) The applicant public or private agency has a
38 conflict of interest in that the agency is mandated to place
39 clients in group homes and to pay directly for the services.
40 The department may deny vendorization to this type of



1 agency only as long as there are other vendor programs
2 available to conduct the certification training programs
3 and conduct education courses.

4 (2) The department may authorize vendors to
5 conduct the administrator's certification training
6 program pursuant to this section. The department shall
7 conduct the written test pursuant to regulations adopted
8 by the department.

9 (3) The department shall prepare and maintain an
10 updated list of approved training vendors.

11 (4) The department may inspect certification training
12 programs and continuing education courses to determine
13 if content and teaching methods comply with regulations.
14 If the department determines that any vendor is not
15 complying with the requirements of this section, the
16 department shall take appropriate action to bring the
17 program into compliance, which may include removing
18 the vendor from the approved list.

19 (5) The department shall establish reasonable
20 procedures and timeframes not to exceed 30 days for the
21 approval of vendor training programs.

22 (6) The department may charge a reasonable fee, not
23 to exceed one hundred fifty dollars (\$150) every two
24 years, to certification program vendors for review and
25 approval of the initial 40-hour training program pursuant
26 to subdivision (c). The department may also charge the
27 vendor a fee, not to exceed one hundred dollars (\$100)
28 every two years, for the review and approval of the
29 continuing education courses needed for recertification
30 pursuant to this subdivision.

31 (i) The department shall establish a registry for
32 holders of certificates that shall include, at a minimum,
33 information on employment status and criminal record
34 clearance.

35 (j) This ~~section~~ *subdivision and subdivisions (b) to (i),*
36 *inclusive,* shall be implemented upon regulations being
37 adopted by the department, by January 1, 2000.

38 SEC. 9. Section 1522.42 is added to the Health and
39 Safety Code, to read:



1 1522.42. (a) The department, in consultation and
2 collaboration with county placement officials, provider
3 organizations, the State Department of Mental Health,
4 and the State Department of Developmental Services,
5 shall adopt regulations that establish standardized
6 training and continuing education curricula for facility
7 managers and direct child care workers in group homes.

8 (b) The regulations required by subdivision (a) shall
9 specify the date by which new and current employees
10 shall be required to meet the standardized training and
11 continuing education requirements. For persons
12 employed as child care staff and facility managers on the
13 effective date of the regulations, the department shall
14 provide adequate time for these persons to comply with
15 the regulatory requirements.

16 SEC. 10. Section 1522.43 is added to the Health and
17 Safety Code, to read:

18 1522.43. (a) (1) For the duties the department
19 imposes on a group home facility administrator in this
20 chapter and in regulations adopted by the department,
21 every group home shall state in its plan of operation, the
22 number of hours per week that the administrator shall
23 spend completing those duties and how the group home
24 administrator shall accomplish those duties, including use
25 of support personnel.

26 (2) For initial applicants, the information in paragraph
27 (1) shall be contained in the plan of operation submitted
28 to the department in the application.

29 (3) For current licensees, the licensee shall submit an
30 amended plan of operation that contains the information
31 required by paragraph (1) within six months of the
32 effective date of this section. For changes in the group
33 home administrator duties imposed by the department in
34 this chapter or in regulations, a current licensee shall have
35 six months after the effective date of those duties to
36 submit an amended plan of operation to reflect the new
37 administrator duties.

38 (b) (1) The department may review a group home's
39 plan of operation to determine if the plan of operation is
40 sufficient to ensure that the facility will operate in



1 compliance with applicable licensing laws and
2 regulations. As part of the review, the department may
3 request that a peer review panel review the plan of
4 operation.

5 (2) The peer review panel shall consist of two
6 representatives from the department, a qualified group
7 home administrator, an experienced group home
8 provider, and a member or members from the placement
9 agency or agencies that place children in group homes.

10 (c) A group home shall develop a daily schedule of
11 activities for the children at the facility. The facility shall
12 have this schedule available for inspection by the
13 department. The activities in which the children are
14 scheduled to participate shall be designed to meet the
15 needs of the individual child, and shall be based on that
16 child's needs and services plan.

17 SEC. 11. Section 1534 of the Health and Safety Code
18 is amended to read:

19 1534. (a) (1) (A) Every licensed community care
20 facility shall be periodically inspected and evaluated for
21 quality of care by a representative or representatives
22 designated by the director. Evaluations shall be
23 conducted at least once per year and as often as necessary
24 to ensure the quality of care being provided.

25 (B) In order to facilitate direct contact with group
26 home clients, the department may interview children
27 who are clients of group homes at any public agency or
28 private agency at which the client may be found
29 including, but not limited to, a juvenile hall, recreation or
30 vocational program, or a nonpublic school. The
31 department shall respect the rights of the child while
32 conducting the interview, including informing the child
33 that he or she has the right not to be interviewed and the
34 right to have another adult present during the interview.

35 (2) The department shall notify the community care
36 facility in writing of all deficiencies in its compliance with
37 the provisions of this chapter and the rules and
38 regulations adopted pursuant to this chapter, and shall set
39 a reasonable length of time for compliance by the facility.



1 (3) Reports on the results of each inspection,
2 evaluation, or consultation shall be kept on file in the
3 department, and all inspection reports, consultation
4 reports, lists of deficiencies, and plans of correction shall
5 be open to public inspection in the county in which the
6 facility is located.

7 (b) (1) Nothing in this section shall limit the authority
8 of the department to inspect or evaluate a licensed foster
9 family agency, a certified family home, or any aspect of
10 a program where a licensed community care facility is
11 certifying compliance with licensing requirements.

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

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

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

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



1 (6) A certified or prospective foster parent who files a
2 written appeal of the department's order with the
3 department pursuant to this section shall, as part of the
4 written request, provide his or her current mailing
5 address. The certified or prospective foster parent shall
6 subsequently notify the department in writing of any
7 change in mailing address, until the hearing process has
8 been completed or terminated.

9 (7) Hearings held pursuant to this section shall be
10 conducted in accordance with Chapter 5 (commencing
11 with Section 11500) of Division 3 of Title 2 of the
12 Government Code. In all proceedings conducted in
13 accordance with this section the standard of proof shall be
14 the preponderance of the evidence.

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

24 (9) A foster family agency's failure to comply with the
25 department's order to deny or revoke the certificate of
26 employment by placing or retaining children in care shall
27 be grounds for disciplining the licensee pursuant to
28 Section 1550.

29 SEC. 12. Section 1538 of the Health and Safety Code
30 is amended to read:

31 1538. (a) Any person may request an inspection of
32 any community care facility or certified family home in
33 accordance with this chapter by transmitting to the state
34 department notice of an alleged violation of applicable
35 requirements prescribed by statutes or regulations of this
36 state, including, but not limited to, a denial of access of
37 any person authorized to enter the facility pursuant to
38 Section 9701 of the Welfare and Institutions Code. A
39 complaint may be made either orally or in writing.



1 (b) The substance of the complaint shall be provided
2 to the licensee or certified family home and foster family
3 agency no earlier than at the time of the inspection.
4 Unless the complainant specifically requests otherwise,
5 neither the substance of the complaint provided the
6 licensee or certified family home and foster family agency
7 nor any copy of the complaint or any record published,
8 released, or otherwise made available to the licensee or
9 certified family home and foster family agency shall
10 disclose the name of any person mentioned in the
11 complaint except the name of any duly authorized
12 officer, employee, or agent of the state department
13 conducting the investigation or inspection pursuant to
14 this chapter.

15 (c) Upon receipt of a complaint, other than a
16 complaint alleging denial of a statutory right of access to
17 a community care facility or certified family home, the
18 state department shall make a preliminary review and,
19 unless the state department determines that the
20 complaint is willfully intended to harass a licensee or is
21 without any reasonable basis, it shall make an onsite
22 inspection of the community care facility or certified
23 family home within 10 days after receiving the complaint,
24 except where a visit would adversely affect the licensing
25 investigation or the investigation of other agencies. In
26 either event, the complainant shall be promptly informed
27 of the state department's proposed course of action.

28 If the department determines that the complaint is
29 intended to harass, is without a reasonable basis, or, after
30 a site inspection, is unfounded, then the complaint and
31 any documents related to it shall be marked confidential
32 and shall not be disclosed to the public. If the complaint
33 investigation included a site visit, the licensee or certified
34 family home and foster family agency shall be notified in
35 writing within 30 days of the dismissal that the complaint
36 has been dismissed.

37 (d) Upon receipt of a complaint alleging denial of a
38 statutory right of access to a community care facility or
39 certified family home, the state department shall review
40 the complaint. The complainant shall be notified



1 promptly of the state department's proposed course of
2 action.

3 (e) The department shall commence performance of
4 complaint inspections of certified family homes upon the
5 employment of sufficient personnel to carry out this
6 function, and by no later than June 30, 1999. Upon
7 implementation, the department shall notify all licensed
8 foster family agencies.

9 SEC. 13. Section 1538.5 of the Health and Safety Code
10 is amended to read:

11 1538.5. (a) (1) Not less than 30 days prior to the
12 anniversary of the effective date of the license of any
13 residential community care facility license, except
14 licensed foster family homes, the department may
15 transmit a copy to the board members of the licensed
16 facility, parents, legal guardians, conservators, client's
17 rights advocate, or placement agency, as designated in
18 each resident's placement agreement, of all inspection
19 reports given to the facility by the department during the
20 past year as a result of a substantiated complaint
21 regarding a violation of this chapter relating to resident
22 abuse and neglect, food, sanitation, incidental medical
23 care, and residential supervision. During that one-year
24 period the copy of the notices transmitted and the proof
25 of the transmittal shall be open for public inspection.

26 (2) A group home facility shall maintain, at the facility,
27 a copy of all licensing reports for the past three years that
28 would be accessible to the public through the
29 department, for inspection by placement officials ~~and~~
30 ~~current prospective facility clients and these clients~~,
31 *current and prospective facility clients, and these clients'*
32 family members who visit the facility.

33 (b) The facility operator, at the expense of the facility,
34 shall transmit a copy of all substantiated complaints, by
35 certified mail, to those persons described pursuant to
36 paragraph (1) of subdivision (a) in the following cases:

37 (1) In the case of any substantiated complaint relating
38 to resident physical or sexual abuse, the facility shall have
39 three days, from the date the facility receives the
40 licensing report from the state department to comply.



1 (2) In any case in which a facility has received three or
2 more substantiated complaints relating to the same
3 violation during the past 12 months, the facility shall have
4 five days from the date the facility receives the licensing
5 report to comply.

6 (c) Each residential facility shall retain a copy of the
7 notices transmitted pursuant to subdivision (b) and proof
8 of their transmittal by certified mail for a period of one
9 year after their transmittal.

10 (d) If any residential facility to which this section
11 applies fails to comply with the provisions of this section,
12 as determined by the state department, the state
13 department shall initiate civil penalty action against the
14 facility in accordance with the provisions of Article 3
15 (commencing with Section 1530) and the related rules
16 and regulations.

17 (e) The department shall notify the residential
18 community care facility of its obligation when it is
19 required to comply with this section.

20 *SEC. 13.5. Section 1548 of the Health and Safety Code*
21 *is amended to read:*

22 1548. (a) In addition to suspension or revocation of a
23 license issued under this chapter, the department may
24 levy a civil penalty in addition to the penalties of
25 suspension or revocation.

26 (b) The amount of the civil penalty shall not be less
27 than twenty-five dollars (\$25) or more than fifty dollars
28 (\$50) per day for each violation of this chapter except
29 where the nature or seriousness of the violation or the
30 frequency of the violation warrants a higher penalty or an
31 immediate civil penalty assessment, or both, as
32 determined by the department. In no event, shall a civil
33 penalty assessment exceed one hundred fifty dollars
34 (\$150) per day.

35 (c) Notwithstanding Section 1534, any facility that is
36 cited for repeating the same violation of this chapter
37 within 12 months of the first violation is subject to an
38 immediate civil penalty of one hundred fifty dollars
39 (\$150) and fifty dollars (\$50) for each day the violation
40 continues until the deficiency is corrected.



1 (d) Any facility that is assessed a civil penalty pursuant
2 to subdivision (c) which repeats the same violation of this
3 chapter within 12 months of the violation subject to
4 subdivision (c) is subject to an immediate civil penalty of
5 one hundred fifty dollars (\$150) for each day the violation
6 continues until the deficiency is corrected.

7 ~~The~~

8 (e) *The* department shall adopt regulations
9 implementing this section.

10 (f) *As provided in Section 11466.31 of the Welfare and*
11 *Institutions Code, the department may offset civil*
12 *penalties owed by a group home against moneys to be*
13 *paid by a county for the care of minors after the group*
14 *home has exhausted its appeal of the civil penalty*
15 *assessment. The department shall provide the group*
16 *home a reasonable opportunity to pay the civil penalty*
17 *before instituting the offset provision.*

18 SEC. 14. Section 1550 of the Health and Safety Code
19 is amended to read:

20 1550. The department may deny an application for, or
21 suspend or revoke, any license, or any administrator
22 certificate, issued under this chapter upon any of the
23 following grounds and in the manner provided in this
24 chapter:

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

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

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

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

38 (e) The licensee of any facility or the person providing
39 direct care or supervision knowingly allows any child to
40 have illegal drugs or alcohol.



1 (f) Engaging in acts of financial malfeasance
2 concerning the operation of a facility, including, but not
3 limited to, improper use or embezzlement of client
4 moneys and property or ~~payments made by any public~~
5 ~~agency for the care of clients, or willful or negligent~~
6 ~~failure to provide services paid for by funds of a public~~
7 ~~agency for the care of clients.~~ *fraudulent appropriation*
8 *for personal gain of facility moneys and property.*

9 SEC. 15. Section 1558 of the Health and Safety Code
10 is amended to read:

11 1558. (a) The department may prohibit any person
12 from being a member of the board of directors, an
13 executive director, or an officer of a licensee, or a licensee
14 from employing, or continuing the employment of, or
15 allowing in a licensed facility, or allowing contact with
16 clients of a licensed facility by, any employee, prospective
17 employee, or person who is not a client who has:

18 (1) Violated, or aided or permitted the violation by
19 any other person of, any provisions of this chapter or of
20 any rules or regulations promulgated under this chapter.

21 (2) Engaged in conduct which is inimical to the health,
22 morals, welfare, or safety of either an individual in or
23 receiving services from the facility, or the people of the
24 State of California.

25 (3) Been denied an exemption to work or to be
26 present in a facility, when that person has been convicted
27 of a crime as defined in Section 1522.

28 (4) Engaged in any other conduct which would
29 constitute a basis for disciplining a licensee.

30 (5) Engaged in acts of financial malfeasance
31 concerning the operation of a facility, including, but not
32 limited to, improper use or embezzlement of client
33 moneys and property or ~~payments made by any public~~
34 ~~agency for the care of clients, or failure to provide~~
35 ~~services paid for by funds of a public agency for the care~~
36 ~~of clients.~~ *fraudulent appropriation for personal gain of*
37 *facility moneys and property, or willful or negligent*
38 *failure to provide services.*

39 (b) The excluded person, the facility, and the licensee
40 shall be given written notice of the basis of the



1 department's action and of the excluded person's right to
2 an appeal. The notice shall be served either by personal
3 service or by registered mail. Within 15 days after the
4 department serves the notice, the excluded person may
5 file with the department a written appeal of the exclusion
6 order. If the excluded person fails to file a written appeal
7 within the prescribed time, the department's action shall
8 be final.

9 (c) (1) The department may require the immediate
10 removal of a member of the board of directors, an
11 executive director, or an officer of a licensee or exclusion
12 of an employee, prospective employee, or person who is
13 not a client from a facility pending a final decision of the
14 matter, when, in the opinion of the director, the action is
15 necessary to protect residents or clients from physical or
16 mental abuse, abandonment, or any other substantial
17 threat to their health or safety.

18 (2) If the department requires the immediate removal
19 of a member of the board of directors, an executive
20 director, or an officer of a licensee or exclusion of an
21 employee, prospective employee, or person who is not a
22 client from a facility, the department shall serve an order
23 of immediate exclusion upon the excluded person which
24 shall notify the excluded person of the basis of the
25 department's action and of the excluded person's right to
26 a hearing.

27 (3) Within 15 days after the department serves an
28 order of immediate exclusion, the excluded person may
29 file a written appeal of the exclusion with the
30 department. The department's action shall be final if the
31 excluded person does not appeal the exclusion within the
32 prescribed time. The department shall do the following
33 upon receipt of a written appeal:

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

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

39 (4) An order of immediate exclusion of the excluded
40 person from the facility shall remain in effect until the



1 hearing is completed and the director has made a final
2 determination on the merits. However, the order of
3 immediate exclusion shall be deemed vacated if the
4 director fails to make a final determination on the merits
5 within 60 days after the original hearing has been
6 completed.

7 (d) An excluded person who files a written appeal
8 with the department pursuant to this section shall, as part
9 of the written request, provide his or her current mailing
10 address. The excluded person shall subsequently notify
11 the department in writing of any change in mailing
12 address, until the hearing process has been completed or
13 terminated.

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

20 (f) The department may institute or continue a
21 disciplinary proceeding against a member of the board of
22 directors, an executive director, or an officer of a licensee
23 or an employee, prospective employee, or person who is
24 not a client upon any ground provided by this section, or
25 enter an order prohibiting any person from being a
26 member of the board of directors, an executive director,
27 or an officer of a licensee or the excluded person's
28 employment or presence in the facility or otherwise take
29 disciplinary action against the excluded person,
30 notwithstanding any resignation, withdrawal of
31 employment application, or change of duties by the
32 excluded person, or any discharge, failure to hire, or
33 reassignment of the excluded person by the licensee or
34 that the excluded person no longer has contact with
35 clients at the facility.

36 (g) A licensee's failure to comply with the
37 department's exclusion order after being notified of the
38 order shall be grounds for disciplining the licensee
39 pursuant to Section 1550.



1 (h) (1) (A) In cases where the excluded person
2 appealed the exclusion order, the person shall be
3 prohibited from working in any facility or being licensed
4 to operate any facility licensed by the department or from
5 being a certified foster parent for the remainder of the
6 excluded person's life, unless otherwise ordered by the
7 department.

8 (B) The excluded individual may petition for
9 reinstatement one year after the effective date of the
10 decision and order of the department upholding the
11 exclusion order pursuant to Section 11522 of the
12 Government Code. The department shall provide the
13 excluded person with a copy of Section 11522 of the
14 Government Code with the decision and order.

15 (2) (A) In cases where the department informed the
16 excluded person of his or her right to appeal the exclusion
17 order and the excluded person did not appeal the
18 exclusion order, the person shall be prohibited from
19 working in any facility or being licensed to operate any
20 facility licensed by the department or a certified foster
21 parent for the remainder of the excluded person's life,
22 unless otherwise ordered by the department.

23 (B) The excluded individual may petition for
24 reinstatement after one year has elapsed from the date of
25 the notification of the exclusion order pursuant to Section
26 11522 of the Government Code. The department shall
27 provide the excluded person with a copy of Section 11522
28 of the Government Code with the exclusion order.

29 SEC. 16. Section 1558.1 of the Health and Safety Code
30 is amended to read:

31 1558.1. (a) (1) If the department determines that a
32 person was issued a license under this chapter or under
33 Chapter 1 (commencing with Section 1200), Chapter 2
34 (commencing with Section 1250), Chapter 3.01
35 (commencing with Section 1568.01), Chapter 3.2
36 (commencing with Section 1569), Chapter 3.4
37 (commencing with Section 1596.70), Chapter 3.5
38 (commencing with Section 1596.90), or Chapter 3.6
39 (commencing with Section 1597.30) and the prior license
40 was revoked within the preceding two years, the



1 department shall exclude the person from, and remove
2 the person from the position of a member of the board of
3 directors, an executive director, or an officer of a licensee
4 of, any facility licensed by the department pursuant to the
5 chapter.

6 (2) If the department determines that a person
7 previously was issued a certificate of approval by a foster
8 family agency which was revoked by the department
9 pursuant to subdivision (b) of Section 1534 within the
10 preceding two years, the department shall exclude the
11 person from, and remove the person from the position of
12 a member of the board of directors, an executive director,
13 or an officer of a licensee of, any facility licensed by the
14 department pursuant to this chapter.

15 (b) If the department determines that the person had
16 previously applied for a license under any of the chapters
17 listed in paragraph (1) of subdivision (a) and the
18 application was denied within the last year, the
19 department shall exclude the person from, and remove
20 the person from the position of a member of the board of
21 directors, an executive director, or an officer of a licensee
22 of, any facility licensed by the department pursuant to
23 this chapter and as follows:

24 (1) In cases where the applicant petitioned for a
25 hearing, the department shall exclude the person from,
26 and remove the person from the position of a member of
27 the board of directors, an executive director, or an officer
28 of a licensee of, any facility licensed by the department
29 pursuant to this chapter until one year has elapsed from
30 the effective date of the decision and order of the
31 department upholding a denial.

32 (2) In cases where the department informed the
33 applicant of his or her right to petition for a hearing and
34 the applicant did not petition for a hearing, the
35 department shall exclude the person from, and remove
36 the person from the position of a member of the board of
37 directors, an executive director, or an officer of a licensee
38 of, any facility licensed by the department pursuant to
39 this chapter until one year has elapsed from the date of



1 the notification of the denial and the right to petition for
2 a hearing.

3 (c) If the department determines that the person had
4 previously applied for a certificate of approval with a
5 foster family agency and the department ordered the
6 foster family agency to deny the application pursuant to
7 subdivision (b) of Section 1534, the department shall
8 exclude the person from, and remove the person from the
9 position of a member of the board of directors, an
10 executive director, or an officer of a licensee of, any
11 facility licensed by the department pursuant to this
12 chapter and as follows:

13 (1) In cases where the applicant petitioned for a
14 hearing, the department shall exclude the person from,
15 and remove the person from the position of a member of
16 the board of directors, an executive director, or an officer
17 of a licensee of, any facility licensed by the department
18 pursuant to this chapter until one year has elapsed from
19 the effective date of the decision and order of the
20 department upholding a denial.

21 (2) In cases where the department informed the
22 applicant of his or her right to petition for a hearing and
23 the applicant did not petition for a hearing, the
24 department shall exclude the person from, and remove
25 the person from the position of a member of the board of
26 directors, an executive director, or an officer of a licensee
27 of, any facility licensed by the department pursuant to
28 this chapter until one year has elapsed from the date of
29 the notification of the denial and the right to petition for
30 a hearing.

31 (d) Exclusion or removal of an individual pursuant to
32 this section shall not be considered an order of exclusion
33 for purposes of Section 1558 or any other law.

34 (e) The department may determine not to exclude the
35 person from, ~~and remove~~ *or remove the person* from the
36 position of a member of the board of directors, an
37 executive director, or an officer of a licensee of, any
38 facility licensed by the department pursuant to this
39 chapter if it has determined that the reasons for the denial
40 of the application or revocation of the facility license or



1 certificate of approval were due to circumstances and
2 conditions that either have been corrected or are no
3 longer in existence.

4 SEC. 17. Section 1563 of the Health and Safety Code
5 is amended to read:

6 1563. (a) The director shall ensure that licensing
7 personnel at the department have appropriate training to
8 properly carry out this chapter.

9 (b) The director shall institute a staff development
10 and training program to develop among departmental
11 staff the knowledge and understanding necessary to
12 successfully carry out this chapter. Specifically, the
13 program shall do all of the following:

14 (1) Provide staff with 36 hours of training per year that
15 reflects the needs of persons served by community care
16 facilities. This training shall, where appropriate, include
17 specialized instruction in the needs of foster children,
18 persons with mental disorders, or developmental or
19 physical disabilities, or other groups served by specialized
20 community care facilities.

21 (2) Give priority to applications for employment from
22 persons with experience as care providers to persons
23 served by community care facilities.

24 (3) Provide new staff with comprehensive training
25 within the first six months of employment. This
26 comprehensive training shall, at a minimum, include the
27 following core areas: administrative action process, client
28 populations, conducting facility visits, cultural awareness,
29 documentation skills, facility operations, human relation
30 skills, interviewing techniques, investigation processes,
31 and regulation administration.

32 ~~(4) Provide group home and foster family agency~~
33 ~~licensing personnel with a minimum of 24 hours of~~
34 ~~training per year that reflects the unique needs of~~
35 ~~children in group homes and foster family homes.~~

36 (c) *In addition to the requirements in subdivision (b),*
37 *group home and foster family agency licensing personnel*
38 *shall receive a minimum of 24 hours of training per year*
39 *to increase their understanding of children in group*
40 *homes, certified homes, and foster family homes. The*



1 *training shall cover, but not be limited to, all of the*
2 *following topics:*

3 (1) *The types and characteristics of emotionally*
4 *troubled children.*

5 (2) *The high-risk behaviors they exhibit.*

6 (3) *The biological, psychological, interpersonal, and*
7 *social contributors to these behaviors.*

8 (4) *The range of management and treatment*
9 *interventions utilized for these children, including, but*
10 *not limited to, nonviolent, emergency intervention*
11 *techniques.*

12 SEC. 18. Section 1568.042 is added to the Health and
13 Safety Code, to read:

14 1568.042. (a) A corporation that applies for licensure
15 with the department shall list the facilities that any
16 member of the board of directors, the executive director,
17 or an officer has been licensed to operate, been employed
18 in, or served as a member of the board of directors, the
19 executive director, or an officer.

20 (b) The department shall not issue a provisional
21 license or license to any corporate applicant that has a
22 member of the board of directors, an executive director,
23 or an officer who is not eligible for licensure pursuant to
24 subdivision (f) of Section 1568.065 and Section 1568.093.

25 (c) The department may revoke the license of any
26 corporate licensee that has a member of the board of
27 directors, an executive director, or an officer who is not
28 eligible for licensure pursuant to subdivision (f) of
29 Section 1568.065 and Section 1568.093.

30 (d) Prior to instituting an administrative action
31 pursuant to either subdivision (b) or (c), the department
32 shall notify the applicant or licensee of the person's
33 ineligibility to be a member of the board of directors, an
34 executive director, or an officer of the applicant or
35 licensee, and shall give the applicant or licensee 15 days
36 to remove the person from that position.

37 SEC. 19. Section 1568.082 of the Health and Safety
38 Code is amended to read:

39 1568.082. (a) The department may suspend or
40 revoke any license issued under this chapter upon any of



1 the following grounds and in the manner provided in this
2 chapter:

3 (1) Violation by the licensee of this chapter or of the
4 rules and regulations adopted pursuant to this chapter.

5 (2) Aiding, abetting, or permitting the violation of this
6 chapter or of the rules and regulations adopted pursuant
7 to this chapter.

8 (3) Conduct which is inimical to the health, welfare, or
9 safety of either an individual in or receiving services from
10 the facility or the people of the State of California.

11 (4) The provision of services beyond the level the
12 facility is authorized to provide, or accepting or retaining
13 residents who require services of a higher level than the
14 facility is authorized to provide.

15 (5) Engaging in acts of financial malfeasance
16 concerning the operation of a facility, including, but not
17 limited to, improper use or embezzlement of client
18 moneys and property or ~~payments made by any public~~
19 ~~agency for the care of clients, or failure to provide~~
20 ~~services paid for by funds of a public agency for the care~~
21 ~~of clients.~~ *fraudulent appropriation for personal gain of*
22 *facility moneys and property, or willful or negligent*
23 *failure to provide services.*

24 (b) The director may temporarily suspend any license,
25 prior to any hearing when, in the opinion of the director,
26 the action is necessary to protect residents of the facility
27 from physical or mental abuse, abandonment, or any
28 other substantial threat to health or safety. The director
29 shall notify the licensee of the temporary suspension and
30 the effective date of the temporary suspension, and at the
31 same time shall serve the provider with an accusation.
32 Upon receipt of a notice of defense to the accusation by
33 the licensee, the director shall, within 15 days, set the
34 matter for hearing, and the hearing shall be held as soon
35 as possible, but not later than 30 days after receipt of the
36 notice. The temporary suspension shall remain in effect
37 until the time the hearing is completed and the director
38 has made a final determination on the merits. However,
39 the temporary suspension shall be deemed vacated if the
40 director fails to make a final determination on the merits



1 within 30 days after the original hearing has been
2 completed.

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

10 (1) Prepare and submit to the department a written
11 plan for relocation of the client or resident, in a form
12 acceptable to the department.

13 (2) Comply with all terms and conditions of the
14 approved relocation plan.

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

18 SEC. 20. Section 1568.09 of the Health and Safety
19 Code is amended to read:

20 1568.09. It is the intent of the Legislature in enacting
21 this section to require the fingerprints of those individuals
22 whose contact with residents of residential care facilities
23 for persons with a chronic, life-threatening illness may
24 pose a risk to the residents' health and safety.

25 Therefore, the Legislature supports the use of the
26 fingerprint live-scan technology, as identified in the
27 long-range plan of the Department of Justice for fully
28 automating the processing of fingerprints and other data
29 by the year 1999, otherwise known as the California
30 Crime Information Intelligence System (CAL-CII), to be
31 used for applicant fingerprints. It is the intent of the
32 Legislature, in enacting this section, to require the
33 fingerprints of those individuals whose contact with
34 community care clients may pose a risk to the clients'
35 health and safety.

36 (a) Before issuing a license to any person or persons to
37 operate or manage a residential care facility, the
38 department shall secure from an appropriate law
39 enforcement agency a criminal record to determine
40 whether the applicant or any other person specified in



1 subdivision (b) has ever been convicted of a crime other
2 than a minor traffic violation or arrested for any crime
3 specified in Section 290 of the Penal Code, for violating
4 Section 245 or 273.5, subdivision (b) of Section 273a or,
5 prior to January 1, 1994, paragraph (2) of Section 273a of
6 the Penal Code, or for any crime for which the
7 department cannot grant an exemption if the person was
8 convicted and the person has not been exonerated. That
9 criminal history information shall include the full
10 criminal record, if any, of those persons, and subsequent
11 arrest information pursuant to Section 11105.2 of the
12 Penal Code. The following shall apply to the criminal
13 record information:

14 (1) If the State Department of Social Services finds
15 that the applicant or any other person specified in
16 subdivision (b) has been convicted of a crime, other than
17 a minor traffic violation, the application shall be denied,
18 unless the director grants an exemption pursuant to
19 subdivision (f).

20 (2) If the State Department of Social Services finds
21 that the applicant, or any person specified in subdivision
22 (b) is awaiting trial for a crime other than a minor traffic
23 violation, the State Department of Social Services shall
24 cease processing the application until the conclusion of
25 the trial.

26 (3) If no criminal record information has been
27 recorded, the Department of Justice shall provide the
28 applicant and the State Department of Social Services
29 with a statement of that fact.

30 (4) If the State Department of Social Services finds
31 after licensure that the licensee, or any other person
32 specified in paragraph (2) of subdivision (b), has been
33 convicted of a crime other than a minor traffic violation,
34 the license may be revoked, unless the director grants an
35 exemption pursuant to subdivision (f).

36 (5) An applicant and any other person specified in
37 subdivision (b) shall submit to the Department of Justice
38 a second set of fingerprints for the purpose of searching
39 the records of the Federal Bureau of Investigation, in
40 addition to the search required by this subdivision. If an



1 applicant meets all other conditions for licensure, except
2 receipt of the Federal Bureau of Investigation's criminal
3 history information for the applicant and persons listed in
4 subdivision (b), the department may issue a license if the
5 applicant and each person described by subdivision (b)
6 has signed and submitted a statement that he or she has
7 never been convicted of a crime in the United States,
8 other than a traffic infraction as defined in paragraph (1)
9 of subdivision (a) of Section 42001 of the Vehicle Code.
10 If, after licensure, the department determines that the
11 licensee or person specified in subdivision (b) has a
12 criminal record, the license may be revoked pursuant to
13 subdivision (a) of Section 1568.82. The department may
14 also suspend the license pending an administrative
15 hearing pursuant to subdivision (b) of Section 1568.82.

16 (b) In addition to the applicant, the provisions of this
17 section shall be applicable to criminal convictions of the
18 following persons:

19 (1) Adults responsible for administration or direct
20 supervision of staff of the facility.

21 (2) Any person, other than a resident, residing in the
22 facility.

23 (3) Any person who provides resident assistance in
24 dressing, grooming, bathing, or personal hygiene.

25 (4) (A) Any staff person, volunteer, or employee who
26 has contact with the residents.

27 (B) A volunteer shall be exempt from the
28 requirements of this subdivision if he or she is a relative,
29 significant other, or close friend of a client receiving care
30 in the facility and the volunteer does not provide direct
31 care and supervision of residents. A volunteer who
32 provides direct care and supervision shall be exempt if
33 the volunteer is a resident's spouse, significant other,
34 close friend, or family member and provides direct care
35 and supervision to that resident only at the request of the
36 resident.

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



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

8 (c) (1) (A) Subsequent to initial licensure, any
9 person specified in subdivision (b) and not exempted
10 from fingerprinting shall, as a condition to employment,
11 residence, or presence in a residential care facility, be
12 fingerprinted and sign a declaration under penalty of
13 perjury regarding any prior criminal convictions. The
14 licensee shall submit these fingerprints to the
15 Department of Justice, along with a second set of
16 fingerprints, for the purpose of searching the records of
17 the Federal Bureau of Investigation, or to comply with
18 paragraph (1) of subdivision (g), prior to the person's
19 employment, residence, or initial presence in the
20 residential care facility.

21 (B) These fingerprints shall be on a card provided by
22 the State Department of Social Services for the purpose
23 of obtaining a permanent set of fingerprints and
24 submitted to the Department of Justice by the licensee or
25 sent by electronic transmission in a manner approved by
26 the State Department of Social Services. A licensee's
27 failure to submit fingerprints to the Department of
28 Justice, or to comply with paragraph (1) of subdivision
29 (g), as required in this section, shall result in the citation
30 of a deficiency and an immediate assessment of civil
31 penalties in the amount of one hundred dollars (\$100) per
32 violation. The State Department of Social Services may
33 assess civil penalties for continued violations as allowed in
34 Section 1568.0822. The fingerprints shall then be
35 submitted to the State Department of Social Services for
36 processing. The licensee shall maintain *and make*
37 *available for inspection* documentation of the individual's
38 clearance or exemption ~~at the facility~~.

39 (2) (A) Paragraph (1) shall cease to be implemented
40 when the State Department of Social Services adopts



1 emergency regulations pursuant to Section 1522.04, and
2 shall become inoperative when those regulations become
3 final.

4 (B) A violation of the regulations adopted pursuant to
5 Section 1522.04 shall result in the citation of a deficiency
6 and an immediate assessment of civil penalties in the
7 amount of one hundred dollars (\$100) per violation. The
8 department may assess civil penalties for continued
9 violations as permitted by Section 1568.0822.

10 (3) Within 14 calendar days of the receipt of the
11 fingerprints, the Department of Justice shall notify the
12 State Department of Social Services of the criminal
13 record information, as provided for in this subdivision. If
14 no criminal record information has been recorded, the
15 Department of Justice shall provide the licensee and the
16 State Department of Social Services with a statement of
17 that fact within 14 calendar days of receipt of the
18 fingerprints. If new fingerprints are required for
19 processing, the Department of Justice shall, within 14
20 calendar days from the date of receipt of the fingerprints,
21 notify the licensee that the fingerprints were illegible.
22 When live-scan technology is operational, as defined in
23 Section 1522.04, the Department of Justice shall notify the
24 department, as required by that section, and shall notify
25 the licensee by mail within 14 days of electronic
26 transmission of the fingerprints to the Department of
27 Justice, if the person has no criminal history record.

28 (4) Except for persons specified in paragraph (2) of
29 subdivision (b), the licensee shall endeavor to ascertain
30 the previous employment history of persons required to
31 be fingerprinted under this subdivision. If it is
32 determined by the State Department of Social Services,
33 on the basis of the fingerprints submitted to the
34 Department of Justice, that the person has been
35 convicted of a sex offense against a minor, an offense
36 specified in Section 243.4, 273a, or 273d, subdivision (a) or
37 (b) of Section 368 of the Penal Code, or a felony, the
38 department shall notify the licensee to act immediately
39 to terminate the person's employment, remove the
40 person from the residential care facility, or bar the person



1 from entering the residential care facility. The
2 department may subsequently grant an exemption
3 pursuant to subdivision (f). If the conviction was for
4 another crime, except a minor traffic violation, the
5 licensee shall, upon notification by the department, act
6 immediately to either (1) terminate the person's
7 employment, remove the person from the residential
8 care facility, or bar the person from entering the
9 residential care facility; or (2) seek an exemption
10 pursuant to subdivision (f). The department shall
11 determine if the person shall be allowed to remain in the
12 facility until a decision on the exemption is rendered. A
13 licensee's failure to comply with the department's
14 prohibition of employment, contact with clients, or
15 presence in the facility as required by this paragraph shall
16 be grounds for disciplining the licensee pursuant to
17 Section 1568.082.

18 (5) The department may issue an exemption on its
19 own motion pursuant to subdivision (f) if the person's
20 criminal history indicates that the person is of good
21 character based on the age, seriousness, and frequency of
22 the conviction or convictions. The department, in
23 consultation with interested parties, shall develop
24 regulations to establish the criteria to grant an exemption
25 pursuant to this paragraph.

26 (6) Concurrently with notifying the licensee pursuant
27 to paragraph (4), the department shall notify the affected
28 individual of his or her right to seek an exemption
29 pursuant to subdivision (f). The individual may seek an
30 exemption only if the licensee terminates the person's
31 employment or removes the person from the facility after
32 receiving notice from the department pursuant to
33 paragraph (4).

34 (d) (1) For purposes of this section or any other
35 provision of this chapter, a conviction means a plea or
36 verdict of guilty or a conviction following a plea of nolo
37 contendere. Any action which the department is
38 permitted to take following the establishment of a
39 conviction may be taken when the time for appeal has
40 elapsed, or the judgment of conviction has been affirmed



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

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

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

38 (f) (1) After review of the record, the director may
39 grant an exemption from disqualification for a license as
40 specified in paragraphs (1) and (4) of subdivision (a), or



1 for employment, residence, or presence in a residential
2 care facility as specified in paragraphs (4), (5), and (6) of
3 subdivision (c) if the director has substantial and
4 convincing evidence to support a reasonable belief that
5 the applicant and the person convicted of the crime, if
6 other than the applicant, are of such good character as to
7 justify issuance of the license or special permit or granting
8 an exemption for purposes of subdivision (c). However,
9 no exemption shall be granted pursuant to this
10 subdivision if the conviction was for an offense specified
11 in Section 220, 243.4, or 264.1, subdivision (a) of Section
12 273a or, prior to January 1, 1994, paragraph (1) of Section
13 273a, Section 273d, 288, or 289, subdivision (a) of Section
14 290, or subdivision (a) or (b) of Section 368 of the Penal
15 Code, or was a conviction of another crime against an
16 individual specified in subdivision (c) of Section 667.5 of
17 the Penal Code.

18 (2) The department shall not prohibit a person from
19 being employed or having contact with clients in a facility
20 on the basis of a denied criminal record exemption
21 request or arrest information unless the department
22 complies with the requirements of Section 1568.092.

23 (g) (1) For purposes of compliance with this section,
24 the department may permit an individual to transfer a
25 current criminal records clearance, as defined in
26 subdivision (a), from one facility to another, as long as the
27 criminal record clearance has been processed through a
28 state licensing district office, and is being transferred to
29 another state licensing district office. The request shall be
30 in writing to the department, and shall include a copy of
31 the person's driver's license or valid identification card
32 issued by the Department of Motor Vehicles, or a valid
33 photo identification issued by another state or the United
34 States government if the person is not a California
35 resident. Upon request of the licensee, who shall enclose
36 a self-addressed stamped envelope for this purpose, the
37 department shall verify whether the individual has a
38 clearance that can be transferred.

39 (2) The State Department of Social Services shall hold
40 criminal records clearances in its active files for a



1 minimum of two years after an employee is no longer
2 employed at a licensed facility in order for the criminal
3 records clearance to be transferred.

4 (h) If a licensee or facility is required by law to deny
5 employment or to terminate employment of any
6 employee based on written notification from the state
7 department that the employee has a prior criminal
8 conviction or is determined unsuitable for employment
9 under Section 1568.092, the licensee or facility shall not
10 incur civil liability or unemployment insurance liability as
11 a result of that denial or termination.

12 (i) (1) The Department of Justice shall charge a fee
13 sufficient to cover its cost in providing services to comply
14 with the 14-day requirement contained in subdivision (c)
15 for provision to the department of criminal record
16 information.

17 (2) Paragraph (1) shall cease to be implemented when
18 the department adopts emergency regulations pursuant
19 to Section 1522.04, and shall become inoperative when
20 permanent regulations are adopted under that section.

21 (j) Amendments to the provisions of this section made
22 in the 1998 calendar year shall be implemented
23 commencing 60 days after the effective date of the act
24 amending this section in the 1998 calendar year, except
25 those provisions for the submission of fingerprints for
26 searching the records of the Federal Bureau of
27 Investigation, which shall be implemented commencing
28 January 1, 1999.

29 SEC. 21. Section 1568.092 of the Health and Safety
30 Code is amended to read:

31 1568.092. (a) The department may prohibit any
32 person from being a member of the board of directors, an
33 executive director, or an officer of a licensee or a licensee
34 from employing, or continuing the employment of, or
35 allowing in a licensed facility, or allowing contact with
36 clients of a licensed facility by, any employee, prospective
37 employee, or person who is not a client who has:

38 (1) Violated, aided, or permitted the violation by any
39 other person of this chapter or of any rules or regulations
40 adopted under this chapter.



1 (2) Engaged in conduct which is inimical to the health,
2 welfare, or safety of either an individual, in or receiving
3 services from the facility, or the people of the State of
4 California.

5 (3) Been denied an exemption to work or to be
6 present in a facility, when that person has been convicted
7 of a crime as defined in Section 1568.09.

8 (4) Engaged in any other conduct which would
9 constitute a basis for disciplining a licensee.

10 (5) Engaging in acts of financial malfeasance
11 concerning the operation of a facility, including, but not
12 limited to, improper use or embezzlement of client
13 moneys and property or ~~payments made by any public~~
14 ~~agency for the care of clients, or willful or negligent~~
15 ~~failure to provide services paid for by funds of a public~~
16 ~~agency for the care of clients.~~ *fraudulent appropriation*
17 *for personal gain of facility moneys and property, or*
18 *willful or negligent failure to provide services.*

19 (b) The excluded person, the facility, and the licensee
20 shall be given written notice of the basis of the action of
21 the department and of the right to an appeal of the
22 excluded person. The notice shall be served either by
23 personal service or by registered mail. Within 15 days
24 after the department serves the notice, the excluded
25 person may file with the department a written appeal of
26 the exclusion order. If the excluded person fails to file a
27 written appeal within the prescribed time, the action of
28 the department shall be final.

29 (c) (1) The department may require the immediate
30 removal of an executive director, a board member, or an
31 officer of a licensee or exclusion of an employee,
32 prospective employee, or person who is not a client from
33 a facility pending a final decision of the matter when, in
34 the opinion of the director, the action is necessary to
35 protect residents or clients from physical or mental abuse,
36 abandonment, or any other substantial threat to their
37 health or safety.

38 (2) If the department requires the immediate removal
39 of a member of the board of directors, an executive
40 director, or an officer of a licensee or exclusion of an



1 employee, prospective employee, or person who is not a
2 client from a facility, the department shall serve an order
3 of immediate exclusion upon the excluded person which
4 shall notify the excluded person of the basis of the
5 department's action and of the excluded person's right to
6 a hearing.

7 (3) Within 15 days after the department serves an
8 order of immediate exclusion, the excluded person may
9 file a written appeal of the exclusion with the
10 department. The department's action shall be final if the
11 excluded person does not appeal the exclusion within the
12 prescribed time. The department shall do the following
13 upon receipt of a written appeal:

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

16 (B) Within 60 days of receipt of a notice of defense by
17 the excluded person pursuant to Section 11506 of the
18 Government Code, conduct a hearing on the accusation.

19 (4) An order of immediate exclusion of the excluded
20 person from the facility shall remain in effect until the
21 hearing is completed and the director has made a final
22 determination on the merits. However, the order of
23 immediate exclusion shall be deemed vacated if the
24 director fails to make a final determination on the merits
25 within 60 days after the original hearing has been
26 completed.

27 (d) An excluded person who files a written appeal of
28 the exclusion order with the department pursuant to this
29 section shall, as part of the written request, provide his or
30 her current mailing address. The excluded person shall
31 subsequently notify the department in writing of any
32 change in mailing address, until the hearing process has
33 been completed or terminated.

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



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

17 (g) A licensee's failure to comply with the
18 department's exclusion order after being notified of the
19 order shall be grounds for disciplining the licensee
20 pursuant to Section 1568.082.

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

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

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



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

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

10 SEC. 22. Section 1568.093 of the Health and Safety
11 Code is amended to read:

12 1568.093. (a) (1) If the department determines that
13 a person was issued a license under this chapter or under
14 Chapter 1 (commencing with Section 1200), Chapter 2
15 (commencing with Section 1250), Chapter 3.01
16 (commencing with Section 1568.01), Chapter 3.2
17 (commencing with Section 1569), Chapter 3.4
18 (commencing with Section 1596.70), Chapter 3.5
19 (commencing with Section 1596.90), or Chapter 3.6
20 (commencing with Section 1597.30) and the prior license
21 was revoked within the preceding two years, the
22 department shall exclude the person from, and remove
23 him or her as, a member of the board of directors, an
24 executive director, or an officer of a licensee of, any
25 facility licensed by the department pursuant to the
26 chapter.

27 (2) If the department determines that a person
28 previously was issued a certificate of approval by a foster
29 family agency which was revoked by the department
30 pursuant to subdivision (b) of Section 1534 within the
31 preceding two years, the department shall exclude the
32 person from, and remove him or her as, a member of the
33 board of directors, an executive director, or an officer of
34 a licensee of, any facility licensed by the department
35 pursuant to this chapter.

36 (b) If the department determines that the person had
37 previously applied for a license under any of the chapters
38 listed in paragraph (1) of subdivision (a) and the
39 application was denied within the last year, the
40 department shall exclude the person from, and remove



1 him or her as, a member of the board of directors, an
2 executive director, or an officer of a licensee of, any
3 facility licensed by the department pursuant to this
4 chapter and as follows:

5 (1) In cases where the applicant petitioned for a
6 hearing, the department shall exclude the person from,
7 and remove him or her as, a member of the board of
8 directors, an executive director, or an officer of a licensee
9 of, any facility licensed by the department pursuant to
10 this chapter until one year has elapsed from the effective
11 date of the decision and order of the department
12 upholding a denial.

13 (2) In cases where the department informed the
14 applicant of his or her right to petition for a hearing and
15 the applicant did not petition for a hearing, the
16 department shall exclude the person from, and remove
17 him or her as, a member of the board of directors, an
18 executive director, or an officer of a licensee of, any
19 facility licensed by the department pursuant to this
20 chapter until one year has elapsed from the date of the
21 notification of the denial and the right to petition for a
22 hearing.

23 (c) If the department determines that the person had
24 previously applied for a certificate of approval with a
25 foster family agency and the department ordered the
26 foster family agency to deny the application pursuant to
27 subdivision (b) of Section 1534, the department shall
28 exclude the person from, and remove him or her as, a
29 member of the board of directors, an executive director,
30 or an officer of a licensee of, any facility licensed by the
31 department pursuant to this chapter and as follows:

32 (1) In cases where the applicant petitioned for a
33 hearing, the department shall exclude the person from,
34 and remove him or her as, a member of the board of
35 directors, an executive director, or an officer of a licensee
36 of, any facility licensed by the department pursuant to
37 this chapter until one year has elapsed from the effective
38 date of the decision and order of the department
39 upholding a denial.



1 (2) In cases where the department informed the
2 applicant of his or her right to petition for a hearing and
3 the applicant did not petition for a hearing, the
4 department shall exclude the person from, and remove
5 him or her as, a member of the board of directors, an
6 executive director, or an officer of a licensee of, any
7 facility licensed by the department pursuant to this
8 chapter until one year has elapsed from the date of the
9 notification of the denial and the right to petition for a
10 hearing.

11 (d) Exclusion or removal of an individual pursuant to
12 this section shall not be considered an order of exclusion
13 for purposes of Section 1568.092 or any other law.

14 (e) The department may determine not to exclude the
15 person from, and remove from being a member of the
16 board of directors, an executive director, or officer of a
17 licensee of, any facility licensed by the department
18 pursuant to this chapter if it has determined that the
19 reasons for the denial of the application or revocation of
20 the facility license or certificate of approval were due to
21 circumstances and conditions that either have been
22 corrected or are no longer in existence.

23 SEC. 23. Section 1569.1515 is added to the Health and
24 Safety Code, to read:

25 1569.1515. (a) A corporation that applies for
26 licensure with the department shall list the facilities that
27 any member of the board of directors, the executive
28 director, or an officer has been licensed to operate, been
29 employed in, or served as a member of the board of
30 directors, the executive director, or an officer.

31 (b) The department shall not issue a provisional
32 license or license to any corporate applicant that has a
33 member of the board of directors, the executive director,
34 or an officer who is not eligible for licensure pursuant to
35 Sections 1569.16 and 1569.59.

36 (c) The department may revoke the license of any
37 corporate licensee that has a member of the board of
38 directors, the executive director, or an officer who is not
39 eligible for licensure pursuant to Sections 1569.16 and
40 1569.59.



1 (d) Prior to instituting an administrative action
2 pursuant to either subdivision (b) or (c), the department
3 shall notify the applicant or licensee of the person's
4 ineligibility to be a member of the board of directors, an
5 executive director, or an officer of the applicant or
6 licensee, and shall give the applicant or licensee 15 days
7 to remove the person from that position.

8 SEC. 24. Section 1569.17 of the Health and Safety
9 Code is amended to read:

10 1569.17. The Legislature recognizes the need to
11 generate timely and accurate positive fingerprint
12 identification of applicants as a condition of issuing
13 licenses, permits, or certificates of approval for persons to
14 operate or provide direct care services in a residential
15 care facility for the elderly. The Legislature supports the
16 use of the fingerprint live-scan technology, as identified
17 in the long-range plan of the Department of Justice for
18 fully automating the processing of fingerprints and other
19 data by the year 1999. It is the intent of the Legislature in
20 enacting this section to require the fingerprints of those
21 individuals whose contact with clients of residential care
22 facilities for the elderly may pose a risk to the clients'
23 health and safety.

24 (a) Before issuing a license to any person or persons to
25 operate or manage a residential care facility for the
26 elderly, the department shall secure from an appropriate
27 law enforcement agency a criminal record to determine
28 whether the applicant or any other person specified in
29 subdivision (b) has ever been convicted of a crime other
30 than a minor traffic violation or arrested for any crime
31 specified in Section 290 of the Penal Code, for violating
32 Section 245 or 273.5, subdivision (b) of Section 273a or,
33 prior to January 1, 1994, paragraph (2) of Section 273a of
34 the Penal Code, or for any crime for which the
35 department cannot grant an exemption if the person was
36 convicted and the person has been exonerated. That
37 criminal history information shall include the full
38 criminal record, if any, of those persons, and subsequent
39 arrest information pursuant to Section 11105.2 of the



1 Penal Code. The following shall apply to the criminal
2 record information:

3 (1) If the State Department of Social Services finds
4 that the applicant or any other person specified in
5 subdivision (b) has been convicted of a crime, other than
6 a minor traffic violation, the application shall be denied,
7 unless the director grants an exemption pursuant to
8 subdivision (f).

9 (2) If the State Department of Social Services finds
10 that the applicant, or any person specified in subdivision
11 (b) is awaiting trial for a crime other than a minor traffic
12 violation, the State Department of Social Services shall
13 cease processing the application until the conclusion of
14 the trial.

15 (3) If no criminal record information has been
16 recorded, the Department of Justice shall provide the
17 applicant and the State Department of Social Services
18 with a statement of that fact.

19 (4) If the State Department of Social Services finds
20 after licensure that the licensee, or any other person
21 specified in paragraph (2) of subdivision (b), has been
22 convicted of a crime other than a minor traffic violation,
23 the license may be revoked, unless the director grants an
24 exemption pursuant to subdivision (f).

25 (5) An applicant and any person specified in
26 subdivision (b) shall submit a second set of fingerprints
27 to the Department of Justice, for the purpose of searching
28 the records of the Federal Bureau of Investigation, in
29 addition to the search required by subdivision (a). If an
30 applicant meets all other conditions for licensure, except
31 receipt of the Federal Bureau of Investigation's criminal
32 history information for the applicant and persons listed in
33 subdivision (b), the department may issue a license if the
34 applicant and each person described by subdivision (b)
35 has signed and submitted a statement that he or she has
36 never been convicted of a crime in the United States,
37 other than a traffic infraction as defined in paragraph (1)
38 of subdivision (a) of Section 42001 of the Vehicle Code.
39 If, after licensure, the department determines that the
40 licensee or person specified in subdivision (b) has a



1 criminal record, the license may be revoked pursuant to
2 Section 1569.50. The department may also suspend the
3 license pending an administrative hearing pursuant to
4 Sections 1569.50 and 1569.51.

5 (b) In addition to the applicant, the provisions of this
6 section shall be applicable to criminal convictions of the
7 following persons:

8 (1) Adults responsible for administration or direct
9 supervision of staff.

10 (2) Any person, other than a client, residing in the
11 facility.

12 (3) Any person who provides client assistance in
13 dressing, grooming, bathing, or personal hygiene.

14 (4) (A) Any staff person, volunteer, or employee who
15 has frequent and routine contact with the clients.

16 (B) A volunteer shall be exempt from the
17 requirements of this subdivision if he or she is a relative,
18 significant other, or close friend of a client receiving care
19 in the facility and the volunteer is not used to replace or
20 supplement staff in providing direct care and supervision
21 of clients.

22 (5) If the applicant is a firm, partnership, association,
23 or corporation, the chief executive officer or other person
24 serving in like capacity.

25 (6) Additional officers of the governing body of the
26 applicant, or other persons with a financial interest in the
27 applicant, as determined necessary by the department by
28 regulation. The criteria used in the development of these
29 regulations shall be based on the person's capability to
30 exercise substantial influence over the operation of the
31 facility.

32 (c) (1) (A) Subsequent to initial licensure, any
33 person specified in subdivision (b) and not exempted
34 from fingerprinting shall, as a condition to employment,
35 residence, or presence in a residential facility for the
36 elderly, be fingerprinted and sign a declaration under
37 penalty of perjury regarding any prior criminal
38 convictions. The licensee shall submit these fingerprints,
39 along with a second set of fingerprints for the purpose of
40 searching the records of the Federal Bureau of



1 Investigation, to the Department of Justice, or to comply
2 with paragraph (1) of subdivision (g) prior to the
3 person's employment, residence, or initial presence in
4 the residential care facility for the elderly.

5 (B) These fingerprints shall be on a card provided by
6 the State Department of Social Services for the purpose
7 of obtaining a permanent set of fingerprints and
8 submitted to the Department of Justice by the licensee or
9 sent by electronic transmission in a manner approved by
10 the State Department of Social Services. A licensee's
11 failure to submit fingerprints to the Department of
12 Justice, or to comply with paragraph (1) of subdivision
13 (g), as required in this section, shall result in the citation
14 of a deficiency and an immediate assessment of civil
15 penalties in the amount of one hundred dollars (\$100) per
16 violation. The State Department of Social Services may
17 assess civil penalties for continued violations as permitted
18 by Section 1569.49. The fingerprints shall then be
19 submitted to the State Department of Social Services for
20 processing. Documentation of the individual's clearance
21 or exemption shall be maintained by the licensee and be
22 available for inspection. When live-scan technology is
23 operational, as defined in Section 1522.04, the
24 Department of Justice shall notify the department, as
25 required by that section, and notify the licensee by mail
26 within 14 days of electronic transmission of the
27 fingerprints to the Department of Justice, if the person
28 has no criminal record. A violation of the regulations
29 adopted pursuant to Section 1522.04 shall result in the
30 citation of a deficiency and an immediate assessment of
31 civil penalties in the amount of one hundred dollars
32 (\$100) per violation. The department may assess civil
33 penalties for continued violations as permitted by Section
34 1569.49.

35 (2) Within 14 calendar days of the receipt of the
36 fingerprints, the Department of Justice shall notify the
37 State Department of Social Services of the criminal
38 record information, as provided for in this subdivision. If
39 no criminal record information has been recorded, the
40 Department of Justice shall provide the licensee and the



1 State Department of Social Services with a statement of
2 that fact within 14 calendar days of receipt of the
3 fingerprints. If new fingerprints are required for
4 processing, the Department of Justice shall, within 14
5 calendar days from the date of receipt of the fingerprints,
6 notify the licensee that the fingerprints were illegible.

7 (3) Except for persons specified in paragraph (2) of
8 subdivision (b), the licensee shall endeavor to ascertain
9 the previous employment history of persons required to
10 be fingerprinted under this subdivision. If it is
11 determined by the State Department of Social Services,
12 on the basis of the fingerprints submitted to the
13 Department of Justice, that the person has been
14 convicted of a sex offense against a minor, an offense
15 specified in Section 243.4, 273a, or 273d, subdivision (a) or
16 (b) of Section 368 of the Penal Code, or a felony, the State
17 Department of Social Services shall notify the licensee in
18 writing within 15 calendar days of the receipt of the
19 notification from the Department of Justice to act
20 immediately to terminate the person's employment,
21 remove the person from the residential care facility for
22 the elderly, or bar the person from entering the
23 residential care facility for the elderly. The State
24 Department of Social Services may subsequently grant an
25 exemption pursuant to subdivision (f). If the conviction
26 was for another crime, except a minor traffic violation,
27 the licensee shall, upon notification by the State
28 Department of Social Services, act immediately to either
29 (1) terminate the person's employment, remove the
30 person from the residential care facility for the elderly, or
31 bar the person from entering the residential care facility
32 for the elderly; or (2) seek an exemption pursuant to
33 subdivision (f). The department shall determine if the
34 person shall be allowed to remain in the facility until a
35 decision on the exemption is rendered by the
36 department. A licensee's failure to comply with the
37 department's prohibition of employment, contact with
38 clients, or presence in the facility as required by this
39 paragraph shall be grounds for disciplining the licensee
40 pursuant to Section 1569.50.



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

9 (5) Concurrently with notifying the licensee pursuant
10 to paragraph (4), the department shall notify the affected
11 individual of his or her right to seek an exemption
12 pursuant to subdivision (f). The individual may seek an
13 exemption only if the licensee terminates the person's
14 employment or removes the person from the facility after
15 receiving notice from the department pursuant to
16 paragraph (4).

17 (d) (1) For purposes of this section or any other
18 provision of this chapter, a conviction means a plea or
19 verdict of guilty or a conviction following a plea of nolo
20 contendere. Any action that the department is permitted
21 to take following the establishment of a conviction may
22 be taken when the time for appeal has elapsed, or the
23 judgment of conviction has been affirmed on appeal or
24 when an order granting probation is made suspending
25 the imposition of the sentence, notwithstanding a
26 subsequent order pursuant to the provisions of Sections
27 1203.4 and 1203.4a of the Penal Code permitting a person
28 to withdraw his or her plea of guilty and to enter a plea
29 of not guilty, or setting aside the verdict of guilty, or
30 dismissing the accusation, information, or indictment.
31 For purposes of this section or any other provision of this
32 chapter, the record of a conviction, or a copy thereof
33 certified by the clerk of the court or by a judge of the
34 court in which the conviction occurred, shall be
35 conclusive evidence of the conviction. For purposes of
36 this section or any other provision of this chapter, the
37 arrest disposition report certified by the Department of
38 Justice or documents admissible in a criminal action
39 pursuant to Section 969b of the Penal Code shall be prima
40 facie evidence of the conviction, notwithstanding any

1 other provision of law prohibiting the admission of these
2 documents in a civil or administrative action.

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

7 (e) The State Department of Social Services shall not
8 use a record of arrest to deny, revoke, or terminate any
9 application, license, employment, or residence unless the
10 department investigates the incident and secures
11 evidence, whether or not related to the incident of arrest,
12 that is admissible in an administrative hearing to establish
13 conduct by the person that may pose a risk to the health
14 and safety of any person who is or may become a client.
15 The State Department of Social Services is authorized to
16 obtain any arrest or conviction records or reports from
17 any law enforcement agency as necessary to the
18 performance of its duties to inspect, license, and
19 investigate community care facilities and individuals
20 associated with a community care facility.

21 (f) (1) After review of the record, the director may
22 grant an exemption from disqualification for a license as
23 specified in paragraphs (1) and (4) of subdivision (a), or
24 for employment, residence, or presence in a residential
25 care facility for the elderly as specified in paragraphs (4),
26 (5), and (6) of subdivision (c) if the director has
27 substantial and convincing evidence to support a
28 reasonable belief that the applicant and the person
29 convicted of the crime, if other than the applicant, are of
30 such good character as to justify issuance of the license or
31 special permit or granting an exemption for purposes of
32 subdivision (c). However, no exemption shall be granted
33 pursuant to this subdivision if the conviction was for an
34 offense specified in Section 220, 243.4, or 264.1,
35 subdivision (a) of Section 273a or, prior to January 1, 1994,
36 paragraph (1) of Section 273a, Section 273d, 288, or 289,
37 subdivision (a) of Section 290, or subdivision (a) or (b) of
38 Section 368 of the Penal Code, or was a conviction of
39 another crime against an individual specified in
40 subdivision (c) of Section 667.5 of the Penal Code. The



1 director shall notify in writing the licensee or the
2 applicant of his or her decision within 60 days of receipt
3 of all information from the applicant and other sources
4 determined necessary by the director for the rendering
5 of a decision pursuant to this subdivision.

6 (2) The department shall not prohibit a person from
7 being employed or having contact with clients in a facility
8 on the basis of a denied criminal record exemption
9 request or arrest information unless the department
10 complies with the requirements of Section 1569.58.

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

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

32 (h) If a licensee or facility is required by law to deny
33 employment or to terminate employment of any
34 employee based on written notification from the state
35 department that the employee has a prior criminal
36 conviction or is determined unsuitable for employment
37 under Section 1569.58, the licensee or facility shall not
38 incur civil liability or unemployment insurance liability as
39 a result of that denial or termination.



1 (i) Amendments to the provisions of this section made
2 in the 1998 calendar year shall be implemented
3 commencing 60 days after the effective date of the act
4 amending this section in the 1998 calendar year, except
5 those provisions for the submission of fingerprints for
6 searching the records of the Federal Bureau of
7 Investigation, which shall be implemented commencing
8 January 1, 1999.

9 SEC. 25. Section 1569.172 of the Health and Safety
10 Code is amended to read:

11 1569.172. The Department of Justice may charge a
12 fee sufficient to cover its cost in providing services in
13 accordance with Section 1569.17 to comply with the
14 14-day requirement for provision to the department of
15 the criminal record information, as contained in
16 subdivision (c) of Section 1569.17.

17 SEC. 26. Section 1569.50 of the Health and Safety
18 Code is amended to read:

19 1569.50. The department may deny an application for
20 a license or may suspend or revoke any license issued
21 under this chapter upon any of the following grounds and
22 in the manner provided in this chapter:

23 (a) Violation by the licensee of this chapter or of the
24 rules and regulations adopted under this chapter.

25 (b) Aiding, abetting, or permitting the violation of this
26 chapter or of the rules and regulations adopted under this
27 chapter.

28 (c) Conduct which is inimical to the health, morals,
29 welfare, or safety of either an individual in or receiving
30 services from the facility or the people of the State of
31 California.

32 (d) The conviction of a licensee, or other person
33 mentioned in Section 1569.17 at any time before or during
34 licensure, of a crime as defined in Section 1569.17.

35 (e) Engaging in acts of financial malfeasance
36 concerning the operation of a facility, including, but not
37 limited to, improper use or embezzlement of client
38 moneys and property or payments made by any public
39 agency for the care of clients, or willful or negligent



1 failure to provide services paid for by funds of a public
2 agency for the care of clients.

3 The director may temporarily suspend any license,
4 prior to any hearing when, in the opinion of the director,
5 the action is necessary to protect residents or clients of the
6 facility from physical or mental abuse, abandonment, or
7 any other substantial threat to health or safety. The
8 director shall notify the licensee of the temporary
9 suspension and the effective date of the temporary
10 suspension and at the same time shall serve the provider
11 with an accusation. Upon receipt of a notice of defense to
12 the accusation by the licensee, the director shall, within
13 15 days, set the matter for hearing, and the hearing shall
14 be held as soon as possible but not later than 30 days after
15 receipt of the notice. The temporary suspension shall
16 remain in effect until the time the hearing is completed
17 and the director has made a final determination on the
18 merits. However, the temporary suspension shall be
19 deemed vacated if the director fails to make a final
20 determination on the merits within 30 days after the
21 original hearing has been completed.

22 SEC. 27. Section 1569.58 of the Health and Safety
23 Code is amended to read:

24 1569.58. (a) The department may prohibit any
25 person from being a member of the board of directors, an
26 executive director, a board member, or an officer of a
27 licensee, or a licensee from employing, or continuing the
28 employment of, or allowing in a licensed facility, or
29 allowing contact with clients of a licensed facility by, any
30 employee, prospective employee, or person who is not a
31 client who has:

32 (1) Violated, or aided or permitted the violation by
33 any other person of, any provisions of this chapter or of
34 any rules or regulations promulgated under this chapter.

35 (2) Engaged in conduct which is inimical to the health,
36 morals, welfare, or safety of either an individual in or
37 receiving services from the facility, or the people of the
38 State of California.



1 (3) Been denied an exemption to work or to be
2 present in a facility, when that person has been convicted
3 of a crime as defined in Section 1569.17.

4 (4) Engaged in any other conduct which would
5 constitute a basis for disciplining a licensee.

6 (5) Engaging in acts of financial malfeasance
7 concerning the operation of a facility, including, but not
8 limited to, improper use or embezzlement of client
9 moneys and property or payments made by any public
10 agency for the care of clients, or willful or negligent
11 failure to provide services paid for by funds of a public
12 agency for the care of clients.

13 (b) The excluded person, the facility, and the licensee
14 shall be given written notice of the basis of the
15 department's action and of the excluded person's right to
16 an appeal. The notice shall be served either by personal
17 service or by registered mail. Within 15 days after the
18 department serves the notice, the excluded person may
19 file with the department a written appeal of the exclusion
20 order. If the excluded person fails to file a written appeal
21 within the prescribed time, the department's action shall
22 be final.

23 (c) (1) The department may require the immediate
24 removal of a member of the board of directors, an
25 executive director, or an officer of a licensee or exclusion
26 of an employee, prospective employee, or person who is
27 not a client from a facility pending a final decision of the
28 matter, when, in the opinion of the director, the action is
29 necessary to protect residents or clients from physical or
30 mental abuse, abandonment, or any other substantial
31 threat to their health or safety.

32 (2) If the department requires the immediate removal
33 of a member of the board of directors, an executive
34 director, or an officer of a licensee or exclusion of an
35 employee, prospective employee, or person who is not a
36 client from a facility the department shall serve an order
37 of immediate exclusion upon the excluded person which
38 shall notify the excluded person of the basis of the
39 department's action and of the excluded person's right to
40 a hearing.



1 (3) Within 15 days after the department serves an
2 order of immediate exclusion, the excluded person may
3 file a written appeal of the exclusion with the
4 department. The department's action shall be final if the
5 excluded person does not appeal the exclusion within the
6 prescribed time. The department shall do the following
7 upon receipt of a written appeal:

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

10 (B) Within 60 days of receipt of a notice of defense by
11 the excluded person pursuant to Section 11506 of the
12 Government Code, conduct a hearing on the accusation.

13 (4) An order of immediate exclusion of the excluded
14 person from the facility shall remain in effect until the
15 hearing is completed and the director has made a final
16 determination on the merits. However, the order of
17 immediate exclusion shall be deemed vacated if the
18 director fails to make a final determination on the merits
19 within 60 days after the original hearing has been
20 completed.

21 (d) An excluded person who files a written appeal of
22 the exclusion order with the department pursuant to this
23 section shall, as part of the written request, provide his or
24 her current mailing address. The excluded person shall
25 subsequently notify the department in writing of any
26 change in mailing address, until the hearing process has
27 been completed or terminated.

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

34 (f) The department may institute or continue a
35 disciplinary proceeding against a member of the board of
36 directors, an executive director, or an officer of a licensee
37 or an employee, prospective employee, or person who is
38 not a client upon any ground provided by this section, or
39 enter an order prohibiting any person from being a
40 member of the board of directors, an executive director,



1 or an officer of a licensee, or the excluded person's
2 employment or presence in the facility or otherwise take
3 disciplinary action against the excluded person,
4 notwithstanding any resignation, withdrawal of
5 employment application or change of duties by the
6 excluded person, or any discharge, failure to hire or
7 reassignment of the excluded person by the licensee or
8 that the excluded person no longer has contact with
9 clients at the facility.

10 (g) A licensee's failure to comply with the
11 department's exclusion order after being notified of the
12 order shall be grounds for disciplining the licensee
13 pursuant to Section 1569.50.

14 (h) (1) (A) In cases where the excluded person
15 appealed the exclusion order and there is a decision and
16 order of the department upholding the exclusion order,
17 the person shall be prohibited from working in any
18 facility or being licensed to operate any facility licensed
19 by the department or from being a certified foster parent
20 for the remainder of the excluded person's life, unless
21 otherwise ordered by the department.

22 (B) The excluded individual may petition for
23 reinstatement one year after the effective date of the
24 decision and order of the department upholding the
25 exclusion order pursuant to Section 11522 of the
26 Government Code. The department shall provide the
27 excluded person with a copy of Section 11522 of the
28 Government Code with the decision and order.

29 (2) (A) In cases where the department informed the
30 excluded person of his or her right to appeal the exclusion
31 order and the excluded person did not appeal the
32 exclusion order, the person shall be prohibited from
33 working in any facility or being licensed to operate any
34 facility licensed by the department or a certified foster
35 parent for the remainder of the excluded person's life,
36 unless otherwise ordered by the department.

37 (B) The excluded individual may petition for
38 reinstatement after one year has elapsed from the date of
39 the notification of the exclusion order pursuant to Section
40 11522 of the Government Code. The department shall



1 provide the excluded person with a copy of Section 11522
2 of the Government Code with the exclusion order.

3 SEC. 28. Section 1569.59 of the Health and Safety
4 Code is amended to read:

5 1569.59. (a) (1) If the department determines that a
6 person was issued a license under this chapter or under
7 Chapter 1 (commencing with Section 1200), Chapter 2
8 (commencing with Section 1250), Chapter 3.01
9 (commencing with Section 1568.01), Chapter 3.2
10 (commencing with Section 1569), Chapter 3.4
11 (commencing with Section 1596.70), Chapter 3.5
12 (commencing with Section 1596.90), or Chapter 3.6
13 (commencing with Section 1597.30) and the prior license
14 was revoked within the preceding two years, the
15 department shall exclude the person from, and remove
16 him or her from the position of, a member of the board
17 of directors, an executive director, or an officer of a
18 licensee of, any facility licensed by the department
19 pursuant to the chapter.

20 (2) If the department determines that a person
21 previously was issued a certificate of approval by a foster
22 family agency which was revoked by the department
23 pursuant to subdivision (b) of Section 1534 within the
24 preceding two years, the department shall exclude the
25 person from, and remove him or her from the position of,
26 a member of the board of directors, an executive director,
27 or an officer of a licensee of, any facility licensed by the
28 department pursuant to this chapter.

29 (b) If the department determines that the person had
30 previously applied for a license under any of the chapters
31 listed in paragraph (1) of subdivision (a) and the
32 application was denied within the last year, the
33 department shall exclude the person from, and remove
34 him or her from the position of, a member of the board
35 of directors, an executive director, or an officer of a
36 licensee of, any facility licensed by the department
37 pursuant to this chapter and as follows:

38 (1) In cases where the applicant petitioned for a
39 hearing, the department shall exclude the person from,
40 and remove him or her from the position of, a member of



1 the board of directors, an executive director, or an officer
2 of a licensee of, any facility licensed by the department
3 pursuant to this chapter until one year has elapsed from
4 the effective date of the decision and order of the
5 department upholding a denial.

6 (2) In cases where the department informed the
7 applicant of his or her right to petition for a hearing and
8 the applicant did not petition for a hearing, the
9 department shall exclude the person from, and remove
10 him or her from the position of, a member of the board
11 of directors, an executive director, or an officer of a
12 licensee of, any facility licensed by the department
13 pursuant to this chapter until one year has elapsed from
14 the date of the notification of the denial and the right to
15 petition for a hearing.

16 (c) If the department determines that the person had
17 previously applied for a certificate of approval with a
18 foster family agency and the department ordered the
19 foster family agency to deny the application pursuant to
20 subdivision (b) of Section 1534, the department shall
21 exclude the person from, and remove him or her from the
22 position of, a member of the board of directors, an
23 executive director, or an officer of a licensee of, any
24 facility licensed by the department pursuant to this
25 chapter and as follows:

26 (1) In cases where the applicant petitioned for a
27 hearing, the department shall exclude the person from,
28 and remove him or her from the position of, a member of
29 the board of directors, an executive director, or an officer
30 of a licensee of, any facility licensed by the department
31 pursuant to this chapter until one year has elapsed from
32 the effective date of the decision and order of the
33 department upholding a denial.

34 (2) In cases where the department informed the
35 applicant of his or her right to petition for a hearing and
36 the applicant did not petition for a hearing, the
37 department shall exclude the person from, and remove
38 him or her from the position of, a member of the board
39 of directors, an executive director, or an officer of a
40 licensee of, any facility licensed by the department



1 pursuant to this chapter until one year has elapsed from
2 the date of the notification of the denial and the right to
3 petition for a hearing.

4 (d) Exclusion or removal of an individual pursuant to
5 this section shall not be considered an order of exclusion
6 for purposes of Section 1569.58 or any other law.

7 (e) The department may determine not to exclude a
8 person from, and remove him or her from the position of,
9 a member of the board of directors, an executive director,
10 or an officer of a licensee of, any facility licensed by the
11 department pursuant to this chapter if it has been
12 determined that the reasons for the denial of the
13 application or revocation of the facility license or
14 certificate of approval were due to circumstances or
15 conditions that either have been corrected or are no
16 longer in existence.

17 SEC. 29. Section 1569.617 of the Health and Safety
18 Code is amended to read:

19 1569.617. (a) (1) There is hereby created in the
20 State Treasury, the Certification Fund from which
21 moneys, upon appropriation of the Legislature, shall be
22 expended by the department for the purpose of
23 administering the residential care facilities for the elderly
24 certification program provided under Sections 1569.23,
25 1569.615, and 1569.616, the adult residential facilities
26 certification program pursuant to Section 1562.3, and the
27 group home facilities certification program pursuant to
28 Section 1522.41.

29 (2) All money contained in the Residential Care
30 Facility for the Elderly Fund on the operative date of this
31 paragraph shall be retained in the Certification Fund for
32 appropriation for the purposes specified in paragraph
33 (1).

34 (b) The fund shall consist of specific appropriations
35 that the Legislature sets aside for use by the fund and all
36 fees, penalties, and fines collected pursuant to Sections
37 1522.41, 1562.3, 1562.23, 1569.615, and 1569.616.

38 (c) For the 1998–99 fiscal year, the sum of not to
39 exceed two hundred fifty thousand dollars (\$250,000)
40 from the Certification Fund shall be appropriated to the



1 State Department of Social Services to administer the
2 group home facilities certification program pursuant to
3 Section 1522.41. The department shall repay the
4 appropriation made for the 1998–99 fiscal year into the
5 Certification Fund upon receipt of fees pursuant to
6 Section 1522.41.

7 SEC. 29.5. Section 1596.603 of the Health and Safety
8 Code is amended to read:

9 1596.603. (a) Each person initiating a background
10 examination to be a trustline provider shall either obtain
11 two sets of fingerprints from a law enforcement agency
12 or other local agency on a fingerprint card authorized by
13 the Department of Justice and shall submit the
14 fingerprints, or send his or her fingerprints to the
15 Department of Justice by electronic transmission in a
16 manner approved by the department, unless exempted
17 in subdivision (e), and a completed trustline application
18 to the department, or the local child care resource and
19 referral agency which will immediately forward the
20 application package to the department. The agency
21 taking the fingerprints shall inscribe the serial number
22 from the identification card described in Section 1596.601
23 on the fingerprint cards.

24 (b) A law enforcement agency or other local agency
25 authorized to take fingerprints may charge a reasonable
26 fee to offset the costs of fingerprinting for the purposes of
27 this chapter.

28 (c) Upon receipt, the department shall transmit the
29 fingerprint card and a copy of the application to the
30 Department of Justice. The Department of Justice shall
31 use the fingerprints and the application to search the
32 state and Federal Bureau of Investigation criminal
33 history information pursuant to Section 1596.871 and the
34 automated child abuse system pursuant to subdivision (b)
35 of Section 1596.877.

36 (d) A person who is a current licensee or employee in
37 a facility licensed by the department need not submit
38 fingerprints to the department and may transfer their
39 criminal record clearance pursuant to subdivision (h) of
40 Section 1596.871. The person shall instead submit to the



1 department, along with the person's application, a copy
2 of the person's identification card described in Section
3 1596.601 and sign a declaration verifying the person's
4 identity. A willful false declaration is a violation of this
5 subdivision punishable in the same manner as provided
6 under Section 1596.890.

7 SEC. 30. Section 1596.871 of the Health and Safety
8 Code is amended to read:

9 1596.871. The Legislature recognizes the need to
10 generate timely and accurate positive fingerprint
11 identification of applicants as a condition of issuing
12 licenses, permits, or certificates of approval for persons to
13 operate or provide direct care services in a child care
14 center or family child care home. Therefore, the
15 Legislature supports the use of the fingerprint live-scan
16 technology, as defined in the long-range plan of the
17 Department of Justice for fully automating the processing
18 of fingerprints and other data by the year 1999, otherwise
19 known as the California Crime Information Intelligence
20 System (CAL-CII), to be used for applicant fingerprints.
21 It is the intent of the Legislature in enacting this section
22 to require the fingerprints of those individuals whose
23 contact with child day care facility clients may pose a risk
24 to the children's health and safety.

25 (a) Before issuing a license or special permit to any
26 person to operate or manage a day care facility, the
27 department shall secure from an appropriate law
28 enforcement agency a criminal record to determine
29 whether the applicant or any other person specified in
30 subdivision (b) has ever been convicted of a crime other
31 than a minor traffic violation or arrested for any crime
32 specified in Section 290 of the Penal Code, for violating
33 Section 245 or 273.5, subdivision (b) of Section 273a or,
34 prior to January 1, 1994, paragraph (2) of Section 273a of
35 the Penal Code, or for any crime for which the
36 department cannot grant an exemption if the person was
37 convicted and the person has not been exonerated. That
38 criminal history information shall include the full
39 criminal record, if any, of those persons, and subsequent
40 arrest information pursuant to Section 11105.2 of the



1 Penal Code. No fee shall be charged by the Department
2 of Justice or the department for the fingerprinting of an
3 applicant who will serve six or fewer children or any
4 family day care applicant for a license, or for obtaining a
5 criminal record of an applicant pursuant to this section.
6 The following shall apply to the criminal record
7 information:

8 (1) If the State Department of Social Services finds
9 that the applicant or any other person specified in
10 subdivision (b) has been convicted of a crime, other than
11 a minor traffic violation, the application shall be denied,
12 unless the director grants an exemption pursuant to
13 subdivision (f).

14 (2) If the State Department of Social Services finds
15 that the applicant, or any person specified in subdivision
16 (b), is awaiting trial for a crime other than a minor traffic
17 violation, the State Department of Social Services shall
18 cease processing the application until the conclusion of
19 the trial.

20 (3) If no criminal record information has been
21 recorded, the Department of Justice shall provide the
22 applicant and the State Department of Social Services
23 with a statement of that fact.

24 (4) If the State Department of Social Services finds
25 after licensure that the licensee, or any other person
26 specified in paragraph (2) of subdivision (b), has been
27 convicted of a crime other than a minor traffic violation,
28 the license may be revoked, unless the director grants an
29 exemption pursuant to subdivision (f).

30 (5) An applicant and any person specified in
31 subdivision (b) shall submit a second set of fingerprints
32 to the Department of Justice, for the purpose of searching
33 the records of the Federal Bureau of Investigation, in
34 addition to the search required by subdivision (a). If an
35 applicant meets all other conditions for licensure, except
36 receipt of the Federal Bureau of Investigation's criminal
37 history information for the applicant and persons listed in
38 subdivision (b), the department may issue a license if the
39 applicant and each person described by subdivision (b)
40 has signed and submitted a statement that he or she has



1 never been convicted of a crime in the United States,
2 other than a traffic infraction as defined in paragraph (1)
3 of subdivision (a) of Section 42001 of the Vehicle Code.
4 If, after licensure, the department determines that the
5 licensee or person specified in subdivision (b) has a
6 criminal record, the license may be revoked pursuant to
7 Section 1596.885. The department may also suspend the
8 license pending an administrative hearing pursuant to
9 Section 1596.886.

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

13 (1) Adults responsible for administration or direct
14 supervision of staff.

15 (2) Any person, other than a child, residing in the
16 facility.

17 (3) Any person who provides care and supervision to
18 the children.

19 (4) Any staff person, volunteer, or employee who has
20 contact with the children. A volunteer shall be exempt
21 from the requirements of this subdivision if the volunteer
22 is a relative of a client in care at the facility and is not used
23 to replace or supplement staff in providing direct care
24 and supervision of children in care.

25 (5) If the applicant is a firm, partnership, association,
26 or corporation, the chief executive officer, other person
27 serving in like capacity, or a person designated by the
28 chief executive officer as responsible for the operation of
29 the facility, as designated by the applicant agency.

30 (6) If the applicant is a local educational agency, the
31 president of the governing board, the school district
32 superintendent, or a person designated to administer the
33 operation of the facility, as designated by the local
34 educational agency.

35 (7) Additional officers of the governing body of the
36 applicant, or other persons with a financial interest in the
37 applicant, as determined necessary by the department by
38 regulation. The criteria used in the development of these
39 regulations shall be based on the person's capability to



1 exercise substantial influence over the operation of the
2 facility.

3 (8) This section does not apply to employees of child
4 care and development programs under contract with the
5 State Department of Education who have completed a
6 criminal records clearance as part of an application to the
7 Commission on Teacher Credentialing, and who possess
8 a current credential or permit issued by the commission,
9 including employees of child care and development
10 programs that serve both children subsidized under, and
11 children not subsidized under, a State Department of
12 Education contract. The Commission on Teacher
13 Credentialing shall notify the department upon
14 revocation of a current credential or permit issued to an
15 employee of a child care and development program
16 under contract with the State Department of Education.

17 (9) This section does not apply to employees of a child
18 care and development program operated by a school
19 district, county office of education, or community college
20 district under contract with the State Department of
21 Education who have completed a criminal records
22 clearance as a condition of employment. The school
23 district, county office of education, or community college
24 district upon receiving information that the status of an
25 employee's criminal record clearance has changed shall
26 submit that information to the department.

27 (c) (1) (A) Subsequent to initial licensure, any
28 person specified in subdivision (b) and not exempted
29 from fingerprinting shall, as a condition to employment,
30 residence, or presence in a child day care facility be
31 fingerprinted and sign a declaration under penalty of
32 perjury regarding any prior criminal conviction. The
33 licensee shall submit these fingerprints to the
34 Department of Justice, along with a second set of
35 fingerprints for the purpose of searching the records of
36 the Federal Bureau of Investigation, or to comply with
37 paragraph (1) of subdivision (h), prior to the person's
38 employment, residence, or initial presence in the child
39 day care facility.



1 (B) These fingerprints shall be on a card provided by
2 the State Department of Social Services for the purpose
3 of obtaining a permanent set of fingerprints and
4 submitted to the Department of Justice by the licensee or
5 sent by electronic transmission in a manner approved by
6 the State Department of Social Services. A licensee's
7 failure to submit fingerprints to the Department of
8 Justice, or to comply with paragraph (1) of subdivision
9 (h), as required in this section, shall result in the citation
10 of a deficiency, and an immediate assessment of civil
11 penalties in the amount of one hundred dollars (\$100) per
12 violation. The State Department of Social Services may
13 assess civil penalties for continued violations permitted
14 by Section 1596.99 and Section 1597.62. The fingerprints
15 shall then be submitted to the State Department of Social
16 Services for processing. Within 14 calendar days of the
17 receipt of the fingerprints, the Department of Justice
18 shall notify the State Department of Social Services of the
19 criminal record information, as provided in this
20 subdivision. If no criminal record information has been
21 recorded, the Department of Justice shall provide the
22 licensee and the State Department of Social Services with
23 a statement of that fact within 14 calendar days of receipt
24 of the fingerprints. If new fingerprints are required for
25 processing, the Department of Justice shall, within 14
26 calendar days from the date of receipt of the fingerprints,
27 notify the licensee that the fingerprints were illegible.

28 (C) Documentation of the individual's clearance or
29 exemption shall be maintained by the licensee, and shall
30 be available for inspection. When live-scan technology is
31 operational, as defined in Section 1522.04, the
32 Department of Justice shall notify the department, as
33 required by that section, and notify the licensee by mail
34 within 14 days of electronic transmission of the
35 fingerprints to the Department of Justice, if the person
36 has no criminal record. Any violation of the regulations
37 adopted pursuant to Section 1522.04 shall result in the
38 citation of a deficiency and an immediate assessment of
39 civil penalties in the amount of one hundred dollars
40 (\$100) per violation. The department may assess civil



1 penalties for continued violations, as permitted by
2 Sections 1596.99 and 1597.62.

3 (2) Except for persons specified in paragraph (2) of
4 subdivision (b), the licensee shall endeavor to ascertain
5 the previous employment history of persons required to
6 be fingerprinted under this subdivision. If it is
7 determined by the department, on the basis of
8 fingerprints submitted to the Department of Justice, that
9 the person has been convicted of a sex offense against a
10 minor, an offense specified in Section 243.4, 273a, or 273d,
11 subdivision (a) or (b) of Section 368 of the Penal Code,
12 or a felony, the State Department of Social Services shall
13 notify the licensee to act immediately to terminate the
14 person's employment, remove the person from the child
15 day care facility, or bar the person from entering the child
16 day care facility. The department may subsequently
17 grant an exemption pursuant to subdivision (f). If the
18 conviction was for another crime except a minor traffic
19 violation, the licensee shall, upon notification by the State
20 Department of Social Services, act immediately to either
21 (1) terminate the person's employment, remove the
22 person from the child day care facility, or bar the person
23 from entering the child day care facility; or (2) seek an
24 exemption pursuant to subdivision (f). The department
25 shall determine if the person shall be allowed to remain
26 in the facility until a decision on the exemption is
27 rendered. A licensee's failure to comply with the
28 department's prohibition of employment, contact with
29 clients, or presence in the facility as required by this
30 paragraph shall be grounds for disciplining the licensee
31 pursuant to Section 1596.885 or 1596.886.

32 (3) The department may issue an exemption on its
33 own motion pursuant to subdivision (f) if the person's
34 criminal history indicates that the person is of good
35 character based on the age, seriousness, and frequency of
36 the conviction or convictions. The department, in
37 consultation with interested parties, shall develop
38 regulations to establish the criteria to grant an exemption
39 pursuant to this paragraph.



1 (4) Concurrently with notifying the licensee pursuant
2 to paragraph (3), the department shall notify the affected
3 individual of his or her right to seek an exemption
4 pursuant to subdivision (f). The individual may seek an
5 exemption only if the licensee terminates the person's
6 employment or removes the person from the facility after
7 receiving notice from the department pursuant to
8 paragraph (3).

9 (d) (1) For purposes of this section or any other
10 provision of this chapter, a conviction means a plea or
11 verdict of guilty or a conviction following a plea of nolo
12 contendere. Any action which the department is
13 permitted to take following the establishment of a
14 conviction may be taken when the time for appeal has
15 elapsed, or the judgment of conviction has been affirmed
16 on appeal or when an order granting probation is made
17 suspending the imposition of sentence, notwithstanding
18 a subsequent order pursuant to Sections 1203.4 and
19 1203.4a of the Penal Code permitting the person to
20 withdraw his or her plea of guilty and to enter a plea of
21 not guilty, or setting aside the verdict of guilty, or
22 dismissing the accusation, information, or indictment.
23 For purposes of this section or any other provision of this
24 chapter, the record of a conviction, or a copy thereof
25 certified by the clerk of the court or by a judge of the
26 court in which the conviction occurred, shall be
27 conclusive evidence of the conviction. For purposes of
28 this section or any other provision of this chapter, the
29 arrest disposition report certified by the Department of
30 Justice, or documents admissible in a criminal action
31 pursuant to Section 969b of the Penal Code, shall be prima
32 facie evidence of conviction, notwithstanding any other
33 provision of law prohibiting the admission of these
34 documents in a civil or administrative action.

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

39 (e) The State Department of Social Services shall not
40 use a record of arrest to deny, revoke, or terminate any



1 application, license, employment, or residence unless the
2 department investigates the incident and secures
3 evidence, whether or not related to the incident of arrest,
4 that is admissible in an administrative hearing to establish
5 conduct by the person that may pose a risk to the health
6 and safety of any person who is or may become a client.
7 The State Department of Social Services is authorized to
8 obtain any arrest or conviction records or reports from
9 any law enforcement agency as necessary to the
10 performance of its duties to inspect, license, and
11 investigate community care facilities and individuals
12 associated with a community care facility.

13 (f) (1) After review of the record, the director may
14 grant an exemption from disqualification for a license or
15 special permit as specified in paragraphs (1) and (4) of
16 subdivision (a), or for employment, residence, or
17 presence in a child day care facility as specified in
18 paragraphs (3), (4), and (5) of subdivision (c) if the
19 director has substantial and convincing evidence to
20 support a reasonable belief that the applicant and the
21 person convicted of the crime, if other than the applicant,
22 are of good character so as to justify issuance of the license
23 or special permit or granting an exemption for purposes
24 of subdivision (c). However, no exemption shall be
25 granted pursuant to this subdivision if the conviction was
26 for an offense specified in Section 220, 243.4, or 264.1,
27 subdivision (a) of Section 273a or, prior to January 1, 1994,
28 paragraph (1) of Section 273a, Section 273d, 288, or 289,
29 subdivision (a) of Section 290, or subdivision (a) or (b) of
30 Section 368 of the Penal Code, or was a conviction of
31 another crime against an individual specified in
32 subdivision (c) of Section 667.5 of the Penal Code.

33 (2) The department shall not prohibit a person from
34 being employed or having contact with clients in a facility
35 on the basis of a denied criminal record exemption
36 request or arrest information unless the department
37 complies with the requirements of Section 1596.8897.

38 (g) Upon request of the licensee, who shall enclose a
39 self-addressed stamped postcard for this purpose, the



1 Department of Justice shall verify receipt of the
2 fingerprints.

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

19 (2) The State Department of Social Services shall hold
20 criminal records clearances in its active files for a
21 minimum of two years after an employee is no longer
22 employed at a licensed facility in order for the criminal
23 records clearances to be transferred.

24 *(i) Amendments to this section made in the 1998*
25 *calendar year shall be implemented commencing 60 days*
26 *after the effective date of the act amending this section*
27 *in the 1998 calendar year, except those provisions for the*
28 *submission of fingerprints for searching the records of the*
29 *Federal Bureau of Investigation, which shall be*
30 *implemented commencing January 1, 1999.*

31 SEC. 31. Section 1596.8713 of the Health and Safety
32 Code is amended to read:

33 1596.8713. The Department of Justice may charge a
34 fee sufficient to cover its costs in providing services in
35 accordance with Section 1596.871 to comply with the
36 14-day requirement for provision to the department of
37 the criminal record information, as contained in
38 subdivision (c) of Section 1569.871.

39 SEC. 31.5. Section 1596.877 of the Health and Safety
40 Code is amended to read:

1 1596.877. (a) Prior to granting a license to, or
2 otherwise approving, any family day care home, the
3 department shall check the child abuse and neglect
4 complaint records of the child protective services agency
5 of the county in which the applicant has resided for the
6 two years preceding the application.

7 (b) Prior to granting a license to or otherwise
8 approving any individual to care for children in either a
9 family day care home or a day care center, the
10 department shall check the Child Abuse Registry
11 pursuant to paragraph (3) of subdivision (b) of Section
12 11170 of the Penal Code. *The Department of Justice shall*
13 *maintain and continually update an index of reports of*
14 *child abuse by providers and shall inform the department*
15 *of subsequent reports received from the child abuse*
16 *index pursuant to Section 11170 of the Penal Code and the*
17 *criminal history.*

18 (c) The department shall investigate any reports
19 received from the Child Abuse Registry and investigate
20 any information received from the county child
21 protective services agency. However, child protective
22 services agency information arising from a report
23 designated as “unfounded,” as defined pursuant to
24 subdivision (a) of Section 11165.12 of the Penal Code,
25 shall not be included in the investigation. The
26 investigation shall include, but not be limited to, the
27 review of the investigation report and file prepared by
28 the child protective services agency that investigated the
29 child abuse report. The department shall not deny a
30 license based upon a report from the Child Abuse
31 Registry or based on child abuse and neglect complaint
32 records of the county child protective services agency
33 unless child abuse is substantiated.

34 (d) On and after January 1, 1993, the department shall
35 implement this section for records maintained by
36 counties that have automated their child abuse and
37 neglect complaint records on or before January 1, 1993.
38 On and after July 1, 1993, the department shall implement
39 this section for records maintained by all counties.



1 SEC. 32. Section 1596.885 of the Health and Safety
2 Code is amended to read:

3 1596.885. The department may deny an application
4 for or suspend or revoke any license, registration, or
5 special permit issued under this act upon any of the
6 following grounds and in the manner provided in this act:

7 (a) Violation by the licensee, registrant, or holder of a
8 special permit of this act or of the rules and regulations
9 promulgated under this act.

10 (b) Aiding, abetting, or permitting the violating of this
11 act or of the rules and regulations promulgated under this
12 act.

13 (c) Conduct which is inimical to the health, morals,
14 welfare, or safety of either an individual in or receiving
15 services from the facility or the people of this state.

16 (d) The conviction of a licensee, or other person
17 specified in Section 1596.871, at any time before or during
18 licensure, of a crime as defined in Section 1596.871.

19 (e) Engaging in acts of financial malfeasance
20 concerning the operation of a facility, including, but not
21 limited to, improper use or embezzlement of client
22 moneys and property or payments made by any public
23 agency for the care of clients, or willful or negligent
24 failure to provide services paid for by funds of a public
25 agency for the care of clients.

26 SEC. 33. Section 1596.8897 of the Health and Safety
27 Code is amended to read:

28 1596.8897. (a) The department may prohibit any
29 person from being a member of the board of directors, an
30 executive director, or an officer of a licensee or a licensee
31 from employing, or continuing the employment of, or
32 allowing in a licensed facility, or allowing contact with
33 clients of a licensed facility by, any employee, prospective
34 employee, or person who is not a client who has:

35 (1) Violated, or aided or permitted the violation by
36 any other person of, any provisions of this chapter or of
37 any rules or regulations promulgated under this chapter.

38 (2) Engaged in conduct which is inimical to the health,
39 morals, welfare, or safety of either an individual in or



1 receiving services from the facility, or the people of the
2 State of California.

3 (3) Been denied an exemption to work or to be
4 present in a facility, when that person has been convicted
5 of a crime as defined in Section 1596.871.

6 (4) Engaged in any other conduct which would
7 constitute a basis for disciplining a licensee.

8 (5) Engaging in acts of financial mismanagement and
9 malfeasance concerning the operation of a facility,
10 including, but not limited to, improper use or
11 embezzlement of client moneys and property or
12 payments made by any public agency for the care of
13 clients or willful or negligent failure to provide services
14 paid for by funds of a public agency for the care of clients.

15 (b) The excluded person, the facility, and the licensee
16 shall be given written notice of the basis of the
17 department's action and of the excluded person's right to
18 an appeal. The notice shall be served either by personal
19 service or by registered mail. Within 15 days after the
20 department serves the notice, the excluded person may
21 file with the department a written appeal of the exclusion
22 order. If the excluded person fails to file a written appeal
23 within the prescribed time, the department's action shall
24 be final.

25 (c) (1) The department may require the immediate
26 removal of a member of the board of directors, an
27 executive director, or an officer of a licensee or exclusion
28 of an employee, prospective employee, or person who is
29 not a client from a facility pending a final decision of the
30 matter, when, in the opinion of the director, the action is
31 necessary to protect residents or clients from physical or
32 mental abuse, abandonment, or any other substantial
33 threat to their health or safety.

34 (2) If the department requires the immediate removal
35 of a member of the board of directors, an executive
36 director, or an officer of a licensee or exclusion of an
37 employee, prospective employee, or person who is not a
38 client from a facility, the department shall serve an order
39 of immediate exclusion upon the excluded person which
40 shall notify the excluded person of the basis of the



1 department's action and of the excluded person's right to
2 a hearing.

3 (3) Within 15 days after the department serves an
4 order of immediate exclusion, the excluded person may
5 file a written appeal of the exclusion with the
6 department. The department's action shall be final if the
7 excluded person does not appeal the exclusion within the
8 prescribed time. The department shall do the following
9 upon receipt of a written appeal:

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

12 (B) Within 60 days of receipt of a notice of defense by
13 the employee or prospective employee pursuant to
14 Section 11506 of the Government Code, conduct a
15 hearing on the accusation.

16 (4) An order of immediate exclusion of the excluded
17 person from the facility shall remain in effect until the
18 hearing is completed and the director has made a final
19 determination on the merits. However, the order of
20 immediate exclusion shall be deemed vacated if the
21 director fails to make a final determination on the merits
22 within 60 days after the original hearing has been
23 completed.

24 (d) An excluded person who files a appeal of the
25 exclusion order with the department pursuant to this
26 section shall, as part of the written request, provide his or
27 her current mailing address. The excluded person shall
28 subsequently notify the department in writing of any
29 change in mailing address, until the hearing process has
30 been completed or terminated.

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

37 (f) The department may institute or continue a
38 disciplinary proceeding against a member of the board of
39 directors, an executive director, or an officer of a licensee
40 or an employee, prospective employee, or person who is



1 not a client upon any ground provided by this section, or
2 enter an order prohibiting any person from being a
3 member of the board of directors, the executive director,
4 or an officer of a licensee or the excluded person's
5 employment or presence in the facility or otherwise take
6 disciplinary action against the excluded person,
7 notwithstanding any resignation, withdrawal of
8 employment application or change of duties by the
9 excluded person, or any discharge, failure to hire or
10 reassignment of the excluded person by the licensee or
11 that the excluded person no longer has contact with
12 clients at the facility.

13 (g) A licensee's failure to comply with the
14 department's exclusion order after being notified of the
15 order shall be grounds for disciplining the licensee
16 pursuant to Section 1596.885 or 1596.886.

17 (h) (1) (A) In cases where the excluded person
18 appealed the exclusion order and there is a decision and
19 order upholding the exclusion order, the person shall be
20 prohibited from working in any facility or being licensed
21 to operate any facility licensed by the department or from
22 being a certified foster parent for the remainder of the
23 excluded person's life, unless otherwise ordered by the
24 department.

25 (B) The excluded individual may petition for
26 reinstatement one year after the effective date of the
27 decision and order of the department upholding the
28 exclusion order pursuant to Section 11522 of the
29 Government Code. The department shall provide the
30 excluded person with a copy of Section 11522 of the
31 Government Code with the decision and order.

32 (2) (A) In cases where the department informed the
33 excluded person of his or her right to appeal the exclusion
34 order and the excluded person did not appeal the
35 exclusion order, the person shall be prohibited from
36 working in any facility or being licensed to operate any
37 facility licensed by the department or a certified foster
38 parent for the remainder of the excluded person's life,
39 unless otherwise ordered by the department.



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

7 SEC. 34. Section 1596.8898 of the Health and Safety
8 Code is amended to read:

9 1596.8898. (a) (1) If the department determines
10 that a person was issued a license under this chapter or
11 under Chapter 1 (commencing with Section 1200),
12 Chapter 2 (commencing with Section 1250), Chapter 3.01
13 (commencing with Section 1568.01), Chapter 3.2
14 (commencing with Section 1569), Chapter 3.4
15 (commencing with Section 1596.70), Chapter 3.5
16 (commencing with Section 1596.90), or Chapter 3.6
17 (commencing with Section 1597.30) and the prior license
18 was revoked within the preceding two years, the
19 department shall exclude the person from, and remove
20 the person from the position of a member of the board of
21 directors, the executive director, or an officer of a
22 licensee of, any facility licensed by the department
23 pursuant to the chapter.

24 (2) If the department determines that a person
25 previously was issued a certificate of approval by a foster
26 family agency which was revoked by the department
27 pursuant to subdivision (b) of Section 1534 within the
28 preceding two years, the department shall exclude the
29 person from, and remove the person from the position of
30 a member of the board of directors, the executive
31 director, or an officer of a licensee of, any facility licensed
32 by the department pursuant to this chapter.

33 (b) If the department determines that the person had
34 previously applied for a license under any of the chapters
35 listed in paragraph (1) of subdivision (a) and the
36 application was denied within the last year, the
37 department shall exclude the person from, and remove
38 the person from the position of a member of the board of
39 directors, the executive director, or an officer of a



1 licensee of, any facility licensed by the department
2 pursuant to this chapter and as follows:

3 (1) In cases where the applicant petitioned for a
4 hearing, the department shall exclude the person from,
5 and remove the person from the position of a member of
6 the board of directors, the executive director, or an officer
7 of a licensee of, any facility licensed by the department
8 pursuant to this chapter until one year has elapsed from
9 the effective date of the decision and order of the
10 department upholding a denial.

11 (2) In cases where the department informed the
12 applicant of his or her right to petition for a hearing and
13 the applicant did not petition for a hearing, the
14 department shall exclude the person from, and remove
15 the person from the position of a member of the board of
16 directors, the executive director, or an officer of a
17 licensee of, any facility licensed by the department
18 pursuant to this chapter until one year has elapsed from
19 the date of the notification of the denial and the right to
20 petition for a hearing.

21 (c) If the department determines that the person had
22 previously applied for a certificate of approval with a
23 foster family agency and the department ordered the
24 foster family agency to deny the application pursuant to
25 subdivision (b) of Section 1534, the department shall
26 exclude the person from, and remove the person from the
27 position of a member of the board of directors, the
28 executive director, or an officer of a licensee of, any
29 facility licensed by the department pursuant to this
30 chapter and as follows:

31 (1) In cases where the applicant petitioned for a
32 hearing, the department shall exclude the person from,
33 and remove the person from the position of a member of
34 the board of directors, the executive director, or an officer
35 of a licensee of, any facility licensed by the department
36 pursuant to this chapter until one year has elapsed from
37 the effective date of the decision and order of the
38 department upholding a denial.

39 (2) In cases where the department informed the
40 applicant of his or her right to petition for a hearing and



1 the applicant did not petition for a hearing, the
2 department shall exclude the person from, and remove
3 the person from the position of a member of the board of
4 directors, the executive director, or an officer of a
5 licensee of, any facility licensed by the department
6 pursuant to this chapter until one year has elapsed from
7 the date of the notification of the denial and the right to
8 petition for a hearing.

9 (d) Exclusion or removal of an individual pursuant to
10 this section shall not be considered an order of exclusion
11 for purposes of Section 1598.8897 or any other law.

12 (e) The department may determine not to exclude a
13 person from ~~being, and, or~~ remove him or her from the
14 position of, a member of the board of directors, the
15 executive director, or an officer of a licensee of, any
16 facility licensed by the department pursuant to this
17 chapter if it has been determined that the reasons for the
18 denial of the application or revocation of the facility
19 license or certificate of approval were due to
20 circumstances or conditions that either have been
21 corrected or are no longer in existence.

22 SEC. 35. Section 1596.952 is added to the Health and
23 Safety Code, to read:

24 1596.952. (a) A corporation that applies for licensure
25 with the department shall list the facilities that any
26 member of the board of directors, the executive director,
27 or an officer that has been licensed to operate, been
28 employed in or served as a member of the board of
29 directors, the executive director, or an officer.

30 (b) The department shall not issue a provisional
31 license or license to any corporate applicant that has a
32 member of the board of directors, the executive director,
33 or an officer who is not eligible for licensure pursuant to
34 Sections 1596.851 and 1596.8898.

35 (c) The department may revoke the license of any
36 corporate licensee that has a member of the board of
37 directors, the executive director, or an officer who is not
38 eligible for licensure pursuant to Sections 1596.851 and
39 1596.8898.

1 ~~(d) Amendments to the provisions of this section made~~
2 ~~in the 1998 calendar year shall be implemented~~
3 ~~commencing 60 days after the effective date of the act~~
4 ~~amending this section in the 1998 calendar year, except~~
5 ~~those provisions for the submission of fingerprints for~~
6 ~~searching the records of the Federal Bureau of~~
7 ~~Investigation, which shall be implemented commencing~~
8 ~~January 1, 1999.~~

9 *(d) Prior to instituting an administrative action*
10 *pursuant to subdivision (b) or (c), the department shall*
11 *notify the applicant or licensee of the person's ineligibility*
12 *to be a member of the board of directors, an executive*
13 *director, or an officer of the applicant or licensee. The*
14 *licensee has 15 days to remove the person from that*
15 *position if the person does not have client contact, or*
16 *immediately upon notification if the person has client*
17 *contact.*

18 SEC. 36. Section 11174.3 of the Penal Code is
19 amended to read:

20 11174.3. (a) Whenever a representative of a child
21 protective agency or the State Department of Social
22 Services deems it necessary, a suspected victim of child
23 abuse may be interviewed during school hours, on school
24 premises, concerning a report of suspected child abuse
25 that occurred within the child's home or out-of-home
26 care facility. The child shall be afforded the option of
27 being interviewed in private or selecting any adult who
28 is a member of the staff of the school, including any
29 certificated or classified employee or volunteer aide, to
30 be present at the interview. A representative of the child
31 protective agency or the State Department of Social
32 Services shall inform the child of that right prior to the
33 interview.

34 The purpose of the staff person's presence at the
35 interview is to lend support to the child and enable him
36 or her to be as comfortable as possible. However, the
37 member of the staff so elected shall not participate in the
38 interview. The member of the staff so present shall not
39 discuss the facts or circumstances of the case with the
40 child. The member of the staff so present, including, but



1 not limited to, a volunteer aide, is subject to the
2 confidentiality requirements of this article, a violation of
3 which is punishable as specified in Section 11167.5. A
4 representative of the school shall inform a member of the
5 staff so selected by a child of the requirements of this
6 section prior to the interview. A staff member selected by
7 a child may decline the request to be present at the
8 interview. If the staff person selected agrees to be
9 present, the interview shall be held at a time during
10 school hours when it does not involve an expense to the
11 school. Failure to comply with the requirements of this
12 section does not affect the admissibility of evidence in a
13 criminal or civil proceeding.

14 (b) The Superintendent of Public Instruction shall
15 notify each school district and each child protective
16 agency, and the State Department of Social Services shall
17 notify each of its employees who participate in the
18 investigation of reports of child abuse, of the
19 requirements of this section.

20 SEC. 37. Section 361.21 is added to the Welfare and
21 Institutions Code, to read:

22 361.21. (a) The court shall not order the placement
23 of a minor in an out-of-state group home, unless the court
24 finds, in its order of placement, that both of the following
25 conditions have been met:

26 (1) The out-of-state group home is licensed or certified
27 for the placement of minors by an agency of the state in
28 which the minor will be placed.

29 (2) The out-of-state group home meets the
30 requirements of Section 7911.1 of the Family Code.

31 (b) At least every six months, the court shall review
32 each placement made pursuant to subdivision (a) in
33 order to determine compliance with that subdivision.

34 (c) A county shall not be entitled to receive or expend
35 any public funds for the placement of a minor in an
36 out-of-state group home unless the requirements of
37 subdivisions (a) and (b) are met.

38 SEC. 38. Section 366 of the Welfare and Institutions
39 Code is amended to read:



1 366. (a) The status of every dependent child in foster
2 care shall be reviewed periodically as determined by the
3 court but no less frequently than once every six months,
4 as calculated from the date of the original dispositional
5 hearing, until the hearing described in Section 366.25 or
6 366.26 is completed. The court shall determine the
7 continuing necessity for and appropriateness of the
8 placement, the extent of compliance with the case plan,
9 the continuing need to suspend sibling interaction, if
10 applicable, pursuant to subdivision (c) of Section 16002,
11 and the extent of progress which has been made toward
12 alleviating or mitigating the causes necessitating
13 placement in foster care, and shall project a likely date by
14 which the child may be returned to the home or placed
15 for adoption or legal guardianship.

16 (b) Subsequent to the hearing, periodic reviews of
17 each child in foster care shall be conducted pursuant to
18 the requirements of Sections 366.3 and 16503.

19 (c) If the child has been placed out of state, each
20 review described in subdivision (a) and any reviews
21 conducted pursuant to Sections 366.3 and 16503 shall also
22 address whether the out-of-state placement continues to
23 be the most appropriate placement selection and in the
24 best interests of the child.

25 (d) A child shall not be placed in an out-of-state group
26 home, or remain in an out-of-state group home, unless the
27 group home is in compliance with Section ~~7911~~ 7911.1 of
28 the Family Code.

29 SEC. 39. Section 727.1 of the Welfare and Institutions
30 Code is amended to read:

31 727.1. (a) Unless otherwise authorized by law, the
32 court may not order the placement of a minor who is
33 adjudged a ward of the court on the basis that he or she
34 is a person described by either Section 601 or 602 in a
35 private residential facility or program that provides
36 24-hour supervision, outside of the state, unless the court
37 finds, in its order of placement, that all of the following
38 conditions are met:



1 (1) In-state facilities or programs have been
2 determined to be unavailable or inadequate to meet the
3 needs of the minor.

4 (2) The out-of-state residential facility or program is
5 licensed for the placement of minors by an agency of the
6 state or states in which the minor will be placed or
7 operates under and is inspected pursuant to standards
8 comparable to those developed by the Board of
9 Corrections for similar facilities or programs.

10 (3) The requirements of Section 7911.1 of the Family
11 Code are met.

12 (b) If, upon inspection, the probation officer of the
13 county in which the minor is adjudged a ward of the court
14 determines that the out-of-state facility or program is not
15 in compliance with the standards required under
16 paragraph (2) of subdivision (a), the probation officer
17 may temporarily remove the minor from the facility or
18 program. The probation officer shall promptly inform the
19 court of the minor's removal, and shall return the minor
20 to the court for a hearing to review the suitability of
21 continued out-of-state placement.

22 (c) The court shall review each of these placements
23 for compliance with the requirements of subdivision (a)
24 at least once every six months.

25 (d) The county shall not be entitled to receive or
26 expend any public funds for the placement of a minor in
27 an out-of-state group home unless the conditions of
28 subdivision (a) and (c) are met.

29 SEC. 40. Section 827 of the Welfare and Institutions
30 Code is amended to read:

31 827. (a) (1) Except as provided in Section 828, a
32 petition filed in any juvenile court proceeding, reports of
33 the probation officer, and all other documents filed in
34 that case or made available to the probation officer in
35 making his or her report, or to the judge, referee, or other
36 hearing officer, and thereafter retained by the probation
37 officer, judge, referee, or other hearing officer, may be
38 inspected only by the following:

39 (A) Court personnel.



1 (B) The district attorney, a city attorney, or city
2 prosecutor authorized to prosecute criminal or juvenile
3 cases under state law.

4 (C) The minor who is the subject of the proceeding.

5 (D) His or her parents or guardian.

6 (E) The attorneys for the parties, and judges, referees,
7 other hearing officers, probation officers and law
8 enforcement officers who are actively participating in
9 criminal ~~or~~ *administrative adjudicatory*, or juvenile
10 proceedings involving the minor.

11 (F) The superintendent or designee of the school
12 district where the minor is enrolled or attending school.

13 (G) Members of the child protective agencies as
14 defined in Section 11165.9 of the Penal Code.

15 ~~(H) Members of the department or its designee who~~
16 ~~are actively participating in matters pertaining to the~~
17 ~~state's role in oversight of the care and supervision of the~~
18 ~~minor in foster care.~~

19 ~~(I)~~

20 *(H) The State Department of Social Services to carry*
21 *out its duties pursuant to Division 9 (commencing with*
22 *Section 10000), and Part 5 (commencing with Section*
23 *7900) of Division 12 of the Family Code to oversee and*
24 *monitor county child welfare agencies, children in foster*
25 *care or receiving foster care assistance, and out-of-state*
26 *placements.*

27 *(I) To authorized legal staff or special investigators*
28 *who are peace officers who are employed by, or who are*
29 *authorized representatives of, the State Department of*
30 *Social Services, as necessary to the performance of their*
31 *duties to inspect, license, and investigate community care*
32 *facilities, and to ensure that the standards of care and*
33 *services provided in those facilities are adequate and*
34 *appropriate and to ascertain compliance with the rules*
35 *and regulations to which the facilities are subject. The*
36 *confidential information shall remain confidential except*
37 *for purposes of inspection, licensing, or investigation*
38 *pursuant to Chapter 3 (commencing with Section 1500)*
39 *and Chapter 3.4 (commencing with Section 1596.70) of*
40 *Division 2 of the Health and Safety Code, or a criminal,*



1 civil, or administrative proceeding in relation thereto.
2 The confidential information may be used by the State
3 Department of Social Services in a criminal, civil, or
4 administrative proceeding. The confidential information
5 shall be available only to the judge or hearing officer and
6 to the parties to the case. Names that are confidential shall
7 be listed in attachments separate to the general
8 pleadings. The confidential information shall be sealed
9 after the conclusion of the criminal, civil, or
10 administrative hearings, and shall not subsequently be
11 released except in accordance with this subdivision. If the
12 confidential information does not result in a criminal,
13 civil, or administrative proceeding, it shall be sealed after
14 the State Department of Social Services decides that no
15 further action will be taken in the matter of suspected
16 licensing violations. Except as otherwise provided in this
17 subdivision, confidential information in the possession of
18 the State Department of Social Services shall not contain
19 the name of the minor.

20 (J) Members of children's multidisciplinary teams,
21 persons or agencies providing treatment or supervision of
22 the minor.

23 ~~(J)~~

24 (K) Any other person who may be designated by court
25 order of the judge of the juvenile court upon filing a
26 petition.

27 (2) Any records or reports relating to a matter within
28 the jurisdiction of the juvenile court prepared by or
29 released by the court, a probation department, or the
30 county department of social services, any portion of those
31 records or reports, and information relating to the
32 contents of those records or reports, shall not be
33 disseminated by the receiving agencies to any persons or
34 agencies, other than those persons or agencies authorized
35 to receive documents pursuant to this section. Further,
36 any of those records or reports, any portion of those
37 records or reports, and information relating to the
38 contents of those records or reports, shall not be made
39 attachments to any other documents without the prior
40 approval of the presiding judge of the juvenile court,



1 unless they are used in connection with and in the course
2 of a criminal investigation or a proceeding brought to
3 declare a person a dependent child or ward of the
4 juvenile court.

5 (b) (1) While the Legislature reaffirms its belief that
6 juvenile court records, in general, should be confidential,
7 it is the intent of the Legislature in enacting this
8 subdivision to provide for a limited exception to juvenile
9 court record confidentiality to promote more effective
10 communication among juvenile courts, law enforcement
11 agencies, and schools to ensure the rehabilitation of
12 juvenile criminal offenders as well as to lessen the
13 potential for drug use, violence, and other forms of
14 delinquency.

15 (2) Notwithstanding subdivision (a), written notice
16 that a minor enrolled in a public school, kindergarten to
17 grade 12, inclusive, has been found by a court of
18 competent jurisdiction to have committed any felony or
19 any misdemeanor involving curfew, gambling, alcohol,
20 drugs, tobacco products, carrying of weapons, a sex
21 offense listed in Section 290 of the Penal Code, assault or
22 battery, larceny, vandalism, or graffiti shall be provided
23 by the court, within seven days, to the superintendent of
24 the school district of attendance. Written notice shall
25 include only the offense found to have been committed
26 by the minor and the disposition of the minor's case. This
27 notice shall be expeditiously transmitted by the district
28 superintendent to the principal at the school of
29 attendance. The principal shall expeditiously disseminate
30 the information to those counselors directly supervising
31 or reporting on the behavior or progress of the minor. In
32 addition, the principal may disseminate the information
33 to any teacher or administrator directly supervising or
34 reporting on the behavior or progress of the minor whom
35 the principal believes needs the information to work with
36 the pupil in an appropriate fashion, to avoid being
37 needlessly vulnerable or to protect other persons from
38 needless vulnerability.

39 Any information received by a teacher, counselor, or
40 administrator under this subdivision shall be received in



1 confidence for the limited purpose of rehabilitating the
2 minor and protecting students and staff, and shall not be
3 further disseminated by the teacher, counselor, or
4 administrator, except insofar as communication with the
5 juvenile, his or her parents or guardians, law enforcement
6 personnel, and the juvenile's probation officer is
7 necessary to effectuate the juvenile's rehabilitation or to
8 protect students and staff.

9 An intentional violation of the confidentiality
10 provisions of this section is a misdemeanor punishable by
11 a fine not to exceed five hundred dollars (\$500).

12 (3) If a minor is removed from public school as a result
13 of the court's finding described in subdivision (b), the
14 superintendent shall maintain the information in a
15 confidential file and shall defer transmittal of the
16 information received from the court until the minor is
17 returned to public school. If the minor is returned to a
18 school district other than the one from which the minor
19 came, the parole or probation officer having jurisdiction
20 over the minor shall so notify the superintendent of the
21 last district of attendance, who shall transmit the notice
22 received from the court to the superintendent of the new
23 district of attendance.

24 (c) Each probation report filed with the court
25 concerning a minor whose record is subject to
26 dissemination pursuant to subdivision (b) shall include on
27 the face sheet the school at which the minor is currently
28 enrolled. The county superintendent shall provide the
29 court with a listing of all of the schools within each school
30 district, within the county, along with the name and
31 mailing address of each district superintendent.

32 (d) Each notice sent by the court pursuant to
33 subdivision (b) shall be stamped with the instruction:
34 "Unlawful Dissemination Of This Information Is A
35 Misdemeanor." Any information received from the court
36 shall be kept in a separate confidential file at the school
37 of attendance and shall be transferred to the minor's
38 subsequent schools of attendance and maintained until
39 the minor graduates from high school, is released from
40 juvenile court jurisdiction, or reaches the age of 18,



1 whichever occurs first. After that time the confidential
 2 record shall be destroyed. At any time after the date by
 3 which a record required to be destroyed by this section
 4 should have been destroyed, the minor or his or her
 5 parent or guardian shall have the right to make a written
 6 request to the principal of the school that the minor's
 7 school records be reviewed to ensure that the record has
 8 been destroyed. Upon completion of any requested
 9 review and no later than 30 days after the request for the
 10 review was received, the principal or his or her designee
 11 shall respond in writing to the written request and either
 12 shall confirm that the record has been destroyed or, if the
 13 record has not been destroyed, shall explain why
 14 destruction has not yet occurred.

15 Except as provided in paragraph (2) of subdivision (b),
 16 no liability shall attach to any person who transmits or fails
 17 to transmit any notice or information required under
 18 subdivision (b).

19 ~~SEC. 41. Chapter 5 (commencing with Section 1350)~~
 20 ~~is added to Part 1 of Division 2 of the Welfare and~~
 21 ~~Institutions Code, to read:~~

22
 23 ~~CHAPTER 5. YOUTH SERVICES PROGRAM~~

24
 25 ~~Article 1. Program Creation~~

26
 27 ~~1350. The Legislature finds and declares the~~
 28 ~~following:~~

29 ~~(a) Research indicates that a continuum of~~
 30 ~~appropriate programs and services and the involvement~~
 31 ~~of family in a local community setting is the most effective~~
 32 ~~juvenile delinquency intervention strategy.~~

33 ~~(b) In recent years counties have been encouraged to~~
 34 ~~develop local programs and services for those youth at~~
 35 ~~greatest risk of becoming serious or chronic repeat~~
 36 ~~offenders or those who have been adjudged wards of the~~
 37 ~~court pursuant to Section 602.~~

38 ~~(c) The development of the Youth Services~~
 39 ~~Community Development Program and the Youth~~
 40 ~~Services Program Development Fund as provided in this~~



1 ~~chapter shall provide resources and technical supports to~~
2 ~~assist counties in developing a continuum of local~~
3 ~~community-based services, and encourage the return of~~
4 ~~minors from out-of-state and out-of-county facilities.~~

5 ~~(d) Many juveniles in out-of-home care reside outside~~
6 ~~of their local jurisdiction or county of jurisdiction.~~
7 ~~Statewide data compiled by the State Department of~~
8 ~~Social Services indicates that as of April 1998 there are~~
9 ~~2,500 probation youth in group placement. Of these~~
10 ~~placements, 46 percent are placed in facilities located~~
11 ~~outside the county of jurisdiction. Sixteen percent are~~
12 ~~placed in facilities outside of the state.~~

13 ~~(e) In the past, county probation departments focused~~
14 ~~attention on serving juvenile offenders under the~~
15 ~~jurisdiction of the court. However, there is broad~~
16 ~~recognition that a continuum of early intervention~~
17 ~~services provides the most cost-effective approach to~~
18 ~~reducing juvenile crime.~~

19 ~~(f) The intent of the Legislature in enacting this~~
20 ~~chapter is to provide a continuum of family focused~~
21 ~~case-specific services, in a community-based setting, that~~
22 ~~addresses the full spectrum of child and family needs,~~
23 ~~including services provided in county-operated~~
24 ~~residential care facilities.~~

25 ~~(g) Proper probation services will provide the~~
26 ~~structure, support, and supervision needed to keep~~
27 ~~probation youth from further crime and to help them~~
28 ~~develop essential skills to avoid dependence on public~~
29 ~~assistance.~~

30 ~~(h) In addition to serving at-risk youth or youthful~~
31 ~~offenders, county probation agencies should also serve~~
32 ~~parents when doing so will promote increased~~
33 ~~self-sufficiency, personal responsibility, and family~~
34 ~~stability for the youth and promote the provision of family~~
35 ~~based services, and the keeping of families intact.~~

36 ~~(i) When a minor has been identified as at risk or when~~
37 ~~he or she remains in the community under the~~
38 ~~jurisdiction of the juvenile court, the needs of the entire~~
39 ~~family must determine the services provided on behalf of~~
40 ~~the minor.~~



1 ~~1351. The department shall establish a program~~
2 ~~development program and a technical support unit~~
3 ~~within the department for this program. The program~~
4 ~~shall be established in order to provide assistance to~~
5 ~~courts and juvenile probation departments in developing~~
6 ~~a continuum of local early intervention services for~~
7 ~~minors who are at serious risk of becoming chronic or~~
8 ~~repeat offenders or who have been adjudged wards of the~~
9 ~~court pursuant to Section 602. This program shall permit~~
10 ~~probation departments to expand preventive services to~~
11 ~~target populations that include youth who are at risk of~~
12 ~~being adjudicated wards of the court under Section 601~~
13 ~~or 602.~~

14 ~~1352. (a) Subject to the availability of state or federal~~
15 ~~funds for the purposes described in this chapter, funds~~
16 ~~may be used to serve children who are at risk of being~~
17 ~~wards of the court under Section 601 or 602, or are under~~
18 ~~juvenile court supervision or supervision of the probation~~
19 ~~department. Funds may be used to serve parents or other~~
20 ~~family members of these children if serving them will~~
21 ~~promote increased self-sufficiency, personal~~
22 ~~responsibility, and family stability for the child. Services~~
23 ~~shall be provided pursuant to a family service plan. When~~
24 ~~a family is served by multiple public agencies or in need~~
25 ~~of services from multiple public agencies, the family~~
26 ~~service plan shall be developed through an~~
27 ~~interdisciplinary approach including representatives~~
28 ~~from agencies providing services to the family or that~~
29 ~~may be required to implement the service plan.~~

30 ~~(b) Services authorized under this program include all~~
31 ~~of the following:~~

32 ~~(1) Mental health assessment and counseling.~~

33 ~~(2) Family mentoring, parent peer support.~~

34 ~~(3) Family crisis intervention.~~

35 ~~(4) Individual, family, and group counseling.~~

36 ~~(5) Parenting skills development.~~

37 ~~(6) Drug and alcohol services.~~

38 ~~(7) Home detention.~~

39 ~~(8) After care services as juveniles transition back into~~
40 ~~the community and reintegrate into their families.~~



1 ~~(9) Case management.~~

2 ~~(10) Therapeutic day treatment.~~

3 ~~1353. Services authorized under this section shall~~
4 ~~include payment for shelter care in juvenile assessment~~
5 ~~centers, residential group care in camps and ranches, or~~
6 ~~foster care in a licensed foster care facility, except where~~
7 ~~provided by Title IV-E (commencing with Section 470)~~
8 ~~of the federal Social Security Act, Part E (commencing~~
9 ~~with Section 670) of Subchapter 4 of Chapter 7 of Title 42~~
10 ~~of the United States Code.~~

11 ~~1354. To be eligible for funding pursuant to this~~
12 ~~chapter, all eligibility criteria specified in the state plan~~
13 ~~under Subtitle IV A (commencing with Section 670) of~~
14 ~~the federal Social Security Act, Part A (commencing with~~
15 ~~Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the~~
16 ~~United States Code, or emergency assistance in effect on~~
17 ~~September 30, 1995, shall be met.~~

18 ~~1357. All services provided under this chapter,~~
19 ~~whether provided in the home, residential facilities, or~~
20 ~~other settings, shall be based on the following principles:~~

21 ~~(a) Services shall be oriented toward the principles of~~
22 ~~personal responsibility and self reliance.~~

23 ~~(b) Services shall use available community resources~~
24 ~~to the extent they are available, to serve the needs of the~~
25 ~~populations served under this chapter.~~

26 ~~(c) Individualized case plan development shall~~
27 ~~consider family concerns, priorities, and resources and~~
28 ~~shall include services designed to help families develop~~
29 ~~problem solving skills to apply independently in new~~
30 ~~situations.~~

31 ~~(d) Services shall be based on comprehensive~~
32 ~~strength-based family assessments, shall be family~~
33 ~~focused, and shall address identified immediate needs as~~
34 ~~well as underlying risk factors contributing to problems~~
35 ~~that are more pervasive and recurrent in nature.~~

36 ~~(e) Programs shall be based on a restorative justice~~
37 ~~model and provide services that develop a positive and~~
38 ~~meaningful relationship with the offender and~~
39 ~~community.~~



1 ~~(f) Services offered shall be cost-effective, using~~
2 ~~established community services in tandem with federal,~~
3 ~~state, and locally funded services.~~

4 ~~1358. The board of supervisors of any county that~~
5 ~~receives funds pursuant to this chapter shall approve the~~
6 ~~expenditure plan for funds received pursuant to this~~
7 ~~chapter. These funds may not be used to supplant existing~~
8 ~~programs and services.~~

9 ~~1359. The board of supervisors of any county that~~
10 ~~receives funds under this chapter shall establish a local~~
11 ~~planning council to meet, and to advise the chief~~
12 ~~probation officer in the development of the proposed~~
13 ~~expenditure plan for the funds provided under this~~
14 ~~chapter.~~

15
16 ~~Article 2. Administration~~

17
18 ~~1360. A multidisciplinary team located within the~~
19 ~~State Department of Social Services shall maintain~~
20 ~~oversight of the Youth Services Program Development~~
21 ~~Fund. The multidisciplinary team shall include~~
22 ~~representatives from the State Department of Mental~~
23 ~~Health and the Board of Corrections, and have~~
24 ~~responsibility for issuing grants on a competitive basis.~~
25 ~~The State Department of Social Services shall develop a~~
26 ~~program statement and criteria for program selection,~~
27 ~~content, standards, and evaluation, and a plan for~~
28 ~~delivering technical support to grantees and report the~~
29 ~~results to the Legislature by January 1, 1999.~~

30 ~~1361. (a) There is hereby created in the State~~
31 ~~Treasury the Youth Services Program Development~~
32 ~~Fund, which, notwithstanding Section 13340 of the~~
33 ~~Government Code, is hereby continuously appropriated~~
34 ~~for the purposes of this chapter.~~

35 ~~(b) Moneys in the Youth Services Program~~
36 ~~Development Fund shall be used to provide resources~~
37 ~~needed to initiate new youth services programs~~
38 ~~consistent with services and outcome priorities for~~
39 ~~statewide development, as determined by the~~
40 ~~department. The department may allocate moneys from~~



1 ~~the Youth Services Program Development Fund to~~
2 ~~counties for proposals consistent with the priorities for~~
3 ~~program development and that are approved by the~~
4 ~~department, in no event shall an allocation from the fund~~
5 ~~be made by the department for a period of more than 36~~
6 ~~months.~~

7 ~~(e) The department shall, to the extent the~~
8 ~~department determines it to be necessary, request from~~
9 ~~all counties information on the types and amounts of~~
10 ~~services and supports necessary but currently~~
11 ~~unavailable. The department shall make a~~
12 ~~recommendation to the Department of Finance as to the~~
13 ~~level of funding for program development to be included~~
14 ~~in the Governor's Budget for purposes of this chapter.~~

15 ~~1362. (a) The sum of _____ is hereby appropriated~~
16 ~~from the General Fund to the Youth Services Program~~
17 ~~Development Fund.~~

18 ~~(b) In addition to appropriations to the Youth Services~~
19 ~~Program Development Fund from the General Fund, the~~
20 ~~fund may be augmented by moneys available to the state~~
21 ~~from public or private sources for youth services program~~
22 ~~development purposes.~~

23 SEC. 42. Section 5867.5 is added to the Welfare and
24 Institutions Code, to read:

25 5867.5. (a) Beginning in the 1998-99 fiscal year,
26 county mental health departments that receive full
27 system of care funding, as determined by the State
28 Department of Mental Health in consultation with
29 counties, shall provide to children served by county social
30 services and probation departments mental health
31 screening, assessment, participation in multidisciplinary
32 placement teams and specialty mental *health* treatment
33 services for children placed out of home in group care, for
34 those children who meet the definition of medical
35 necessity, to the extent resources are available. These
36 counties shall give first priority to children currently
37 receiving psychoactive medication.

38 (b) The State Department of Mental Health shall
39 develop, by April 1, 1999, an estimate of the extent to



1 which mental health assessment and treatment resources
2 are available to meet all of the following needs:

3 (1) Children placed in group care by county
4 departments of social services and probation.

5 (2) Children placed in out-of-home care by county
6 departments of social services.

7 (3) Children at risk of placement out of home who are
8 receiving services from county departments of social
9 services or probation.

10 (c) The estimate required by subdivision (b) shall
11 include identification of specific resource gaps, including
12 human resource gaps, in the delivery of specialty mental
13 health services to children identified by county social
14 services and probation.

15 (d) The State Department of Mental Health, the State
16 Department of Social Services, and the Judicial Council
17 shall, with participation by county mental health
18 departments, county health departments, and county
19 social services departments, ~~develop~~ *and in consultation*
20 *with group home providers and representatives of*
21 *current or former foster youth, develop*, by July 1, 1999,
22 a procedure for review of treatment plans for children
23 receiving prescribed psychoactive medication and who
24 are placed in out-of-home care.

25 SEC. 43. Section 10609.3 of the Welfare and
26 Institutions Code is amended to read:

27 10609.3. (a) By January 1, 1995, the State
28 Department of Social Services shall complete, in
29 consultation with county Independent Living Program
30 administrators, placement agencies, providers, advocacy
31 groups, and community groups, a comprehensive
32 evaluation of the Independent Living Program
33 established pursuant to the federal Consolidated
34 Omnibus Budget Reconciliation Act of 1985 (Public Law
35 99-272) and develop recommendations available to the
36 public on how independent living services could better
37 prepare foster youth for independence and adulthood.

38 (b) The department shall investigate alternative
39 transition housing models for youth between the ages of
40 17 and 18 who are in out-of-home placements under the



1 supervision of the county department of social services or
2 county probation department. To the extent federal
3 funds are available and it is in the best interests of the
4 children, the department shall develop and implement a
5 transitional housing model for youth who are preparing
6 for emancipation from foster care.

7 (c) The department shall also investigate alternative
8 transition models for youth discharged from foster care to
9 live on their own. As part of this investigation, the
10 department shall consider the needs of youth for housing,
11 transportation, health care, access to community
12 resources, employment, and other support services.

13 (d) The department shall, with the approval of the
14 federal government, amend the foster care state plan,
15 provided for pursuant to Subtitle IV-E (commencing
16 with Section 470) of the federal Social Security Act (42
17 U.S.C. Sec. 670, et seq.), *and the child welfare services*
18 *state plan* (42 U.S.C. Sec. 622), to permit all eligible
19 children be served by the Independent Living Program
20 up to the age of 21 years.

21 SEC. 44. Section 11402 of the Welfare and Institutions
22 Code is amended to read:

23 11402. In order to be eligible for AFDC-FC, a child
24 shall be placed in one of the following:

25 (a) The home of a relative, provided the home has
26 been documented by the social worker or probation
27 officer as being suited to the needs of the child and the
28 child is otherwise eligible for federal financial
29 participation in the AFDC-FC payment.

30 (b) (1) The licensed family home of a nonrelative.

31 (2) The nonlicensed home of a nonrelative extended
32 family home, when the child is placed pursuant to Section
33 362.7.

34 (c) A licensed group home, as defined in subdivision
35 (h) of Section 11400, provided that the placement worker
36 has documented that the placement is necessary to meet
37 the treatment needs of the child and that the facility
38 offers those treatment services.

39 (d) The home of a nonrelated legal guardian or the
40 home of a former nonrelated legal guardian when the



1 guardianship of a child who is otherwise eligible for
2 AFDC-FC has been dismissed due to the child's attaining
3 18 years of age.

4 (e) A home which has been certified by a social worker
5 or probation officer as meeting licensing standards,
6 provided that a family home license has been applied for
7 and has not been denied.

8 (f) An exclusive-use home.

9 (g) A licensed transitional housing placement facility
10 as described in Health and Safety Code Section 1559.110
11 and as defined in Section 11400.

12 (h) An out-of-state group home, provided that the
13 placement worker, in addition to complying with all
14 other statutory requirements for placing a minor in an
15 out-of-state group home, documents that the
16 requirements of Section 7911.1 of the Family Code have
17 been met.

18 ~~SEC. 45. Section 11402.4 is added to the Welfare and~~
19 ~~Institutions Code, to read:~~

20 ~~11402.4. (a) It is the intent of the Legislature to~~
21 ~~ensure quality care for children who are placed in~~
22 ~~out-of-home care through the foster care system.~~

23 ~~(b) The department may select three pilot projects, at~~
24 ~~the option of each county, to serve as a county or regional~~
25 ~~coordinator pilot project. The department shall consult~~
26 ~~with the pilot counties and other interested parties~~
27 ~~concerning the establishment of a county or regional~~
28 ~~coordinator program to provide a local link between~~
29 ~~community care licensing, foster care ratesetting, and~~
30 ~~placing agencies regarding out-of-home care. The project~~
31 ~~shall address issues of confidentiality and potential~~
32 ~~restrictions on sharing necessary information between~~
33 ~~service systems.~~

34 SEC. 46. Section 11404.5 of the Welfare and
35 Institutions Code is repealed.

36 ~~SEC. 47. Section 11462 of the Welfare and Institutions~~
37 ~~Code is amended to read:~~

38 ~~11462. (a) (1) Effective July 1, 1990, foster care~~
39 ~~providers licensed as group homes, as defined in~~
40 ~~departmental regulations, including public child care~~



1 institutions, as defined in Section 11402.5, shall have rates
2 established by classifying each group home program and
3 applying the standardized schedule of rates. The
4 department shall collect information from group
5 providers beginning January 1, 1990, in order to classify
6 each group home program.

7 (2) Notwithstanding paragraph (1), foster care
8 providers licensed as group homes shall have rates
9 established only if the group home is organized and
10 operated on a nonprofit basis as required under
11 subdivision (h) of Section 11400. The department shall
12 terminate the rate effective January 1, 1993, of any group
13 home not organized and operated on a nonprofit basis as
14 required under subdivision (h) of Section 11400.

15 (b) A group home program shall be initially classified,
16 for purposes of emergency regulations, according to the
17 level of care and services to be provided using a point
18 system developed by the department and described in
19 the report, "The Classification of Group Home Programs
20 under the Standardized Schedule of Rates System,"
21 prepared by the State Department of Social Services,
22 August 30, 1989.

23 (c) The rate for each rate classification level (RCL)
24 has been determined by the department with data from
25 the AFDC-FC Group Home Rate Classification Pilot
26 Study. The rates effective July 1, 1990, were developed
27 using 1985 calendar year costs and reflect adjustments to
28 the costs for each fiscal year, starting with the 1986-87
29 fiscal year, by the amount of the California Necessities
30 Index computed pursuant to the methodology described
31 in Section 11453. The data obtained by the department
32 using 1985 calendar year costs shall be updated and
33 revised by January 1, 1993.

34 (d) As used in this section, "standardized schedule of
35 rates" means a listing of the 14 rate classification levels,
36 the single rate established for each RCL, and the rate
37 floor for each RCL.

38 (e) The standardized schedule of rates shall be phased
39 in commencing July 1, 1990.



1 ~~(1) In order to phase in the standardized schedule of~~
2 ~~rates, a “rate floor” has been established for each RCL.~~

3 ~~(2) The rate floor for fiscal year 1990-91 shall be 85~~
4 ~~percent of the standard rate for each RCL. The rate floor~~
5 ~~shall be increased to 92.5 percent of the standard rate for~~
6 ~~fiscal year 1991-92 for each RCL, shall be equal to the~~
7 ~~standard rate for each RCL for the period July 1, 1992, to~~
8 ~~September 13, 1992, inclusive, and shall be 92.5 percent~~
9 ~~of the standard rate for each RCL for the period~~
10 ~~September 14, 1992, to June 30, 1993, inclusive.~~

11 ~~(3) The rate floor for each RCL shall be 95 percent of~~
12 ~~the standard rate for each RCL for the 1993-94 fiscal year.~~
13 ~~The rate floor shall be equal to the standard rate for each~~
14 ~~RCL for the 1994-95 fiscal year and beyond.~~

15 ~~(f) Except as specified in paragraph (1), the~~
16 ~~department shall determine the RCL for each group~~
17 ~~home program on a prospective basis.~~

18 ~~(1) For new programs and existing providers~~
19 ~~requesting the establishment of an RCL, and for existing~~
20 ~~group home programs requesting an RCL increase, the~~
21 ~~department shall determine the RCL no later than 13~~
22 ~~months after the effective date of the provisional rate.~~
23 ~~The determination of the RCL shall be based on an audit~~
24 ~~of documentation and other information, which is~~
25 ~~available for inspection at the time of the audit, that~~
26 ~~verifies the level of care and supervision provided by the~~
27 ~~group home program during a period of at least the two~~
28 ~~full calendar months or 60 consecutive days, preceding~~
29 ~~the date of the program audit. Pending the department’s~~
30 ~~determination of the RCL for the group home program,~~
31 ~~but for no longer than 13 months, the group home~~
32 ~~program shall be eligible to receive a provisional rate that~~
33 ~~shall be based on the level of care and service that the~~
34 ~~group home program proposes it will provide. The group~~
35 ~~home program shall be eligible to receive only the RCL~~
36 ~~determined by the department during the pendency of~~
37 ~~any appeal of the department’s RCL determinations.~~

38 ~~(2) For a group home program for which the~~
39 ~~department established a rate effective prior to June 30,~~
40 ~~1990, that took into account the program’s historical costs,~~



1 ~~the department shall establish the rate for fiscal year~~
2 ~~1990-91 by determining the RCL on a retrospective basis,~~
3 ~~according to the level of care and services actually~~
4 ~~provided between July 1 and December 31, 1989, or~~
5 ~~between July 1, 1989, and March 31, 1990.~~

6 ~~(3) Group home programs that fail to maintain at least~~
7 ~~the level of care and services associated with the RCL~~
8 ~~upon which their rate was established shall inform the~~
9 ~~department. The department shall develop regulations~~
10 ~~specifying procedures to be applied when a group home~~
11 ~~fails to maintain the level of services projected, including,~~
12 ~~but not limited to, rate reduction and recovery of~~
13 ~~overpayments.~~

14 ~~(4) The department shall not reduce the rate, establish~~
15 ~~an overpayment, or take other actions pursuant to~~
16 ~~paragraph (2) for any period that a group home program~~
17 ~~maintains the level of care and services associated with~~
18 ~~the RCL for children actually residing in the facility.~~
19 ~~Determinations of levels of care and services shall be~~
20 ~~made in the same way as modifications of overpayments~~
21 ~~are made pursuant to paragraph (3) of subdivision (b) of~~
22 ~~Section 11466.2.~~

23 ~~(5) Beginning July 1, 1994, for group homes paid at~~
24 ~~rates below the standard rate established by subdivision~~
25 ~~(g), a group home program shall remain at its current~~
26 ~~RCL if it maintains at least the level of care and services~~
27 ~~associated with that percentage of the points required to~~
28 ~~be at that RCL that equals the percentage of the standard~~
29 ~~rate used to establish the group home's rate. In no event,~~
30 ~~however, shall points per child per month be reduced~~
31 ~~more than 10 points below the minimum required for the~~
32 ~~current RCL. The RCL for a program shall not increase~~
33 ~~due to the operation of this paragraph absent any~~
34 ~~program changes approved by the department pursuant~~
35 ~~to subdivision (k).~~

36 ~~(6) A group home program that substantially changes~~
37 ~~its staffing pattern from that reported in the group home~~
38 ~~program statement shall provide notification of this~~
39 ~~change to all counties that have placed children currently~~
40 ~~in care. This notification shall be provided whether or not~~



1 the RCL for the program may change as a result of the
 2 change in staffing pattern.

3 (g) The standardized schedule of rates for fiscal year
 4 1990-91 is:

5

6 FY 1990-91

7 8 9 10	Rate Classification Level	Point Ranges	Standard Rate	Rate Floor (85%)
11	1	Under 60	\$1,183	\$1,006
12	2	60-89	-1,478	-1,256
13	3	90-119	-1,773	-1,507
14	4	120-149	-2,067	-1,757
15	5	150-179	-2,360	-2,006
16	6	180-209	-2,656	-2,258
17	7	210-239	-2,950	-2,508
18	8	240-269	-3,245	-2,758
19	9	270-299	-3,539	-3,008
20	10	300-329	-3,834	-3,259
21	11	330-359	-4,127	-3,508
22	12	360-389	-4,423	-3,760
23	13	390-419	-4,720	-4,012
24	14	420 & Up	-5,013	-4,261

25

26 (h) (1) For fiscal year 1990-91, the standardized
 27 schedule of rates shall be implemented as follows:

28 (A) Any group home program which received an
 29 AFDC-FC rate in the prior fiscal year below the standard
 30 rate for the fiscal year 1990-91 RCL shall receive their
 31 1989-90 rate plus an amount equal to the California
 32 Necessities Index (CNI). The rate for fiscal year 1990-91
 33 at which the state will participate shall not exceed the
 34 standard rate for the RCL.

35 (B) If the CNI increase to the group home program's
 36 fiscal year 1989-90 rate does not raise the group home
 37 program to the rate floor for the RCL, the group home
 38 program shall receive a rate equal to the rate floor for the
 39 RCL.



1 ~~(C) A group home program which received an~~
2 ~~AFDC-FC rate for fiscal year 1989-90 at or above the~~
3 ~~standard rate for the RCL for fiscal year 1990-91 shall~~
4 ~~continue to receive that fiscal year 1989-90 rate.~~

5 ~~(2) For that portion of the 1998-99 fiscal year,~~
6 ~~commencing on November 1, 1998, and the 1999-2000~~
7 ~~fiscal year, the standardized rate for each RCL shall be~~
8 ~~adjusted by an amount equal to the California Necessities~~
9 ~~Index computed pursuant to the methodology described~~
10 ~~in Section 11453.~~

11 ~~(A) Any group home program which received an~~
12 ~~AFDC-FC rate in the prior fiscal year at or above the~~
13 ~~adjusted standard rate for the RCL in the current fiscal~~
14 ~~year shall continue to receive that rate.~~

15 ~~(B) A group home program which received an~~
16 ~~AFDC-FC rate in the prior fiscal year below the standard~~
17 ~~rate for the RCL in the current fiscal year shall receive~~
18 ~~that rate adjusted by an amount equal to the CNI. The~~
19 ~~rate for the current fiscal year shall not exceed the~~
20 ~~standard rate for the RCL and shall not be less than the~~
21 ~~rate floor for the RCL.~~

22 ~~(3) Beginning with the 2000-01 fiscal year, the~~
23 ~~standardized schedule of rates shall be adjusted annually~~
24 ~~by an amount equal to the CNI computed pursuant to~~
25 ~~Section 11453, subject to the availability of funds.~~

26 ~~(A) Any group home program which received an~~
27 ~~AFDC-FC rate in the prior fiscal year at or above the~~
28 ~~adjusted standard rate for the RCL in the current fiscal~~
29 ~~year shall continue to receive that rate.~~

30 ~~(B) Any group home program which received an~~
31 ~~AFDC-FC rate in the prior fiscal year below the adjusted~~
32 ~~standard rate for the RCL in the current fiscal year shall~~
33 ~~receive the adjusted RCL rate.~~

34 ~~(i) (1) (A) The rate for a new group home program~~
35 ~~of a new or existing provider shall be established at the~~
36 ~~rate floor for the new program's projected RCL.~~

37 ~~(B) On and after the operative date of this~~
38 ~~subparagraph, the department shall not, prior to July 1,~~
39 ~~1993, establish a rate for a new group home program of a~~
40 ~~new or existing provider.~~



1 ~~(2) The department shall not establish a rate for a new~~
2 ~~program of a new or existing provider unless the provider~~
3 ~~submits a recommendation from the host county, the~~
4 ~~primary placing county, or a regional consortium of~~
5 ~~counties that the program is needed in that county; that~~
6 ~~the provider is capable of effectively and efficiently~~
7 ~~operating the program; and that the provider is willing~~
8 ~~and able to accept AFDC-FC children for placement who~~
9 ~~are determined by the placing agency to need the level~~
10 ~~of care and services that will be provided by the program.~~

11 ~~(3) The department shall encourage the~~
12 ~~establishment of consortia of county placing agencies on~~
13 ~~a regional basis for the purpose of making decisions and~~
14 ~~recommendations about the need for, and use of, group~~
15 ~~home programs and other foster care providers within~~
16 ~~the regions.~~

17 ~~(4) The department shall annually conduct a~~
18 ~~county-by-county survey to determine the unmet~~
19 ~~placement needs of children placed pursuant to Section~~
20 ~~300 and Section 601 or 602, and shall publish its findings~~
21 ~~by November 1 of each year.~~

22 ~~(j) The department shall develop regulations~~
23 ~~specifying ratesetting procedures for program~~
24 ~~expansions, reductions, or modifications, including~~
25 ~~increases or decreases in licensed capacity, or increases or~~
26 ~~decreases in level of care or services.~~

27 ~~(k) (1) For the purpose of this subdivision, “program~~
28 ~~change” means any alteration to an existing group home~~
29 ~~program planned by a provider that will increase the~~
30 ~~RCL or AFDC-FC rate. An increase in the licensed~~
31 ~~capacity or other alteration to an existing group home~~
32 ~~program that does not increase the RCL or AFDC-FC~~
33 ~~rate shall not constitute a program change.~~

34 ~~(2) (A) Prior to July 1, 1993, the rate for a group home~~
35 ~~program shall not increase, as the result of a program~~
36 ~~change, from the rate established for the program~~
37 ~~effective June 30, 1992. For rate increases as a result of a~~
38 ~~program change which became effective between July 1,~~
39 ~~1992, and the effective date of this paragraph, the~~
40 ~~department shall adjust rates downward as necessary to~~



1 ~~comply with this chapter. Notwithstanding any other~~
2 ~~provisions of law, a group home provider shall be allowed~~
3 ~~to change a group home program to reflect a decrease in~~
4 ~~services due to the provisions of this paragraph.~~

5 ~~(B) For the 1993-94 fiscal year, the rate for a group~~
6 ~~home program shall not increase, as the result of a~~
7 ~~program change, from the rate established for the~~
8 ~~program effective July 1, 1993, except as provided in~~
9 ~~paragraph (3).~~

10 ~~(C) For the 1994-95 fiscal year, the 1995-96 fiscal year,~~
11 ~~the 1996-97 fiscal year, and the 1997-98 fiscal year, the~~
12 ~~rate for a group home program shall not increase, as the~~
13 ~~result of a program change, from the rate established for~~
14 ~~the program effective July 1, 1994, except as provided in~~
15 ~~paragraph (3).~~

16 ~~(3) (A) For the 1993-94 fiscal year, the 1994-95 fiscal~~
17 ~~year, the 1995-96 fiscal year, the 1996-97 fiscal year, and~~
18 ~~the 1997-98 fiscal year, the department shall not establish~~
19 ~~a rate for a new program of a new or existing provider or~~
20 ~~approve a program change for an existing provider that~~
21 ~~either increases the program's RCL or AFDC-FC rate, or~~
22 ~~increases the licensed capacity of the program as a result~~
23 ~~of decreases in another program with a lower RCL or~~
24 ~~lower AFDC-FC rate that is operated by that provider,~~
25 ~~unless both of the conditions specified in this paragraph~~
26 ~~are met.~~

27 ~~(i) The licensee obtains a letter of recommendation~~
28 ~~from the host county, primary placing county, or regional~~
29 ~~consortium of counties regarding the proposed program~~
30 ~~change or new program.~~

31 ~~(ii) The county determines that there is no increased~~
32 ~~cost to the General Fund.~~

33 ~~(B) Notwithstanding subparagraph (A), the~~
34 ~~department may grant a request for a new program or~~
35 ~~program change, not to exceed 25 beds, statewide, if (i)~~
36 ~~the licensee obtains a letter of recommendation from the~~
37 ~~host county, primary placing county, or regional~~
38 ~~consortium of counties regarding the proposed program~~
39 ~~change or new program, and (ii) the new program or~~
40 ~~program change will result in a reduction of referrals to~~



1 ~~state hospitals during the 1993-94 fiscal year, the 1994-95~~
2 ~~fiscal year, the 1995-96 fiscal year, the 1996-97 fiscal year,~~
3 ~~or the 1997-98 fiscal year.~~

4 ~~(l) General unrestricted or undesignated private~~
5 ~~charitable donations and contributions made to~~
6 ~~charitable or nonprofit organizations shall not be~~
7 ~~deducted from the cost of providing services pursuant to~~
8 ~~this section. The donations and contributions shall not be~~
9 ~~considered in any determination of maximum~~
10 ~~expenditures made by the department.~~

11 ~~(m) The department shall, by October 1 each year,~~
12 ~~commencing October 1, 1992, provide the Joint~~
13 ~~Legislative Budget Committee with a list of any new~~
14 ~~departmental requirements established during the~~
15 ~~previous fiscal year concerning the operation of group~~
16 ~~homes, and of any unusual, industrywide increase in costs~~
17 ~~associated with the provision of group care which may~~
18 ~~have significant fiscal impact on providers of group~~
19 ~~homes care. The committee may, in fiscal year 1993-94~~
20 ~~and beyond, use the list to determine whether an~~
21 ~~appropriation for rate adjustments is needed in the~~
22 ~~subsequent fiscal year.~~

23 ~~(n) This section shall become operative on July 1, 1995.~~

24 ~~SEC. 48. Section 11466.21 is added to the Welfare and~~
25 ~~Institutions Code, to read:~~

26 ~~11466.21. (a) The following definitions shall govern~~
27 ~~the construction of this section, unless the context~~
28 ~~requires otherwise:~~

29 ~~(1) "Financial and compliance audit" means a~~
30 ~~systematic review or appraisal to determine each of the~~
31 ~~following:~~

32 ~~(A) Whether the financial statements of an audited~~
33 ~~organization fairly present the financial position and the~~
34 ~~results of financial operations in accordance with~~
35 ~~generally accepted accounting principles.~~

36 ~~(B) Whether the foster family agency or group home~~
37 ~~program has complied with laws and regulations that may~~
38 ~~have a material effect upon the financial statements.~~

39 ~~(2) "Public accountants" means certified public~~
40 ~~accountants, or state licensed public accountants.~~

1 ~~(3) “Independent auditors” means public accountants~~
2 ~~who have no direct or indirect relationship with the~~
3 ~~functions or activities being audited or with the business~~
4 ~~entity operating the group home program, the members~~
5 ~~of its board of directors, its officers, or staff.~~

6 ~~(4) “Generally accepted auditing standards” means~~
7 ~~the auditing standards set forth in the financial and~~
8 ~~compliance element of the “Standards for Audit of~~
9 ~~Governmental Organization, Programs, Activities, and~~
10 ~~Functions” issued by the Comptroller General of the~~
11 ~~United States and incorporating the audit standards of the~~
12 ~~American Institute of Certified Public Accountants.~~

13 ~~(5) “Nonprofit organization” means an organization~~
14 ~~described in Section 501(c)(3) of the Internal Revenue~~
15 ~~Code of 1954 that is exempt from taxation under Section~~
16 ~~501(a) of that code, or any nonprofit, scientific, or~~
17 ~~educational organization qualified under subdivision (d)~~
18 ~~of Section 23701 of the Revenue and Taxation Code.~~

19 ~~(b) (1) Each group home program and foster family~~
20 ~~agency shall submit to the department an annual single~~
21 ~~independent financial and compliance audit of nonprofit~~
22 ~~organizations licensed as a foster family agency or group~~
23 ~~home. Any such audit shall include those activities as~~
24 ~~determined by the department, which shall include, but~~
25 ~~not be limited to, an evaluation of the accounting and~~
26 ~~control systems of the foster family agency or group home~~
27 ~~and of the activities by the foster family agency or group~~
28 ~~home to comply with federal cost principles of Subtitle E~~
29 ~~(commencing with Section 470) of Title IV of the federal~~
30 ~~Social Security Act (42 U.S.C. Sec. 670 et seq.), and~~
31 ~~Sections 11462 and 11462.06. The financial and~~
32 ~~compliance requirements to be reviewed during the~~
33 ~~audit shall be those developed and published by the~~
34 ~~department.~~

35 ~~(2) As a condition to receiving a rate, foster family~~
36 ~~agencies and group home programs shall be responsible~~
37 ~~for timely submission of the required financial and~~
38 ~~compliance audit. The audit shall be made by~~
39 ~~independent auditors in accordance with generally~~
40 ~~accepted auditing standards. The department shall~~



1 ~~include in the regulations implementing this section the~~
2 ~~date by which the audit report shall be completed and~~
3 ~~submitted, and the consequences for untimely~~
4 ~~submission.~~

5 ~~(e) (1) This article shall not limit the authority of the~~
6 ~~department, or any county that enters into a placement~~
7 ~~contract with the foster family agency or group home~~
8 ~~program, to make audits of the foster family agency or~~
9 ~~group home program. However, if independent audits~~
10 ~~arranged for by the foster family agency or group home~~
11 ~~meet generally accepted auditing standards, the~~
12 ~~department shall rely on those audits, and any additional~~
13 ~~audit work shall build upon the work already done.~~
14 ~~Nothing in this section shall be construed to create, limit,~~
15 ~~or expand the authority of counties to audit facilities.~~

16 ~~(2) This section shall not preclude the department~~
17 ~~from conducting, or contracting for the conduct of, audits~~
18 ~~not provided for in this section.~~

19 ~~(3) This article shall not limit the state's responsibility~~
20 ~~or authority to enforce state law or regulations,~~
21 ~~procedures, or reporting requirements arising pursuant~~
22 ~~thereto.~~

23 ~~(4) Actions taken by the department under this~~
24 ~~section shall be subject to the appeal procedure described~~
25 ~~in Section 11468 and following.~~

26 ~~(5) Notwithstanding paragraph (4) of subdivision (f)~~
27 ~~of Section 11462, the department shall, by regulation,~~
28 ~~require repayment of moneys identified in the audit~~
29 ~~report which were not expended in accordance with law.~~

30 ~~(6) The department shall, by regulation, establish a~~
31 ~~process for group home programs with a total licensed~~
32 ~~facility capacity of 12 or less, to apply for and receive~~
33 ~~financial assistance for the conduct of the audit required~~
34 ~~by this section. Financial assistance may be provided on~~
35 ~~a sliding scale basis to offset audit costs of no more than~~
36 ~~two thousand five hundred dollars (\$2,500), or one-half of~~
37 ~~the cost of the audit required by this section, whichever~~
38 ~~is less.~~

39 *SEC. 47. Section 11461 of the Welfare and Institutions*
40 *Code is amended to read:*



1 11461. (a) For children placed in a licensed or
 2 approved family home with a capacity of six or less, or in
 3 an approved home of a relative or nonrelated legal
 4 guardian, the per child per month rates in the following
 5 schedule shall be in effect for the period July 1, 1989,
 6 through December 31, 1989:

7	8 Age	Basic rate
9	0-4	\$ 294
10	5-8	319
11	9-11	340
12	12-14	378
13	15-20	412

14
 15 (b) (1) Any county that, as of October 1, 1989, has in
 16 effect a basic rate that is at the levels set forth in the
 17 schedule in subdivision (a), shall continue to receive state
 18 participation, as specified in subdivision (c) of Section
 19 15200, at these levels.

20 (2) Any county that, as of October 1, 1989, has in effect
 21 a basic rate that exceeds a level set forth in the schedule
 22 in subdivision (a), shall continue to receive the same level
 23 of state participation as it received on October 1, 1989.

24 (c) The amounts in the schedule of basic rates in
 25 subdivision (a) shall be adjusted as follows:

26 (1) Effective January 1, 1990, the amounts in the
 27 schedule of basic rates in subdivision (a) shall be
 28 increased by 12 percent.

29 (2) Effective May 1, 1990, any county that did not
 30 increase the basic rate by 12 percent on January 1, 1990,
 31 shall do both of the following:

32 (A) Increase the basic rate in effect December 31,
 33 1989, for which state participation is received by 12
 34 percent.

35 (B) Increase the basic rate, as adjusted pursuant to
 36 subparagraph (A) by an additional 5 percent.

37 (3) (A) Except as provided in subparagraph (B),
 38 effective July 1, 1990, for the 1990-91 fiscal year, the
 39 amounts in the schedule of basic rates in subdivision (a)
 40 shall be increased by an additional 5 percent.



1 (B) The rate increase required by subparagraph (A)
2 shall not be applied to rates increased May 1, 1990,
3 pursuant to paragraph (2).

4 (4) Effective July 1, 1998, the amounts in the schedule
5 of basic rates in subdivision (a) shall be increased by 6
6 percent. *Notwithstanding any other provision of law, the*
7 *6 percent increase provided for in this paragraph shall,*
8 *retroactive to July 1, 1998, apply to every county,*
9 *including any county to which paragraph (2) of*
10 *subdivision (b) applies, and shall apply to foster care for*
11 *every age group.*

12 (5) *Notwithstanding any other provision of law, any*
13 *increase that takes effect after July 1, 1998, shall apply to*
14 *every county, including any county to which paragraph*
15 *(2) of subdivision (b) applies, and shall apply to foster*
16 *care for every age group.*

17 ~~(5)~~

18 (6) The increase in the basic foster family home rate
19 shall apply only to children placed in a licensed foster
20 family home receiving the basic rate or in an approved
21 home of a relative or nonrelated legal guardian receiving
22 the basic rate. The increased rate shall not be used to
23 compute the monthly amount that may be paid to
24 licensed foster family agencies for the placement of
25 children in certified foster homes.

26 (d) (1) Beginning with the 1991–92 fiscal year, the
27 schedule of basic rates in subdivision (a) shall be adjusted
28 by the percentage changes in the California Necessities
29 Index, computed pursuant to the methodology described
30 in Section 11453, subject to the availability of funds.

31 (2) Any county that, as of the 1991–92 fiscal year,
32 receives state participation for a basic rate that exceeds
33 the amount set forth in the schedule of basic rates in
34 subdivision (a) shall receive an increase each year in state
35 participation for that basic rate of one-half of the
36 percentage adjustments specified in paragraph (1) until
37 the difference between the county's adjusted state
38 participation level for its basic rate and the adjusted
39 schedule of basic rates is eliminated.



1 (3) If a county has, after receiving the adjustments
2 specified in paragraph (2), a state participation level for
3 a basic rate that is below the amount set forth in the
4 adjusted schedule of basic rates for that fiscal year, the
5 state participation level for that rate shall be further
6 increased to the amount specified in the adjusted
7 schedule of basic rates.

8 (e) (1) As used in this section, “specialized care
9 increment” means an approved amount paid with state
10 participation on behalf of an AFDC-FC child requiring
11 specialized care to a home listed in subdivision (a) in
12 addition to the basic rate. On the effective date of this
13 section, the department shall continue and maintain the
14 current ratesetting system for specialized care.

15 (2) Any county that, as of the effective date of this
16 section, has in effect specialized care increments that
17 have been approved by the department, shall continue to
18 receive state participation for those payments.

19 (3) Any county that, as of the effective date of this
20 section, has in effect specialized care increments that
21 exceed the amounts that have been approved by the
22 department, shall continue to receive the same level of
23 state participation as it received on the effective date of
24 this section.

25 (4) (A) Except for subparagraph (B), beginning
26 January 1, 1990, specialized care increments shall be
27 adjusted in accordance with the methodology for the
28 schedule of basic rates described in subdivision (c). No
29 county shall receive state participation for any increases
30 in a specialized care increment which exceeds the
31 adjustments made in accordance with this methodology.

32 (B) Notwithstanding subdivision (e) of Section 11460,
33 for the 1993–94 fiscal year, an amount equal to 5 percent
34 of the State Treasury appropriation for family homes shall
35 be added to the total augmentation for the AFDC-FC
36 program in order to provide incentives and assistance to
37 counties in the area of specialized care. This
38 appropriation shall be used, but not limited to,
39 encouraging counties to implement or expand
40 specialized care payment systems, to recruit and train



1 foster parents for the placement of children with
2 specialized care needs, and to develop county systems to
3 encourage the placement of children in family homes. It
4 is the intent of the Legislature that in the use of these
5 funds, federal financial participation shall be claimed
6 whenever possible.

7 (f) (1) As used in this section, “clothing allowance”
8 means the amount paid with state participation in
9 addition to the basic rate for the provision of additional
10 clothing for an AFDC-FC child, including, but not limited
11 to, an initial supply of clothing and school or other
12 uniforms.

13 (2) Any county that, as of the effective date of this
14 section, has in effect clothing allowances, shall continue
15 to receive the same level as it received on the effective
16 date of this section.

17 (3) Beginning January 1, 1990, clothing allowances
18 shall be adjusted annually in accordance with the
19 methodology for the schedule of basic rates described in
20 subdivision (c). No county shall be reimbursed for any
21 increases in clothing allowances which exceed the
22 adjustments made in accordance with this methodology.

23 *SEC. 47.1. Section 11462 of the Welfare and*
24 *Institutions Code is amended to read:*

25 11462. (a) (1) Effective July 1, 1990, foster care
26 providers licensed as group homes, as defined in
27 departmental regulations, including public child care
28 institutions, as defined in Section 11402.5, shall have rates
29 established by classifying each group home program and
30 applying the standardized schedule of rates. The
31 department shall collect information from group
32 providers beginning January 1, 1990, in order to classify
33 each group home program.

34 (2) Notwithstanding paragraph (1), foster care
35 providers licensed as group homes shall have rates
36 established only if the group home is organized and
37 operated on a nonprofit basis as required under
38 subdivision (h) of Section 11400. The department shall
39 terminate the rate effective January 1, 1993, of any group



1 home not organized and operated on a nonprofit basis as
2 required under subdivision (h) of Section 11400.

3 (b) A group home program shall be initially classified,
4 for purposes of emergency regulations, according to the
5 level of care and services to be provided using a point
6 system developed by the department and described in
7 the report, "The Classification of Group Home Programs
8 under the Standardized Schedule of Rates System,"
9 prepared by the State Department of Social Services,
10 August 30, 1989.

11 (c) The rate for each rate classification level (RCL)
12 has been determined by the department with data from
13 the AFDC-FC Group Home Rate Classification Pilot
14 Study. The rates effective July 1, 1990, were developed
15 using 1985 calendar year costs and reflect adjustments to
16 the costs for each fiscal year, starting with the 1986-87
17 fiscal year, by the amount of the California Necessities
18 Index computed pursuant to the methodology described
19 in Section 11453. The data obtained by the department
20 using 1985 calendar year costs shall be updated and
21 revised by January 1, 1993.

22 (d) As used in this section, "standardized schedule of
23 rates" means a listing of the 14 rate classification levels,
24 and the single rate established for each RCL, ~~and the rate~~
25 ~~floor for each RCL.~~

26 ~~(e) The standardized schedule of rates shall be phased~~
27 ~~in commencing July 1, 1990.~~

28 ~~(1) In order to phase in the standardized schedule of~~
29 ~~rates, a "rate floor" has been established for each RCL.~~

30 ~~(2) The rate floor for fiscal year 1990-91 shall be 85~~
31 ~~percent of the standard rate for each RCL. The rate floor~~
32 ~~shall be increased to 92.5 percent of the standard rate for~~
33 ~~fiscal year 1991-92 for each RCL, shall be equal to the~~
34 ~~standard rate for each RCL for the period July 1, 1992, to~~
35 ~~September 13, 1992, inclusive, and shall be 92.5 percent~~
36 ~~of the standard rate for each RCL for the period~~
37 ~~September 14, 1992, to June 30, 1993, inclusive.~~

38 ~~(3) The rate floor for each RCL shall be 95 percent of~~
39 ~~the standard rate for each RCL for the 1993-94 fiscal year.~~



1 ~~The rate floor shall be equal to the standard rate for each~~
2 ~~RCL for the 1994-95 fiscal year and beyond.~~

3 ~~(f) Except as specified in paragraph (1), the~~
4 ~~department shall determine the RCL for each group~~
5 ~~home program on a prospective basis, according to the~~
6 ~~level of care and services that the group home operator~~
7 ~~projects will be provided during the period of time for~~
8 ~~which the rate is being established.~~

9 ~~(1) For a group home program for which the~~
10 ~~department established a rate effective prior to June 30,~~
11 ~~1990, that took into account the program's historical costs,~~
12 ~~the department shall establish the rate for fiscal year~~
13 ~~1990-91 by determining the RCL on a retrospective basis,~~
14 ~~according to the level of care and services actually~~
15 ~~provided between July 1 and December 31, 1989, or~~
16 ~~between July 1, 1989, and March 31, 1990 (A) For new~~
17 ~~and existing providers requesting the establishment of an~~
18 ~~RCL, and for existing group home programs requesting~~
19 ~~an RCL increase, the department shall determine the~~
20 ~~RCL no later than 13 months after the effective date of~~
21 ~~the provisional rate. The determination of the RCL shall~~
22 ~~be based on a program audit of documentation and other~~
23 ~~information that verifies the level of care and supervision~~
24 ~~provided by the group home program during a period of~~
25 ~~the two full calendar months or 60 consecutive days,~~
26 ~~whichever is longer, preceding the date of the program~~
27 ~~audit, unless the group home program requests a lower~~
28 ~~RCL. The program audit shall not cover the first six~~
29 ~~months of operation under the provisional rate. Pending~~
30 ~~the department's issuance of the program audit report~~
31 ~~that determines the RCL for the group home program,~~
32 ~~the group home program shall be eligible to receive a~~
33 ~~provisional rate that shall be based on the level of care and~~
34 ~~service that the group home program proposes it will~~
35 ~~provide. The group home program shall be eligible to~~
36 ~~receive only the RCL determined by the department~~
37 ~~during the pendency of any appeal of the department's~~
38 ~~RCL determination.~~

39 ~~(B) A group home program may apply for an increase~~
40 ~~in its RCL no earlier than two years from the date the~~



1 department has determined the group home program's
2 rate, unless the host county, the primary placing county,
3 or a regional consortium of counties submits to the
4 department in writing that the program is needed in that
5 county, that the provider is capable of effectively and
6 efficiently operating the proposed program, and that the
7 provider is willing and able to accept AFDC-FC children
8 for placement who are determined by the placing agency
9 to need the level of care and services that will be provided
10 by the program.

11 (C) To ensure efficient administration of the
12 department's audit responsibilities, and to avoid the
13 fraudulent creation of records, group home programs
14 shall make records that are relevant to the RCL
15 determination available to the department in a timely
16 manner. Except as provided in this section, the
17 department may refuse to consider, for purposes of
18 determining the rate, any documents that are relevant to
19 the determination of the RCL that are not made available
20 by the group home provider by the date the group home
21 provider requests a hearing on the department's RCL
22 determination. The department may refuse to consider
23 for purposes of determining the rate, the following
24 records, unless the group home provider makes the
25 records available to the department during the field work
26 portion of the department's program audit:

27 (i) Records of each employee's full name, home
28 address, occupation, and social security number.

29 (ii) Time records showing when the employee begins
30 and ends each work period, meal periods, split shift
31 intervals, and total daily hours worked.

32 (iii) Total wages paid each payroll period.

33 (iv) Records required to be maintained by licensed
34 group home providers under the provisions of Title 22 of
35 the California Code of Regulations that are relevant to
36 the RCL determination.

37 (D) To minimize financial abuse in the startup of
38 group home programs, when the department's RCL
39 determination is more than three levels lower than the
40 RCL level proposed by the group home provider, and the



1 group home provider does not appeal the department's
2 RCL determination, the department shall terminate the
3 rate of a group home program 45 days after issuance of its
4 program audit report. When the group home provider
5 requests a hearing on the department's RCL
6 determination, and the RCL determined by the director
7 under subparagraph (E) is more than three levels lower
8 than the RCL level proposed by the group home
9 provider, the department shall terminate the rate of a
10 group home program within 30 days of issuance of the
11 director's decision. Notwithstanding the reapplication
12 provisions in subparagraph (B), the department shall
13 deny any request for a new or increased RCL from a
14 group home provider whose RCL is terminated pursuant
15 to this subparagraph, for a period of no greater than two
16 years from the effective date of the RCL termination.

17 (E) A group home provider may request a hearing of
18 the department's RCL determination under
19 subparagraph (A) no later than 30 days after the date the
20 department issues its RCL determination. The
21 department's RCL determination shall be final if the
22 group home provider does not request a hearing within
23 the prescribed time. Within 60 days of receipt of the
24 request or hearing, the department shall conduct a
25 hearing on the RCL determination. The standard of proof
26 shall be the preponderance of the evidence and the
27 burden of proof shall be on the department. The hearing
28 officer shall issue the proposed decision within 45 days of
29 the close of the evidentiary record. The director shall
30 adopt, reject, or modify the proposed decision, or refer
31 the matter back to the hearing officer for additional
32 evidence or findings within 90 days of issuance of the
33 proposed decision. If the director takes no action on the
34 proposed decision within the prescribed time, the
35 proposed decision shall take effect by operation of law.

36 (2) Group home programs that fail to maintain at least
37 the level of care and services associated with the RCL
38 upon which their rate was established shall inform the
39 department. The department shall develop regulations
40 specifying procedures to be applied when a group home



1 fails to maintain the level of services projected, including,
2 but not limited to, rate reduction and recovery of
3 overpayments.

4 (3) The department shall not reduce the rate, establish
5 an overpayment, or take other actions pursuant to
6 paragraph (2) for any period that a group home program
7 maintains the level of care and services associated with
8 the RCL for children actually residing in the facility.
9 Determinations of levels of care and services shall be
10 made in the same way as modifications of overpayments
11 are made pursuant to paragraph (2) of subdivision (b) of
12 Section 11466.2.

13 ~~(4) Beginning July 1, 1994, for group homes paid at~~
14 ~~rates below the standard rate established by subdivision~~
15 ~~(g), a group home program shall remain at its current~~
16 ~~RCL if it maintains at least the level of care and services~~
17 ~~associated with that percentage of the points required to~~
18 ~~be at that RCL that equals the percentage of the standard~~
19 ~~rate used to establish the group home's rate. In no event,~~
20 ~~however, shall points per child per month be reduced~~
21 ~~more than 10 points below the minimum required for the~~
22 ~~current RCL. The RCL for a program shall not increase~~
23 ~~due to the operation of this paragraph absent any~~
24 ~~program changes approved by the department pursuant~~
25 ~~to subdivision (k).~~

26 ~~(5)~~ A group home program that substantially changes
27 ~~it~~ *its* staffing pattern from that reported in the group
28 home program statement shall provide notification of this
29 change to all counties that have placed children currently
30 in care. This notification shall be provided whether or not
31 the RCL for the program may change as a result of the
32 change in staffing pattern.

33 ~~(g)~~

34 ~~(f)~~ The standardized schedule of rates for fiscal year
35 ~~1990-91~~ 1998-99 is:

		FY 1990-91	
Rate		Standard	Rate
Classification		Rate	Floor
Level	Point Ranges		



1				(85%)
2	1	Under 60	\$1,183	\$1,006
3	2	60-89	1,478	1,256
4	3	90-119	1,773	1,507
5	4	120-149	2,067	1,757
6	5	150-179	2,360	2,006
7	6	180-209	2,656	2,258
8	7	210-239	2,950	2,508
9	8	240-269	3,245	2,758
10	9	270-299	3,539	3,008
11	10	300-329	3,834	3,259
12	11	330-359	4,127	3,508
13	12	360-389	4,423	3,760
14	13	390-419	4,720	4,012
15	14	420 & Up	5,013	4,261

17	<i>Rate</i>	<i>Point Ranges</i>	<i>FY 1998-99</i>
18	<i>Classification</i>		<i>Standard</i>
19	<i>Level</i>		<i>Rate</i>
20	1	Under 60	\$1,254
21	2	60- 89	1,567
22	3	90-119	1,879
23	4	120-149	2,191
24	5	150-179	2,502
25	6	180-209	2,815
26	7	210-239	3,127
27	8	240-269	3,440
28	9	270-299	3,751
29	10	300-329	4,064
30	11	330-359	4,375
31	12	360-389	4,688
32	13	390-419	5,003
33	14	420 & Up	5,314

35 ~~(h) (1) For fiscal year 1990-91, the standardized~~
 36 ~~schedule of rates shall be implemented as follows:~~

37 ~~(A) Any group home program which received an~~
 38 ~~AFDC-FC rate in the prior fiscal year below the standard~~
 39 ~~rate for the fiscal year 1990-91 RCL shall receive their~~
 40 ~~1989-90 rate plus an amount equal to the California~~



1 ~~Necessities Index (CNI). The rate for fiscal year 1990-91~~
2 ~~at which the state will participate shall not exceed the~~
3 ~~standard rate for the RCL.~~

4 ~~(B) If the CNI increase to the group home program's~~
5 ~~fiscal year 1989-90 rate does not raise the group home~~
6 ~~program to the rate floor for the RCL, the group home~~
7 ~~program shall receive a rate equal to the rate floor for the~~
8 ~~RCL.~~

9 ~~(C) A group home program which received an~~
10 ~~AFDC-FC rate for fiscal year 1989-90 at or above the~~
11 ~~standard rate for the RCL for fiscal year 1990-91 shall~~
12 ~~continue to receive that fiscal year 1989-90 rate.~~

13 ~~(2)-~~

14 ~~(g) (1) For that portion of the 1998-99 fiscal year,~~
15 ~~commencing on November 1, 1998, and the 1999-2000~~
16 ~~fiscal year, the standardized rate for each RCL shall be~~
17 ~~adjusted by an amount equal to the California Necessities~~
18 ~~Index computed pursuant to the methodology described~~
19 ~~in Section 11453. *The resultant amounts shall constitute*~~
20 ~~*the new standardized schedule of rates.*~~

21 ~~(A) Any group home program which received an~~
22 ~~AFDC-FC rate in the prior fiscal year at or above the~~
23 ~~adjusted standard rate for the RCL in the current fiscal~~
24 ~~year shall continue to receive that rate.~~

25 ~~(B) A group home program which received an~~
26 ~~AFDC-FC rate in the prior fiscal year below the standard~~
27 ~~rate for the RCL in the current fiscal year shall receive~~
28 ~~that rate adjusted by an amount equal to the CNI. The~~
29 ~~rate for the current fiscal year shall not exceed the~~
30 ~~standard rate for the RCL and shall not be less than the~~
31 ~~rate floor for the RCL.~~

32 ~~(3)-~~

33 ~~(2) Beginning with the 2000-01 fiscal year, the~~
34 ~~standardized schedule of rates shall be adjusted annually~~
35 ~~by an amount equal to the CNI computed pursuant to~~
36 ~~Section 11453, subject to the availability of funds. *The*~~
37 ~~*resultant amounts shall constitute the new standardized*~~
38 ~~*schedule of rates.*~~

39 ~~(A)-~~



1 (h) The standardized schedule of rates pursuant to
2 subdivisions (f) and (g) shall be implemented as follows:

3 (1) Any group home program which received an
4 AFDC-FC rate in the prior fiscal year at or above the
5 ~~adjusted~~ standard rate for the RCL in the current fiscal
6 year shall continue to receive that rate.

7 ~~(B)~~

8 (2) Any group home program which received an
9 AFDC-FC rate in the prior fiscal year below the ~~adjusted~~
10 standard rate for the RCL in the current fiscal year shall
11 receive the ~~adjusted~~ RCL rate for the current year.

12 (i) (1) ~~(A) The rate for a new group home program~~
13 ~~of a new or existing provider shall be established at the~~
14 ~~rate floor for the new program's projected RCL.~~

15 ~~(B) On and after the operative date of this~~
16 ~~subparagraph, the department shall not, prior to July 1,~~
17 ~~1993, establish a rate for a new group home program of a~~
18 ~~new or existing provider.~~

19 ~~(2)~~ The department shall not establish a rate for a new
20 program of a new or existing provider unless the provider
21 submits a recommendation from the host county, the
22 primary placing county, or a regional consortium of
23 counties that the program is needed in that county; that
24 the provider is capable of effectively and efficiently
25 operating the program; and that the provider is willing
26 and able to accept AFDC-FC children for placement who
27 are determined by the placing agency to need the level
28 of care and services that will be provided by the program.

29 ~~(3)~~

30 (2) The department shall encourage the
31 establishment of consortia of county placing agencies on
32 a regional basis for the purpose of making decisions and
33 recommendations about the need for, and use of, group
34 home programs and other foster care providers within
35 the regions.

36 ~~(4)~~

37 (3) The department shall annually conduct a
38 county-by-county survey to determine the unmet
39 placement needs of children placed pursuant to ~~Sections~~



1 Section 300 and Section 601 or 602, and shall publish its
2 findings by November 1 of each year.

3 (j) The department shall develop regulations
4 specifying ratesetting procedures for program
5 expansions, reductions, or modifications, including
6 increases or decreases in licensed capacity, or increases or
7 decreases in level of care or services.

8 (k) (1) For the purpose of this subdivision, “program
9 change” means any alteration to an existing group home
10 program planned by a provider that will increase the
11 RCL or AFDC-FC rate. An increase in the licensed
12 capacity or other alteration to an existing group home
13 program that does not increase the RCL or AFDC-FC
14 rate shall not constitute a program change.

15 (2) ~~(A) Prior to July 1, 1993, the rate for a group home~~
16 ~~program shall not increase, as the result of a program~~
17 ~~change, from the rate established for the program~~
18 ~~effective June 30, 1992. For rate increases as a result of a~~
19 ~~program change which became effective between July 1,~~
20 ~~1992, and the effective date of this paragraph, the~~
21 ~~department shall adjust rates downward as necessary to~~
22 ~~comply with this chapter. Notwithstanding any other~~
23 ~~provisions of law, a group home provider shall be allowed~~
24 ~~to change a group home program to reflect a decrease in~~
25 ~~services due to the provisions of this paragraph.~~

26 ~~(B) For the 1993-94 fiscal year, the rate for a group~~
27 ~~home program shall not increase, as the result of a~~
28 ~~program change, from the rate established for the~~
29 ~~program effective July 1, 1993, except as provided in~~
30 ~~paragraph (3).~~

31 ~~(C) For the 1994-95 fiscal year, the 1995-96 fiscal year,~~
32 ~~the 1996-97 fiscal year, and the 1997-98 1998-99 fiscal~~
33 ~~year, the rate for a group home program shall not~~
34 ~~increase, as the result of a program change, from the rate~~
35 ~~established for the program effective July 1, 1994 1998,~~
36 ~~except as provided in paragraph (3).~~

37 (3) (A) For the 1993-94 fiscal year, the 1994-95 fiscal
38 year, the 1995-96 fiscal year, the 1996-97 fiscal year, and
39 the 1997-98 1998-99 fiscal year, the department shall not
40 establish a rate for a new program of a new or existing



1 provider or approve a program change for an existing
2 provider that either increases the program's RCL or
3 AFDC-FC rate, or increases the licensed capacity of the
4 program as a result of decreases in another program with
5 a lower RCL or lower AFDC-FC rate that is operated by
6 that provider, unless both of the conditions specified in
7 this paragraph are met.

8 (i) The licensee obtains a letter of recommendation
9 from the host county, primary placing county, or regional
10 consortium of counties regarding the proposed program
11 change or new program.

12 (ii) The county determines that there is no increased
13 cost to the General Fund.

14 (B) Notwithstanding subparagraph (A), the
15 department may grant a request for a new program or
16 program change, not to exceed 25 beds, statewide, if (i)
17 the licensee obtains a letter of recommendation from the
18 host county, primary placing county, or regional
19 consortium of counties regarding the proposed program
20 change or new program, and (ii) the new program or
21 program change will result in a reduction of referrals to
22 state hospitals during the ~~1993-94 fiscal year, the 1994-95~~
23 ~~fiscal year, the 1995-96 fiscal year, the 1996-97 fiscal year,~~
24 ~~or the 1997-98 1998-99 fiscal year.~~

25 (l) General unrestricted or undesignated private
26 charitable donations and contributions made to
27 charitable or nonprofit organizations shall not be
28 deducted from the cost of providing services pursuant to
29 this section. The donations and contributions shall not be
30 considered in any determination of maximum
31 expenditures made by the department.

32 (m) The department shall, by October 1 each year,
33 commencing October 1, 1992, provide the Joint
34 Legislative Budget Committee with a list of any new
35 departmental requirements established during the
36 previous fiscal year concerning the operation of group
37 homes, and of any unusual, industrywide increase in costs
38 associated with the provision of group care which may
39 have significant fiscal impact on providers of group
40 homes care. The committee may, in fiscal year 1993-94



1 and beyond, use the list to determine whether an
2 appropriation for rate adjustments is needed in the
3 subsequent fiscal year.

4 ~~(n) This section shall become operative on July 1, 1995.~~

5 *SEC. 47.3. Section 11463 of the Welfare and*
6 *Institutions Code is amended to read:*

7 11463. (a) The department, with the advice,
8 assistance, and cooperation of the counties and foster care
9 providers, shall develop, implement, and maintain a
10 ratesetting system for foster family agencies.

11 No county shall be reimbursed for any percentage
12 increases in payments, made on behalf of AFDC-FC
13 funded children who are placed with foster family
14 agencies, which exceed the percentage cost-of-living
15 increase provided in any fiscal year beginning on January
16 1, 1990, as specified in subdivision (c) of Section 11461.

17 (b) The department shall develop regulations
18 specifying the purposes, types, and services of foster
19 family agencies, including the use of those agencies for
20 the provision of emergency shelter care. Distinction for
21 ratesetting purposes shall be drawn between foster family
22 agencies which provide treatment of children in foster
23 families and those which provide nontreatment services.

24 (c) The department shall develop and maintain
25 regulations specifying the procedure for the appeal of
26 department decisions about the setting of an agency's
27 rate.

28 *(d) On and after July 1, 1998, the schedule of rates, and*
29 *the components used in the rate calculations specified in*
30 *the department's regulations, for foster family agencies*
31 *shall be increased by 6 percent, rounded to the nearest*
32 *dollar. The resultant amounts shall constitute the new*
33 *schedule of rates for foster family agencies.*

34 *SEC. 47.5. Section 11465 of the Welfare and*
35 *Institutions Code is amended to read:*

36 11465. (a) When a child is living with a parent who
37 receives AFDC-FC benefits, the rate paid to the provider
38 on behalf of the parent shall include an amount for care
39 and supervision of the child.



1 (b) For each category of eligible licensed community
2 care facility, as defined in Section 1502 of the Health and
3 Safety Code, the department shall adopt regulations
4 setting forth a uniform rate to cover the cost of care and
5 supervision of the child in each category of eligible
6 licensed community care facility.

7 (c) (1) *On and after July 1, 1998, the uniform rate to*
8 *cover the cost of care and supervision of a child pursuant*
9 *to this section shall be increased by 6 percent, rounded to*
10 *the nearest dollar. The resultant amounts shall constitute*
11 *the new uniform rate.*

12 (2) Subject to the availability of funds, for the ~~1989-90~~
13 ~~1999-2000~~ fiscal year and annually thereafter, these rates
14 shall be adjusted for cost of living pursuant to procedures
15 in Section 11453.

16 ~~(2) No adjustment shall be made under this section for~~
17 ~~the 1990-91 and 1991-92 fiscal years to reflect any change~~
18 ~~in the cost of living.~~

19 ~~(3) Any cost-of-living adjustment under this section~~
20 ~~for any subsequent fiscal years pursuant to Section 11453~~
21 ~~shall not include any adjustment to reflect increases for~~
22 ~~the cost of living for the 1990-91 and 1991-92 fiscal years.~~

23 *SEC. 48. Section 11466.21 is added to the Welfare and*
24 *Institutions Code, to read:*

25 *11466.21. (a) (1) In accordance with subdivision*
26 *(b), as a condition to receive an AFDC-FC rate for a*
27 *group home program or a foster family agency program*
28 *that provides treatment services, the provider shall*
29 *arrange to have a financial audit conducted on an annual*
30 *basis.*

31 *(2) The scope of the financial audit shall include all of*
32 *the programs and activities operated by the provider and*
33 *shall not be limited to those funded in whole or in part by*
34 *the AFDC-FC program. The financial audits shall*
35 *include, but not be limited to, an evaluation of the*
36 *accounting and control systems of the provider.*

37 *(3) The provider shall have its financial audit made by*
38 *certified public accountants or by state-licensed public*
39 *accountants who have no direct or indirect relationship*



1 *with the functions or activities being audited, or with the*
2 *provider, its board of directors, officers, or staff.*

3 *(4) The provider shall have its financial audits made*
4 *using generally accepted auditing standards applicable to*
5 *private entities organized and operated on a nonprofit*
6 *basis.*

7 *(5) (A) Each provider shall have the flexibility to*
8 *define the calendar months included in its fiscal year.*

9 *(B) A provider may change the definition of its fiscal*
10 *year. However, the financial audit conducted following*
11 *the change shall cover all of the months since the last*
12 *audit, even though this may cover a period that exceeds*
13 *12 months.*

14 *(b) (1) Except as provided for in paragraph (3), as a*
15 *condition to receive an AFDC-FC rate that becomes*
16 *effective on or after July 1, 1999, a provider shall submit*
17 *a copy of its most recent financial audit as a component*
18 *of any rate application, including an annual rate*
19 *application, an application for a rate for a new program*
20 *of an existing or new provider, an application for a change*
21 *in a program's rate classification level, and an application*
22 *for a program change.*

23 *(2) A rate application shall not be considered*
24 *complete until and unless the most recent financial audit*
25 *of the provider is submitted to the department.*

26 *(3) (A) For the period July 1, 1999, through June 30,*
27 *2000, a new provider that was incorporated on or after*
28 *October 1, 1997, shall not be required to submit a copy of*
29 *a financial audit as a component of its application for an*
30 *AFDC-FC rate for a new program.*

31 *(B) Effective July 1, 2000, a new provider that has been*
32 *incorporated for fewer than 12 calendar months shall not*
33 *be required to submit a copy of a financial audit as a*
34 *component of its application for an AFDC-FC rate for a*
35 *new program.*

36 *(c) (1) The department shall develop regulations*
37 *establishing a process for group home and foster family*
38 *agency providers, with a total licensed capacity of 12 or*
39 *fewer persons, to apply for and receive financial*
40 *assistance for the conduct of the annual financial audit. In*



1 recognition of the fact that the costs of a financial audit
2 will be higher for small providers, relative to their
3 revenues and expenditures, than they will be for larger
4 providers, financial assistance shall be provided on a
5 sliding scale basis to offset the costs of the audit. An
6 eligible provider may receive up to two thousand five
7 hundred dollars (\$2,500) annually, or one-half of the
8 actual costs of the financial audit, whichever is less. The
9 department shall implement this subdivision through the
10 adoption of emergency regulations.

11 SEC. 49. Section 11467 of the Welfare and Institutions
12 Code is repealed.

13 SEC. 49.5. Chapter 2.5 (commencing with Section
14 16160) is added to Part 4 of Division 9 of the Welfare and
15 Institutions Code, to read:

16

17 CHAPTER 2.5. FOSTER CHILD OMBUDSMAN PROGRAM

18

19 ~~16160. It is the intent of the Legislature to create an~~
20 ~~efficient and consumer responsive system to resolve~~
21 ~~placement or service delivery problems encountered by~~
22 ~~children in the foster care system.~~

23 ~~16161. (a) The State Department of Social Services~~
24 ~~shall, in collaboration with county welfare department~~
25 ~~representatives, current and former foster youth, foster~~
26 ~~care providers, and children's advocates, develop an~~
27 ~~independent ombudsman program.~~

28 ~~(b) The ombudsman program shall create a functional~~
29 ~~system for foster children that does both of the following:~~

30 ~~(1) Provide access to resources necessary to resolve~~
31 ~~problems of children in out-of-home care.~~

32 ~~(2) Receive information regarding the provision of~~
33 ~~health, education, and social services.~~

34 ~~16162. The department shall implement the~~
35 ~~ombudsman program by January 1, 2000.~~

36 ~~SEC. 50. Section 16501 of the Welfare and Institutions~~
37 ~~Code is amended to read:~~

38 ~~16501. (a) As used in this chapter, "child welfare~~
39 ~~services" means public social services which are directed~~
40 ~~toward the accomplishment of any or all the following~~



1 purposes: protecting and promoting the welfare of all
2 children, including handicapped, homeless, dependent,
3 or neglected children; preventing or remedying, or
4 assisting in the solution of problems which may result in,
5 the neglect, abuse, exploitation, or delinquency of
6 children; preventing the unnecessary separation of
7 children from their families by identifying family
8 problems, assisting families in resolving their problems;
9 and preventing breakup of the family where the
10 prevention of child removal is desirable and possible;
11 restoring to their families children who have been
12 removed, by the provision of services to the child and the
13 families; identifying children to be placed in suitable
14 adoptive homes, in cases where restoration to the
15 biological family is not possible or appropriate; and
16 assuring adequate care of children away from their
17 homes, in cases where the child cannot be returned home
18 or cannot be placed for adoption.

19 “Child welfare services” also means services provided
20 on behalf of children alleged to be the victims of child
21 abuse, neglect, or exploitation. The child welfare services
22 provided on behalf of each child represent a continuum
23 of services, including emergency response services,
24 family preservation services, family maintenance
25 services, family reunification services, and permanent
26 placement services. The individual child’s case plan is the
27 guiding principle in the provision of these services. The
28 case plan shall be developed within 30 days of the initial
29 removal of the child or of the in person response required
30 under subdivision (f) of Section 16501 if the child has not
31 been removed from his or her home, or by the date of the
32 jurisdictional hearing pursuant to Section 356, whichever
33 comes first.

34 (1) Child welfare services may include, but are not
35 limited to, a range of service-funded activities, including
36 case management, counseling, emergency shelter care,
37 emergency in-home caretakers, temporary in-home
38 caretakers, respite care, therapeutic day services,
39 teaching and demonstrating homemakers, parenting
40 training, substance abuse testing, and transportation.



1 ~~These service-funded activities shall be available to~~
2 ~~children and their families in all phases of the child~~
3 ~~welfare program in accordance with the child's case plan~~
4 ~~and departmental regulations. Funding for services is~~
5 ~~limited to the amount appropriated in the annual Budget~~
6 ~~Act and other available county funds.~~

7 ~~(2) Service-funded activities to be provided may be~~
8 ~~determined by each county, based upon individual child~~
9 ~~and family needs as reflected in the service plan.~~

10 ~~(3) As used in this chapter, "emergency shelter care"~~
11 ~~means emergency shelter provided to children who have~~
12 ~~been removed pursuant to Section 300 from their parent~~
13 ~~or parents or their guardian or guardians. State and~~
14 ~~federal reimbursement for emergency shelter care shall~~
15 ~~be available for 60 days. Each county shall report by July~~
16 ~~1, 1999, and annually thereafter, the number of children,~~
17 ~~the circumstances that require stays of longer than 30~~
18 ~~days, and the ages of children receiving emergency~~
19 ~~shelter care and the county's efforts to develop additional~~
20 ~~resources to limit the length of stay in emergency shelter~~
21 ~~care. For the purposes of this paragraph, "emergency~~
22 ~~shelter care" may include "transitional shelter care~~
23 ~~facilities" as defined in paragraph (11) of subdivision (a)~~
24 ~~of Section 1502 of the Health and Safety Code.~~

25 ~~(b) As used in this chapter, "respite care" means~~
26 ~~temporary care for periods not to exceed 72 hours. This~~
27 ~~care may be provided to the child's parents or guardians.~~
28 ~~This care shall not be limited by regulation to care over~~
29 ~~24 hours. These services shall not be provided for the~~
30 ~~purpose of routine, ongoing child care.~~

31 ~~(c) The county shall provide child welfare services as~~
32 ~~needed pursuant to an approved service plan and in~~
33 ~~accordance with regulations promulgated, in~~
34 ~~consultation with the counties, by the department.~~
35 ~~Counties may contract for service-funded activities as~~
36 ~~defined in paragraph (1) of subdivision (a). Each county~~
37 ~~shall use available private child welfare resources prior to~~
38 ~~developing new county-operated resources when the~~
39 ~~private child welfare resources are of at least equal~~
40 ~~quality and lesser or equal cost as compared with~~



1 ~~county-operated resources. Counties shall not contract~~
2 ~~for needs assessment, client eligibility determination, or~~
3 ~~any other activity as specified by regulations of the State~~
4 ~~Department of Social Services, except as specifically~~
5 ~~authorized in Section 16100.~~

6 ~~(d) Nothing in this chapter shall be construed to affect~~
7 ~~duties which are delegated to probation officers pursuant~~
8 ~~to Sections 601 and 654.~~

9 ~~(e) Any county may utilize volunteer individuals to~~
10 ~~supplement professional child welfare services by~~
11 ~~providing ancillary support services in accordance with~~
12 ~~regulations adopted by the State Department of Social~~
13 ~~Services.~~

14 ~~(f) As used in this chapter, emergency response~~
15 ~~services consist of a response system providing in-person~~
16 ~~response, 24 hours a day, seven days a week, to reports of~~
17 ~~abuse, neglect, or exploitation, as required by Article 2.5~~
18 ~~(commencing with Section 11164) of Chapter 2 of Title~~
19 ~~1 of Part 4 of the Penal Code for the purpose of~~
20 ~~investigation pursuant to Section 11166 of the Penal Code~~
21 ~~and to determine the necessity for providing initial intake~~
22 ~~services and crisis intervention to maintain the child~~
23 ~~safely in his or her own home or to protect the safety of~~
24 ~~the child. County welfare departments shall respond to~~
25 ~~any report of imminent danger to a child immediately~~
26 ~~and all other reports within 10 calendar days. An~~
27 ~~in-person response is not required when the county~~
28 ~~welfare department, based upon an evaluation of risk,~~
29 ~~determines that an in-person response is not appropriate.~~
30 ~~This evaluation includes collateral, contacts, a review of~~
31 ~~previous referrals, and other relevant information, as~~
32 ~~indicated.~~

33 ~~(g) As used in this chapter, family maintenance~~
34 ~~services are activities designed to provide in-home~~
35 ~~protective services to prevent or remedy neglect, abuse,~~
36 ~~or exploitation, for the purposes of preventing separation~~
37 ~~of children from their families.~~

38 ~~(h) As used in this chapter, family reunification~~
39 ~~services are activities designed to provide time-limited~~
40 ~~foster care services to prevent or remedy neglect, abuse,~~



1 or exploitation, when the child cannot safely remain at
2 home, and needs temporary foster care, while services
3 are provided to reunite the family.

4 (i) As used in this chapter, permanent placement
5 services are activities designed to provide an alternate
6 permanent family structure for children who because of
7 abuse, neglect, or exploitation cannot safely remain at
8 home and who are unlikely to ever return home. These
9 services shall be provided on behalf of children for whom
10 there has been a judicial determination of a permanent
11 plan for adoption, legal guardianship, or long-term foster
12 care.

13 (j) As used in this chapter, family preservation services
14 include those services specified in Section 16500.5 to avoid
15 or limit out-of-home placement of children, and may
16 include those services specified in that section to place
17 children in the least restrictive environment possible.

18 (k) (1) (A) In any county electing to implement this
19 subdivision, all county welfare department employees
20 who have frequent and routine contact with children
21 shall, by February 1, 1997, and all welfare department
22 employees who are expected to have frequent and
23 routine contact with children and who are hired on or
24 after January 1, 1996, and all such employees whose duties
25 change after January 1, 1996, to include frequent and
26 routine contact with children, shall, if the employees
27 provide services to children who are alleged victims of
28 abuse, neglect, or exploitation, sign a declaration under
29 penalty of perjury regarding any prior criminal
30 conviction, and shall provide a set of fingerprints to the
31 county welfare director.

32 (B) The county welfare director shall secure from the
33 Department of Justice a criminal record to determine
34 whether the employee has ever been convicted of a crime
35 other than a minor traffic violation. The Department of
36 Justice shall deliver the criminal record to the county
37 welfare director.

38 (C) If it is found that the employee has been convicted
39 of a crime, other than a minor traffic violation, the county
40 welfare director shall determine whether there is



1 substantial and convincing evidence to support a
2 reasonable belief that the employee is of good character
3 so as to justify frequent and routine contact with children.

4 (D) No exemption shall be granted pursuant to
5 subparagraph (C) if the person has been convicted of a
6 sex offense against a minor, or has been convicted of an
7 offense specified in Section 220, 243.4, 264.1, 273d, 288, or
8 289 of the Penal Code, or in paragraph (1) of Section 273a
9 of, or subdivision (a) or (b) of Section 368 of, the Penal
10 Code, or has been convicted of an offense specified in
11 subdivision (c) of Section 667.5 of the Penal Code. The
12 county welfare director shall suspend such a person from
13 any duties involving frequent and routine contact with
14 children.

15 (E) Notwithstanding subparagraph (D), the county
16 welfare director may grant an exemption if the employee
17 or prospective employee, who was convicted of a crime
18 against an individual specified in paragraph (1) or (7) of
19 subdivision (c) of Section 667.5 of the Penal Code, has
20 been rehabilitated as provided in Section 4852.03 of the
21 Penal Code and has maintained the conduct required in
22 Section 4852.05 of the Penal Code for at least 10 years and
23 has the recommendation of the district attorney
24 representing the employee's or prospective employee's
25 county of residence, or if the employee or prospective
26 employee has received a certificate of rehabilitation
27 pursuant to Chapter 3.5 (commencing with Section
28 4852.01) of Title 6 of Part 3 of the Penal Code. In that case,
29 the county welfare director may give the employee or
30 prospective employee an opportunity to explain the
31 conviction and shall consider that explanation in the
32 evaluation of the criminal conviction record.

33 (F) If no criminal record information has been
34 recorded, the county welfare director shall cause a
35 statement of that fact to be included in that person's
36 personnel file.

37 (2) For purposes of this subdivision, a conviction
38 means a plea or verdict of guilty or a conviction following
39 a plea of nolo contendere. Any action which the county
40 welfare director is permitted to take following the



~~1 establishment of a conviction may be taken when the
2 time for appeal has elapsed, or the judgment of conviction
3 has been affirmed on appeal or when an order granting
4 probation is made suspending the imposition of sentence,
5 notwithstanding a subsequent order pursuant to Sections
6 1203.4 and 1203.4a of the Penal Code permitting the
7 person to withdraw his or her plea of guilty and to enter
8 a plea of not guilty, or setting aside the verdict of guilty,
9 or dismissing the accusation, information, or indictment.
10 For purposes of this subdivision, the record of a
11 conviction, or a copy thereof certified by the clerk of the
12 court or by a judge of the court in which the conviction
13 occurred, shall be conclusive evidence of the conviction.
14~~

15 *16160. The Legislature finds and declares that the
16 people of California have benefited from the
17 establishment of a long-term care ombudsperson
18 pursuant to Section 9710 of the Welfare and Institutions
19 Code and a child care ombudsperson program pursuant
20 to Section 1596.872a of the Health and Safety Code. It is
21 the intent of the Legislature to provide similar
22 protections for foster children by establishing a foster
23 care ombudsperson program within the State
24 Department of Social Services.*

25 *16161. The Office of the State Foster Care
26 Ombudsperson shall be established as an autonomous
27 entity within the Health and Welfare Agency for the
28 purpose of providing children who are placed in foster
29 care, either voluntarily or pursuant to Section 300 and
30 Sections 600 and following, with a means to resolve issues
31 related to their care, placement, or services.*

32 *16162. The Secretary of the Health and Welfare
33 Agency, in consultation with a committee of interested
34 individuals, shall appoint an ombudsperson qualified by
35 training and experience to perform the duties of the
36 office for a term of two years. The director shall select the
37 committee members, the majority of whom shall be
38 representatives of children's advocacy organizations and
39 current or former foster youth.*



1 16163. The ombudsperson shall hire the necessary
2 personnel to perform the functions of the office. Priority
3 shall be given to former foster youth in hiring decisions.

4 16164. The Office of the State Foster Care
5 Ombudsperson shall do all of the following:

6 (a) Disseminate information on the rights of children
7 and youth in foster care and the services provided by the
8 office.

9 (b) Investigate and attempt to resolve complaints
10 made by or on behalf of children placed in foster care,
11 related to their care, placement, or services.

12 (c) Decide, in its discretion, whether to investigate a
13 complaint, or refer complaints to another agency for
14 investigation.

15 (d) Upon rendering a decision to investigate a
16 complaint from a complainant, notify the complainant of
17 the intention to investigate. If the office declines to
18 investigate a complaint or continue an investigation, the
19 office shall notify the complainant of the reason for the
20 action of the office.

21 (e) Document the number, source, origin, location,
22 and nature of complaints.

23 (f) Submit an annual report to the Legislature,
24 including all data collected over the course of the year,
25 specifying any unresolved or recurring complaints and
26 conditions in foster care, and making recommendations
27 for policy and program changes.

28 16165. The ombudsperson shall have access to any
29 record of a state or local agency that is necessary to carry
30 out his or her responsibilities. The ombudsperson may
31 meet or communicate with any foster child in his or her
32 placement or elsewhere.

33 16166. In his or her efforts to resolve complaints
34 related to foster care, the ombudsperson may do all of the
35 following:

36 (a) Conduct whatever investigation he or she deems
37 necessary.

38 (b) Attempt to resolve the complaint informally.

39 (c) Submit a written plan to the relevant state or
40 county agency recommending a course of action to



1 *resolve the complaint. If the ombudsperson makes a*
2 *written recommendation, the state or county agency*
3 *shall submit a written response to the ombudsperson*
4 *within 15 business days.*

5 16167. (a) *A toll-free number shall be established for*
6 *the office.*

7 (b) *Social workers shall provide foster children with*
8 *the toll-free number for the office and verbal or written*
9 *information regarding the existence and purpose of the*
10 *office.*

11 SEC. 51. Section 16501.1 of the Welfare and
12 Institutions Code is amended to read:

13 16501.1. (a) The Legislature finds and declares that
14 the foundation and central unifying tool in child welfare
15 services is the case plan.

16 (b) The Legislature further finds and declares that a
17 case plan ensures that the child receives protection and
18 proper case management, and that services are provided
19 to the parents or other caretakers as appropriate. A case
20 plan shall be based upon the principles of this section and
21 shall document that a preplacement assessment of the
22 service needs of the child and family, and preplacement
23 preventive services, have been provided, and that
24 reasonable efforts to prevent out-of-home placement
25 have been made.

26 (c) When out-of-home placement is used to attain case
27 plan goals, the decision regarding choice of placement
28 shall be based upon selection of the least restrictive or
29 most familylike and most appropriate setting and
30 selection of the environment best suited to meet the
31 child's special needs and best interests, or both. The
32 selection shall consider, in order of priority, placement
33 with relatives, tribal members, and foster family, group
34 care, and residential treatment pursuant to Section 7950
35 of the Family Code.

36 (d) A written case plan shall be completed within 30
37 days of the initial removal of the child or of the in-person
38 response required under subdivision (f) of Section 16501
39 if the child has not been removed from his or her home,
40 or by the date of the dispositional hearing pursuant to



1 Section 358, whichever occurs first. The case plan shall be
2 updated, as the service needs of the child and family
3 dictate. At a minimum, the case plan shall be updated in
4 conjunction with each status review hearing conducted
5 pursuant to Section 366.21, and the hearing conducted
6 pursuant to Section 366.25 or 366.26, but no less frequently
7 than once every six months.

8 (e) The child welfare services case plan shall be
9 comprehensive enough to meet the juvenile court
10 dependency proceedings requirements pursuant to
11 Article 6 (commencing with Section 300) of Chapter 2 of
12 Part 1 of Division 2.

13 (f) The case plan shall be developed as follows:

14 (1) The case plan shall be based upon an assessment of
15 the circumstances which required child welfare services
16 intervention.

17 (2) The case plan shall identify specific goals, and the
18 appropriateness of the planned services in meeting those
19 goals.

20 (3) The case plan shall identify the original allegations
21 of abuse or neglect, as defined in Article 2.5 (commencing
22 with Section 11164) of Chapter 2 of Title 1 of Part 4 of the
23 Penal Code, or the conditions cited as the basis for
24 declaring the child a dependent of the court pursuant to
25 Section 300, or all of these, and the other precipitating
26 incidents which led to child welfare services intervention.

27 (4) The case plan shall include a description of the
28 schedule of the social worker contacts with the child and
29 the family or other caretakers. The frequency of these
30 contacts shall be in accordance with regulations adopted
31 by the State Department of Social Services. If the child
32 has been placed in foster care out-of-state, the county
33 social worker or a social worker on the staff of the social
34 service agency in the state in which the child has been
35 placed shall visit the child in the home or institution at
36 least every ~~12 months~~ *month* and submit a report to the
37 court on each visit. *For children in out-of-state group*
38 *home facilities, visits shall be conducted at least monthly,*
39 *pursuant to Section 16516.5.*



1 (5) When out-of-home services are used, the
2 frequency of contact between the natural parents or legal
3 guardians and the child shall be specified in the case plan.
4 The frequency of those contacts shall reflect overall case
5 goals, and consider other principles outlined in this
6 section.

7 (6) When out-of-home placement is made, the case
8 plan shall include documentation of the provisions
9 specified in subdivisions (b), (c), and (d) of Section
10 16002.

11 (7) When out-of-home placement is made in a foster
12 family home, group home or other child care institution
13 that is either a substantial distance from the home of the
14 child's parent or out of state, the case plan shall specify the
15 reasons why that placement is in the best interests of the
16 child. When an out-of-state group home placement is
17 recommended or made, the case plan shall, in addition,
18 specify compliance with Section 7911 of the Family Code.

19 (8) When out-of-home services are used, the case plan
20 shall include a recommendation regarding the
21 appropriateness of unsupervised visitation between the
22 child and any of the child's siblings. This recommendation
23 shall include a statement regarding the child's and the
24 siblings' willingness to participate in unsupervised
25 visitation. If the case plan includes a recommendation for
26 unsupervised sibling visitation, the plan shall also note
27 that information necessary to accomplish this visitation
28 has been provided to the child or to the child's siblings.

29 (9) When out-of-home services are used and the goal
30 is reunification, the case plan shall describe the services
31 to be provided to assist in reunification and the services
32 to be provided concurrently to achieve legal permanency
33 if efforts to reunify fail.

34 (10) (A) Parents and legal guardians shall have an
35 opportunity to review the case plan, sign it whenever
36 possible, and then shall receive a copy of the plan. In any
37 voluntary service or placement agreement, the parents
38 or legal guardians shall be required to review and sign the
39 case plan. Whenever possible, parents and legal



1 guardians shall participate in the development of the case
2 plan.

3 (B) Parents and legal guardians shall be advised that,
4 pursuant to Section 1228.1 of the Evidence Code, neither
5 their signature on the child welfare services case plan nor
6 their acceptance of any services prescribed in the child
7 welfare services case plan shall constitute an admission of
8 guilt or be used as evidence against the parent or legal
9 guardian in a court of law. However, they shall also be
10 advised that the parent's or guardian's failure to
11 cooperate, except for good cause, in the provision of
12 services specified in the child welfare services case plan
13 may be used in any hearing held pursuant to Section
14 366.21 or 366.22 as evidence.

15 (11) The case plan shall be included in the court report
16 and shall be considered by the court at the initial hearing
17 and each review hearing. Modifications to the case plan
18 made during the period between review hearings need
19 not be approved by the court if the casework supervisor
20 for that case determines that the modifications further
21 the goals of the plan.

22 (g) If the court finds, after considering the case plan,
23 that unsupervised sibling visitation is appropriate and has
24 been consented to, the court shall order that the child or
25 the child's siblings be provided with information
26 necessary to accomplish this visitation. Nothing in this
27 section shall be construed to require or prohibit the
28 probation officer's facilitation, transportation, or
29 supervision of visits between the child and his or her
30 siblings.

31 (h) The case plan documentation on sibling
32 placements required under this section shall not require
33 modification of existing case plan forms until the Child
34 Welfare Services Case Management System is
35 implemented on a statewide basis.

36 (i) The department, in consultation with the County
37 Welfare Directors Association and other advocates, shall
38 develop standards and guidelines for a model relative
39 placement search and assessment process based on the
40 criteria established in Section 361.3. These guidelines



1 shall be incorporated in the training described in Section
2 16206. These model standards and guidelines shall be
3 developed by January 1, 1999.

4 SEC. 52. Section 16501.2 is added to the Welfare and
5 Institutions Code, to read:

6 16501.2. (a) The Legislature finds and declares all of
7 the following:

8 ~~(1) The safety, stability, and permanency of families~~
9 ~~for children in the child welfare system are of paramount~~
10 ~~importance.~~

11 ~~(2) Assessments of children and their families that~~
12 ~~build on the strengths of the child and family, and that~~
13 ~~identify the desired outcomes for children and their~~
14 ~~families, are critical in the development of appropriate~~
15 ~~case plans for children.~~

16 ~~(3) The use of multidisciplinary teams has been~~
17 ~~proven to improve the assessment, case planning, and~~
18 ~~delivery of services to children and families.~~

19 ~~(4) If it is necessary to place a child in out-of-home~~
20 ~~care, child and family assessments can enhance the~~
21 ~~appropriateness of placements and the identification and~~
22 ~~delivery of services to meet the child's needs and~~
23 ~~strengths, consistent with case plan goals.~~

24 ~~(b) By April 1, 1999, the department shall, in~~
25 ~~collaboration with representatives from county placing~~
26 ~~agencies, current and former foster youths, mental health~~
27 ~~providers, and other interested parties develop and issue~~
28 ~~a report containing best practice guidelines for~~
29 ~~assessments of families and children receiving foster care~~
30 ~~and child welfare services. These guidelines shall be~~
31 ~~based on a review process that includes research and~~
32 ~~tested collaborative models of assessment and case~~
33 ~~management, including, but not limited to, wraparound~~
34 ~~services, mental health systems of care, and family~~
35 ~~preservation. The department shall distribute these~~
36 ~~assessment guidelines to county placing agencies.~~

37 ~~(e) (1) The department shall conduct a pilot project~~
38 ~~to test the effectiveness of the guidelines developed~~
39 ~~pursuant to subdivision (b).~~



1 ~~(2) By September 1, 1999, the department shall solicit~~
2 ~~participation in this pilot project from up to _____~~
3 ~~counties that are broadly representative of the state.~~

4 ~~(3) The pilot project shall evaluate the usability of the~~
5 ~~protocol, whether the assessment process improves case~~
6 ~~planning and placement decisionmaking, and whether~~
7 ~~the assessment process improves the achievement of case~~
8 ~~plan goals. Pilot county selection and evaluation criteria~~
9 ~~shall be developed in consultation with the parties~~
10 ~~convened pursuant to subdivision (b).~~

11 ~~(d) The department, in collaboration with~~
12 ~~representatives of county placing agencies, training~~
13 ~~academies, and the California Center for Social Work~~
14 ~~Education, shall integrate training and technical~~
15 ~~assistance on the family assessment guidelines into the~~
16 ~~curriculum of the regional training academies.~~

17 *(1) Safety, stability, and the permanence of families in*
18 *the child welfare system are of paramount importance.*

19 *(2) Ongoing assessments that build on the strength of*
20 *the child and family unit, and that identify desired*
21 *outcomes, are critical in the development of appropriate*
22 *case plans for children.*

23 *(3) If it is necessary to place a child in out-of-home*
24 *care, the use of a formal child and family assessment can*
25 *enhance the appropriateness of placement and the*
26 *identification and delivery of services necessary to meet*
27 *the child's needs and strengths, consistent with case plan*
28 *goals.*

29 *(b) On or before December 31, 1998, the department*
30 *shall issue to all county placing agencies and the courts,*
31 *current best practice guidelines for the assessment of a*
32 *child and the child's family unit. The guidelines shall*
33 *include recommended methods for gathering certain*
34 *background information on the child and the child's*
35 *family unit, identifying appropriate services for the case*
36 *plan, and methods of monitoring and reassessing the case*
37 *plan to best meet case plan goals. For children placed in*
38 *group homes or foster family agencies, the guidelines*
39 *shall include methods for identifying appropriate*
40 *placement options, and monitoring the services provided*



1 *by the group home or foster family agency to best address*
2 *the strengths and needs of the child and the child's family*
3 *unit.*

4 *(c) (1) The department shall conduct a pilot project*
5 *to test the effectiveness of utilizing best practice*
6 *standards for the assessment of children and families*
7 *receiving child welfare and foster care services, for the*
8 *purpose of identifying the strengths and needs of the*
9 *family and the child, developing and monitoring*
10 *appropriate case plans, and determining appropriate*
11 *services.*

12 *(2) The pilot project shall meet all of the following*
13 *conditions:*

14 *(A) On or before July 1, 1999, the department shall*
15 *solicit participation in the pilot project by counties, and,*
16 *to the extent possible, provide for broad geographical*
17 *representation. On or before September 1, 1999, the*
18 *department shall select pilot counties and begin*
19 *operation of the pilot project.*

20 *(B) The pilot project shall use an assessment protocol*
21 *or process developed by the department in collaboration*
22 *with county agencies and other stakeholders.*

23 *(C) The pilot project shall be evaluated*
24 *independently to judge the effectiveness of the*
25 *assessment protocol or instrument, including whether*
26 *the assessment provides adequate background data on*
27 *the child and the child's family unit, improves*
28 *achievement of case plan goals, is judged useful to the*
29 *counties and service providers, and can be applied with*
30 *ease.*

31 *(D) For children placed in group homes or foster*
32 *family agencies, the assessment protocol or process*
33 *developed pursuant to subparagraph (B) shall identify*
34 *the strengths and needs of the child to be met by the*
35 *placement program and methods for monitoring the*
36 *delivery of services by the placement agencies.*

37 *(E) The assessment shall be sensitive to the ethnic and*
38 *linguistic background of the children and families being*
39 *assessed, and shall include, but not be limited to, the*
40 *child's age, previous placement history, specific*



1 indicators, including living situation, social situation,
2 medical situation, educational situation, vocational
3 situation, emotional situation, behavioral situation, and
4 legal, cultural, and religious history, and areas and
5 activities of interest.

6 (d) In collaboration with county agencies and other
7 stakeholders, and based on the results of the pilot project
8 described in this section, the department shall develop a
9 formal assessment process for children receiving foster
10 care and child welfare services. On or before May 1, 2001,
11 the department shall inform the Legislature on the status
12 of the pilot project described in this section, and the
13 proposed assessment protocol or process with
14 recommendations for its implementation, including
15 incorporation of the assessment process into the child
16 welfare services case management system.

17 (e) Upon satisfactory completion of the pilot project
18 described in this section, and development of a formal
19 assessment instrument or process, the department, in
20 collaboration with representatives of county placing
21 agencies, training academies, and the California Social
22 Work Education Center, shall integrate training and
23 technical assistance on the family assessment guidelines
24 into the curriculum of the regional training academies.

25 SEC. 53. Section 16516.5 is added to the Welfare and
26 Institutions Code, to read:

27 16516.5. (a) Notwithstanding any other provision of
28 law or regulation, all foster children placed in group
29 homes by county welfare departments or county
30 probation departments shall be visited at least monthly
31 by a county social worker or probation officer.

32 (b) Notwithstanding Section 10101, the state shall pay
33 100 percent of the nonfederal costs associated with the
34 monthly visitation requirement in subdivision (a).

35 SEC. 53.5. Section 18358.30 of the Welfare and
36 Institutions Code is amended to read:

37 18358.30. (a) Rates for foster family agency programs
38 participating under this chapter shall be exempt from the
39 current AFDC-FC foster family agency ratesetting
40 system.



1 (b) Rates for foster family agency programs
 2 participating under this chapter shall be set according to
 3 the appropriate service and rate level based on the level
 4 of services provided to the eligible child and the certified
 5 foster family. For an eligible child placed from a group
 6 home program, the service and rate level shall not exceed
 7 the rate paid for group home placement. For an eligible
 8 child assessed by the county interagency review team as
 9 at imminent risk of group home placement or psychiatric
 10 hospitalization, the appropriate service and rate level for
 11 the child shall be determined by the interagency review
 12 team at time of placement. In all of the service and rate
 13 levels, the foster family agency programs shall:

14 (1) Provide social work services with average case
 15 loads not to exceed eight children per worker, except that
 16 social worker average case loads for children in Service
 17 and Rate Level E shall not exceed 12 children per worker.

18 (2) Pay an amount of one thousand two hundred
 19 dollars (\$1,200) per child per month to the certified foster
 20 parent or parents.

21 (3) Perform activities necessary for the administration
 22 of the programs, including, but not limited to, training,
 23 recruitment, certification, and monitoring of the certified
 24 foster parents.

25 (4) (A) (i) Provide a minimum average range of
 26 service per month for children in each service and rate
 27 level in a participating foster family agency, represented
 28 by paid employee hours incurred by the participating
 29 foster family agency, by the in-home support counselor to
 30 the eligible child and the certified foster parents
 31 depending on the needs of the child and according to the
 32 following schedule:

33		
34	Service	In-Home Support
35	and	Counselor Hours
36	Rate Level	Per Month
37	A	98-114 hours
38	B	81-97 hours
39	C	64-80 hours
40	D	47-63 hours



1 (ii) Children placed at Service and Rate Level E shall
 2 receive crisis intervention and other support services on
 3 a flexible, as needed, basis from an in-home support
 4 counselor. The foster family agency shall provide one
 5 full-time in-home support counselor for every 20 children
 6 placed at this level.

7 (B) When the interagency review team and the foster
 8 family agency agree that alternative services are in the
 9 best interests of the child, the foster family agency may
 10 provide the following types of services in lieu of in-home
 11 support services required by subparagraph (A):

- 12 (i) Therapy.
- 13 (ii) Behavior modification services.
- 14 (iii) Support counselor services.
- 15 (iv) Psychotropic medication and monitoring.
- 16 (v) Respite services.
- 17 (vi) Family therapy to aid in family reunification.
- 18 (vii) Education liaison services to maintain the child in
 19 the classroom.

20 (c) The department or placing county, or both, may
 21 review the level of services provided by the foster family
 22 agency program. If the level of services actually provided
 23 are less than those required by subdivision (b) for the
 24 child's service and rate level, the rate shall be adjusted to
 25 reflect the level of service actually provided, and an
 26 overpayment may be established and recovered by the
 27 department.

28 (d) (1) ~~The~~ *On and after July 1, 1998, the* standard
 29 rate schedule of service and rate levels ~~for the 1995-96~~
 30 ~~fiscal year~~ shall be:

32 Service 33 and 34 Rate Level	Fiscal Year 1995-96 Standard Rate
35 A	\$3,733
36 B	\$3,423
37 C	\$3,112
38 D	\$2,802
39 E	\$2,490

40



1	<i>Service</i>	<i>Fiscal Year</i>
2	<i>and</i>	<i>1998-99</i>
3	<i>Rate Level</i>	<i>Standard Rate</i>
4	<i>A</i>	<i>\$3,957</i>
5	<i>B</i>	<i>\$3,628</i>
6	<i>C</i>	<i>\$3,290</i>
7	<i>D</i>	<i>\$2,970</i>
8	<i>E</i>	<i>\$2,639</i>
9		

10 (2) Beginning with the ~~1996-97~~ 1999-2000 fiscal year,
 11 the standardized schedule of rates shall be adjusted
 12 annually by an amount equal to the California Necessities
 13 Index computed pursuant to Section 11453, subject to the
 14 availability of funds. *The resultant amounts shall*
 15 *constitute the new standard rate schedule for foster*
 16 *family agency programs participating under this chapter.*

17 (e) Rates for foster family agency programs
 18 participating under this chapter shall not exceed Service
 19 and Rate Level A at any time during an eligible child's
 20 placement. An eligible child may be initially placed in a
 21 participating intensive foster care program at any one of
 22 the five Service and Rate Levels A to E, inclusive, and
 23 thereafter placed at any level, either higher or lower, not
 24 to exceed a total of six months at any level other than
 25 Service and Rate Level E, unless it is determined to be in
 26 the best interests of the child by the child's county
 27 interagency review team and the child's certified foster
 28 parents. The child's interagency county interagency
 29 placement review team may, through a formal review of
 30 the child's placement, extend the placement of an eligible
 31 child in a service and rate level higher than Service and
 32 Rate Level E for additional periods of up to six months
 33 each.

34 (f) It is the intent of the Legislature that the rate paid
 35 to participating foster family agency programs shall
 36 decrease as the child's need for services from the foster
 37 family agency decreases. The foster family agency shall
 38 notify the placing county and the department of the
 39 reduced services and the pilot classification model, and
 40 the rate shall be reduced accordingly.



1 (g) It is the intent of the Legislature to prohibit any
2 duplication of public funding. Therefore, social worker
3 services, payments to certified foster parents,
4 administrative activities, and the services of in-home
5 support counselors that are funded by another public
6 source shall not be counted in determining whether the
7 foster family agency program has met its obligations to
8 provide the items listed in paragraphs (1), (2), (3), and
9 (4) of subdivision (b). The department shall work with
10 other potentially affected state departments to ensure
11 that duplication of payment or services does not occur.

12 SEC. 54. Chapter 12.86 (commencing with Section
13 18987.6) is added to Part 6 of Division 9 of the Welfare and
14 Institutions Code, to read:

15

16 CHAPTER 12.86. CHILDRENS SERVICES PROGRAM
17 DEVELOPMENT
18

19 18987.6. It is the intent of the Legislature to do all of
20 the following:

21 (a) Permit all counties to provide children with
22 service alternatives to group home care through the
23 development of expanded family-based services
24 programs and to expand the capacity of group homes to
25 provide services appropriate to the changing needs of
26 children in their care.

27 (b) Encourage collaboration among persons and
28 entities including, but not limited to, parents, county
29 welfare departments, county mental health departments,
30 county probation departments, county health
31 departments, special education local planning agencies,
32 school districts, and private service providers for the
33 purpose of planning and providing individualized
34 services for children and their birth or substitute families.

35 (c) Ensure local community participation in the
36 development of innovative delivery of services by county
37 placing agencies and service providers and the use of the
38 service resources and expertise of nonprofit providers to
39 develop family-based and community-based service
40 alternatives.



1 18987.61. (a) Each county may enter into ~~contracts~~
2 *performance agreements* with private, nonprofit
3 agencies to encourage innovation in the delivery of
4 children's services, to develop services not available in
5 the community, and to promote change in the child
6 welfare services system.

7 (b) In developing the agreements, counties and
8 service providers shall pursue services that enhance the
9 ability of children to remain in the least restrictive, most
10 family-like setting possible and promote services that
11 address the needs and strengths of individual children
12 and their families.

13 (c) *Programs developed pursuant to this section shall*
14 *operate within the county, or in another county with the*
15 *approval of that county.*

16 (d) Agreements pursuant to subdivision (a) shall be
17 for a period of up to three years.

18 ~~(d)~~

19 (e) A county shall provide a report to the director
20 within three months of the end of each agreement to
21 report on the details of the agreement, the results
22 achieved during its operation, and the applicability of the
23 approach to a wider population. The director shall make
24 these reports available to the Legislature upon request.

25 18987.62. (a) Upon request from a county, the
26 director may waive regulations governing foster care
27 payments or the operation of group homes to enable
28 counties to implement the agreements established
29 pursuant to Section 18987.61. Waivers granted by the
30 director shall be applicable only to services provided
31 under the terms of the agreement and for the duration of
32 the agreement. A waiver shall only be granted when all
33 of the following apply:

34 (1) The agreement promises to offer a worthwhile test
35 of an innovative approach or to encourage the
36 development of a new service for which there is a
37 recognized need.

38 (2) The regulatory requirement prevents the
39 implementation of the agreement.



1 (3) The requesting county proposes to monitor the
2 agreement through performance measures that ensure
3 that the purposes of the waived regulation will be
4 achieved.

5 (b) The director shall take steps that are necessary to
6 prevent the loss of any substantial amounts of federal
7 funds as a result of the waivers granted under this section.
8 The waiver may specify the extent to which the
9 requesting county shall share in ~~the~~ any cost resulting
10 from ~~the~~ any loss of federal funding.

11 (c) The director shall not waive regulations that apply
12 to the health and safety of children served by
13 participating private agencies.

14 (d) The director shall notify the appropriate policy
15 and fiscal committees of the Legislature whenever
16 waivers are granted and when a waiver of regulations was
17 required for the implementation of the county's proposed
18 agreement. The director shall identify the reason why the
19 development of the services outlined by the agreement
20 between the county and the service provider are
21 hindered by the regulations to be waived.

22 SEC. 55. (a) The State Department of Social Services
23 shall convene a working group of representatives of
24 County Welfare Directors, the Chief Probation Officers,
25 foster and former foster youth, group home providers,
26 and other interested parties convene a working group to
27 develop protocols outlining the roles and responsibilities
28 of placing agencies and group homes regarding
29 emergency and nonemergency placements of foster
30 children in group homes.

31 (b) The department shall submit a report obtained
32 from the working group containing sample protocols to
33 the appropriate policy and fiscal committees of the
34 Legislature by March 1, 1999.

35 (c) The model protocols shall at a minimum address all
36 of the following:

37 (1) Relevant information regarding the child and
38 family that placement workers shall provide to group
39 homes, including health, mental health, and education



1 information pursuant to Section 16010 of the Welfare and
2 Institutions Code.

3 (2) Appropriate orientations to be provided by group
4 homes for foster children and, if appropriate, their
5 families, after a decision to place has been made.

6 (3) County and provider responsibilities in ensuring
7 the child receives timely access to treatment and services
8 to the extent they are available identified in the child's
9 case plan and treatment plan, including multidisciplinary
10 assessments provided in counties involved in the Systems
11 of Care Program under Part 4 (commencing with Section
12 5850) of Division 5 of the Welfare and Institutions Code.

13 (4) County and provider responsibilities in the
14 periodic monitoring of foster children to ensure the
15 continued appropriateness of the placements and the
16 continued progress toward achieving the case plan and
17 treatment plan goals.

18 (5) Appropriate mechanisms, timelines, and
19 information sharing regarding discharge planning.

20 SEC. 56. The State Department of Social Services
21 shall adopt emergency regulations pursuant to Chapter
22 3.5 (commencing with Section 11340) of Part 1 of Division
23 3 of Title 2 of the Government Code to implement
24 Sections 1520.1, 1522.02, 1522.04, 1522.41, and 1522.42 of
25 the Health and Safety Code, and Section 11462 of the
26 Welfare and Institutions Code, as affected by this act. The
27 adoption of regulations pursuant to this section shall be
28 deemed to be an emergency and necessary for the
29 immediate preservation of the public peace, health, or
30 safety. The regulations shall become effective
31 immediately upon filing with the Secretary of State. The
32 regulations shall not remain in effect more than 180 days
33 unless the adopting agency complies with all of the
34 provisions of Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government
36 Code, as required by subdivision (e) of Section 11346.1 of
37 the Government Code.

38 SEC. 57. The department shall ~~establish~~ *convene* and
39 preside over a community care facility law enforcement
40 task force ~~which~~. *At the first meeting, the participants*



1 *shall identify a chairperson who* shall, by January 1, 1999,
2 identify and recommend to the appropriate policy and
3 fiscal committees of the Legislature specific statutory and
4 regulatory changes to permit efficient and effective
5 criminal prosecution of, and to permit efficient and
6 effective civil recovery of public funds from, individuals
7 associated with licensed facilities, who are involved in
8 illegal activities surrounding public funds paid to
9 providers for the care of, and delivery of services to
10 clients, of community care facilities. The community care
11 facilities task force shall also make recommendations
12 regarding the duties of the Fraud Investigation Unit
13 established by the Budget Act of 1998. Participants in the
14 task force shall include, but not be limited to, the State
15 Department of Social Services, the Department of
16 Justice, law enforcement officers, probation and welfare
17 workers, district attorneys, providers, *public defenders*,
18 and current or former foster youths. The task force shall
19 also evaluate potential consequences of any proposed
20 changes with respect to group home providers who do
21 not engage in illegal activities.

22 SEC. 58. (a) The Health and Welfare Agency shall
23 reexamine the role of out-of-home placements currently
24 available for children served within the child welfare
25 services system. The focus of this reexamination shall be
26 the role of group care within a family-based system of
27 care, including group homes, foster family agencies or
28 certified parents, and foster family homes or foster
29 parents. The Legislature finds and declares that the task
30 of defining the role of group care and establishing the
31 underlying policy is a critically important step to
32 reforming the current out-of-home care system. The
33 reexamination process shall be conducted in
34 collaboration with the primary stakeholders, and shall be
35 based on empirical research and “best practices” data.
36 The process shall include gathering research, holding
37 forums, and entering into partnerships with academia
38 and other stakeholders to complete the task.

39 (b) Upon a determination of the role of group care
40 pursuant to the reexamination required by subdivision



1 (a), the Health and Welfare Agency shall continue the
2 reexamination to the next phase, which shall be the
3 development of the related programmatic and
4 administrative requirements for group care. The
5 necessary supporting requirements for the development
6 of these programmatic and administrative requirements
7 shall include, but are not limited to, the following:

8 (1) Definition of the needs of children to be served,
9 *including differentiation if appropriate for the unique*
10 *needs of wards and dependents.*

11 (2) Program design and standards.

12 (3) Licensing categories.

13 (4) Rates and ratesetting procedures.

14 (5) Performance agreements.

15 (6) Outcomes, outcome indicators, and performance
16 measures.

17 (7) Mechanisms to ensure continuous quality
18 improvement.

19 (8) Related oversight and regulatory scheme.

20 (c) The Health and Welfare Agency shall, in
21 implementing subdivision (b), give particular attention
22 to the role of state licensing in determining quality of care
23 and the need for a new licensing category or categories
24 to better meet the needs of the children served. It is the
25 intent of the Legislature that licensing of group care
26 should not be based on a one-size-fits-all model. Instead,
27 the needs of children should be foremost and options
28 made available to effectively serve children who pose a
29 risk of flight or require treatment interventions currently
30 not available, or both, such as locked perimeters and
31 structured programs that permit different housing
32 arrangements, clothing restrictions, visitation
33 restrictions, and other treatment-based requirements. If
34 it is determined by the Health and Welfare Agency that
35 such a new licensing category or categories is
36 immediately necessary to meet the standards expressed
37 in this section, the Health and Welfare Agency shall
38 develop and submit proposals to the Legislature in order
39 to take this action.



1 (d) The Health and Welfare Agency shall develop a
2 proposal, including a work plan and timeframes to
3 complete this process, and submit it to the Legislature by
4 February 1, 1999.

5 (e) Any proposal or recommendation submitted
6 pursuant to this section shall not become effective unless
7 enacted pursuant to statute.

8 SEC. 59. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution for certain costs that may be incurred by a
11 local agency or school district because in that regard this
12 act creates a new crime or infraction, eliminates a crime
13 or infraction, or changes the penalty for a crime or
14 infraction, within the meaning of Section 17556 of the
15 Government Code, or changes the definition of a crime
16 within the meaning of Section 6 of Article XIII B of the
17 California Constitution.

18 However, notwithstanding Section 17610 of the
19 Government Code, if the Commission on State Mandates
20 determines that this act contains other costs mandated by
21 the state, reimbursement to local agencies and school
22 districts for those costs shall be made pursuant to Part 7
23 (commencing with Section 17500) of Division 4 of Title
24 2 of the Government Code. If the statewide cost of the
25 claim for reimbursement does not exceed one million
26 dollars (\$1,000,000), reimbursement shall be made from
27 the State Mandates Claims Fund.

28 Notwithstanding Section 17580 of the Government
29 Code, unless otherwise specified, the provisions of this act
30 shall become operative on the same date that the act
31 takes effect pursuant to the California Constitution.

