

AMENDED IN ASSEMBLY JUNE 13, 2012

SENATE BILL

No. 1011

Introduced by Committee on Budget and Fiscal Review

February 6, 2012

An act relating to the Budget Act of 2012, to amend Sections 17311.5 and 17706 of the Family Code, to amend Sections 1522 and 1596.871 of the Health and Safety Code, to amend Section 6151 of the Revenue and Taxation Code, and to amend Sections 11329.5, 11462.04, 11464, 12301.06, 12305.87, 12306.6, 14124.93, 18285, 19704, 19705, and 19709 of, to amend the heading of Chapter 7 (commencing with Section 19700) of Part 2 of Division 10 of, to add Sections 11334.6, 19705.1, and 19710 to, to repeal Sections 12301.03, 12301.05, 14132.957, 19700, 19701, 19702, and 19706 of, to repeal Part 1.75 (commencing with Section 10200) of Division 9 of, and to repeal, add, and repeal Section 11334.8 of, the Welfare and Institutions Code, and to amend Section 72 of Chapter 32 of the Statutes of 2011, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 1011, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2012: Human Services.~~

Under existing law, the parents of a minor child are responsible for supporting the child. Existing law establishes the Department of Child Support Services, which administers all federal and state laws and regulations relating to child support enforcement obligations. The Director of Child Support Services is also responsible for implementing and managing the statewide automated child support system, which includes the State Disbursement Unit. Existing law establishes the Child

Support Payment Trust Fund in the State Treasury and authorizes the deposit of child support payments received by the State Disbursement Unit into that fund, including overpayments, for the purpose of processing and providing child support payments. Under existing law, the Department of Child Support Services may enter into a trust agreement with an intermediary to receive or disburse child support collections. A trust agreement under these provisions may create trust accounts held outside the State Treasury.

This bill, for the 2012–13 fiscal year only, would authorize money in those trust accounts to be invested in specified securities or alternatives that offer comparable security, including mutual funds and money market funds. The bill would not authorize an investment or transfer that would interfere with the objective of the Child Support Payment Trust Fund.

Existing law provides that the 10 counties with the best performance standards shall receive an additional 5% of the state's share of those counties' collections that are used to reduce or repay aid that is paid under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Existing law requires these additional funds received by a county to be used for specified child support-related activities. Existing law suspends the payment of this additional 5% for the 2002–03 to 2011–12 fiscal years, inclusive.

This bill would extend the suspension of the additional 5% payments through the 2014–15 fiscal year.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified low-income persons receive health care services. Existing law requires the Department of Child Support Services to provide payments to the local child support agency of \$50 per case for obtaining 3rd-party health coverage or insurance of Medi-Cal beneficiaries, to the extent that funds are appropriated in the Budget Act. Under existing law, these payments are suspended for the 2003–04 to 2011–12 fiscal years, inclusive.

This bill would extend the suspension of the above-described payments to local child support agencies through the 2014–15 fiscal year.

Existing law requires the State Department of Social Services, before issuing a license or special permit to any person to operate or manage a community care facility or a day care facility, to secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other specified person has ever been

convicted of various crimes. Existing law, except during the 2003–04 to the 2011–12 fiscal years, inclusive, prohibits the Department of Justice and the State Department of Social Services from charging a fee for the fingerprinting of an applicant for a license to operate a community care facility that will provide nonmedical board, room, and care for 6 or fewer children, the fingerprinting of a day care facility applicant that will serve 6 or fewer children, or any family day care applicant, or for obtaining a criminal record of these applicants.

This bill would extend this authorization through the 2012–13 fiscal year.

Existing law requires the State Department of Health Care Services and the State Department of Social Services to develop a statewide eligibility and enrollment determination process for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, the Medi-Cal program, and the Supplemental Nutrition Assistance Program (SNAP), and designates the powers and duties of the departments with respect to the development of the centralized eligibility and enrollment process, including the development of a comprehensive plan, and authorizes the departments to implement the plan, subsequent to receiving statutory authorization and an appropriation, as specified.

This bill would repeal the provisions relating to the development and implementation of this eligibility and enrollment determination process.

Under existing law, one of the methods by which Medi-Cal program services are provided is pursuant to contracts with various types of managed care plans. Existing federal law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing law also provides for the county-administered In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, by or through contract by the county, by the creation of a public authority, or pursuant to a contract with a nonprofit consortium, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes.

Existing law requires the State Department of Health Care Services to establish a medication machine pilot project for certain at-risk Medi-Cal recipients, as specified, and designates the duties of the department in this regard. Existing law requires the State Department of Social Services, if the Department of Finance makes a specified

determination, to implement, with some exceptions, a reduction in authorized hours of service to each IHSS recipient, as prescribed.

This bill would delete these latter provisions.

Existing law makes specified findings and declarations with respect to the effect of decreased funding for CalWORKs for the 2009–10 to 2011–12 fiscal years, inclusive. In connection with this decreased funding, existing law extends certain exemptions from months counted as a month of receipt of aid, and allows counties to redirect funding between specified employment assistance and substance abuse treatment programs during the specified fiscal years, and to revise a specified welfare-to-work exemption in order to implement the county’s portion of specified funding reductions.

This bill would extend the above provisions indefinitely to apply to specified decreases in CalWORKs funding.

Existing law requires recipients of aid under the CalWORKs program who are under 19 years of age who are pregnant or custodial parents to participate in certain educational programs, which are referred to as the Cal-Learn Program. Existing law makes the Cal-Learn Program inoperative until July 1, 2012, except as specified.

This bill would provide that from July 1, 2012, to March 31, 2013, inclusive, counties be provided full or partial year funding, depending on the pace of their progression to full implementation of the Cal-Learn Program by April 1, 2013. By increasing the duties of counties, this bill would impose a state-mandated local program.

This bill would require the State Department of Social Services to submit a report to the budget committees of the Legislature with specified information relating to the Cal-Learn Program.

Existing law prohibits the establishment of a new group home rate or change to an existing rate under the AFDC-FC program for a prescribed period, except for exemptions granted on a case-by-case basis, and repeals this prohibition on January 1, 2013.

This bill would limit exceptions for any program with a rate classification level (RCL) below 10 to exceptions associated with a program change.

Existing law also requires the State Department of Social Services to implement a 3.6% reduction in service hours to each IHSS recipient, until July 1, 2012.

This bill would extend this reduction in service hours through July 1, 2013.

Existing law, the Sales and Use Tax Law, imposes a sales tax on retailers for the privilege of selling tangible personal property at retail, measured by the gross receipts from the sale of tangible personal property sold at retail in this state. A violation of specified provisions of this law is a crime. Existing law similarly imposes a sales tax on providers of support services for the privilege of selling support services at retail, measured by the gross receipts from the sale of those services in this state at a specified rate of those gross receipts.

Existing law creates the Personal Care IHSS Quality Assurance Revenue Fund in the State Treasury, and requires the revenue from the tax, less refunds, to be deposited in the fund. The fund is continuously appropriated to the State Department of Social Services for purposes of providing specified supplementary payments to providers of in-home supportive services. Existing law requires the IHSS provider tax and related supplementary payments to be implemented no earlier than July 1, 2010.

This bill would extend the earliest implementation date for the provider tax and supplementary payment provisions to January 1, 2012.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers, including group homes, on behalf of qualified children in foster care, according to a schedule of basic foster care rates. The program is funded by a combination of federal, state, and county funds. Under existing law, the basic AFDC-FC rates are adjusted annually on July 1 by the annual percentage change in the California Necessities Index applicable to the calendar year within which that July 1 occurs.

Existing law declares the need to provide enhanced reimbursement to address the extraordinary care and supervision needs of children who are consumers of regional center services and also receiving AFDC-FC, Kinship Guardianship Assistance Payment Program (Kin-GAP), or Adoption Assistance Program (AAP) benefits, at a rate that is higher than the average rate they would otherwise receive through the foster care system and higher than the rate other children with medical and other significant special needs receive. Existing law requires that if the schedule of foster care basic rates is increased on or after January 1, 2008, these enhanced rates shall be similarly adjusted.

This bill would revise the requirements relating to the adjustment of the enhanced rates payable for children who are dually eligible, as

described above, to instead require those rates to be annually adjusted by the percentage change in the California Necessities Index, beginning with the 2011–12 fiscal year.

Existing law creates the Child Health and Safety Fund, consisting of revenues from a specified license plate program and civil penalties imposed on child day care facility providers. Upon appropriation by the Legislature, 50% of those moneys in the fund derived from the license plate program are required to be expended to address various child health and safety concerns, as specified.

This bill would include an additional \$501,000 allocation, upon appropriation by the Legislature, for these purposes.

Existing law vests in the Department of Rehabilitation the responsibility and authority for the provision of vocational rehabilitation services to individuals with physical or mental disabilities. Existing law provides for the Rehabilitation Appeals Board within the department to hear appeals, as prescribed, that have been filed with the board by any applicant for, or client of, the department. Existing law provides that any applicant for, or client of, the department, upon filing a request, as prescribed, has the right to a fair hearing before the board that is required to be held within 45 days of the date the written request is received by the board.

This bill would eliminate the Rehabilitation Appeals Board, provide that a fair hearing will be held before an impartial hearing officer within 60 days of a written request for a hearing, and make related changes.

Existing law requires the State Department of Social Services, in consultation with designated stakeholders in the In-Home Supportive Services program, to develop a new ratesetting methodology for public authority administrative costs, to go into effect commencing with the 2012–13 fiscal year.

This bill would delay the effective date of the new ratesetting methodology to the 2013–14 fiscal year.

Existing law requires the State Department of Social Services to implement a single statewide Child Welfare Services Case Management System (CWS/CMS) to administer and evaluate the state's child welfare services and foster care programs. Existing law also requires the department, in partnership with the Office of Systems Integration (OSI) and designated stakeholders, to perform various activities regarding the effectiveness and operation of the CWS/CMS, and to report on these activities to the Legislature, by January 10, 2012.

This bill would require the State Department of Social Services to use funding included in the Budget Act of 2012 related to replacement of the CWS/CMS for the next steps necessary to move forward with the recommendation of the Child Welfare Automation Study Team (CAST) to proceed toward procuring a new system, as specified. The bill would require the OSI and the department to report the results of these activities, in addition to key milestones and anticipated timelines, to the Legislature by March 1, 2013, for review during the 2013 budget hearings.

This bill would require the State Department of Social Services and the Office of Systems Integration to have a qualified 3rd party conduct a cost-reasonableness assessment of the costs proposed by the vendor to migrate the Consortium-IV counties to the newly developed Los Angeles Eligibility, Automated Determination, Evaluation and Reporting (LEADER) Replacement System, in order to determine whether the proposed overall costs are within range of reasonableness, based on specified factors.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would appropriate \$1,000 from the General Fund to the California Health and Human Services Agency for administration.

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

~~*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.*~~

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

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

- 1 SECTION 1. Section 17311.5 of the Family Code is amended
- 2 to read:
- 3 17311.5. (a) The department may enter into a trust agreement
- 4 with a trustee or fiscal intermediary to receive or disburse child

1 support collections. The trust agreement may contain provisions
2 the department deems reasonable and proper for the security of
3 the child support payments. Any trust accounts created by the trust
4 agreements may be held outside the State Treasury.

5 *(b) For the 2012–13 fiscal year only, trust account moneys may*
6 *be invested in any of the types of securities listed in Section 16430*
7 *of the Government Code or alternatives offering comparable*
8 *security, including, but not limited to, mutual funds and money*
9 *market funds. This subdivision does not authorize investments or*
10 *transfers that would interfere with carrying out the objective for*
11 *which the Child Support Payment Trust Fund was created.*

12 *SEC. 2. Section 17706 of the Family Code is amended to read:*

13 17706. (a) It is the intent of the Legislature to encourage
14 counties to elevate the visibility and significance of the child
15 support enforcement program in the county. To advance this goal,
16 effective July 1, 2000, the counties with the 10 best performance
17 standards pursuant to clause (ii) of subparagraph (B) of paragraph
18 (2) of subdivision (b) of Section 17704 shall receive an additional
19 5 percent of the state’s share of those counties’ collections that are
20 used to reduce or repay aid that is paid pursuant to Article 6
21 (commencing with Section 11450) of Chapter 2 of Part 3 of
22 Division 9 of the Welfare and Institutions Code. The counties shall
23 use the increased recoupment for child support-related activities
24 that may not be eligible for federal child support funding under
25 Part D of Title IV of the Social Security Act, including, but not
26 limited to, providing services to parents to help them better support
27 their children financially, medically, and emotionally.

28 (b) The operation of subdivision (a) shall be suspended for the
29 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08,
30 2008–09, 2009–10, 2010–11, ~~and~~ 2011–12, 2012–13, 2013–14,
31 *and 2014–15* fiscal years.

32 *SEC. 3. Section 1522 of the Health and Safety Code is amended*
33 *to read:*

34 1522. The Legislature recognizes the need to generate timely
35 and accurate positive fingerprint identification of applicants as a
36 condition of issuing licenses, permits, or certificates of approval
37 for persons to operate or provide direct care services in a
38 community care facility, foster family home, or a certified family
39 home of a licensed foster family agency. Therefore, the Legislature
40 supports the use of the fingerprint live-scan technology, as

1 identified in the long-range plan of the Department of Justice for
2 fully automating the processing of fingerprints and other data by
3 the year 1999, otherwise known as the California Crime
4 Information Intelligence System (CAL-CII), to be used for
5 applicant fingerprints. It is the intent of the Legislature in enacting
6 this section to require the fingerprints of those individuals whose
7 contact with community care clients may pose a risk to the clients'
8 health and safety. An individual shall be required to obtain either
9 a criminal record clearance or a criminal record exemption from
10 the State Department of Social Services before his or her initial
11 presence in a community care facility.

12 (a) (1) Before issuing a license or special permit to any person
13 or persons to operate or manage a community care facility, the
14 State Department of Social Services shall secure from an
15 appropriate law enforcement agency a criminal record to determine
16 whether the applicant or any other person specified in subdivision
17 (b) has ever been convicted of a crime other than a minor traffic
18 violation or arrested for any crime specified in Section 290 of the
19 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
20 subdivision (b) of Section 273a of the Penal Code, or, prior to
21 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
22 or for any crime for which the department cannot grant an
23 exemption if the person was convicted and the person has not been
24 exonerated.

25 (2) The criminal history information shall include the full
26 criminal record, if any, of those persons, and subsequent arrest
27 information pursuant to Section 11105.2 of the Penal Code.

28 (3) Except during the 2003–04 to the ~~2011–12~~ 2012–13 fiscal
29 years, inclusive, neither the Department of Justice nor the State
30 Department of Social Services may charge a fee for the
31 fingerprinting of an applicant for a license or special permit to
32 operate a facility providing nonmedical board, room, and care for
33 six or less children or for obtaining a criminal record of the
34 applicant pursuant to this section.

35 (4) The following shall apply to the criminal record information:

36 (A) If the State Department of Social Services finds that the
37 applicant, or any other person specified in subdivision (b), has
38 been convicted of a crime other than a minor traffic violation, the
39 application shall be denied, unless the director grants an exemption
40 pursuant to subdivision (g).

1 (B) If the State Department of Social Services finds that the
2 applicant, or any other person specified in subdivision (b) is
3 awaiting trial for a crime other than a minor traffic violation, the
4 State Department of Social Services may cease processing the
5 application until the conclusion of the trial.

6 (C) If no criminal record information has been recorded, the
7 Department of Justice shall provide the applicant and the State
8 Department of Social Services with a statement of that fact.

9 (D) If the State Department of Social Services finds after
10 licensure that the licensee, or any other person specified in
11 paragraph (1) of subdivision (b), has been convicted of a crime
12 other than a minor traffic violation, the license may be revoked,
13 unless the director grants an exemption pursuant to subdivision
14 (g).

15 (E) An applicant and any other person specified in subdivision
16 (b) shall submit fingerprint images and related information to the
17 Department of Justice for the purpose of searching the criminal
18 records of the Federal Bureau of Investigation, in addition to the
19 criminal records search required by this subdivision. If an applicant
20 and all other persons described in subdivision (b) meet all of the
21 conditions for licensure, except receipt of the Federal Bureau of
22 Investigation's criminal offender record information search
23 response for the applicant or any of the persons described in
24 subdivision (b), the department may issue a license if the applicant
25 and each person described in subdivision (b) has signed and
26 submitted a statement that he or she has never been convicted of
27 a crime in the United States, other than a traffic infraction, as
28 ~~defined~~ *prescribed* in paragraph (1) of subdivision (a) of Section
29 42001 of the Vehicle Code. If, after licensure, the department
30 determines that the licensee or any other person specified in
31 subdivision (b) has a criminal record, the license may be revoked
32 pursuant to Section 1550. The department may also suspend the
33 license pending an administrative hearing pursuant to Section
34 1550.5.

35 (F) The State Department of Social Services shall develop
36 procedures to provide the individual's state and federal criminal
37 history information with the written notification of his or her
38 exemption denial or revocation based on the criminal record.
39 Receipt of the criminal history information shall be optional on
40 the part of the individual, as set forth in the agency's procedures.

1 The procedure shall protect the confidentiality and privacy of the
2 individual's record, and the criminal history information shall not
3 be made available to the employer.

4 (G) Notwithstanding any other law, the department is authorized
5 to provide an individual with a copy of his or her state or federal
6 level criminal offender record information search response as
7 provided to that department by the Department of Justice if the
8 department has denied a criminal background clearance based on
9 this information and the individual makes a written request to the
10 department for a copy specifying an address to which it is to be
11 sent. The state or federal level criminal offender record information
12 search response shall not be modified or altered from its form or
13 content as provided by the Department of Justice and shall be
14 provided to the address specified by the individual in his or her
15 written request. The department shall retain a copy of the
16 individual's written request and the response and date provided.

17 (b) (1) In addition to the applicant, this section shall be
18 applicable to criminal convictions of the following persons:

19 (A) Adults responsible for administration or direct supervision
20 of staff.

21 (B) Any person, other than a client, residing in the facility.

22 (C) Any person who provides client assistance in dressing,
23 grooming, bathing, or personal hygiene. Any nurse assistant or
24 home health aide meeting the requirements of Section 1338.5 or
25 1736.6, respectively, who is not employed, retained, or contracted
26 by the licensee, and who has been certified or recertified on or
27 after July 1, 1998, shall be deemed to meet the criminal record
28 clearance requirements of this section. A certified nurse assistant
29 and certified home health aide who will be providing client
30 assistance and who falls under this exemption shall provide one
31 copy of his or her current certification, prior to providing care, to
32 the community care facility. The facility shall maintain the copy
33 of the certification on file as long as care is being provided by the
34 certified nurse assistant or certified home health aide at the facility.
35 Nothing in this paragraph restricts the right of the department to
36 exclude a certified nurse assistant or certified home health aide
37 from a licensed community care facility pursuant to Section 1558.

38 (D) Any staff person, volunteer, or employee who has contact
39 with the clients.

1 (E) If the applicant is a firm, partnership, association, or
2 corporation, the chief executive officer or other person serving in
3 like capacity.

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

10 (2) The following persons are exempt from the requirements
11 applicable under paragraph (1):

12 (A) A medical professional as defined in department regulations
13 who holds a valid license or certification from the person's
14 governing California medical care regulatory entity and who is
15 not employed, retained, or contracted by the licensee if all of the
16 following apply:

17 (i) The criminal record of the person has been cleared as a
18 condition of licensure or certification by the person's governing
19 California medical care regulatory entity.

20 (ii) The person is providing time-limited specialized clinical
21 care or services.

22 (iii) The person is providing care or services within the person's
23 scope of practice.

24 (iv) The person is not a community care facility licensee or an
25 employee of the facility.

26 (B) A third-party repair person or similar retained contractor if
27 all of the following apply:

28 (i) The person is hired for a defined, time-limited job.

29 (ii) The person is not left alone with clients.

30 (iii) When clients are present in the room in which the repair
31 person or contractor is working, a staff person who has a criminal
32 record clearance or exemption is also present.

33 (C) Employees of a licensed home health agency and other
34 members of licensed hospice interdisciplinary teams who have a
35 contract with a client or resident of the facility and are in the
36 facility at the request of that client or resident's legal
37 decisionmaker. The exemption does not apply to a person who is
38 a community care facility licensee or an employee of the facility.

39 (D) Clergy and other spiritual caregivers who are performing
40 services in common areas of the community care facility or who

1 are advising an individual client at the request of, or with the
2 permission of, the client or legal decisionmaker, are exempt from
3 fingerprint and criminal background check requirements imposed
4 by community care licensing. This exemption does not apply to a
5 person who is a community care licensee or employee of the
6 facility.

7 (E) Members of fraternal, service, or similar organizations who
8 conduct group activities for clients if all of the following apply:

- 9 (i) Members are not left alone with clients.
10 (ii) Members do not transport clients off the facility premises.
11 (iii) The same organization does not conduct group activities
12 for clients more often than defined by the department's regulations.

13 (3) In addition to the exemptions in paragraph (2), the following
14 persons in foster family homes, certified family homes, and small
15 family homes are exempt from the requirements applicable under
16 paragraph (1):

17 (A) Adult friends and family of the licensed or certified foster
18 parent, who come into the home to visit for a length of time no
19 longer than defined by the department in regulations, provided
20 that the adult friends and family of the licensee are not left alone
21 with the foster children. However, the licensee, acting as a
22 reasonable and prudent parent, as defined in paragraph (2) of
23 subdivision (a) of Section 362.04 of the Welfare and Institutions
24 Code, may allow his or her adult friends and family to provide
25 short-term care to the foster child and act as an appropriate
26 occasional short-term babysitter for the child.

27 (B) Parents of a foster child's friend when the foster child is
28 visiting the friend's home and the friend, licensed or certified foster
29 parent, or both are also present. However, the licensee, acting as
30 a reasonable and prudent parent, may allow the parent of the foster
31 child's friend to act as an appropriate short-term babysitter for the
32 child without the friend being present.

33 (C) Individuals who are engaged by any licensed or certified
34 foster parent to provide short-term care to the child for periods not
35 to exceed 24 hours. Caregivers shall use a reasonable and prudent
36 parent standard in selecting appropriate individuals to act as
37 appropriate occasional short-term babysitters.

38 (4) In addition to the exemptions specified in paragraph (2), the
39 following persons in adult day care and adult day support centers
40 are exempt from the requirements applicable under paragraph (1):

1 (A) Unless contraindicated by the client's individualized
2 program plan (IPP) or needs and service plan, a spouse, significant
3 other, relative, or close friend of a client, or an attendant or a
4 facilitator for a client with a developmental disability if the
5 attendant or facilitator is not employed, retained, or contracted by
6 the licensee. This exemption applies only if the person is visiting
7 the client or providing direct care and supervision to the client.

8 (B) A volunteer if all of the following applies:

9 (i) The volunteer is supervised by the licensee or a facility
10 employee with a criminal record clearance or exemption.

11 (ii) The volunteer is never left alone with clients.

12 (iii) The volunteer does not provide any client assistance with
13 dressing, grooming, bathing, or personal hygiene other than
14 washing of hands.

15 (5) (A) In addition to the exemptions specified in paragraph
16 (2), the following persons in adult residential and social
17 rehabilitation facilities, unless contraindicated by the client's
18 individualized program plan (IPP) or needs and services plan, are
19 exempt from the requirements applicable under paragraph (1): a
20 spouse, significant other, relative, or close friend of a client, or an
21 attendant or a facilitator for a client with a developmental disability
22 if the attendant or facilitator is not employed, retained, or
23 contracted by the licensee. This exemption applies only if the
24 person is visiting the client or providing direct care and supervision
25 to that client.

26 (B) Nothing in this subdivision shall prevent a licensee from
27 requiring a criminal record clearance of any individual exempt
28 from the requirements of this section, provided that the individual
29 has client contact.

30 (6) Any person similar to those described in this subdivision,
31 as defined by the department in regulations.

32 (c) (1) Subsequent to initial licensure, a person specified in
33 subdivision (b) who is not exempted from fingerprinting shall
34 obtain either a criminal record clearance or an exemption from
35 disqualification pursuant to subdivision (g) from the State
36 Department of Social Services prior to employment, residence, or
37 initial presence in the facility. A person specified in subdivision
38 (b) who is not exempt from fingerprinting shall be fingerprinted
39 and shall sign a declaration under penalty of perjury regarding any
40 prior criminal convictions. The licensee shall submit fingerprint

1 images and related information to the Department of Justice and
2 the Federal Bureau of Investigation, through the Department of
3 Justice, for a state and federal level criminal offender record
4 information search, or comply with paragraph (1) of subdivision
5 (h). These fingerprint images and related information shall be sent
6 by electronic transmission in a manner approved by the State
7 Department of Social Services and the Department of Justice for
8 the purpose of obtaining a permanent set of fingerprints, and shall
9 be submitted to the Department of Justice by the licensee. A
10 licensee's failure to prohibit the employment, residence, or initial
11 presence of a person specified in subdivision (b) who is not exempt
12 from fingerprinting and who has not received either a criminal
13 record clearance or an exemption from disqualification pursuant
14 to subdivision (g) or to comply with paragraph (1) of subdivision
15 (h), as required in this section, shall result in the citation of a
16 deficiency and the immediate assessment of civil penalties in the
17 amount of one hundred dollars (\$100) per violation per day for a
18 maximum of five days, unless the violation is a second or
19 subsequent violation within a 12-month period in which case the
20 civil penalties shall be in the amount of one hundred dollars (\$100)
21 per violation for a maximum of 30 days, and shall be grounds for
22 disciplining the licensee pursuant to Section 1550. The department
23 may assess civil penalties for continued violations as permitted by
24 Section 1548. The fingerprint images and related information shall
25 then be submitted to the Department of Justice for processing.
26 Upon request of the licensee, who shall enclose a self-addressed
27 stamped postcard for this purpose, the Department of Justice shall
28 verify receipt of the fingerprints.

29 (2) Within 14 calendar days of the receipt of the fingerprint
30 images, the Department of Justice shall notify the State Department
31 of Social Services of the criminal record information, as provided
32 for in subdivision (a). If no criminal record information has been
33 recorded, the Department of Justice shall provide the licensee and
34 the State Department of Social Services with a statement of that
35 fact within 14 calendar days of receipt of the fingerprint images.
36 Documentation of the individual's clearance or exemption from
37 disqualification shall be maintained by the licensee and be available
38 for inspection. If new fingerprint images are required for
39 processing, the Department of Justice shall, within 14 calendar
40 days from the date of receipt of the fingerprints, notify the licensee

1 that the fingerprints were illegible, the Department of Justice shall
2 notify the State Department of Social Services, as required by
3 Section 1522.04, and shall also notify the licensee by mail, within
4 14 days of electronic transmission of the fingerprints to the
5 Department of Justice, if the person has no criminal history
6 recorded. A violation of the regulations adopted pursuant to Section
7 1522.04 shall result in the citation of a deficiency and an immediate
8 assessment of civil penalties in the amount of one hundred dollars
9 (\$100) per violation per day for a maximum of five days, unless
10 the violation is a second or subsequent violation within a 12-month
11 period in which case the civil penalties shall be in the amount of
12 one hundred dollars (\$100) per violation for a maximum of 30
13 days, and shall be grounds for disciplining the licensee pursuant
14 to Section 1550. The department may assess civil penalties for
15 continued violations as permitted by Section 1548.

16 (3) Except for persons specified in subdivision (b) who are
17 exempt from fingerprinting, the licensee shall endeavor to ascertain
18 the previous employment history of persons required to be
19 fingerprinted. If it is determined by the State Department of Social
20 Services, on the basis of the fingerprint images and related
21 information submitted to the Department of Justice, that subsequent
22 to obtaining a criminal record clearance or exemption from
23 disqualification pursuant to subdivision (g), the person has been
24 convicted of, or is awaiting trial for, a sex offense against a minor,
25 or has been convicted for an offense specified in Section 243.4,
26 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State
27 Department of Social Services shall notify the licensee to act
28 immediately to terminate the person's employment, remove the
29 person from the community care facility, or bar the person from
30 entering the community care facility. The State Department of
31 Social Services may subsequently grant an exemption from
32 disqualification pursuant to subdivision (g). If the conviction or
33 arrest was for another crime, except a minor traffic violation, the
34 licensee shall, upon notification by the State Department of Social
35 Services, act immediately to either (A) terminate the person's
36 employment, remove the person from the community care facility,
37 or bar the person from entering the community care facility; or
38 (B) seek an exemption from disqualification pursuant to subdivision
39 (g). The State Department of Social Services shall determine if
40 the person shall be allowed to remain in the facility until a decision

1 on the exemption from disqualification is rendered. A licensee's
2 failure to comply with the department's prohibition of employment,
3 contact with clients, or presence in the facility as required by this
4 paragraph shall result in a citation of deficiency and an immediate
5 assessment of civil penalties in the amount of one hundred dollars
6 (\$100) per violation per day and shall be grounds for disciplining
7 the licensee pursuant to Section 1550.

8 (4) The department may issue an exemption from
9 disqualification on its own motion pursuant to subdivision (g) if
10 the person's criminal history indicates that the person is of good
11 character based on the age, seriousness, and frequency of the
12 conviction or convictions. The department, in consultation with
13 interested parties, shall develop regulations to establish the criteria
14 to grant an exemption from disqualification pursuant to this
15 paragraph.

16 (5) Concurrently with notifying the licensee pursuant to
17 paragraph (3), the department shall notify the affected individual
18 of his or her right to seek an exemption from disqualification
19 pursuant to subdivision (g). The individual may seek an exemption
20 from disqualification only if the licensee terminates the person's
21 employment or removes the person from the facility after receiving
22 notice from the department pursuant to paragraph (3).

23 (d) (1) Before issuing a license or certificate of approval to any
24 person or persons to operate a foster family home or certified
25 family home as described in Section 1506, the State Department
26 of Social Services or other approving authority shall secure
27 California and Federal Bureau of Investigation criminal history
28 information to determine whether the applicant or any person
29 specified in subdivision (b) who is not exempt from fingerprinting
30 has ever been convicted of a crime other than a minor traffic
31 violation or arrested for any crime specified in subdivision (c) of
32 Section 290 of the Penal Code, for violating Section 245 or 273.5,
33 subdivision (b) of Section 273a or, prior to January 1, 1994,
34 paragraph (2) of Section 273a of the Penal Code, or for any crime
35 for which the department cannot grant an exemption if the person
36 was convicted and the person has not been exonerated. The State
37 Department of Social Services or other approving authority shall
38 not issue a license or certificate of approval to any foster family
39 home or certified family home applicant who has not obtained
40 both a California and Federal Bureau of Investigation criminal

1 record clearance or exemption from disqualification pursuant to
2 subdivision (g).

3 (2) The criminal history information shall include the full
4 criminal record, if any, of those persons.

5 (3) Neither the Department of Justice nor the State Department
6 of Social Services may charge a fee for the fingerprinting of an
7 applicant for a license, special permit, or certificate of approval
8 described in this subdivision. The record, if any, shall be taken
9 into consideration when evaluating a prospective applicant.

10 (4) The following shall apply to the criminal record information:

11 (A) If the applicant or other persons specified in subdivision
12 (b) who are not exempt from fingerprinting have convictions that
13 would make the applicant's home unfit as a foster family home or
14 a certified family home, the license, special permit, or certificate
15 of approval shall be denied.

16 (B) If the State Department of Social Services finds that the
17 applicant, or any person specified in subdivision (b) who is not
18 exempt from fingerprinting is awaiting trial for a crime other than
19 a minor traffic violation, the State Department of Social Services
20 or other approving authority may cease processing the application
21 until the conclusion of the trial.

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

25 (D) To the same extent required for federal funding, an applicant
26 for a foster family home license or for certification as a family
27 home, and any other person specified in subdivision (b) who is
28 not exempt from fingerprinting, shall submit a set of fingerprint
29 images and related information to the Department of Justice and
30 the Federal Bureau of Investigation, through the Department of
31 Justice, for a state and federal level criminal offender record
32 information search, in addition to the criminal records search
33 required by subdivision (a).

34 (5) Any person specified in this subdivision shall, as a part of
35 the application, be fingerprinted and sign a declaration under
36 penalty of perjury regarding any prior criminal convictions or
37 arrests for any crime against a child, spousal or cohabitant abuse
38 or, any crime for which the department cannot grant an exemption
39 if the person was convicted and shall submit these fingerprints to
40 the licensing agency or other approving authority.

(6) (A) Subsequent to initial licensure or certification, a person specified in subdivision (b) who is not exempt from fingerprinting shall obtain both a California and Federal Bureau of Investigation criminal record clearance, or an exemption from disqualification pursuant to subdivision (g), prior to employment, residence, or initial presence in the foster family or certified family home. A foster family home licensee or foster family agency shall submit fingerprint images and related information of persons specified in subdivision (b) who are not exempt from fingerprinting to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (h). A foster family home licensee's or a foster family agency's failure to either prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g), or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family home licensee or the foster family agency pursuant to Section 1550. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice

1 shall verify receipt of the fingerprints. Within five working days
2 of the receipt of the criminal record or information regarding
3 criminal convictions from the Department of Justice, the
4 department shall notify the applicant of any criminal arrests or
5 convictions. If no arrests or convictions are recorded, the
6 Department of Justice shall provide the foster family home licensee
7 or the foster family agency with a statement of that fact concurrent
8 with providing the information to the State Department of Social
9 Services.

10 (7) If the State Department of Social Services finds that the
11 applicant, or any other person specified in subdivision (b) who is
12 not exempt from fingerprinting, has been convicted of a crime
13 other than a minor traffic violation, the application shall be denied,
14 unless the director grants an exemption from disqualification
15 pursuant to subdivision (g).

16 (8) If the State Department of Social Services finds after
17 licensure or the granting of the certificate of approval that the
18 licensee, certified foster parent, or any other person specified in
19 subdivision (b) who is not exempt from fingerprinting, has been
20 convicted of a crime other than a minor traffic violation, the license
21 or certificate of approval may be revoked by the department or the
22 foster family agency, whichever is applicable, unless the director
23 grants an exemption from disqualification pursuant to subdivision
24 (g). A licensee's failure to comply with the department's
25 prohibition of employment, contact with clients, or presence in
26 the facility as required by paragraph (3) of subdivision (c) shall
27 be grounds for disciplining the licensee pursuant to Section 1550.

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

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other law prohibiting the admission of these documents in a civil or administrative action.

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

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

1 (A) (i) An 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 (c) of Section 290, or Section 368 of the Penal Code,
5 or was a conviction of another crime against an individual specified
6 in subdivision (c) of Section 667.5 of the Penal Code.

7 (ii) Notwithstanding clause (i), the director may grant an
8 exemption regarding the conviction for an offense described in
9 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
10 of the Penal Code, if the employee or prospective employee has
11 been rehabilitated as provided in Section 4852.03 of the Penal
12 Code, has maintained the conduct required in Section 4852.05 of
13 the Penal Code for at least 10 years, and has the recommendation
14 of the district attorney representing the employee's county of
15 residence, or if the employee or prospective employee has received
16 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
17 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This
18 clause shall not apply to foster care providers, including relative
19 caregivers, nonrelated extended family members, or any other
20 person specified in subdivision (b), in those homes where the
21 individual has been convicted of an offense described in paragraph
22 (1) of subdivision (c) of Section 667.5 of the Penal Code.

23 (B) A felony offense specified in Section 729 of the Business
24 and Professions Code or Section 206 or 215, subdivision (a) of
25 Section 347, subdivision (b) of Section 417, or subdivision (a) of
26 Section 451 of the Penal Code.

27 (C) Under no circumstances shall an exemption be granted
28 pursuant to this subdivision to any foster care provider applicant
29 if that applicant, or any other person specified in subdivision (b)
30 in those homes, has a felony conviction for either of the following
31 offenses:

32 (i) A felony conviction for child abuse or neglect, spousal abuse,
33 crimes against a child, including child pornography, or for a crime
34 involving violence, including rape, sexual assault, or homicide,
35 but not including other physical assault and battery. For purposes
36 of this subparagraph, a crime involving violence means a violent
37 crime specified in clause (i) of subparagraph (A), or subparagraph
38 (B).

39 (ii) A felony conviction, within the last five years, for physical
40 assault, battery, or a drug- or alcohol-related offense.

1 (iii) This subparagraph shall not apply to licenses or approvals
2 wherein a caregiver was granted an exemption to a criminal
3 conviction described in clause (i) or (ii) prior to the enactment of
4 this subparagraph.

5 (iv) This subparagraph shall remain operative only to the extent
6 that compliance with its provisions is required by federal law as
7 a condition for receiving funding under Title IV-E of the federal
8 Social Security Act (42 U.S.C. Sec. 670 et seq.).

9 (2) The department shall not prohibit a person from being
10 employed or having contact with clients in a facility on the basis
11 of a denied criminal record exemption request or arrest information
12 unless the department complies with the requirements of Section
13 1558.

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

29 (2) The State Department of Social Services shall hold criminal
30 record clearances in its active files for a minimum of three years
31 after an employee is no longer employed at a licensed facility in
32 order for the criminal record clearance to be transferred.

33 (3) The following shall apply to a criminal record clearance or
34 exemption from the department or a county office with
35 department-delegated licensing authority:

36 (A) A county office with department-delegated licensing
37 authority may accept a clearance or exemption from the
38 department.

39 (B) The department may accept a clearance or exemption from
40 any county office with department-delegated licensing authority.

1 (C) A county office with department-delegated licensing
2 authority may accept a clearance or exemption from any other
3 county office with department-delegated licensing authority.

4 (4) With respect to notifications issued by the Department of
5 Justice pursuant to Section 11105.2 of the Penal Code concerning
6 an individual whose criminal record clearance was originally
7 processed by the department or a county office with
8 department-delegated licensing authority, all of the following shall
9 apply:

10 (A) The Department of Justice shall process a request from the
11 department or a county office with department-delegated licensing
12 authority to receive the notice only if all of the following conditions
13 are met:

14 (i) The request shall be submitted to the Department of Justice
15 by the agency to be substituted to receive the notification.

16 (ii) The request shall be for the same applicant type as the type
17 for which the original clearance was obtained.

18 (iii) The request shall contain all prescribed data elements and
19 format protocols pursuant to a written agreement between the
20 department and the Department of Justice.

21 (B) (i) On or before January 7, 2005, the department shall notify
22 the Department of Justice of all county offices that have
23 department-delegated licensing authority.

24 (ii) The department shall notify the Department of Justice within
25 15 calendar days of the date on which a new county office receives
26 department-delegated licensing authority or a county's delegated
27 licensing authority is rescinded.

28 (C) The Department of Justice shall charge the department, a
29 county office with department-delegated licensing authority, or a
30 county child welfare agency with criminal record clearance and
31 exemption authority, a fee for each time a request to substitute the
32 recipient agency is received for purposes of this paragraph. This
33 fee shall not exceed the cost of providing the service.

34 (5) (A) A county child welfare agency with authority to secure
35 clearances pursuant to Section 16504.5 of the Welfare and
36 Institutions Code and to grant exemptions pursuant to Section
37 361.4 of the Welfare and Institutions Code may accept a clearance
38 or exemption from another county with criminal record and
39 exemption authority pursuant to these sections.

(B) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by a county child welfare agency with criminal record clearance and exemption authority, the Department of Justice shall process a request from a county child welfare agency with criminal record and exemption authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the State Department of Social Services and the Department of Justice.

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

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

(k) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(l) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 4. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of

1 approval for persons to operate or provide direct care services in
2 a child care center or family child care home. It is the intent of the
3 Legislature in enacting this section to require the fingerprints of
4 those individuals whose contact with child day care facility clients
5 may pose a risk to the children's health and safety. An individual
6 shall be required to obtain either a criminal record clearance or a
7 criminal record exemption from the State Department of Social
8 Services before his or her initial presence in a child day care
9 facility.

10 (a) (1) Before issuing a license or special permit to any person
11 to operate or manage a day care facility, the department shall secure
12 from an appropriate law enforcement agency a criminal record to
13 determine whether the applicant or any other person specified in
14 subdivision (b) has ever been convicted of a crime other than a
15 minor traffic violation or arrested for any crime specified in
16 subdivision (c) of Section 290 of the Penal Code, for violating
17 Section 245 or 273.5, subdivision (b) of Section 273a or, prior to
18 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
19 or for any crime for which the department cannot grant an
20 exemption if the person was convicted and the person has not been
21 exonerated.

22 (2) The criminal history information shall include the full
23 criminal record, if any, of those persons, and subsequent arrest
24 information pursuant to Section 11105.2 of the Penal Code.

25 (3) Except during the 2003–04 through ~~2011–12~~ 2012–13 fiscal
26 years, inclusive, neither the Department of Justice nor the
27 department may charge a fee for the fingerprinting of an applicant
28 who will serve six or fewer children or any family day care
29 applicant for a license, or for obtaining a criminal record of an
30 applicant pursuant to this section.

31 (4) The following shall apply to the criminal record information:

32 (A) If the State Department of Social Services finds that the
33 applicant or any other person specified in subdivision (b) has been
34 convicted of a crime, other than a minor traffic violation, the
35 application shall be denied, unless the director grants an exemption
36 pursuant to subdivision (f).

37 (B) If the State Department of Social Services finds that the
38 applicant, or any other person specified in subdivision (b), is
39 awaiting trial for a crime other than a minor traffic violation, the

1 State Department of Social Services may cease processing the
2 application until the conclusion of the trial.

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

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

12 (E) An applicant and any other person specified in subdivision
13 (b) shall submit fingerprint images and related information to the
14 Department of Justice and the Federal Bureau of Investigation,
15 through the Department of Justice, for a state and federal level
16 criminal offender record information search, in addition to the
17 search required by subdivision (a). If an applicant meets all other
18 conditions for licensure, except receipt of the Federal Bureau of
19 Investigation's criminal history information for the applicant and
20 persons listed in subdivision (b), the department may issue a license
21 if the applicant and each person described by subdivision (b) has
22 signed and submitted a statement that he or she has never been
23 convicted of a crime in the United States, other than a traffic
24 infraction as defined in paragraph (1) of subdivision (a) of Section
25 42001 of the Vehicle Code. If, after licensure, the department
26 determines that the licensee or person specified in subdivision (b)
27 has a criminal record, the license may be revoked pursuant to
28 Section 1596.885. The department may also suspend the license
29 pending an administrative hearing pursuant to Section 1596.886.

30 (b) (1) In addition to the applicant, this section shall be
31 applicable to criminal convictions of the following persons:

32 (A) Adults responsible for administration or direct supervision
33 of staff.

34 (B) Any person, other than a child, residing in the facility.

35 (C) Any person who provides care and supervision to the
36 children.

37 (D) Any staff person, volunteer, or employee who has contact
38 with the children.

39 (i) A volunteer providing time-limited specialized services shall
40 be exempt from the requirements of this subdivision if this person

1 is directly supervised by the licensee or a facility employee with
2 a criminal record clearance or exemption, the volunteer spends no
3 more than 16 hours per week at the facility, and the volunteer is
4 not left alone with children in care.

5 (ii) A student enrolled or participating at an accredited
6 educational institution shall be exempt from the requirements of
7 this subdivision if the student is directly supervised by the licensee
8 or a facility employee with a criminal record clearance or
9 exemption, the facility has an agreement with the educational
10 institution concerning the placement of the student, the student
11 spends no more than 16 hours per week at the facility, and the
12 student is not left alone with children in care.

13 (iii) A volunteer who is a relative, legal guardian, or foster parent
14 of a client in the facility shall be exempt from the requirements of
15 this subdivision.

16 (iv) A contracted repair person retained by the facility, if not
17 left alone with children in care, shall be exempt from the
18 requirements of this subdivision.

19 (v) Any person similar to those described in this subdivision,
20 as defined by the department in regulations.

21 (E) If the applicant is a firm, partnership, association, or
22 corporation, the chief executive officer, other person serving in
23 like capacity, or a person designated by the chief executive officer
24 as responsible for the operation of the facility, as designated by
25 the applicant agency.

26 (F) If the applicant is a local educational agency, the president
27 of the governing board, the school district superintendent, or a
28 person designated to administer the operation of the facility, as
29 designated by the local educational agency.

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

36 (H) This section does not apply to employees of child care and
37 development programs under contract with the State Department
38 of Education who have completed a criminal record clearance as
39 part of an application to the Commission on Teacher Credentialing,
40 and who possess a current credential or permit issued by the

1 commission, including employees of child care and development
2 programs that serve both children subsidized under, and children
3 not subsidized under, a State Department of Education contract.
4 The Commission on Teacher Credentialing shall notify the
5 department upon revocation of a current credential or permit issued
6 to an employee of a child care and development program under
7 contract with the State Department of Education.

8 (I) This section does not apply to employees of a child care and
9 development program operated by a school district, county office
10 of education, or community college district under contract with
11 the State Department of Education who have completed a criminal
12 record clearance as a condition of employment. The school district,
13 county office of education, or community college district upon
14 receiving information that the status of an employee's criminal
15 record clearance has changed shall submit that information to the
16 department.

17 (2) Nothing in this subdivision shall prevent a licensee from
18 requiring a criminal record clearance of any individuals exempt
19 from the requirements under this subdivision.

20 (c) (1) (A) Subsequent to initial licensure, any person specified
21 in subdivision (b) and not exempted from fingerprinting shall, as
22 a condition to employment, residence, or presence in a child day
23 care facility be fingerprinted and sign a declaration under penalty
24 of perjury regarding any prior criminal conviction. The licensee
25 shall submit fingerprint images and related information to the
26 Department of Justice and the Federal Bureau of Investigation,
27 through the Department of Justice, or to comply with paragraph
28 (1) of subdivision (h), prior to the person's employment, residence,
29 or initial presence in the child day care facility.

30 (B) These fingerprint images for the purpose of obtaining a
31 permanent set of fingerprints shall be electronically submitted to
32 the Department of Justice in a manner approved by the State
33 Department of Social Services and to the Department of Justice,
34 or to comply with paragraph (1) of subdivision (h), as required in
35 this section, shall result in the citation of a deficiency, and an
36 immediate assessment of civil penalties in the amount of one
37 hundred dollars (\$100) per violation per day for a maximum of
38 five days, unless the violation is a second or subsequent violation
39 within a 12-month period in which case the civil penalties shall
40 be in the amount of one hundred dollars (\$100) per violation for

1 a maximum of 30 days, and shall be grounds for disciplining the
2 licensee pursuant to Section 1596.885 or Section 1596.886. The
3 State Department of Social Services may assess civil penalties for
4 continued violations permitted by Sections 1596.99 and 1597.62.
5 The fingerprint images and related information shall then be
6 submitted to the department for processing. Within 14 calendar
7 days of the receipt of the fingerprint images, the Department of
8 Justice shall notify the State Department of Social Services of the
9 criminal record information, as provided in this subdivision. If no
10 criminal record information has been recorded, the Department of
11 Justice shall provide the licensee and the State Department of
12 Social Services with a statement of that fact within 14 calendar
13 days of receipt of the fingerprint images. If new fingerprint images
14 are required for processing, the Department of Justice shall, within
15 14 calendar days from the date of receipt of the fingerprint images,
16 notify the licensee that the fingerprints were illegible.

17 (C) Documentation of the individual's clearance or exemption
18 shall be maintained by the licensee, and shall be available for
19 inspection. When live-scan technology is operational, as defined
20 in Section 1522.04, the Department of Justice shall notify the
21 department, as required by that section, and notify the licensee by
22 mail within 14 days of electronic transmission of the fingerprints
23 to the Department of Justice, if the person has no criminal record.
24 Any violation of the regulations adopted pursuant to Section
25 1522.04 shall result in the citation of a deficiency and an immediate
26 assessment of civil penalties in the amount of one hundred dollars
27 (\$100) per violation per day for a maximum of five days, unless
28 the violation is a second or subsequent violation within a 12-month
29 period in which case the civil penalties shall be in the amount of
30 one hundred dollars (\$100) per violation for a maximum of 30
31 days, and shall be grounds for disciplining the licensee pursuant
32 to Section 1596.885 or Section 1596.886. The department may
33 assess civil penalties for continued violations, as permitted by
34 Sections 1596.99 and 1597.62.

35 (2) Except for persons specified in paragraph (2) of subdivision
36 (b), the licensee shall endeavor to ascertain the previous
37 employment history of persons required to be fingerprinted under
38 this subdivision. If it is determined by the department, on the basis
39 of fingerprints submitted to the Department of Justice, that the
40 person has been convicted of a sex offense against a minor, an

offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

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

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

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

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

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

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as

specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) or (b) of Section 451 of the Penal Code.

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

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprint images.

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

1 envelope for this purpose, the department shall verify whether the
2 individual has a clearance that can be transferred.

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

7 (3) The following shall apply to a criminal record clearance or
8 exemption from the department or a county office with
9 department-delegated licensing authority:

10 (A) A county office with department-delegated licensing
11 authority may accept a clearance or exemption from the
12 department.

13 (B) The department may accept a clearance or exemption from
14 any county office with department-delegated licensing authority.

15 (C) A county office with department-delegated licensing
16 authority may accept a clearance or exemption from any other
17 county office with department-delegated licensing authority.

18 (4) With respect to notifications issued by the Department of
19 Justice pursuant to Section 11105.2 of the Penal Code concerning
20 an individual whose criminal record clearance was originally
21 processed by the department or a county office with
22 department-delegated licensing authority, all of the following shall
23 apply:

24 (A) The Department of Justice shall process a request from the
25 department or a county office with department-delegated licensing
26 authority to receive the notice, only if all of the following
27 conditions are met:

28 (i) The request shall be submitted to the Department of Justice
29 by the agency to be substituted to receive the notification.

30 (ii) The request shall be for the same applicant type as the type
31 for which the original clearance was obtained.

32 (iii) The request shall contain all prescribed data elements and
33 format protocols pursuant to a written agreement between the
34 department and the Department of Justice.

35 (B) (i) On or before January 7, 2005, the department shall notify
36 the Department of Justice of all county offices that have
37 department-delegated licensing authority.

38 (ii) The department shall notify the Department of Justice within
39 15 calendar days of the date on which a new county office receives

1 department-delegated licensing authority or a county's delegated
2 licensing authority is rescinded.

3 (C) The Department of Justice shall charge the department or
4 a county office with department-delegated licensing authority a
5 fee for each time a request to substitute the recipient agency is
6 received for purposes of this paragraph. This fee shall not exceed
7 the cost of providing the service.

8 (i) Notwithstanding any other provision of law, the department
9 may provide an individual with a copy of his or her state or federal
10 level criminal offender record information search response as
11 provided to that department by the Department of Justice if the
12 department has denied a criminal background clearance based on
13 this information and the individual makes a written request to the
14 department for a copy specifying an address to which it is to be
15 sent. The state or federal level criminal offender record information
16 search response shall not be modified or altered from its form or
17 content as provided by the Department of Justice and shall be
18 provided to the address specified by the individual in his or her
19 written request. The department shall retain a copy of the
20 individual's written request and the response and date provided.

21 *SEC. 5. Section 6151 of the Revenue and Taxation Code is*
22 *amended to read:*

23 6151. (a) Beginning on the date for which the federal Centers
24 for Medicare and Medicaid Services approves implementation of
25 the state plan amendment described in subdivision (c) of Section
26 12306.6 of the Welfare and Institutions Code, but no earlier than
27 ~~July 1, 2010~~ January 1, 2012, for the privilege of selling support
28 services at retail, the sales tax is hereby extended to all providers
29 at the rate, as described in subdivision (b), of the gross receipts of
30 any provider from the sale of all support services sold at retail in
31 this state.

32 (b) The rate extended by subdivision (a) is the rate, as may be
33 amended from time to time, imposed by Article 1 (commencing
34 with Section 6051) plus the rate imposed by Section 35 of Article
35 XIII of the California Constitution for the privilege of selling
36 tangible personal property at retail in this state.

37 (c) Notwithstanding the implementation date of this article as
38 provided for in subdivision (a), no tax shall be collected pursuant
39 to this article prior to the receipt of approval by the federal Centers

1 for Medicare and Medicaid Services of the implementation of
2 Section 12306.6 of the Welfare and Institutions Code.

3 *SEC. 6. Part 1.75 (commencing with Section 10200) of Division*
4 *9 of the Welfare and Institutions Code is repealed.*

5 *SEC. 7. Section 11329.5 of the Welfare and Institutions Code*
6 *is amended to read:*

7 11329.5. With respect to paragraph (7) of subdivision (b) of
8 Section 11320.3 and Section 11325.71, the Legislature finds and
9 declares all of the following, but only for the operative period of
10 these added provisions:

11 (a) Due to the significant General Fund revenue decline for the
12 2009–10 fiscal year, funding has been reduced for the CalWORKs
13 program.

14 (b) Due to the federal funding available under the American
15 Recovery and Reinvestment Act of 2009 (Public Law 111-5)
16 (ARRA) for CalWORKs grants, reductions in 2009–10 are being
17 achieved in the county single allocation.

18 (c) Reduced funding, including a
19 three-hundred-seventy-five-million-dollar (\$375,000,000) reduction
20 to the county single allocation in the 2009–10 and 2010–11 Budget
21 Acts, and increased caseload for CalWORKs will result in
22 insufficient resources to provide the full range of welfare-to-work
23 services in the 2009–10 and 2010–11 fiscal years.

24 (d) Reduced funding, including a three hundred seventy-six
25 million eight hundred fifty thousand dollar (\$376,850,000)
26 reduction to the county single allocation in the 2011–12 Budget
27 Act, will result in insufficient resources to provide the full range
28 of welfare-to-work services in the 2011–12 fiscal year.

29 (e) *Reduced funding, including a three hundred*
30 *twenty-seven-million-dollar (\$327,000,000) reduction to the county*
31 *single allocation in the 2012–13 Budget Act and on an ongoing*
32 *basis, will result in insufficient resources to provide the full range*
33 *of welfare-to-work activities in the 2012–13 fiscal year and in each*
34 *fiscal year thereafter.*

35 (e)

36 (f) It is the intent of the Legislature that the limited resources
37 for CalWORKs services be effectively utilized, as established in
38 paragraph (7) of subdivision (b) of Section 11320.3.

39 (f)

(g) It is the further intent of the Legislature to provide additional flexibility to address funding constraints, as established in Section 11325.71, in addition to the existing flexibility provided under subdivision (f) of Section 11320.3.

(g)

(h) It is the further intent of the Legislature to minimize disruption of welfare-to-work services for individuals already participating, and prioritize exemptions and good cause for applicants.

(h)

(i) Funding and caseload factors will result in circumstances beyond the control of the counties in the 2009–10, 2010–11, and 2011–12 fiscal years, and relief should be provided for federal penalties that may result.

SEC. 8. Section 11334.6 is added to the Welfare and Institutions Code, to read:

11334.6. (a) The department shall provide to the budget committees of the Legislature, no later than February 1, 2013, and, notwithstanding Section 10231.5 of the Government Code, on February 1 annually thereafter, a report that includes all of the following information:

(1) The number of counties implementing a Cal-Learn Program.

(2) The number of recipients being served in each county with intensive case management services.

(3) Outcomes for recipients, including graduation rates and repeat pregnancies.

(b) The report described in subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 9. Section 11334.8 of the Welfare and Institutions Code is repealed.

~~11334.8. (a) Except as provided in subdivision (b), this article shall be inoperative from July 1, 2011, to June 30, 2012, inclusive.~~

~~(b) Notwithstanding subdivision (a), bonuses and supplements shall continue to be paid to eligible participants pursuant to subdivisions (a), (c), and (e) of Section 11333.7, and related requirements pursuant to Sections 11334.2 and 11334.5 shall also be operative, during the period that the remainder of this article is inoperative pursuant to subdivision (a).~~

~~(c) Notwithstanding subdivision (b) of Section 11450, a pregnant woman with no other children who was determined to be eligible~~

1 for aid in the first or second trimester of her pregnancy for purposes
2 of participating in the Cal-Learn Program prior to July 1, 2011,
3 shall continue to receive aid during the suspension of the Cal-Learn
4 Program described in this section, as long as she remains otherwise
5 eligible for aid under this chapter.

6 ~~(d) This section shall remain in effect only until July 1, 2012,~~
7 ~~and as of that date is repealed, unless a later enacted statute, that~~
8 ~~is enacted before July 1, 2012, deletes or extends that date.~~

9 SEC. 10. Section 11334.8 is added to the Welfare and
10 Institutions Code, to read:

11 11334.8. (a) Notwithstanding any other law, this article shall
12 be fully operative commencing April 1, 2013. For the period of
13 July 1, 2012, to March 31, 2013, inclusive, this article shall be
14 operative in accordance with the provisions described in
15 subdivision (b).

16 (b) Commencing July 1, 2012, until March 31, 2013, all of the
17 following shall apply:

18 (1) For the 2012–13 fiscal year, counties shall be provided with
19 full or partial year funding, depending on the pace of their phase-in
20 to full implementation of the program by April 1, 2013, as
21 determined by the department, in collaboration with county welfare
22 directors.

23 (2) Recipients of aid, as defined in Section 11331.5, shall be
24 required to participate in Cal-Learn Program intensive case
25 management services, as defined in subdivision (a) of Section
26 11332.5, only in counties where those services are available.

27 (3) A pregnant woman with no other children who was
28 determined to be eligible for aid in the first or second trimester of
29 her pregnancy for purposes of participating in the Cal-Learn
30 Program prior to July 1, 2011, shall be eligible to receive aid upon
31 verification of pregnancy as long as she remains otherwise eligible
32 for aid under this chapter.

33 (c) Each recipient who qualifies for benefits under this article
34 shall be entitled to benefits to the degree that they are provided
35 by the recipient's county.

36 (d) This section shall remain in effect only until April 1, 2013,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before April 1, 2013, deletes or extends that date.

39 SEC. 11. Section 11462.04 of the Welfare and Institutions Code
40 is amended to read:

1 11462.04. (a) ~~(1)~~—Notwithstanding any other law, no new
2 group home rate or change to an existing rate shall be established
3 pursuant to Section 11462. An application shall not be accepted
4 or processed for any of the following:

5 ~~(A)~~

6 (1) A new program.

7 ~~(B)~~

8 (2) A new provider.

9 ~~(C)~~

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

12 ~~(D)~~

13 (4) A program capacity increase.

14 ~~(E)~~

15 (5) A program reinstatement.

16 ~~(2) Notwithstanding paragraph (1), the department may grant~~
17 ~~exceptions as appropriate on a case-by-case basis, based upon a~~
18 ~~written request and supporting documentation provided by county~~
19 ~~placing agencies, including county welfare or probation directors.~~

20 ~~(b) Immediately prior to the inoperative date of this section, the~~
21 ~~department shall provide feedback regarding the implementation~~
22 ~~of this section to the Legislature.~~

23 ~~(c) This section shall become inoperative on January 1, 2013,~~
24 ~~and as of that date is repealed, unless a later enacted statute, that~~
25 ~~becomes operative before January 1, 2013, deletes or extends that~~
26 ~~date.~~

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

31 ~~(c) For the 2012–13 fiscal year, notwithstanding subdivision~~
32 ~~(b), for any program below RCL 10, the only exception that may~~
33 ~~be sought and granted pursuant to this section is one associated~~
34 ~~with a program change, such as an RCL increase. The other~~
35 ~~exceptions shall not be available to programs below RCL 10 during~~
36 ~~this period.~~

37 SEC. 12. Section 11464 of the Welfare and Institutions Code
38 is amended to read:

39 11464. (a) The Legislature finds and declares all of the
40 following:

(1) Children who are consumers of regional center services and also receiving Aid to Families with Dependent Children-Foster Care (AFDC-FC), Kinship Guardianship Assistance Payment (Kin-GAP) benefits, or Adoption Assistance Program (AAP) benefits have special needs that can require care and supervision beyond that typically provided to children in foster care. Clarifying the roles of the child welfare and developmental disabilities services systems will ensure that these children receive the services and support they need in a timely manner and encourage the successful adoption of these children, where appropriate.

(2) To address the extraordinary care and supervision needs of children who are consumers of regional center services and also receiving AFDC-FC, Kin-GAP, or AAP benefits, it is necessary to provide a rate for care and supervision of these children that is higher than the average rate they would otherwise receive through the foster care system and higher than the rate other children with medical and other significant special needs receive.

(3) Despite the enhanced rate provided in this section, some children who are consumers of regional center services and also receiving AFDC-FC, Kin-GAP, or AAP benefits may have care and supervision needs that are so extraordinary that they cannot be addressed within that rate. In these limited circumstances, a process should be established whereby a supplement may be provided in addition to the enhanced rate.

(4) Children who receive rates pursuant to this section shall be afforded the same due process rights as all children who apply for AFDC-FC, Kin-GAP, and AAP benefits pursuant to Section 10950.

(b) Rates for children who are both regional center consumers and recipients of AFDC-FC or Kin-GAP benefits under this chapter shall be determined as provided in Section 4684 and this section.

(c) (1) The rate to be paid for 24-hour out-of-home care and supervision provided to children who are both consumers of regional center services pursuant to subdivision (d) of Section 4512 and recipients of AFDC-FC and Kin-GAP benefits under this chapter shall be two thousand six dollars (\$2,006) per child per month.

(2) (A) The county, at its sole discretion, may authorize a supplement of up to one thousand dollars (\$1,000) to the rate for children three years of age and older, if it determines the child has the need for extraordinary care and supervision that cannot be met

within the rate established pursuant to paragraph (1). The State Department of Social Services and the State Department of Developmental Services, in consultation with stakeholders representing county child welfare agencies, regional centers, and children who are both consumers of regional center services and recipients of AFDC-FC, Kin-GAP, or AAP benefits, shall develop objective criteria to be used by counties in determining eligibility for and the level of the supplements provided pursuant to this paragraph. The State Department of Social Services shall issue an all-county letter to implement these criteria within 120 days of the effective date of this act. The criteria shall take into account the extent to which the child has any of the following:

- (i) Severe impairment in physical coordination and mobility.
- (ii) Severe deficits in self-help skills.
- (iii) Severely disruptive or self-injurious behavior.
- (iv) A severe medical condition.

(B) The caregiver may request the supplement described in subparagraph (A) directly or upon referral by a regional center. Referral by a regional center shall not create the presumption of eligibility for the supplement.

(C) When assessing a request for the supplement, the county shall seek information from the consumer's regional center to assist in the assessment. The county shall issue a determination of eligibility for the supplement within 90 days of receipt of the request. The county shall report to the State Department of Social Services the number and level of rate supplements issued pursuant to this paragraph.

(d) (1) The rate to be paid for 24-hour out-of-home care and supervision provided for children who are receiving services under the California Early Start Intervention Services Act, are not yet determined by their regional center to have a developmental disability, as defined in subdivisions (a) and (l) of Section 4512, and are receiving AFDC-FC or Kin-GAP benefits under this chapter, shall be eight hundred ninety-eight dollars (\$898) per child per month. If a regional center subsequently determines that the child is an individual with a developmental disability as that term is defined by subdivisions (a) and (l) of Section 4512, the rate to be paid from the date of that determination shall be consistent with subdivision (c).

(2) The rates to be paid for 24-hour out-of-home nonmedical care and supervision for children who are recipients of AFDC-FC or Kin-GAP and consumers of regional center services from a community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code and vendored by a regional center pursuant to Section 56004 of Title 17 of the California Code of Regulations, shall be the facility rate established by the State Department of Developmental Services.

(e) Rates paid pursuant to this section are subject to all of the following requirements:

(1) The rates paid to the foster care provider under subdivision (c) and paragraph (1) of subdivision (d) are only for the care and supervision of the child, as defined in subdivision (b) of Section 11460 and shall not be applicable to facilities described in paragraph (2) of subdivision (d).

(2) Regional centers shall separately purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), pursuant to Section 4684.

~~(3) In the event that the schedule of basic foster care rates, as specified in Section 11461, is increased on or after July 1, 2008, the rates in subdivisions (c), (d), and (f) shall be similarly adjusted. Beginning with the 2011–12 fiscal year, the rates in paragraph (1) of subdivision (c) and paragraph (1) of subdivision (d) shall be adjusted annually by the percentage change in the California Necessities Index, as set forth in paragraph (2) of subdivision (g) of Section 11461. No county shall be reimbursed for any increase in this rate that exceeds the adjustments made in accordance with this methodology.~~

(f) (1) The AFDC-FC rates paid on behalf of a regional center consumer who is a recipient of AFDC-FC prior to July 1, 2007, shall remain in effect unless a change in the placement warrants redetermination of the rate or if the child is no longer AFDC-FC eligible. However, AFDC-FC rates paid on behalf of these children that are lower than the rates specified in paragraph (1) of subdivision (c) or paragraph (1) of subdivision (d), respectively, shall be increased as appropriate to the amount set forth in paragraph (1) of subdivision (c) or paragraph (1) of subdivision (d), effective July 1, 2007, and shall remain in effect unless a

1 change in the placement or a change in AFDC-FC eligibility of
2 the child warrants redetermination of the rate.

3 (2) For a child who is receiving AFDC-FC benefits or for whom
4 a foster care eligibility determination is pending, and for whom
5 an eligibility determination for regional center services pursuant
6 to subdivision (a) of Section 4512 is pending or approved, and for
7 whom, prior to July 1, 2007, a State Department of Developmental
8 Services facility rate determination request has been made and is
9 pending, the rate shall be the State Department of Developmental
10 Services facility rate determined by the regional center through an
11 individualized assessment, or the rate established in paragraph (1)
12 of subdivision (c), whichever is greater. The rate shall remain in
13 effect until the child is no longer eligible to receive AFDC-FC, or,
14 if still AFDC-FC eligible, is found ineligible for regional center
15 services as an individual described in subdivision (a) of Section
16 4512. Other than the circumstances described in this section,
17 regional centers shall not establish facility rates for AFDC-FC
18 purposes.

19 (g) (1) The department shall adopt emergency regulations in
20 accordance with Chapter 3.5 (commencing with Section 11340)
21 of Part 1 of Division 3 of Title 2 of the Government Code, and for
22 the purposes of that chapter, including Section 11349.6 of the
23 Government Code, on or before July 1, 2009.

24 (2) The adoption of regulations pursuant to paragraph (1) shall
25 be deemed an emergency and necessary for the immediate
26 preservation of the public peace, health, safety, and general welfare.
27 The regulations authorized by this subdivision shall remain in
28 effect for no more than 180 days, by which time final regulations
29 shall be adopted.

30 (h) (1) The State Department of Social Services and the State
31 Department of Developmental Services shall provide to the Joint
32 legislative Budget Committee, on a semiannual basis, the data set
33 forth in paragraph (2) to facilitate legislative review of the
34 outcomes of the changes made by the addition of this section and
35 the amendments made to Sections 4684 and 16121 by the act
36 adding this section. The first report shall be submitted on October
37 1, 2007, with subsequent reports submitted on March 1 and October
38 1 of each year.

39 (2) The following data shall be provided pursuant to this
40 subdivision:

1 (A) The number of, and services provided to, children who are
2 consumers of regional center services and who are receiving AAP,
3 Kin-GAP, or AFDC-FC, broken out by children receiving the
4 amount pursuant to paragraph (1) of subdivision (c), the amount
5 pursuant to paragraph (1) of subdivision (d), and the level of
6 supplement pursuant to subparagraph (A) of paragraph (2) of
7 subdivision (c).

8 (B) A comparison of services provided to these children and
9 similar children who are regional center consumers who do not
10 receive AFDC-FC, Kin-GAP, or AAP benefits, broken out by
11 children receiving the amount pursuant to paragraph (1) of
12 subdivision (c), the amount pursuant to paragraph (1) of subdivision
13 (d), and the level of supplement pursuant to subparagraph (A) of
14 paragraph (2) of subdivision (c).

15 (C) The number and nature of appeals filed regarding services
16 provided or secured by regional centers for these children,
17 consistent with Section 4714, broken out by children receiving the
18 amount pursuant to paragraph (1) of subdivision (c), the amount
19 pursuant to paragraph (1) of subdivision (d), and the level of
20 supplement pursuant to subparagraph (A) of paragraph (2) of
21 subdivision (c).

22 (D) The number of these children who are adopted before and
23 after the act adding this section, broken out by children receiving
24 the amount pursuant to paragraph (1) of subdivision (c), the amount
25 pursuant to paragraph (1) of subdivision (d), and the level of
26 supplement pursuant to subparagraph (A) of paragraph (2) of
27 subdivision (c).

28 (E) The number and levels of supplements requested pursuant
29 to subparagraph (B) of paragraph (2) of subdivision (c).

30 (F) The number of appeals requested of the decision by counties
31 to deny the request for the supplement pursuant to subparagraph
32 (A) of paragraph (2) of subdivision (c).

33 (G) The total number and levels of supplements authorized
34 pursuant to subparagraph (A) of paragraph (2) of subdivision (c)
35 and the number of these supplements authorized upon appeal.

36 (i) Commencing January 1, 2012, the rate described in
37 subdivision (c) shall be paid for an eligible nonminor dependent
38 who is under 21 years of age, is receiving AFDC-FC or Kin-GAP
39 benefits pursuant to Section 11403, and is a consumer of regional
40 center services.

1 ~~SEC. 13. Section 12301.03 of the Welfare and Institutions Code~~
2 ~~is repealed.~~

3 ~~12301.03. (a) (1) The Legislature finds and declares as~~
4 ~~follows:~~

5 ~~(A) Authorized hours under the In-Home Supportive Services~~
6 ~~program were reduced in the 1992–93 fiscal year, and included a~~
7 ~~supplemental assessment process that was intended to ensure that~~
8 ~~recipients remained safely in their homes.~~

9 ~~(B) The reduction in authorized hours as provided for in Chapter~~
10 ~~8 of the Statutes of 2011 includes a supplemental assessment~~
11 ~~process, that is similarly intended to ensure that recipients remain~~
12 ~~safely in their homes.~~

13 ~~(2) Notwithstanding any other provision of law, if the~~
14 ~~Department of Finance determines that a reduction in authorized~~
15 ~~hours of service is necessary, pursuant to subdivision (d) of Section~~
16 ~~14132.957, the department shall implement a reduction in~~
17 ~~authorized hours of service to each in-home supportive services~~
18 ~~recipient as specified in this section, which shall be applied to the~~
19 ~~recipient's hours as authorized pursuant to his or her most recent~~
20 ~~assessment.~~

21 ~~(3) The reduction required by this section shall not preclude~~
22 ~~any reassessment to which a recipient would otherwise be entitled.~~
23 ~~However, hours authorized pursuant to a reassessment shall be~~
24 ~~subject to the reduction required by this section.~~

25 ~~(4) For those recipients who have a documented unmet need,~~
26 ~~excluding protective supervision, because of the limitations~~
27 ~~contained in Section 12303.4, this reduction shall be applied first~~
28 ~~to the unmet need before being applied to the authorized hours. If~~
29 ~~the recipient believes he or she will be at serious risk of~~
30 ~~out-of-home placement as a consequence of the reduction, the~~
31 ~~recipient may apply for a restoration of the reduction of authorized~~
32 ~~service hours, pursuant to Section 12301.05.~~

33 ~~(5) A recipient of services under this article may direct the~~
34 ~~manner in which the reduction of hours is applied to the recipient's~~
35 ~~previously authorized services.~~

36 ~~(6) The reduction in service hours made pursuant to paragraph~~
37 ~~(2) shall not apply to in-home supportive services recipients who~~
38 ~~also receive services under Section 9560, subdivision (t) of Section~~
39 ~~14132, and Section 14132.99.~~

~~(b) The department shall work with the counties to develop a process to allow for counties to preapprove IHSS Care Supplements described in Section 12301.05, to the extent that the process is permissible under federal law. The preapproval process shall be subject to the following conditions:~~

~~(1) The preapproval process shall rely on the criteria for assessing IHSS Supplemental Care applications, developed pursuant to Section 12301.05.~~

~~(2) Preapproval shall be granted only to individuals who would otherwise be granted a full restoration of their hours pursuant to Section 12301.05.~~

~~(3) With respect to existing recipients as of the effective date of this section, all efforts shall be made to ensure that counties complete the process on or before a specific date, as determined by the department, in consultation with counties in order to allow for the production, printing, and mailing of notices to be issued to remaining recipients who are not granted preapproval and who thereby are subject to the reduction pursuant to this section.~~

~~(4) The department shall work with counties to determine how to apply a preapproval process with respect to new applicants to the IHSS program who apply after the effective date of this section.~~

~~(c) The notice of action informing each recipient who is not preapproved for an IHSS Care Supplement pursuant to subdivision (b) shall be mailed at least 15 days prior to the reduction going into effect. The notice of action shall be understandable to the recipient and translated into all languages spoken by a substantial number of the public served by the In-Home Supportive Services program, in accordance with Section 7295.2 of the Government Code. The notice shall not contain any recipient financial or confidential identifying information other than the recipient's name, address, and Case Management Information and Payroll System (CMIPS) client identification number, and shall include, but not be limited to, all of the following information:~~

~~(1) The aggregate number of authorized hours before the reduction pursuant to paragraph (2) of subdivision (a) and the aggregate number of authorized hours after the reduction.~~

~~(2) That the recipient may direct the manner in which the reduction of authorized hours is applied to the recipient's previously authorized services.~~

1 ~~(3) How all or part of the reduction may be restored, as set forth~~
2 ~~in Section 12301.05, if the recipient believes he or she will be at~~
3 ~~serious risk of out-of-home placement as a consequence of the~~
4 ~~reduction.~~

5 ~~(d) The department shall inform providers of any reduction to~~
6 ~~recipient hours through a statement on provider timesheets, after~~
7 ~~consultation with counties.~~

8 ~~(e) The IHSS Care Supplement application process described~~
9 ~~in Section 12301.05 shall be completed before a request for a state~~
10 ~~hearing is submitted. If the IHSS Care Supplement application is~~
11 ~~filed within 15 days of the notice of action required by subdivision~~
12 ~~(c), or before the effective date of the reduction, the recipient shall~~
13 ~~be eligible for aid paid pending. A revised notice of action shall~~
14 ~~be issued by the county following evaluation of the IHSS Care~~
15 ~~Supplement application.~~

16 ~~(f) (1) Notwithstanding the rulemaking provisions of the~~
17 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
18 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
19 ~~Code), the department may implement and administer this section~~
20 ~~through all-county letters or similar instruction from the department~~
21 ~~until regulations are adopted. The department shall adopt~~
22 ~~emergency regulations implementing this section no later than~~
23 ~~October 1, 2013. The department may readopt any emergency~~
24 ~~regulation authorized by this section that is the same as or~~
25 ~~substantially equivalent to an emergency regulation previously~~
26 ~~adopted under this section.~~

27 ~~(2) The initial adoption of emergency regulations implementing~~
28 ~~this section and the one readoption of emergency regulations~~
29 ~~authorized by this subdivision shall be deemed an emergency and~~
30 ~~necessary for the immediate preservation of the public peace,~~
31 ~~health, safety, or general welfare. Initial emergency regulations~~
32 ~~and the one readoption of emergency regulations authorized by~~
33 ~~this section shall be exempt from review by the Office of~~
34 ~~Administrative Law. The initial emergency regulations and the~~
35 ~~one readoption of emergency regulations authorized by this section~~
36 ~~shall be submitted to the Office of Administrative Law for filing~~
37 ~~with the Secretary of State and each shall remain in effect for no~~
38 ~~more than 180 days, by which time final regulations may be~~
39 ~~adopted.~~

~~(g) If the Director of Health Care Services determines that federal approval is necessary to implement this section, Section 12301.05, or both, these sections shall be implemented only after any state plan amendments required pursuant to Section 14132.95 are approved.~~

~~(h) This section shall become operative on the first day of the first month following 90 days after the effective date of Chapter 8 of the Statutes of 2011, or October 1, 2012, whichever is later.~~

SEC. 14. Section 12301.05 of the Welfare and Institutions Code is repealed.

~~12301.05. (a) Any aged, blind, or disabled individual who is eligible for services under this chapter who receives a notice of action indicating that his or her services will be reduced under subdivision (a) of Section 12301.03 but who believes he or she is at serious risk of out-of-home placement unless all or part of the reduction is restored may submit an IHSS Care Supplement application. When a recipient submits an IHSS Care Supplement application within 15 days of receiving the reduction notice or prior to the implementation of the reduction, the recipient's in-home supportive services shall continue at the level authorized by the most recent assessment, prior to any reduction, until the county finds that the recipient does or does not require restoration of any hours through the IHSS Care Supplement. If the recipient disagrees with the county's determination concerning the need for the IHSS Care Supplement, the recipient may request a hearing on that determination.~~

~~(b) The department shall develop an assessment tool, in consultation with stakeholders, to be used by the counties to determine if a recipient is at serious risk of out-of-home placement as a consequence of the reduction of services pursuant to section 12301.03. The assessment tool shall be developed utilizing standard of care criteria for relevant out-of-home placements that serve individuals who are aged, blind, or who have disabilities and who would qualify for IHSS if living at home, including, but not limited to, criteria set forth in Chapter 7.0 of the Manual of Criteria for Medi-Cal Authorization published by the State Department of Health Care Services, as amended April 15, 2004, and the IHSS uniform assessment guidelines.~~

1 ~~(c) Counties shall give a high priority to prompt screening of~~
2 ~~persons specified in this section to determine their need for an~~
3 ~~IHSS Care Supplement.~~

4 ~~(d) (1) Notwithstanding the rulemaking provisions of the~~
5 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
6 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
7 ~~Code), the department may implement and administer this section~~
8 ~~through all-county letters or similar instruction from the department~~
9 ~~until regulations are adopted. The department shall adopt~~
10 ~~emergency regulations implementing this section no later than~~
11 ~~October 1, 2013. The department may readopt any emergency~~
12 ~~regulation authorized by this section that is the same as or~~
13 ~~substantially equivalent to an emergency regulation previously~~
14 ~~adopted under this section.~~

15 ~~(2) The initial adoption of emergency regulations implementing~~
16 ~~this section and the one readoption of emergency regulations~~
17 ~~authorized by this subdivision shall be deemed an emergency and~~
18 ~~necessary for the immediate preservation of the public peace,~~
19 ~~health, safety, or general welfare. Initial emergency regulations~~
20 ~~and the one readoption of emergency regulations authorized by~~
21 ~~this section shall be exempt from review by the Office of~~
22 ~~Administrative Law. The initial emergency regulations and the~~
23 ~~one readoption of emergency regulations authorized by this section~~
24 ~~shall be submitted to the Office of Administrative Law for filing~~
25 ~~with the Secretary of State, and each shall remain in effect for no~~
26 ~~more than 180 days, by which time final regulations may be~~
27 ~~adopted.~~

28 ~~(e) This section shall become operative on the first day of the~~
29 ~~first month following 90 days after the effective date of Chapter~~
30 ~~8 of the Statutes of 2011, or October 1, 2012, whichever is later.~~

31 *SEC. 15. Section 12301.06 of the Welfare and Institutions Code*
32 *is amended to read:*

33 12301.06. (a) (1) Notwithstanding any other provision of law,
34 except as provided in subdivision (d), the department shall
35 implement a 3.6-percent reduction in hours of service to each
36 recipient of services under this article, which shall be applied to
37 the recipient's hours as authorized pursuant to the most recent
38 assessment. This reduction shall be effective 90 days after the
39 enactment of the act that adds this section. The reduction required
40 by this section shall not preclude any reassessment to which a

1 recipient would otherwise be entitled. However, hours authorized
2 pursuant to a reassessment shall be subject to the 3.6-percent
3 reduction required by this section.

4 (2) A recipient of services under this article may direct the
5 manner in which the reduction of hours is applied to the recipient's
6 previously authorized services.

7 (3) For those individuals who have a documented unmet need,
8 excluding protective supervision because of the limitations on
9 authorized hours under Section 12303.4, the reduction shall be
10 taken first from the documented unmet need.

11 (b) (1) The reduction in hours of service pursuant to subdivision
12 (a) shall cease to be implemented on July 1, ~~2012~~ 2013.

13 (2) It is the intent of the Legislature that on July 1, ~~2012~~ 2013,
14 services shall be restored to the level authorized pursuant to the
15 recipient's most recent assessment, and increased by the previously
16 deducted 3.6 percent.

17 (c) The notice of action informing the recipient of the reduction
18 pursuant to subdivision (a) shall be mailed at least 30 days prior
19 to the reduction going into effect. The notice of action shall be
20 understandable to the recipient and translated into all languages
21 spoken by a substantial number of the public served by the
22 In-Home Supportive Services program, in accordance with Section
23 7295.2 of the Government Code. The notice shall not contain any
24 recipient financial or confidential identifying information other
25 than the recipient's name, address, and Case Management
26 Information and Payroll System (CMIPS) client identification
27 number, and shall include, but not be limited to, all of the following
28 information:

29 (1) The aggregate number of authorized hours before the
30 reduction pursuant to subdivision (a) and the aggregate number of
31 authorized hours after the reduction.

32 (2) That the recipient may direct the manner in which the
33 reduction of authorized hours is applied to the recipient's
34 previously authorized services.

35 (3) That the reduction of hours shall remain in effect until July
36 1, ~~2012~~ 2013, at which time service hours shall be restored to the
37 recipient's authorized level, based on the most recent assessment,
38 and increased by the previously deducted 3.6 percent.

39 (d) A recipient shall have all appeal rights otherwise provided
40 for under Chapter 7 (commencing with Section 10950) of Part 2.

(e) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through all-county letters or similar instructions from the department.

(f) This section shall become inoperative on July 1, ~~2012~~ 2013, and, as of January 1, ~~2013~~ 2014, is repealed, unless a later enacted statute that is enacted before January 1, ~~2013~~ 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. Section 12305.87 of the Welfare and Institutions Code is amended to read:

12305.87. (a) (1) Commencing 90 days following the effective date of the act that adds this section, a person specified in paragraph (2) shall be subject to the criminal conviction exclusions provided for in this section, in addition to the exclusions required under Section 12305.81.

(2) This section shall apply to a person who satisfies either of the following conditions:

(A) He or she is a new applicant to provide services under this article.

(B) He or she is an applicant to provide services under this article whose application has been denied on the basis of a conviction and for whom an appeal of that denial is pending.

(b) Subject to subdivisions (c), (d), and (e), an applicant subject to this section shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, any of the following:

(1) A violent or serious felony, as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code.

(2) A felony offense for which a person is required to register under subdivision (c) of Section 290 of the Penal Code. For purposes of this paragraph, the 10-year time period specified in this section shall commence with the date of conviction for, or incarceration following a conviction for, the underlying offense, and not the date of registration.

(3) A felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of Section 10980.

1 (c) Notwithstanding subdivision (b), an application shall not be
2 denied under this section if the applicant has obtained a certificate
3 of rehabilitation under Chapter 3.5 (commencing with Section
4 4852.01) of Title 6 of Part 3 of the Penal Code or if the information
5 or accusation against him or her has been dismissed pursuant to
6 Section 1203.4 of the Penal Code.

7 (d) (1) Notwithstanding subdivision (b), a recipient of services
8 under this article who wishes to employ a provider applicant who
9 has been convicted of an offense specified in subdivision (b) may
10 submit to the county an individual waiver of the exclusion provided
11 for in this section. This paragraph shall not be construed to allow
12 a recipient to submit an individual waiver with respect to a
13 conviction or convictions for offenses specified in Section
14 12305.81.

15 (2) The county shall notify a recipient who wishes to hire a
16 person who is applying to be a provider and who has been
17 convicted of an offense subject to exclusion under this section of
18 that applicant's relevant criminal offense convictions that are
19 covered by subdivision (b). The notice shall include both of the
20 following:

21 (A) A summary explanation of the exclusions created by
22 subdivision (b), as well as the applicable waiver process described
23 in this subdivision and the process for an applicant to seek a general
24 exception, as described in subdivision (e). This summary
25 explanation shall be developed by the department for use by all
26 counties.

27 (B) An individual waiver form, which shall also be developed
28 by the department and used by all counties. The waiver form shall
29 include both of the following:

30 (i) A space for the county to include a reference to any Penal
31 Code sections and corresponding offense names or descriptions
32 that describe the relevant conviction or convictions that are covered
33 by subdivision (b) and that the provider applicant has in his or her
34 background.

35 (ii) A statement that the service recipient, or his or her authorized
36 representative, if applicable, is aware of the applicant's conviction
37 or convictions and agrees to waive application of this section and
38 employ the applicant as a provider of services under this article.

39 (3) To ensure that the initial summary explanation referenced
40 in this subdivision is comprehensible for recipients and provider

1 applicants, the department shall consult with representatives of
2 county welfare departments and advocates for, or representatives
3 of, recipients and providers in developing the summary explanation
4 and offense descriptions.

5 (4) The individual waiver form shall be signed by the recipient,
6 or by the recipient's authorized representative, if applicable, and
7 returned to the county welfare department by mail or in person.
8 Except for a parent, guardian, or person having legal custody of a
9 minor recipient, a conservator of an adult recipient, or a spouse or
10 registered domestic partner of a recipient, a provider applicant
11 shall not sign his or her own individual waiver form as the
12 recipient's authorized representative. The county shall retain the
13 waiver form and a copy of the provider applicant's criminal offense
14 record information search response until the date that the
15 convictions that are the subject of the waiver request are no longer
16 within the 10-year period specified in subdivision (b).

17 (5) An individual waiver submitted pursuant to this subdivision
18 shall entitle a recipient to hire a provider applicant who otherwise
19 meets all applicable enrollment requirements for the In-Home
20 Supportive Services program. A provider hired pursuant to an
21 individual waiver may be employed only by the recipient who
22 requested that waiver, and the waiver shall only be valid with
23 respect to convictions that are specified in that waiver. A new
24 waiver shall be required if the provider is subsequently convicted
25 of an offense to which this section otherwise would apply. A
26 provider who wishes to be listed on a provider registry or to provide
27 supportive services to a recipient who has not requested an
28 individual waiver shall be required to apply for a general exception,
29 as provided for in subdivision (e).

30 (6) Nothing in this section shall preclude a provider who is
31 eligible to receive payment for services provided pursuant to an
32 individual waiver under this subdivision from being eligible to
33 receive payment for services provided to one or more additional
34 recipients who obtain waivers pursuant to this same subdivision.

35 (7) The state and a county shall be immune from any liability
36 resulting from granting an individual waiver under this subdivision.

37 (e) (1) Notwithstanding subdivision (b), an applicant who has
38 been convicted of an offense identified in subdivision (b) may seek
39 from the department a general exception to the exclusion provided
40 for in this section.

(2) Upon receipt of a general exception request, the department shall request a copy of the applicant's criminal offender record information search response from the applicable county welfare department, *public authority, or nonprofit consortium*. Notwithstanding any other provision of law, the county, *public authority, or nonprofit consortium* shall provide a copy of the criminal offender record information search response, as provided to the county, *public authority, or nonprofit consortium* by the Department of Justice, to the department. The county, *public authority, or nonprofit consortium* shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response. The state or federal criminal history record information search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(3) The department shall consider the following factors when determining whether to grant a general exception under this subdivision:

(A) The nature and seriousness of the conduct or crime under consideration and its relationship to employment duties and responsibilities.

(B) The person's activities since conviction, including, but not limited to, employment or participation in therapy education, or community service, that would indicate changed behavior.

(C) The number of convictions and the time that has elapsed since the conviction or convictions.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any evidence of rehabilitation, including character references, submitted by the person, or by others on the person's behalf.

(F) Employment history and current or former employer recommendations. Additional consideration shall be given to employer recommendations provided by a person who has received or has indicated a desire to receive supportive or personal care services from the applicant, including, but not limited to, those services, specified in Section 12300.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

1 (H) The granting by the Governor of a full and unconditional
2 pardon.

3 (f) If the department makes a determination to deny an
4 application to provide services pursuant to a request for a general
5 exception, the department shall notify the applicant of this
6 determination by either personal service or registered mail. The
7 notice shall include the following information:

8 (1) A statement of the department's reasons for the denial that
9 evaluates evidence of rehabilitation submitted by the applicant, if
10 any, and that specifically addresses any evidence submitted relating
11 to the factors in paragraph (3) of subdivision (e).

12 (2) A copy of the applicant's criminal offender record
13 information search response, even if the applicant already has
14 received a copy pursuant to Section 12301.6 or 12305.86. The
15 department shall provide this information in a manner that protects
16 the confidentiality and privacy of the criminal offender record
17 information search response.

18 (A) The state or federal criminal history record shall not be
19 modified or altered from its form or content as provided by the
20 Department of Justice.

21 (B) The department shall retain a copy of each individual's
22 criminal offender record information search response until the date
23 that the convictions that are the subject of the exception are no
24 longer within the 10-year period specified in subdivision (b), and
25 shall record the date the copy of the response was provided to the
26 individual and the department.

27 (C) The criminal offender record information search response
28 shall not be made available by the department to any individual
29 other than the provider applicant.

30 (g) (1) Upon written notification that the department has
31 determined that a request for exception shall be denied, the
32 applicant may request an administrative hearing by submitting a
33 written request to the department within 15 business days of receipt
34 of the written notification. Upon receipt of a written request, the
35 department shall hold an administrative hearing consistent with
36 the procedures specified in Section 100171 of the Health and Safety
37 Code, except where those procedures are inconsistent with this
38 section.

39 (2) A hearing under this subdivision shall be conducted by a
40 hearing officer or administrative law judge designated by the

1 director. A written decision shall be sent by certified mail to the
2 applicant.

3 (h) The department shall revise the provider enrollment form
4 developed pursuant to Section 12305.81 to include both of the
5 following:

6 (1) The text of subdivision (c) of Section 290 of the Penal Code,
7 subdivision (c) of Section 667.5 of the Penal Code, subdivision
8 (c) of Section 1192.7 of the Penal Code, and paragraph (2) of
9 subdivisions (c) and (g) of Section 10980.

10 (2) A statement that the provider understands that if he or she
11 has been convicted, or incarcerated following conviction for, any
12 of the crimes specified in the provisions identified in paragraph
13 (b) in the last 10 years, and has not received a certificate of
14 rehabilitation or had the information or accusation dismissed, as
15 provided in subdivision (c), he or she shall only be authorized to
16 receive payment for providing in-home supportive services under
17 an individual waiver or general exception as described in this
18 section, and upon meeting all other applicable criteria for
19 enrollment as a provider in the program.

20 (i) (1) Notwithstanding the rulemaking provisions of the
21 Administrative Procedure Act (Chapter 3.5 (commencing with
22 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
23 Code), the department may implement and administer this section
24 through all-county letters or similar instructions from the
25 department until regulations are adopted. The department shall
26 adopt emergency regulations implementing these provisions no
27 later than July 1, 2011. The department may readopt any emergency
28 regulation authorized by this section that is the same as or
29 substantially equivalent to an emergency regulation previously
30 adopted under this section.

31 (2) The initial adoption of emergency regulations pursuant to
32 this section and one readoption of emergency regulations shall be
33 deemed an emergency and necessary for the immediate
34 preservation of the public peace, health, safety, or general welfare.
35 Initial emergency regulations and the one readoption of emergency
36 regulations authorized by this section shall be exempt from review
37 by the Office of Administrative Law. The initial emergency
38 regulations and the one readoption of emergency regulations
39 authorized by this section shall be submitted to the Office of
40 Administrative Law for filing with the Secretary of State and each

shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(j) In developing the individual waiver form and all-county letters or information notices or similar instructions, the department shall consult with stakeholders, including, but not limited to, representatives of the county welfare departments, and representatives of consumers and providers. The consultation shall include at least one in-person meeting prior to the finalization of the individual waiver form and all-county letters or information notices or similar instructions.

SEC. 17. Section 12306.6 of the Welfare and Institutions Code is amended to read:

12306.6. (a) (1) Notwithstanding any other provision of law, beginning on the date for which the federal Centers for Medicare and Medicaid Services authorizes commencement of the implementation of this section, but no earlier than ~~July 1, 2010~~ January 1, 2012, and concurrent with the collection of the sales tax extended to support services pursuant to Article 4 (commencing with Section 6150) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code, a provider of in-home supportive services shall receive a supplementary payment under this article equal to a percentage, as set forth in paragraph (2), of the gross receipts, as defined in subdivision (b) of Section 6150 of the Revenue and Taxation Code, of the provider for the sale of in-home supportive services, plus an amount described in paragraph (3) if applicable. If the underlying payment for in-home supportive services that is being supplemented is a Medi-Cal payment, then the supplementary payment shall also be a Medi-Cal payment. Supplementary payments shall be made only to those providers from whom the tax imposed pursuant to Section 6151 of the Revenue and Taxation Code has been collected.

(2) The percentage applicable to the supplementary payment required by paragraph (1) shall equal the rate described in subdivision (b) of Section 6151 of the Revenue and Taxation Code and shall only be applied to services provided under this article, including personal care option services reimbursable under the Medi-Cal program.

(3) The supplementary payment of an individual provider whose payroll withholding required for federal income tax purposes and for purposes of taxation for the Social Security and Medicare

1 programs is increased due to the supplementary payment, in
2 comparison to the amounts for those purposes that would be
3 withheld without the supplementary payment, shall be increased
4 by an additional amount that is equal to the amount of this
5 additional federal withholding.

6 (b) (1) All revenues deposited in the Personal Care IHSS
7 Quality Assurance Revenue Fund established pursuant to Section
8 6168 of the Revenue and Taxation Code shall be used solely for
9 purposes of the In-Home Supportive Services program, including,
10 but not limited to, those services provided under the Medi-Cal
11 program. All supplementary payments required by this section
12 shall be paid from the Personal Care IHSS Quality Assurance
13 Revenue Fund.

14 (2) The Director of Finance shall determine the sum required
15 to be deposited in the Personal Care IHSS Quality Assurance
16 Revenue Fund to fund the initial supplementary payments from
17 the fund. As soon thereafter as reasonably possible, this sum shall
18 be transferred, in the form of a loan, from the General Fund to the
19 Personal Care IHSS Quality Assurance Revenue Fund. At the time
20 sufficient revenues have been deposited in the Personal Care IHSS
21 Quality Assurance Revenue Fund pursuant to Section 6168 of the
22 Revenue and Taxation Code to sustain the continued operation of
23 the fund for that portion of the supplementary payment described
24 in paragraph (2) of subdivision (a) plus an additional amount equal
25 to the General Fund loan made pursuant to this paragraph, plus
26 interest, the sum transferred from the General Fund, including
27 interest, shall be repaid to the General Fund. Subsequent
28 supplementary payments pursuant to this section shall be made
29 from revenue deposited in the Personal Care IHSS Quality
30 Assurance Revenue Fund pursuant to Section 6168 of the Revenue
31 and Taxation Code.

32 (3) The Department of Finance, on an ongoing basis, shall
33 determine the amount necessary to implement paragraph (3) of
34 subdivision (a), and subdivision (c) of Section 12302.2, and
35 immediately transfer this amount from the General Fund to the
36 Personal Care IHSS Quality Assurance Revenue Fund.

37 (c) (1) The Director of Health Care Services shall seek all
38 federal Medicaid approvals necessary to implement this section,
39 including using the revenues obtained pursuant to Article 4
40 (commencing with Section 6150) of Chapter 2 of Part 1 of Division

1 2 of the Revenue and Taxation Code as the nonfederal share for
2 supplementary payments. As part of that request for approval, the
3 director shall seek to make the supplementary payments effective
4 as of ~~July 1, 2010~~ *January 1, 2012*.

5 (2) This section shall become operative only if the federal
6 Centers for Medicare and Medicaid Services grants Medicaid
7 approvals sought pursuant to paragraph (1).

8 (3) If Medicaid approval is granted pursuant to paragraph (2),
9 within 10 days of that approval the Director of Health Care
10 Services shall notify the State Board of Equalization and the
11 appropriate fiscal and policy committees of the Legislature of the
12 approval.

13 (d) If Article 4 (commencing with Section 6150) of Chapter 2
14 of Part 1 of Division 2 of the Revenue and Taxation Code becomes
15 inoperative pursuant to subdivision (b) of Section 6170 of the
16 Revenue and Taxation Code, supplementary payments shall cease
17 to be made pursuant to subdivision (a) when all moneys in the
18 fund have been expended.

19 (e) (1) Notwithstanding the rulemaking provisions of the
20 Administrative Procedure Act, Chapter 3.5 (commencing with
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
22 Code, the department and the State Department of Health Care
23 Services may implement and administer this section through
24 all-county letters or similar instruction from the department and
25 the State Department of Health Care Services until regulations are
26 adopted. The department and the State Department of Health Care
27 Services shall adopt emergency regulations implementing this
28 section no later than 12 months following the initial effective date
29 of the supplementary payments. The department and the State
30 Department of Health Care Services may readopt any emergency
31 regulation authorized by this section that is the same as or
32 substantially equivalent to an emergency regulation previously
33 adopted under this section.

34 (2) The initial adoption of emergency regulations implementing
35 this section and the one readoption of emergency regulations
36 authorized by this subdivision shall be deemed an emergency and
37 necessary for the immediate preservation of the public peace,
38 health, safety, or general welfare. Initial emergency regulations
39 and the one readoption of emergency regulations authorized by
40 this section shall be exempt from review and approval by the Office

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

7 (f) This section shall remain in effect only until the January 1
8 following the date supplementary payments cease to be made
9 pursuant to subdivision (d), and as of that date is repealed.

10 *SEC. 18. Section 14124.93 of the Welfare and Institutions Code*
11 *is amended to read:*

12 14124.93. (a) The Department of Child Support Services shall
13 provide payments to the local child support agency of fifty dollars
14 (\$50) per case for obtaining third-party health coverage or
15 insurance of beneficiaries, to the extent that funds are appropriated
16 in the annual Budget Act.

17 (b) A county shall be eligible for a payment if the county obtains
18 third-party health coverage or insurance for applicants or recipients
19 of Title IV-D services not previously covered, or for whom
20 coverage has lapsed, and the county provides all required
21 information on a form approved by both the Department of Child
22 Support Services and the State Department of Health Care Services.

23 (c) Payments to the local child support agency under this section
24 shall be suspended for the 2003–04, 2004–05, 2005–06, 2006–07,
25 2007–08, 2008–09, 2009–10, 2010–11, and 2011–12, 2012–13,
26 2013–14, and 2014–15 fiscal years.

27 *SEC. 19. Section 14132.957 of the Welfare and Institutions*
28 *Code is repealed.*

29 ~~14132.957. (a) (1) It is the intent of the Legislature to adopt~~
30 ~~measures that will assist individuals who are living in the~~
31 ~~community to remain within their home environment and avoid~~
32 ~~unnecessary emergency room usage and hospital and nursing~~
33 ~~facility admissions due to those individuals not taking medications~~
34 ~~as prescribed.~~

35 ~~(2) The Legislature finds and declares that certain seniors,~~
36 ~~persons with disabilities, and other Medi-Cal recipients are at high~~
37 ~~risk of not taking medications as prescribed and that measures to~~
38 ~~assist them in taking prescribed medications will advance the~~
39 ~~state's objectives to save lives, reduce health care costs, and assist~~
40 ~~individuals to continue living independently in their homes.~~

1 ~~(3) The Legislature has determined that the achievement of~~
2 ~~these objectives will result in a net annual savings of one hundred~~
3 ~~forty million dollars (\$140,000,000) to the General Fund, after~~
4 ~~fully offsetting costs for implementing and administrating the pilot~~
5 ~~project.~~

6 ~~(4) The Legislature therefore authorizes the establishment of~~
7 ~~the Home and Community Based Medication Dispensing Machine~~
8 ~~Pilot Project for utilization of an automated medication dispensing~~
9 ~~machine with associated monitoring and telephonic reporting~~
10 ~~services to assist Medi-Cal recipients with taking prescribed~~
11 ~~medications. All Medi-Cal recipients who participate in the pilot~~
12 ~~project shall do so voluntarily and shall be selected using criteria~~
13 ~~that demonstrates their susceptibility to not taking their medications~~
14 ~~as prescribed without monitoring or assistance.~~

15 ~~(b) On and after the effective date of this section, the department,~~
16 ~~in consultation with the State Department of Social Services, shall~~
17 ~~begin implementation of the pilot project described in subdivision~~
18 ~~(a) and shall do all of the following:~~

19 ~~(1) Establish criteria to identify at-risk Medi-Cal recipients who~~
20 ~~demonstrate susceptibility to not taking medications as prescribed.~~
21 ~~These criteria shall be based on Medi-Cal, In-Home Supportive~~
22 ~~Services program and Medicare data and may include factors such~~
23 ~~as age, disability, multiple prescribed medications, and experience~~
24 ~~with or a high risk of experience with, numerous emergency~~
25 ~~department visits or hospital or nursing facility admissions within~~
26 ~~a specified time period as a result of not taking medications as~~
27 ~~prescribed.~~

28 ~~(2) Identify an at-risk portion of Medi-Cal recipients of a~~
29 ~~sufficient number to achieve the intended savings. Recipients~~
30 ~~identified for this pilot project shall be limited to individuals who~~
31 ~~obtain Medi-Cal benefits through fee for service, who are not~~
32 ~~required to be enrolled on a mandatory basis in a Medi-Cal~~
33 ~~managed care health plan, and who are able to manage the~~
34 ~~medication dispensing machine independently or with the~~
35 ~~assistance of a family member or care provider and have a home~~
36 ~~environment capable of supporting the machine and associated~~
37 ~~telephonic reporting service that includes an active telephone line.~~

38 ~~(3) To the extent necessary, the department shall do all of the~~
39 ~~following:~~

1 ~~(A) Select and procure the automated medication dispensing~~
2 ~~machines, including costs for installation in a participant's home;~~
3 ~~as well as monitoring and repair services associated with operation~~
4 ~~of the machines.~~

5 ~~(B) Provide an in-home, automated medication dispensing~~
6 ~~machine with telephonic reporting service for monitoring and~~
7 ~~assisting with taking medication, including installation,~~
8 ~~maintenance, alerts, training, and supplies at no cost to the~~
9 ~~recipient.~~

10 ~~(4) Seek federal funding from the Centers for Medicare and~~
11 ~~Medicaid Services Innovation Center for the cost of the~~
12 ~~demonstration and other expenses, and to receive Medicare shared~~
13 ~~savings realized from the pilot project.~~

14 ~~(5) Assess the potential for federal financial participation for~~
15 ~~these machines and any other expenses associated with this pilot~~
16 ~~project as well as receipt of federal reimbursement for savings~~
17 ~~accrued to the Medicare program. If the department determines~~
18 ~~that federal financial participation is available under Title XI or~~
19 ~~XIX of the federal Social Security Act, the department shall seek~~
20 ~~a waiver or other federal approval, or submit a Medicaid State Plan~~
21 ~~amendment to implement the pilot project.~~

22 ~~(c) (1) The department shall provide quarterly reports, beginning~~
23 ~~October 1, 2011, to the Department of Finance and the appropriate~~
24 ~~fiscal and policy committees of the Legislature, describing the~~
25 ~~number of recipients participating in the pilot project, the number~~
26 ~~of medication dispensing machines in use, costs of implementing~~
27 ~~and administering the pilot project, and any available data regarding~~
28 ~~medical and pharmacy utilization.~~

29 ~~(2) The department shall also conduct an evaluation of the pilot~~
30 ~~project, including effects on service utilization, spending,~~
31 ~~outcomes, projected savings to the Medi-Cal program and the~~
32 ~~federal Medicare program, recommendations for improving the~~
33 ~~pilot project and maximizing savings to the state, and identification~~
34 ~~of other means of General Fund savings related to improving~~
35 ~~quality and cost-effectiveness of care, and shall report the~~
36 ~~evaluation to the appropriate policy and fiscal committees of the~~
37 ~~Legislature by December 31, 2013.~~

38 ~~(3) (A) If the Department of Finance determines that the~~
39 ~~quarterly reports do not demonstrate the ability of the pilot project~~
40 ~~to achieve at least the estimated net annual savings of one hundred~~

1 ~~forty million dollars (\$140,000,000) to the General Fund, after~~
2 ~~fully offsetting implementation and administrative costs, the~~
3 ~~Director of Finance shall notify the Chair of the Senate Committee~~
4 ~~on Budget and Fiscal Review and the Chair of the Assembly~~
5 ~~Committee on Budget of this determination, in writing, by April~~
6 ~~10, 2012. Within 10 days following this notification, the~~
7 ~~Department of Finance shall convene a meeting with legislative~~
8 ~~staff to review the estimates related to its determination.~~

9 (B) ~~Subsequent to the meeting pursuant to subparagraph (A),~~
10 ~~the Department of Finance shall request that the Legislature enact~~
11 ~~legislation on or before July 1, 2012, to either modify the pilot~~
12 ~~project, if necessary, or provide alternative options to achieve the~~
13 ~~balance of the net annual savings of one hundred forty million~~
14 ~~dollars (\$140,000,000) to the General Fund, after fully offsetting~~
15 ~~implementation and administrative costs, or both.~~

16 (d) (1) ~~Notwithstanding any other provision of law, if the~~
17 ~~Department of Finance determines after July 1, 2012, that the~~
18 ~~actions pursuant to subdivisions (b) and (c) will fail to achieve the~~
19 ~~net annual savings of one hundred forty million dollars~~
20 ~~(\$140,000,000) to the General Fund, after fully offsetting~~
21 ~~implementation and administrative costs, the Department of~~
22 ~~Finance shall notify the State Department of Social Services and~~
23 ~~the department, and the State Department of Social Services, in~~
24 ~~consultation with the department, shall implement a reduction in~~
25 ~~authorized hours for in-home supportive services recipients~~
26 ~~beginning October 1, 2012, in accordance with Section 12301.03,~~
27 ~~to achieve a net annual savings of one hundred forty million dollars~~
28 ~~(\$140,000,000) to the General Fund, after fully offsetting~~
29 ~~implementation and administrative costs of the pilot project and~~
30 ~~after taking into account any savings achieved pursuant to~~
31 ~~subdivisions (b) and (c).~~

32 (2) ~~No earlier than 30 days after submission of the evaluation~~
33 ~~required by paragraph (2) of subdivision (c), the Department of~~
34 ~~Finance may adjust the amount of the reduction to meet net annual~~
35 ~~savings of one hundred forty million dollars (\$140,000,000) to the~~
36 ~~General Fund after fully offsetting implementation and~~
37 ~~administrative costs and after taking into account any savings~~
38 ~~achieved pursuant to subdivisions (b) and (c). The calculations~~
39 ~~shall be based on updated data contained in the evaluation.~~

~~(e) For the purpose of implementing this section, the director may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, or utilize existing provider enrollment or payment mechanisms. Any contract, contract amendment, or change order entered into for the purpose of implementing this section shall be exempt from Chapter 5.6 (commencing with Section 11545) of Part 1 of Division 3 of Title 2 of the Government Code, the Public Contract Code, and any associated policies, procedures, or regulations under these provisions, and shall be exempt from review or approval by any division of the Department of General Services and the California Technology Agency.~~

~~(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section through all-county letters, provider bulletins, or similar instructions, without taking regulatory action.~~

~~(g) (1) Notwithstanding paragraph (2) of subdivision (c), the department may terminate operation of the pilot project if and to the extent that any of the following events occurs:~~

~~(A) Funding to implement and administer the pilot project is not appropriated in the 2012–13 fiscal year or annually thereafter.~~

~~(B) The Director of Finance notifies the Legislature that the pilot project is not projected to achieve a net annual savings or results in an overall increased cost.~~

~~(C) The pilot project conflicts with one or more provisions of state or federal law necessary to implement the pilot project.~~

~~(D) The department is unable to obtain from the Medicare program the data necessary to implement this pilot project, and the high-risk Medi-Cal only population is insufficient to conduct the pilot project.~~

~~(E) The department receives substantiated reports of adverse clinical outcomes indicating that continuing the pilot project poses unacceptable health risks to participants.~~

~~(2) Termination of the pilot project pursuant to paragraph (1) does not provide the department or the State Department of Social Services with authority to implement a reduction in authorized hours pursuant to Section 12301.03. Any reduction in authorized hours pursuant to Section 12301.03 shall comply with the requirements of subdivision (d).~~

1 ~~(3) The department shall notify the appropriate fiscal and policy~~
2 ~~committees of the Legislature 30 days prior to terminating the pilot~~
3 ~~project.~~

4 *SEC. 20. Section 18285 of the Welfare and Institutions Code*
5 *is amended to read:*

6 18285. (a) There is hereby created in the State Treasury the
7 Child Health and Safety Fund for the purposes specified in this
8 section.

9 (b) Moneys for this fund shall be derived from the license plate
10 program provided for pursuant to Section ~~5028~~ 5072 of the Vehicle
11 Code and from civil penalties on child day care facility providers.

12 (c) Moneys in the fund shall be expended, upon appropriation
13 by the Legislature, for the purposes specified in subdivisions (d),
14 (e) and (f).

15 (d) Fifty percent of moneys derived from the license plate
16 program pursuant to Section 5072 of the Vehicle Code shall be
17 available, upon appropriation, to the State Department of Social
18 Services for the purpose of administering provisions of Sections
19 1596.816, 1596.87, 1596.872b, 1596.893b 1596.895, 1596.95,
20 1597.091, 1597.54, 1597.541, 1597.542, 1597.55b and 1597.62
21 of the Health and Safety Code. *Upon appropriation by the*
22 *Legislature, an additional five hundred one thousand dollars*
23 *(\$501,000), in excess of the 50 percent derived from the license*
24 *plate program, also shall be made available for these purposes.*
25 The State Department of Social Services shall allocate these special
26 funds according to the following priorities:

27 (1) Site visits performed pursuant to Sections 1597.091 and
28 1597.55b of the Health and Safety Code.

29 (2) The monitoring responsibility of the child care advocate
30 program.

31 (3) Training for investigative and licensing field staff.

32 (4) Other aspects of the child care advocate program performed
33 pursuant to Section 1596.872b of the Health and Safety Code.

34 (5) The salary of the chief of the child care licensing branch.

35 In order to implement the list of priorities set forth in this
36 subdivision, and to complete implementation of subdivision (a) of
37 Section 1596.816 of the Health and Safety Code, the State
38 Department of Social Services may, as necessary, fund appropriate
39 administrative support costs.

(e) ~~Fifty percent of moneys~~ *The balance of funds remaining after the appropriations specified in subdivision (d)* derived from the license plate program pursuant to Section 5072 of the Vehicle Code shall be available, upon appropriation, for programs ~~which~~ *that* address any of the following child health and safety concerns and that are either to be carried out within a two-year period or whose implementation is dependent upon one-time initial funding:

(1) Child abuse prevention, except that not more than 25 percent of the moneys in this fund shall be used for this purpose. Ninety percent of the 25 percent shall be deposited in the county children's trust fund, established pursuant to Section 18966 of the Welfare and Institutions Code, for the support of child abuse prevention services in the community, and 10 percent of the 25 percent shall be deposited in the State Children's Trust Fund, established pursuant to Section 18969, for public education, training, and technical assistance.

(2) Vehicular safety, including restraint warnings and education programs.

(3) Drowning prevention.

(4) Playground safety standards.

(5) Bicycle safety.

(6) Gun safety.

(7) Fire safety.

(8) Poison control and safety.

(9) In-home safety.

(10) Childhood lead poisoning.

(11) Sudden infant death syndrome.

(f) Moneys derived from civil penalties imposed on child day care facility providers shall be made available, upon appropriation, to the State Department of Social Services exclusively for the technical assistance, orientation, training, and education of child day care facility providers.

SEC. 21. The heading of Chapter 7 (commencing with Section 19700) of Part 2 of Division 10 of the Welfare and Institutions Code is amended to read:

CHAPTER 7. ~~VOCATIONAL REHABILITATION APPEALS BOARD~~
APPEALS

1 *SEC. 22. Section 19700 of the Welfare and Institutions Code*
2 *is repealed.*

3 ~~19700. (a) There is in the department a Rehabilitation Appeals~~
4 ~~Board consisting of seven members, one of whom shall be~~
5 ~~designated chairperson. The chairperson and the members of the~~
6 ~~board shall be appointed by the Governor with the advice and~~
7 ~~consent of the Senate for terms of four years. The members of the~~
8 ~~board shall be selected for their interest and leadership in activities~~
9 ~~to encourage and enable the disabled and otherwise disadvantaged~~
10 ~~to participate fully in the economic and social life of the~~
11 ~~community.~~

12 ~~(b) A majority of the members of the board shall be disabled~~
13 ~~persons who have overcome their disabilities, including those who~~
14 ~~have done so with the assistance of public agencies, and who are~~
15 ~~independently self-supporting in the regular businesses,~~
16 ~~professions, and occupations of the community.~~

17 ~~(c) No member of the board shall have a personal or financial~~
18 ~~interest that would affect his or her objectivity in matters before~~
19 ~~the board.~~

20 *SEC. 23. Section 19701 of the Welfare and Institutions Code*
21 *is repealed.*

22 ~~19701. (a) The members of the board shall receive their actual~~
23 ~~and necessary traveling expenses incurred in the course of official~~
24 ~~duties.~~

25 ~~(b) In addition to subdivision (a), each member shall receive a~~
26 ~~per diem of one hundred dollars (\$100) for each day actually spent~~
27 ~~in the discharge of official duties.~~

28 ~~Those payments shall be made from federal and state general~~
29 ~~fund moneys appropriated to the department.~~

30 *SEC. 24. Section 19702 of the Welfare and Institutions Code*
31 *is repealed.*

32 ~~19702. (a) The members of the board shall meet whenever~~
33 ~~required to hear appeals that have been filed with the board. Special~~
34 ~~meetings shall be approved by the director and called by the~~
35 ~~chairperson, who shall notify the other members of the time and~~
36 ~~place of those meetings.~~

37 ~~(b) The director, in consultation with the board, shall determine~~
38 ~~and provide necessary staff support and assistance for the board~~
39 ~~in conducting fair hearings and issuing decisions.~~

1 ~~(c) Three members of the board shall constitute a quorum for~~
2 ~~the performance of any duty or the exercise of any power of the~~
3 ~~board.~~

4 *SEC. 25. Section 19704 of the Welfare and Institutions Code*
5 *is amended to read:*

6 19704. (a) If any applicant for, or client of, the department is
7 dissatisfied with any action of the department relating to his or her
8 application or receipt of services, or if any person who desires to
9 apply for that assistance is refused the opportunity to submit a
10 signed application therefor and is dissatisfied with that refusal, he
11 or she shall, upon filing a request with the department within one
12 year after the decision or action complained of, have a right to an
13 administrative review and redetermination by a member or
14 members of the supervisory staff of the department and a ~~formal~~
15 fair hearing before the ~~Rehabilitation Appeals Board~~ *an impartial*
16 *hearing officer.* ~~An~~

17 (b) *An administrative review shall not delay a hearing before*
18 ~~the board~~ *an impartial hearing officer* if that hearing is requested.
19 The review shall be held and the decision of the reviewer shall be
20 rendered to the applicant or client within 15 days of the date the
21 request was filed. ~~A fair hearing shall be held within 45 days of~~
22 ~~the date a written request is received by the board.~~

23 (c) *A fair hearing shall be held within 60 days of the date a*
24 *written request is received by the department.*

25 (d) *Notwithstanding Sections 19130, 19131, and 19132 of the*
26 *Government Code, the department shall contract with another*
27 *office, entity, or department for the provision of impartial hearing*
28 *officers.*

29 *SEC. 26. Section 19705 of the Welfare and Institutions Code*
30 *is amended to read:*

31 19705. (a) ~~The~~ (1) *After consulting with the appellant, the*
32 *department shall set the time and place of the hearing specified in*
33 *Section 19704 before the Rehabilitation Appeals Board* *an*
34 *impartial hearing officer* and shall give all parties concerned
35 written notice of the time and place of the hearing.

36 (2) *An impartial hearing officer may change the time and place*
37 *of the hearing after further consultation with, and to accommodate*
38 *the convenience of, the appellant. If the appellant consents and*
39 *each participant in the hearing has an opportunity to participate*
40 *in the entire proceeding while it is taking place and to examine*

1 *exhibits, all or part of the fair hearing may be conducted by means*
2 *other than an in-person hearing.*

3 (b) At the hearing, the appellant may appear ~~in person~~, may be
4 accompanied by a representative of his or her own choosing, or
5 may designate a representative to appear on his or her behalf. The
6 appellant may submit the matter on the written record and waive
7 the right to appear at the hearing.

8 (c) Upon a joint request of the parties or upon a showing of
9 good cause by either party, the ~~board~~ impartial hearing officer
10 may grant extensions of time or continuances of the hearing.

11 (d) (1) *The hearing shall be conducted by an impartial hearing*
12 *officer who has no personal, financial, professional, or other*
13 *interest that would conflict with his or her objectivity in conducting*
14 *the hearing. The impartial hearing officer shall be knowledgeable*
15 *regarding the federal and state laws and regulations applicable*
16 *to the department.*

17 (2) *The hearing shall not be conducted according to the*
18 *technical rules of evidence and those related to witnesses. Any*
19 *relevant evidence shall be admitted if it is the sort of evidence upon*
20 *which responsible persons are accustomed to rely in the conduct*
21 *of serious affairs. Hearsay evidence may be used for the purpose*
22 *of supplementing or explaining other evidence, but shall not be*
23 *sufficient in itself to support a finding, unless it would be admissible*
24 *over objection in a civil action. All testimony shall be under oath*
25 *or affirmation, which the impartial hearing officer is empowered*
26 *to administer.*

27 (3) *The impartial hearing officer shall do all of the following:*

28 (A) *Consider the presentation of relevant viewpoints about the*
29 *issues of disagreement.*

30 (B) *Examine the evidence presented during the hearing.*

31 (C) *Issue a decision to the parties, written in ordinary and*
32 *concise language and in compliance with federal and state law*
33 *and regulations, that includes findings and grounds for the*
34 *decision, within 30 days of the completion of the hearing.*

35 SEC. 27. Section 19705.1 is added to the Welfare and
36 Institutions Code, to read:

37 19705.1. *Training for impartial hearing officers shall include,*
38 *but not be limited to, both of the following:*

1 (a) Information regarding the goals and requirements of the
2 vocational rehabilitation program, the state plan, and federal and
3 state statutes and regulations governing the program.

4 (b) Instruction in how to protect the rights of appellants at
5 administrative hearings, with emphasis on assisting, where
6 appropriate, those appellants represented by themselves or an
7 advocate inexperienced in administrative hearings in fully
8 developing the administrative record.

9 SEC. 28. Section 19706 of the Welfare and Institutions Code
10 is repealed.

11 19706. (a) In each appeal to the Rehabilitation Appeals Board,
12 the written notification required by Section 19703, and, if
13 applicable, the decision of the reviewer required pursuant to Section
14 19704, shall form part of the record.

15 (b) Three or more members of the board shall hear all relevant
16 evidence and shall consider each case on the basis of the laws and
17 regulations controlling the department and shall render a final
18 decision that has been approved by a majority of the board
19 members present at the hearing within 45 days.

20 (c) The board shall send its written decision by certified mail
21 to the appellant, the appellant's authorized representative, and the
22 department.

23 SEC. 29. Section 19709 of the Welfare and Institutions Code
24 is amended to read:

25 19709. (a) The appellant, within six months after receiving
26 notice of the board's impartial hearing officer's final decision,
27 may file a petition with the superior court, under Section 1094.5
28 of the Code of Civil Procedure, praying for a review of the entire
29 proceedings in the matter, upon questions of law involved in the
30 case. The review, if granted, shall be the exclusive remedy available
31 to the appellant for review of the board's impartial hearing officer's
32 final decision. The department shall be the sole respondent in the
33 proceedings.

34 (b) No filing fee shall be required for the filing of a petition
35 pursuant to this section. Any of these petitions to the superior court
36 shall be entitled to a preference in setting a date for hearing on the
37 petition. No bond shall be required in the case of any petition for
38 review, nor in any appeal therefrom. The appellant shall be entitled
39 to reasonable attorney's fees and costs, if he or she obtains a
40 decision in his or her favor.

SEC. 30. Section 19710 is added to the Welfare and Institutions Code, to read:

19710. Until January 1, 2014, the adoption and readoption of regulations to modify appeals processes consistent with this part shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review of the emergency regulations by the Office of Administrative Law.

SEC. 31. Section 72 of Chapter 32 of the Statutes of 2011 is amended to read:

Sec. 72. The State Department of Social Services, in consultation with stakeholders including, but not limited to, counties and public authorities, including representatives of the California Association of Public Authorities, shall develop a new ratesetting methodology for public authority administrative costs, to go into effect commencing with the ~~2012–13~~ 2013–14 fiscal year.

SEC. 32. (a) The State Department of Social Services shall use funding included in the Budget Act of 2012 related to replacement of the Child Welfare Services/Case Management System (CWS/CMS) for the next steps necessary to move forward with the recommendation of the Child Welfare Automation Study Team (CAST) to proceed toward procuring a new system, consistent with a buy/build strategy, as described in the CAST report submitted to the Legislature. These next steps shall include, but shall not be limited to, completing, in consultation with the counties and the County Welfare Directors Association, a Feasibility Study Report (FSR) and federal Advance Planning Document (APD), as well as conducting other planning activities. The Office of Systems Integration (OSI) and the department shall report the results of these activities, in addition to the key milestones and anticipated timelines for any resulting procurement process, to the Legislature by March 1, 2013, for review during budget hearings in 2013.

(b) (1) The requirement for submitting a report imposed under subdivision (a) is inoperative on March 1, 2017, pursuant to Section 10231.5 of the Government Code.

1 (2) A report to be submitted pursuant to subdivision (a) shall
2 be submitted in compliance with Section 9795 of the Government
3 Code.

4 SEC. 33. (a) The State Department of Social Services (DSS)
5 and the Office of Systems Integration (OSI) shall have a qualified
6 third party conduct a cost-reasonableness assessment of the costs
7 proposed by the vendor to migrate the Consortium-IV counties to
8 the newly developed Los Angeles Eligibility, Automated
9 Determination, Evaluation and Reporting (LEADER) Replacement
10 System (LRS). The purpose of the assessment is to determine
11 whether the proposed overall costs are within range of
12 reasonableness, based on current market rates and prices for the
13 products and services proposed under the vendor contract terms
14 and conditions, and given the proposed migration plans, project
15 requirements and objectives, implementation approach, and project
16 risks, among other factors.

17 (b) The assessment shall be conducted during the LRS
18 development period and the results shall be ready within an
19 appropriate time for DSS and OSI to determine how best to
20 negotiate with the vendor in order to proceed with the
21 Consortium-IV migration to LRS.

22 SEC. 34. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

27 SEC. 35. The sum of one thousand dollars (\$1,000) is hereby
28 appropriated from the General Fund to the California Health and
29 Human Services Agency for administration.

30 SEC. 36. The changes made by this act to Chapter 7
31 (commencing with Section 19700) of Part 2 of Division 10 of the
32 Welfare and Institutions Code shall become operative 30 days
33 after the effective date of this act.

34 SEC. 37. This act is a bill providing for appropriations related
35 to the Budget Bill within the meaning of subdivision (e) of Section
36 12 of Article IV of the California Constitution, has been identified
37 as related to the budget in the Budget Bill, and shall take effect
38 immediately.

1 ~~SECTION 1.—It is the intent of the Legislature to enact statutory~~
2 ~~changes relating to the Budget Act of 2012.~~

O