Senate Bill No. 855

CHAPTER 29

An act to amend Section 17415 of the Family Code, to amend Sections 1506.5, 1520.3, 1522, 1523.1, 1523.2, 1533, 1534, 1550, 1551, 1556, 1558, 1562, 1568.05, 1568.07, 1569.185, 1569.20, 1569.48, 1569.525, 1569.682, 1596.803, 1596.871, 1796.12, 1796.14, 1796.16, 1796.17, 1796.19, 1796.22, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, 1796.31, 1796.44, 1796.45, 1796.47, 1796.48, 1796.49, 1796.52, 1796.55, 1796.61, and 1796.63 of, to amend and renumber Sections 1796.33, 1796.34, 1796.35, 1796.36, 1796.37, and 1796.42 of, to amend, renumber, and add Sections 1796.38 and 1796.41 of, to add Sections 1546.1, 1546.2, 1548.1, 1569.481, 1569.482, and 1796.40 to, to repeal Sections 1796.39 and 1796.56 of, and to repeal and add Section 1546 of, the Health and Safety Code, and to amend Sections 300, 10104, 10553.11, 11320.32, 11322.8, 11325.24, 11402.4, 11450.025, 11460, 11477, 12301.1, and 18906.55 of, to add Sections 11461.3, 12300.4, and 12300.41 to, to amend, repeal, and add Sections 18901.2 and 18901.5 of, and to add Article 3.3 (commencing with Section 11330) to Chapter 2 of Part 3 and Chapter 5.2 (commencing with Section 16524.6) to Part 4, of Division 9 of, the Welfare and Institutions Code, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 855, Committee on Budget and Fiscal Review. Human services.

(1) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities, residential care facilities for the elderly, residential care facilities for persons with chronic, life-threatening illness, child day care centers, and family day care homes. Existing law requires that some of these facilities be subject to unannounced visits by the department at least once every 5 years.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of foster family agencies, as defined, by the department. Under existing law, foster family agencies certify foster family homes and find homes or other placements for children. Existing law specifies how foster family agencies are required to carry out these functions, including a requirement that a foster family agency annually recertify a certified family home. A violation of these provisions, or the willful or repeated violation of any rule or regulation promulgated under this provision, is a crime.

This bill would require a foster family agency to conduct an announced inspection of a certified family home during the annual recertification and an unannounced inspection when certain circumstances are present, including when a certified family home is on probation. The bill would also authorize a foster family agency to inspect a certified family home more frequently than annually in order to ensure the quality of care provided. The bill would clarify that certain provisions relating to the regulation and licensing of community care facilities generally are applicable to certified family homes approved by a foster family agency. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the department to inspect a residential care facility for persons with chronic, life-threatening illness within 90 days after the facility accepts its first resident for placement following its initial licensure. Existing law also requires that evaluations be conducted annually and as often as necessary to ensure the quality of care being provided.

This bill would instead require that annual inspections be conducted at least annually and that both types of inspections conducted pursuant to these provisions be unannounced.

(3) Existing law, the California Residential Care Facilities for the Elderly Act, provides for the department to license and regulate residential care facilities for the elderly. A violation of the act is a misdemeanor.

Existing law requires the department to immediately request a fire clearance and notify an applicant for a license to operate a residential care facility for the elderly to arrange a time for the department to conduct a prelicensure survey if an application for initial licensure is complete.

This bill would provide that the prelicensure inspection is optional at the discretion of the department if the department determines that an application is for licensure of a currently licensed facility for which there will be no material change to the management or operations of the facility.

(4) Existing law requires, if the Director of Social Services determines that it is necessary to temporarily suspend the license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to make every effort to minimize trauma for the residents. Existing law authorizes and requires the department, in the event of a temporary license suspension or revocation, to comply with specified procedures relating to the transfer of residents, including requiring the department to contact and work with any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly, as specified, to locate alternative placement sites and contact responsible relatives. Existing law requires, upon an order to revoke a license, a licensee to provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation. Existing law entitles a resident who transfers from the facility during that 60-day period to a refund of preadmission fees in accordance with specified provisions.

This bill would require, if the Director of Social Services determines at any time during or following a temporary suspension or revocation of a license that there is a risk to the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to take any necessary action to minimize trauma for the residents, including, but not limited to, arranging for the preparation of the residents' records and medications for transfer and checking in on the status of each transferred resident within 24 hours of transfer. The bill would additionally require the department to contact the Office of the State Long-Term Care Ombudsman after a decisions is made to temporarily suspend or upon a final order revoke a license that is likely to result in closure of the facility. The bill would also require a licensee, upon an order to temporarily suspend a license, to immediately provide a written notice of temporary suspension to the resident and initiate contact with the resident's responsible person, as specified, and would entitle a resident who transfers due to the receipt of a notice of a temporary suspension or revocation of license to be entitled to a refund of preadmission fees.

This bill would prohibit a licensee, upon receipt of an order to temporarily suspend or revoke a license, from accepting new residents or entering into admission agreements for new residents. The bill would generally make a licensee who fails to comply with the requirements of these provisions liable for civil penalties in the amount of $500 per violation per day for each day that the licensee is in violation of these provisions until the violation has been corrected. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(5) The bill would authorize the department to appoint a temporary manager to assume the operation of a residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist, including when the director determines that it is necessary to temporarily suspend the license of the facility and immediate relocation of the residents of the facility is not feasible, or when the licensee has opted to secure a temporary manager in response to a final order to revoke a license. The bill would set forth the duties of the temporary manager, would limit the expenditures and encumbrances by the temporary manager unless approved by the department, and would require that the costs of the temporary manager be paid directly by the facility while the temporary manager is assigned. To the extent department funds are used for the costs of the temporary manager or related expenses, the bill would require the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, the bill would require that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility, as specified.

The bill would also authorize the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3 months, subject

to extension by the department, when circumstances exist indicating that continued management of the facility by the licensee would present a substantial probability of imminent danger or serious physical harm or death to the clients or residents or the facility is closing and adequate arrangements for the relocation of clients or residents have not been made. The bill would specify the duties of a receiver appointed pursuant to these provisions and would require that the salary of the receiver be set by the court and be paid from the revenue coming to the facility. In the event the revenue is insufficient, the bill would require that the salary be paid from the emergency client contingency fund. The bill would require that state funds advanced to pay for that salary or other related expenses be reimbursed from the revenues accruing to the facility. If those revenues are insufficient, the bill would require that the unreimbursed amount constitute a lien on the assets of the facility.

(6) Existing law establishes a schedule of licensing fees to be charged by the department for each type of facility, and provides for these fees to be deposited into the Technical Assistance Fund.

This bill would increase the licensure and renewal fees for community care facilities, residential care facilities for persons with chronic, life-threatening illness, residential care facilities for the elderly, and child day care facilities, and would require the department to adjust the fees assessed against licensees as necessary to ensure they do not exceed specified costs.

(7) Existing law authorizes the department to impose various civil penalties for various licensing violations. Existing law authorizes the department to transmit no more than ½ of those penalties assessed against community care facilities and residential care facilities for the elderly to be used to establish an emergency resident relocation fund to be utilized for the care and relocation of residents when the license of a community care facility or a residential care facility for the elderly is revoked or temporarily suspended, when appropriated by the Legislature. Existing law requires the department to seek the advice of providers in developing a state plan for emergency resident relocation.

The bill would instead authorize the creation of an emergency client contingency account and an emergency resident contingency account within the Technical Assistance Fund to be used, at the discretion of the Director of the State Department of Social Services, for the care and relocation of clients and residents when a facility's license is revoked or temporarily suspended. The bill would require the department to seek the input of stakeholders and local agencies in developing policies for emergency client or resident care and supervision. The bill would also authorize the civil penalties deposited in the Technical Assistance Fund to be used for the technical assistance, training, and education of licensees.

(8) This bill would provide that it is the intent of the Legislature to comprehensively increase the penalties for facilities licensed by the State Department of Social Services in subsequent legislation, with particular emphasis on penalties for violations that result in serious injury or death.

(9) This bill would provide that it is the intent of the Legislature that increased staffing and funding resources for the State Department of Social Service's Community Care Licensing Division appropriated in the Budget Act of 2014 be used to enhance the division's structure and improve operations, as specified. The bill also provides that it is the intent of the Legislature to, over a period of time, increase the frequency of facility inspections resulting in annual inspections for some or all facility types. The bill would require the State Department of Social Services to update the Legislature on the status of the structural and quality enhancement improvements during the 2015–16 legislative budget subcommittee hearings.

(10) The Home Care Services Consumer Protection Act, operative January 1, 2015, provides for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and the registration of home care aides. The act excludes specified entities from the definition of a home care organization and does not include certain types of individuals as home care aides for the purposes of these provisions. The act requires background clearances for home care aides, as prescribed, and sets forth specific duties of the home care organization, the department, and the Department of Justice in this regard. The act requires home care aides hired after January 1, 2015, to demonstrate they are free of active tuberculosis. A violation of the act is a crime.

This bill would revise and recast the provisions of the act and delay the implementation date of the act to January 1, 2016. Specifically, the bill would delete those provisions of the act that exempt specified individuals from the registration requirements for home care aides described above and expand the list of individuals and entities that are not considered home care aides or home care organizations, respectively, for purposes of the act. The bill would require that each home care organization be separately licensed, as specified. This bill would additionally require the chief executive officer or other person serving in a similar capacity in a home care organization, as specified, to consent to a background examination. The bill would prohibit the department from issuing a provisional license or license to any corporate home care organization applicant that has a member of the board of directors, executive director, or officer who is not eligible for licensure, as specified.

This bill would revise the licensure requirements of a home care organization to additionally require certain disclosures and proof of an employee dishonesty bond. The bill would also revise the license renewal requirements for home care organizations to include, among other things, specified insurance and workers' compensation policies and being current on all fees and civil penalties due to the department. The bill would provide certain review procedures for applications for licensure received by the department. The bill would, among other things, require the department to cease any further review of an application for a specified period of time if it is determined that the home care organization applicant was previously issued a license pursuant to the act or other specified provisions of law and that license was revoked, as specified. The bill would apply similar requirements to a home care organization applicant that had previously

applied for a certificate of approval with a foster family agency and was denied, as specified. The bill would also authorize the department to exclude a person from acting as, and require the home care organization to remove that person from, his or her position as a member of the board of directors, an executive director, or an officer of a licensee if the department determines that the person was previously issued a license pursuant to the act or other specified provisions of law and that license was revoked, as specified, or if the person was previously issued a certificate of approval by a foster family agency that was subsequently revoked, as specified.

This bill would require home care organization licensees to report any suspected or known dependent adult, elder, or child abuse to the department. The bill would require the department, upon receipt of these reports, to cross-report the suspected or known abuse to local law enforcement and Adult Protective Services or Child Protected Services, as specified. The bill would authorize home care organization applicants and home care aide applicants who submit applications prior to January 1, 2016, to provide home care services without meeting the tuberculosis requirements described above, if those requirements are met by July 1, 2016. The bill would authorize the department to adopt and readopt emergency regulations to implement and administer the provisions of the act, as specified.

This bill would require all fines and penalties collected for violations of the above provisions to be deposited into the Home Care Technical Assistance Fund, which would be created by the bill. The bill would require that the moneys in the fund be made available to the department upon appropriation by the Legislature for specified purposes.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

(11) Existing law, the California Community Care Facilities Act, provides for the licensure and inspection of community care facilities, including, but not limited to, group homes, by the State Department of Social Services. Existing law makes any violation of the act a misdemeanor.

This bill would require each person employed as a facility manager or staff member of a group home on or after October 1, 2014, to be at least 21 years of age, except as specified. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

(12) Existing law authorizes the Director of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Pursuant to these agreements, these child welfare activities are delegated to the tribe, consortium of tribes, or tribal organization, which is also required to provide specified matching funds. Existing law specifies the share of costs required of the tribe, consortium of tribes, or tribal organization operating a program pursuant to these agreements.

This bill would, notwithstanding those provisions, adjust the tribal share of costs commencing July 1, 2014.

(13) Existing law requires a county welfare department to refer all cases in which a parent is absent from the home, or as specified, to the local child support agency immediately at the time of the application for public assistance, except as specified.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained.

The bill would exempt from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court for a felony drug conviction, as specified, after December 31, 1997.

(14) Under existing law, with certain exceptions, an applicant or recipient, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities for a specified number of hours each week.

The bill would modify the number of welfare-to-work participation hours to conform to certain federal requirements.

(15) Existing law requires the State Department of Social Services to administer a voluntary Temporary Assistance Program (TAP) to provide cash assistance and other benefits to specified current and future CalWORKs recipients who meet the exemption criteria for participation in welfare-to-work activities and are not single parents who have a child under one year of age. Existing law requires the TAP to commence no later than October 1, 2014.

This bill would delay the commencement date of the TAP until October 1, 2016.

(16) Existing law establishes maximum aid grant amounts to be provided under the CalWORKs program, subject to specified adjustments. Existing law increases the maximum aid payments in effect on July 1, 2012, by 5% commencing March 1, 2014.

This bill would increase aid payments by 5% as of April 1, 2015.

(17) Under existing law, after a family has used all available liquid resources in excess of $100, the family is entitled to receive a CalWORKS allowance for nonrecurring special needs, including homeless assistance.

This bill would specify that a recipient of CalWORKs benefits is eligible to receive specified housing supports, including financial assistance and housing stabilization and relocation, if the county determines that the recipient's family is experiencing homelessness or housing instability that would be a barrier to self-sufficiency or child well-being. The bill would require the State Department of Social Services, in consultation with the County Welfare Directors Association of California, to, among other things, develop criteria by which counties may opt to participate in providing housing supports to eligible recipients of CalWORKs benefits. The bill would include a statement of legislative findings and declarations.

(18) Under existing law, with certain exceptions, every individual, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities. Existing law authorizes recipients to participate in family stabilization if the county determines that his or her family is experiencing an identified situation or crisis that is destabilizing the family and would interfere with participation in welfare-to-work activities and services.

This bill would authorize funds allocated for family stabilization to be used to provide housing and other needed services to a family during any month that a family is participating in family stabilization. The bill would state the intent of the legislature that family stabilization is a voluntary component intended to provide needed services and constructive interventions for parents and to assist in barrier removal for families facing very difficult needs.

(19) Existing federal law provides for the Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county.

Existing law requires the Department of Community Services and Development to receive and administer the federal Low-Income Home Energy Assistance Program (LIHEAP) block grant. Under existing law, to the extent permitted by federal law, the State Department of Social Services, in conjunction with the Department of Community Services and Development, is required to design, implement, and maintain a utility assistance initiative to provide applicants and recipients of CalFresh benefits a nominal LIHEAP service benefit, as specified, out of the federal LIHEAP block grant.

This bill would repeal those provisions and instead, effective July 1, 2014, create the State Utility Assistance Subsidy (SUAS), a state-funded energy assistance program. The bill would require the Department of Community Services and Development to delegate authority over the program to the State Department of Social Services. The bill would require the State Department of Social Services, among other things, in designing, implementing, and maintaining the SUAS program, to provide households that do not currently qualify for, nor receive, a standard utility allowance with a SUAS benefit, as specified, if the household would become eligible for CalFresh benefits or would receive increased benefits if the standard

utility allowance was provided. The bill would condition the implementation of these provisions on an appropriation of funds by the Legislature in the annual Budget Act or related legislation. To the extent that the bill would increased the administrative duties of county welfare departments, the bill would impose a state-mandated local program.

(20) Existing law requires the State Department of Social Services, to the extent permitted by federal law, to design and implement a program of categorical eligibility for the purpose of establishing the gross income limit for the federal Temporary Assistance for Needy Families and state maintenance of effort funded service that confers categorical eligibility for those needy households and that includes a member who receives, or is eligible to receive, medical assistance under the Medi-Cal program.

This bill would, effective July 1, 2014, delete those provisions.

(21) Existing law requires each county to pay 30% of the nonfederal share of costs of administering the CalFresh program. Existing law also requires counties to expend an amount for programs that provide services to needy families that, when combined with the funds expended above for the administration of the CalFresh program, equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year. Existing law provides that any county that equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year entirely through expenditures for the administration of the CalFresh program in the 2010–11, 2011–12, 2012–13, and 2013–14 fiscal years shall receive the full General Fund allocation for the administration of the CalFresh program without paying the county's share of the nonfederal costs for the amount above the 1996–97 expenditure requirement.

This bill would extend counties' eligibility to receive the full allocation for CalFresh administration under the above circumstances to the 2014–15 fiscal year. The bill would also reduce the amount of the waiver throughout subsequent fiscal years, as specified, and would eliminate the waiver by the 2018–19 fiscal year.

(22) Existing law requires the State Department of Social Services to annually report to the appropriate fiscal and policy committees of the Legislature and to post on its Internet Web site a summary of outcome and expenditure data that allows for monitoring the changes of the 2011 realignment of child welfare services, foster care, adoptions, and adult protective services programs.

This bill would require the report to contain specified information, including the child welfare services social worker caseloads per county.

(23) Existing law establishes the State Department of Social Services and sets forth its duties and responsibilities regarding ensuring that the needs of foster children are met by local child welfare agencies and foster care providers. Existing law declares the findings of the Legislature that there is a need to develop programs to provide the kinds of innovative strategies and services that will ameliorate, reduce, and ultimately eliminate the trauma of child sexual abuse.

This bill would establish the Commercially Sexually Exploited Children Program to be administered by the State Department of Social Services in order to adequately serve children who have been sexually exploited, and would require the department, in consultation with the County Welfare Directors Association of California, to develop an allocation methodology to distribute funding for the program. The bill would authorize the use of these funds by counties electing to participate in the program for certain prevention and intervention activities and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation. The bill would require the department to contract to provide training for county children's services workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation, and the training of foster caregivers for the prevention and identification of potential victims, as specified. The bill would also require the department to ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are commercially sexually exploited, as specified. The bill would require the department, no later than April 1, 2017, to provide to the Legislature information regarding the implementation of the program.

This bill would require each county electing to receive funds pursuant to the provisions described above to develop an interagency protocol to be utilized in serving sexually exploited children who have been adjudged to be a dependent child of the juvenile court. The bill would require the county interagency protocol to be developed by a team led by a representative of the county human services department and to include representatives from specified county agencies and the juvenile court.

This bill would make these provisions operative on January 1, 2015.

(24) Existing law establishes the jurisdiction of the juvenile court, which may adjudge certain children to be dependents of the court under certain circumstances, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would make a legislative finding that declares that a child is within the jurisdiction of the juvenile court and may become a dependent child of the court if the child is a victim of sexual trafficking, or receives food or shelter in exchange for, or is paid to perform, specified sexual acts, as a result of the failure or inability of his or her parent or guardian to protect the child, and would declare that this finding is declaratory of existing law.

(25) Existing law, the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, provides for payments to group home providers at a per child per month rate, and in accordance with prescribed rate classification levels, for the care and supervision of the AFDC-FC child placed with the provider.

This bill would specify that nothing precludes a county from providing a supplemental rate to serve commercially sexually exploited foster children,

as specified, and would provide that, to the extent federal financial participation is available, these federal funds should be utilized.

(26) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. In order to be eligible for AFDC-FC, existing law requires a child or nonminor dependent to be placed in a specified placement, including, among others, the approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment. Existing law requires foster care providers be paid a per child per month rate, as specified, in return for the care and supervision of an AFDC-FC child placed with them.

This bill would establish the Approved Relative Caregiver Funding Option Program and would require counties who opt to participate in the program to, effective January 1, 2015, pay an approved relative caregiver a per child per month rate in return for the care and supervision of an AFDC-FC ineligible child placed with the relative caregiver that is equal to the basic rate paid to foster care providers for an AFDC-FC child if the county has notified the department of its decision to participate in the program, as specified, and the related child placed in the home meets certain requirements, including that the child resides in the state.

The bill would require a participating county to affirmatively indicate that the county understands and agrees to specified conditions, including that the county will be responsible to pay any additional costs needed to make all payments to the relative caregivers if state and federal funds are insufficient. If a participating county decides to opt out of the program, the bill requires the county to provide at least 120 days' prior written notice of that decision to the department and to provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

The bill would specify the funding for the program, including the use of state General Fund resources that do not count towards the state's maintenance of effort requirements for the federal Temporary Assistance for Needy Families (TANF) block grant. The bill would appropriate the sum of $30,000,000 from the General Fund for the 2015 calendar year and for each calendar year thereafter, as specified, for these purposes. If this appropriation is insufficient to fully fund the base caseload of approved relative caregivers, as specified, the bill would also provide for the appropriation of additional funds necessary to fully fund that base caseload, and would require the adjusted amount for the calendar year appropriation, beginning with the 2016 calendar year, to be adjusted by the California Necessities Index for each subsequent year.

(27) Existing law, the federal Fair Labor Standards Act requires overtime pay for domestic services employees, but provides an exemption for live-in domestic service employees and companionship services provided to specified persons. Effective January 1, 2015, the act prohibits 3rd-party

employers from claiming those exemptions and narrows the duties that fall within companionship services to exclude general domestic services and medically related services.

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

This bill would require that in-home supportive services and waiver personal care services be performed by providers within a workweek that does not exceed 66 hours per week, as reduced by a specified net percentage. The bill would require a recipient of in-home supportive services to employ an additional provider or providers, as needed, to ensure his or her authorized services are provided and would require the State Department of Health Care Services to work with recipients of waiver personal care services to engage additional providers, as necessary. The bill would authorize a recipient to authorize a provider to work hours in excess of the recipient's weekly authorized hours without notification of the county welfare department if certain conditions are met. The bill would enact other related provisions and would provide that these provisions become operative on the date specified federal regulatory amendments are deemed effective. This bill would authorize, for three-months following the effective date of those provisions, that timesheets submitted by providers be paid in excess of the limitations, so long as the number of hours worked by the provider within a given month do not exceed the authorized hours of the recipient or recipients served by the provider.

Existing law requires a county welfare department to assess each recipient's continuing need for in-home supportive services at varying intervals as necessary, but at least once every 12 months.

This bill would require that the results of the assessment of monthly need for hours of in-home supportive services be divided by 4.33 to establish a recipient's weekly authorized number of hours of in-home supportive services, as specified. The bill would require that recipients be timely informed of their total monthly and weekly authorized hours and would provide that the weekly authorization of services be used solely for purposes of ensuring compliance with the federal Fair Labor Standards Act.

The bill would require the State Department of Social Services to oversee a study of the provisions in this bill, as specified, and would require that information collected for the study periodically be made available to stakeholders. The bill would require the State Department of Social Services to submit a report to the Legislature upon completion of the study.

By imposing new duties on counties administering the IHSS program, the bill would impose a state-mandated local program

This bill would require that specified amounts appropriated in the Budget Act of 2014 be made available for other purposes within the IHSS program if federal implementation of certain regulations by the federal Department of Labor are fully or partially postponed beyond January 1, 2015, as specified.

(28) The bill would authorize the State Department of Social Services to implement specified provisions of the bill through all-county letters or similar instructions and would require the department to adopt emergency regulations implementing these provisions no later than January 1, 2016.

(29) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

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

Appropriation: yes.

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

SECTION 1. Section 17415 of the Family Code is amended to read:

17415. (a) It shall be the duty of the county welfare department to refer all cases in which a parent is absent from the home, or in which the parents are unmarried and parentage has not been established by the completion and filing of a voluntary declaration of paternity pursuant to Section 7573 or a court of competent jurisdiction, to the local child support agency immediately at the time the application for public assistance, including Medi-Cal benefits, or certificate of eligibility, is signed by the applicant or recipient, except as provided in Section 17552 and Sections 11477 and 11477.04 of the Welfare and Institutions Code. If an applicant is found to be ineligible, the applicant shall be notified in writing that the referral of the case to the local child support agency may be terminated at the applicant's request. The county welfare department shall cooperate with the local child support agency and shall make available all pertinent information pursuant to Section 17505.

(b) Upon referral from the county welfare department, the local child support agency shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain child support for the needy child, enforce spousal support as part of the state plan under Section 17604, and determine paternity in the case of a child born out of wedlock. Upon the

advice of the county welfare department that a child is being considered for adoption, the local child support agency shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of public assistance or Medi-Cal benefits to an applicant shall not be delayed or contingent upon investigation by the local child support agency.

(c) In cases where Medi-Cal benefits are the only assistance provided, the local child support agency shall provide child and spousal support services unless the recipient of the services notifies the local child support agency that only services related to securing health insurance benefits are requested.

(d) Whenever a court order has been obtained, any contractual agreement for support between the local child support agency or the county welfare department and the noncustodial parent shall be deemed null and void to the extent that it is not consistent with the court order.

(e) Whenever a family that has been receiving public assistance, including Medi-Cal, ceases to receive assistance, including Medi-Cal, the local child support agency shall, to the extent required by federal regulations, continue to enforce support payments from the noncustodial parent until the individual on whose behalf the enforcement efforts are made sends written notice to the local child support agency requesting that enforcement services be discontinued.

(f) The local child support agency shall, when appropriate, utilize reciprocal arrangements adopted with other states in securing support from an absent parent. In individual cases where utilization of reciprocal arrangements has proven ineffective, the local child support agency may forward to the Attorney General a request to utilize federal courts in order to obtain or enforce orders for child or spousal support. If reasonable efforts to collect amounts assigned pursuant to Section 11477 of the Welfare and Institutions Code have failed, the local child support agency may request that the case be forwarded to the United States Treasury Department for collection in accordance with federal regulations. The Attorney General, when appropriate, shall forward these requests to the Secretary of Health and Human Services, or a designated representative.

SEC. 2. Section 1506.5 of the Health and Safety Code is amended to read:

1506.5. (a) Foster family agencies shall not use foster family homes licensed by a county without the approval of the licensing county. When approval is granted, a written agreement between the foster family agency and the county shall specify the nature of administrative control and case management responsibility and the nature and number of the children to be served in the home.

(b) Before a foster family agency may use a licensed foster family home it shall review and, with the exception of a new fingerprint clearance, qualify the home in accordance with Section 1506.

(c) When approval is given, and for the duration of the agreement permitting the foster family agency use of its licensed foster family home, no child shall be placed in that home except through the foster family agency.

(d) Nothing in this section shall transfer or eliminate the responsibility of the placing agency for the care, custody, or control of the child. Nothing in this section shall relieve a foster family agency of its responsibilities for or on behalf of a child placed with it.

(e) (1) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the foster family agency shall cease any further review of the application until two years have elapsed from the date of the revocation.

(2) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the foster family agency shall cease any further review of the application until two years have elapsed from the date of the revocation.

(3) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department or from a certified family home pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the foster family agency shall cease any further review of the application unless the excluded person has been reinstated pursuant to Section 11522 of the Government Code by the department.

(4) The cessation of review shall not constitute a denial of the application for purposes of subdivision (b) of Section 1534 or any other law.

(f) (1) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (e) and the application was denied within the last year, the foster family agency shall cease further review of the application as follows:

(A) In cases where the applicant petitioned for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(B) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing,

the foster family agency shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(2) The foster family agency may continue to review the application if the department has determined that the reasons for the denial of the application were due to circumstances and a condition that either have been corrected or are no longer in existence.

(3) The cessation of review shall not constitute a denial of the application for purposes of subdivision (b) of Section 1534 or any other law.

(g) (1) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the foster family agency shall cease further review of the application as follows:

(A) In cases where the applicant petitioned for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(B) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(2) The foster family agency may continue to review the application if the department has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(3) The cessation of review shall not constitute a denial of the application for purposes of subdivision (b) of Section 1534 or any other law.

SEC. 3. Section 1520.3 of the Health and Safety Code is amended to read:

1520.3. (a) (1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the

applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.

(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department or from a certified family home pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.

(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law.

SEC. 4. Section 1522 of the Health and Safety Code is amended to read:

1522. 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 approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility or certified family home.

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

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

(3) Except during the 2003–04 to the 2014–15 fiscal years, inclusive, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

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

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a

crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

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

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

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

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as prescribed in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, or the issuance of a certificate of approval of a certified family home by a foster family agency, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the department may revoke the license, or require a foster family agency to revoke the certificate of approval, pursuant to Section 1550. The department may also suspend the license or require a foster family agency to suspend the certificate of approval pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes

a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

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

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

(B) Any person, other than a client, residing in the facility or certified family home.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

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

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (1) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information 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 comply with paragraph (1) of subdivision (h). These fingerprint images and related information

shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to 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 to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the 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 licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. 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 fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption from disqualification shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations 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 licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in subdivision (b) who are exempt from fingerprinting, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted. If it is

determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that subsequent to obtaining a criminal record clearance or exemption from disqualification pursuant to subdivision (g), the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for 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 community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption from disqualification pursuant to subdivision (g). If the conviction or arrest 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 (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption from disqualification pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption from disqualification 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 in the amount of one hundred dollars ($100) per violation per day and shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption from disqualification on its own motion pursuant to subdivision (g) 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 from disqualification pursuant to this paragraph.

(5) 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 from disqualification pursuant to subdivision (g). The individual may seek an exemption from disqualification 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) Before issuing a license or certificate of approval to any person or persons to operate a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b)

of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

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

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

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

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

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

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

(D) To the same extent required for federal funding, an applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b) who is not exempt from fingerprinting, shall submit a set of fingerprint images and related information 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, in addition to the criminal records search required by subdivision (a).

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to 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 shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

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

(8) If the State Department of Social Services or other approving authority finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime

other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption from disqualification pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services shall 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) 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:

(A) (i) 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.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause shall not apply to foster care providers, including relative caregivers, nonrelated extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of 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) of Section 451 of the Penal Code.

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

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

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

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

(iv) This subparagraph shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition for

receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(2) The department shall 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 1558.

(h) (1) For 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 State Department of Social Services, 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 envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

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

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

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

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

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

(4) 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 the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing 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 department and the Department of Justice.

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

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

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

(5) (A) A county child welfare agency with authority to secure clearances pursuant to Section 16504.5 of the Welfare and Institutions Code and to grant exemptions pursuant to Section 361.4 of the Welfare and Institutions Code may accept a clearance or exemption from another county with criminal record and 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. 5. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Facility Type	Capacity	Initial Application	Annual
Foster Family and Adoption Agencies		$3,025	$1,513
Adult Day Programs	1–15	$182	$91
	16–30	$303	$152
	31–60	$605	$303
	61–75	$758	$378
	76–90	$908	$454
	91–120	$1,210	$605
	121+	$1,513	$757
Other Community Care Facilities	1–3	$454	$454
	4–6	$908	$454
	7–15	$1,363	$681
	16–30	$1,815	$908
	31–49	$2,270	$1,135
	50–74	$2,725	$1,363
	75–100	$3,180	$1,590
	101–150	$3,634	$1,817
	151–200	$4,237	$2,119
	201–250	$4,840	$2,420
	251–300	$5,445	$2,723
	301–350	$6,050	$3,025
	351–400	$6,655	$3,328
	401–500	$7,865	$3,933
	501–600	$9,075	$4,538
	601–700	$10,285	$5,143
	701+	$12,100	$6,050

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars ($50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) Foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) Foster family agencies shall be annually assessed eighty-eight dollars ($88) for each home certified by the agency.

(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to,

monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section as necessary to ensure that they do not exceed the costs described in this paragraph.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A facility may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

SEC. 6. Section 1523.2 of the Health and Safety Code is amended to read:

1523.2. (a) Beginning with the 1996–97 fiscal year, there is hereby created in the State Treasury the Technical Assistance Fund, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the department to fund administrative and other activities in support of the licensing program.

(b) In each fiscal year, fees collected by the department pursuant to Sections 1523.1, 1568.05, 1569.185, and 1596.803 shall be deposited into the Technical Assistance Fund created pursuant to subdivision (a) and shall be expended by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with applicable laws and regulations.

(c) Notwithstanding any other provision of law, revenues received by the department from payment of civil penalties imposed on licensed facilities pursuant to Sections 1522, 1536, 1547, 1548, 1568.0821, 1568.0822, 1568.09, 1569.17, 1569.485, and 1569.49 shall be deposited into the Technical Assistance Fund created pursuant to subdivision (a), and may be expended by the department for the technical assistance, training, and education of licensees.

SEC. 7. Section 1533 of the Health and Safety Code is amended to read:

1533. (a) Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

(b) (1) Foster family homes that are considered private residences for the purposes of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint, a plan of correction, or as set forth in Section 1534. The complaint inspection shall not constitute an inspection as required by Section 1534. Announced inspections of foster family homes required by Section 1534 shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

(2) As used in this subdivision, "normal business hours" means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays.

SEC. 8. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) (1) (A) Except for foster family homes, every licensed community care facility shall be subject to unannounced inspections by the department.

(B) Foster family homes shall be subject to announced inspections by the department, except that a foster family home shall be subject to unannounced inspections in response to a complaint, a plan of correction, or under any of the circumstances set forth in subparagraph (B) of paragraph (2).

(2) (A) The department may inspect these facilities as often as necessary to ensure the quality of care provided.

(B) The department shall conduct an annual unannounced inspection of a facility under any of the following circumstances:

(i) When a license is on probation.

(ii) When the terms of agreement in a facility compliance plan require an annual inspection.

(iii) When an accusation against a licensee is pending.

(iv) When a facility requires an annual inspection as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

(C) (i) The department shall conduct annual unannounced inspections of no less than 20 percent of facilities, except for foster family homes, not subject to an inspection under subparagraph (B).

(ii) The department shall conduct annual announced inspections of no less than 20 percent of foster family homes not subject to an inspection under subparagraph (B).

(iii) These inspections shall be conducted based on a random sampling methodology developed by the department.

(iv) If the total citations issued by the department to facilities exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an inspection under subparagraph (B). The department may request additional resources to increase the random sample by 10 percent.

(v) The department shall not inspect a licensed community care facility less often than once every five years.

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

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

(5) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(b) (1) This section does not limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program in which a licensed community care facility is certifying compliance with licensing requirements.

(2) (A) A foster family agency shall conduct an announced inspection of a certified family home during the annual recertification described in Section 1506 in order to ensure that the certified family home meets all applicable licensing standards. A foster family agency may inspect a certified family home as often as necessary to ensure the quality of care provided.

(B) In addition to the inspections required pursuant to subparagraph (A), a foster family agency shall conduct an unannounced inspection of a certified family home under any of the following circumstances:

(i) When a certified family home is on probation.

(ii) When the terms of the agreement in a facility compliance plan require an annual inspection.

(iii) When an accusation against a certified family home is pending.

(iv) When a certified family home requires an annual inspection as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out of a certified family home by the department is no longer at the home.

(3) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the certified family home. The certified parent or prospective foster parent shall be afforded the due process provided pursuant to this chapter.

(4) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis

of the department's action and of the certified or prospective foster parent's right to a hearing.

(5) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

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

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

(8) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(9) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section or Section 1550, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

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

SEC. 9. Section 1546 of the Health and Safety Code is repealed.

SEC. 10. Section 1546 is added to the Health and Safety Code, to read:

1546. An emergency client contingency account may be established within the Technical Assistance Fund to which not more than 50 percent of each penalty assessed pursuant to Section 1548 is deposited for use by the Community Care Licensing Division of the department, at the discretion of the director, for the care and relocation of clients when a facility's license is revoked or temporarily suspended. The money in the account shall cover costs, including, but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care and supervision to the clients. The department may seek the opinion of stakeholders and local governmental agencies in developing policies for emergency client care and supervision.

SEC. 11. Section 1546.1 is added to the Health and Safety Code, to read:

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

(2) A temporary manager appointed pursuant to this section shall assume the operation of the facility in order to bring it into compliance with the law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of clients should the facility be required to close. Upon a final decision and order of revocation of the license or a forfeiture by operation of law, the department shall immediately issue a provisional license to the appointed temporary manager. Notwithstanding the applicable sections of this code governing the revocation of a provisional license, the provisional license issued to a temporary manager shall automatically expire upon the termination of the temporary manager. The temporary manager shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties set forth in the written agreement between the department and the temporary manager. The temporary manager shall have no right to appeal the expiration of the provisional license.

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

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

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

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

(d) (1) Upon appointment, the temporary manager shall complete its application for a license to operate a community care facility and take all necessary steps and make best efforts to eliminate any substantial threat to the health and safety to clients or complete the transfer of clients to alternative placements pursuant to Section 1556. For purposes of a provisional license issued to a temporary manager, the licensee's existing

fire safety clearance shall serve as the fire safety clearance for the temporary manager's provisional license.

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

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

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

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

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

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

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

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

(f) (1) The licensee of a community care facility may contest the appointment of the temporary manager by filing a petition for an order to terminate the appointment of the temporary manager with the Office of Administrative Hearings within 15 days from the date of mailing of the accusation to appoint a temporary manager under subdivision (e). On the

same day as the petition is filed with the Office of Administrative Hearings, the licensee shall serve a copy of the petition to the office of the director.

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

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

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

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

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

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

showing by the department that the conditions specified in subdivision (c) continue to exist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*l*) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute a lien upon the assets of the facility or the proceeds from the sale thereof. The lien against the personal assets of the facility or an entity related to the licensee shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

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

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

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

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

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

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

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

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

SEC. 12. Section 1546.2 is added to the Health and Safety Code, to read:

1546.2. (a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of community care facilities and to minimize the effects of transfer trauma that accompany the abrupt transfer of clients

through a system whereby the department may apply for a court order appointing a receiver to temporarily operate a community care facility. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the clients' health and safety. The receivership is intended to protect the clients in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of clients should the facility be required to close.

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

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

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

(2) At the time of the hearing, the department shall advise the licensee of the name of the proposed receiver. The receiver shall be a certified community care facility administrator or other responsible person or entity,

as determined by the court, from a list of qualified receivers established by the department, and, if need be, with input from providers of residential care and consumer representatives. Persons appearing on the list shall have experience in the delivery of care services to clients of community care facilities, and, if feasible, shall have experience with the operation of a community care facility, shall not be the subject of any pending actions by the department or any other state agency, and shall not have ever been excluded from a department licensed facility nor have had a license or certification suspended or revoked by an administrative action by the department or any other state agency. The receivers shall have sufficient background and experience in management and finances to ensure compliance with orders issued by the court. The owner, licensee, or administrator shall not be appointed as the receiver unless authorized by the court.

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

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

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

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

(d) A person shall not impede the operation of a receivership created under this section. The receiver’s access to, or possession of, the property shall not be interfered with during the term of the receivership. There shall be an automatic stay for a 60-day period subsequent to the appointment of a receiver of any action that would interfere with the functioning of the facility, including, but not limited to, cancellation of insurance policies executed by the licensees, termination of utility services, attachments or

setoffs of client trust funds and working capital accounts, and repossession of equipment in the facility.

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

(f) A receiver appointed pursuant to this section:

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

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

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

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

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

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

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

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

(D) To pay commercial creditors of the facility to the extent required to operate the facility. Except as provided in subdivision (h), the receiver shall honor all leases, mortgages, and secured transactions affecting the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments

which, in the case of a rental agreement, are for the use of the property during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

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

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

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

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

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

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

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

(2) A lease, mortgage, or secured transaction or an agreement unrelated to the operation of the facility that the receiver is permitted to dishonor pursuant to this subdivision shall only be subject to nonpayment by the receiver for the duration of the receivership, and the dishonoring of the lease, mortgage, security interest, or other agreement, to this extent, by the

receiver shall not relieve the owner or operator of the facility from any liability for the full amount due under the lease, mortgage, security interest, or other agreement.

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

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

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

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

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

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

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

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

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

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

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

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

(E) The recommendations and reports of the receiver.

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

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

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

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

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

(B) If the licensee proposes to sell or lease the facility and the facility will continue to operate as a community care facility, the court and the department shall reevaluate any proposed transfer plan. If the court and the

department determine that the sale or lease of the facility will result in compliance with licensing standards, the transfer plan and the receivership shall, subject to those conditions that the court may impose and enforce, be terminated upon the effective date of the sale or lease.

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

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute a lien upon the assets of the facility or the proceeds from the sale thereof. The lien against the personal assets of the facility or an entity related to the licensee shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility.

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

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

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

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

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

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

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

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

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

SEC. 13. Section 1548.1 is added to the Health and Safety Code, to read:

1548.1. The Legislature finds and declares that the current civil penalty structure for facilities licensed by the State Department of Social Services is insufficient to ensure the health and safety of those in care. It is the intent of the Legislature to comprehensively increase these penalties for all facilities in subsequent legislation, with particular emphasis on penalties for violations that result in serious injury or death.

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

1550. The department may deny an application for, or suspend or revoke, any license, or any special permit, certificate of approval, or administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter, or may deny a transfer of a license pursuant to paragraph (2) of subdivision (b) of Section 1524 for any of the following grounds:

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

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

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

(d) The conviction of a licensee, holder of a special permit or certificate, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility, the holder of a special permit or certificate, or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

(f) Engaging in acts of financial malfeasance concerning the operation of a facility or certified family home, including, but not limited to, improper

use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

SEC. 15. Section 1551 of the Health and Safety Code is amended to read:

1551. (a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, certificate of approval, or any administrator certificate under this chapter, or denial of transfer of a license pursuant to paragraph (2) of subdivision (c) of Section 1524, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license, special permit, certificate of approval, or administrator certificate is not temporarily suspended pursuant to Section 1550, the hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the

conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

SEC. 16. Section 1556 of the Health and Safety Code is amended to read:

1556. (a) If the director determines that it is necessary to temporarily suspend any license or special permit of a community care facility in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall make every effort to minimize transfer trauma for the residents or clients.

(b) The department shall contact any local agency that may have assessment, placement, protective, or advocacy responsibility for the residents or clients of a facility after a decision is made to temporarily suspend the license or special permit of the facility and prior to its implementation. The department shall work together with these agencies and the licensee, if the director determines it to be appropriate, to locate alternative placement sites, and to contact relatives or other persons responsible for the care of these residents or clients, provide onsite evaluation of the residents or clients, and assist in the transfer of the residents or clients.

(c) In any case where the department alleges that a client or resident has a health condition or health conditions which cannot be cared for within the limits of the license or special permit, or requires inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), the department shall do all of the following:

(1) Consult with appropriate medical personnel about when the client or resident should be removed from the facility and how transfer trauma can be minimized.

(2) If the department temporarily suspends the license or special permit of a facility, use medical personnel deemed appropriate by the department to provide onsite evaluation of the clients or residents.

(3) If the department does not suspend the license or special permit of a facility, order the licensee to remove only those clients or residents who have health conditions which cannot be cared for within the limits of the license or special permit or require inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), as determined by the department, if the department determines that other clients or residents are not in physical danger.

(d) In any case where the department orders the temporary suspension of a licensee or orders the licensee, or holder of a special permit, to remove a client or resident who has a health condition or health conditions which cannot be cared for within the limits of the license or special permit or requires inpatient care in a health facility licensed pursuant to Chapter 2

(commencing with Section 1250), the department may require the licensee or holder of a special permit to do all of the following:

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

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

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

SEC. 17. Section 1558 of the Health and Safety Code is amended to read:

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

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

(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either the people of this state or an individual in or receiving services from the facility or certified family home.

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

(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee or certified family home.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility or certified family home, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

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

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

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility or certified family home, the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

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

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

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

(4) An order of immediate exclusion of the excluded person from the facility or certified family home shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

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

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

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section. The department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or prohibiting the excluded person's employment or presence in the facility or certified family home, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility or certified family home.

(g) A licensee's or certified family home's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

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

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

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

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

SEC. 18. Section 1562 of the Health and Safety Code is amended to read:

1562. (a) The director shall ensure that operators and staffs of community care facilities have appropriate training to provide the care and services for which a license or certificate is issued. The section shall not apply to a facility licensed as an Adult Residential Facility for Persons with Special Health Care Needs pursuant to Article 9 (commencing with Section 1567.50).

(b) It is the intent of the Legislature that children in foster care reside in the least restrictive, family-based settings that can meet their needs, and that group homes will be used only for short-term, specialized, and intensive treatment purposes that are consistent with a case plan that is determined by a child's best interests. Accordingly, the Legislature encourages the department to adopt policies, practices, and guidance that ensure that the education, qualification, and training requirements for child care staff in group homes are consistent with the intended role of group homes to provide short-term, specialized, and intensive treatment, with a particular focus on crisis intervention, behavioral stabilization, and other treatment-related goals, as well as the connections between those efforts and work toward permanency for children.

(c) (1) On and after October 1, 2014, each person employed as a facility manager or staff member of a group home, as defined in paragraph (13) of subdivision (a) of Section 1502, who provides direct care and supervision

to children and youth residing in the group home shall be at least 21 years of age.

(2) Paragraph (1) shall not apply to a facility manager or staff member employed at the group home before October 1, 2014.

(3) For purposes of this subdivision, "group home" does not include a runaway and homeless youth shelter.

SEC. 19. Section 1568.05 of the Health and Safety Code is amended to read:

1568.05. (a) (1) An application fee adjusted by facility and capacity, shall be charged by the department for a license to operate a residential care facility for persons with chronic life-threatening illness. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Capacity	Initial Application	Annual
1–6	$605	$303 plus $11 per bed
7–15	$758	$378 plus $11 per bed
16–25	$908	$454 plus $11 per bed
26+	$1,060	$530 plus $11 per bed

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars ($50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the current established annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) No local governmental entity shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) All fees collected pursuant to subdivisions (a) and (b) shall be deposited in the Technical Assistance Fund.

(d) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section as necessary to ensure that they do not exceed the costs described in this subdivision.

(e) The department shall not utilize any portion of the revenues collected pursuant to this section sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(f) Fees established pursuant to this section shall not be effective unless licensing fees are established for all adult residential facilities licensed by the department.

(g) A residential care facility may use a bona fide business check to pay the license fee required under this section.

(h) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

SEC. 20. Section 1568.07 of the Health and Safety Code is amended to read:

1568.07. (a) (1) Within 90 days after a facility accepts its first resident for placement following its initial licensure, the department shall conduct an unannounced inspection of the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

(2) The department may take appropriate remedial action as provided for in this chapter.

(b) (1) Every licensed residential care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Unannounced inspections shall be conducted at least annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection the department shall determine if the facility meets regulatory standards, including, but not limited to, providing residents with the appropriate level of care based on the facility's license, providing adequate staffing and services, updated resident records and assessments, and compliance with basic health and safety standards.

(3) If the department determines that a resident requires a higher level of care than the facility is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department. An assessment shall be conducted in consultation with the resident, the resident's physician and surgeon, and the resident's case manager, and shall reflect the desires of the resident, the resident's physician and surgeon, and the resident's case manager. The assessment also shall recognize that certain illnesses are episodic in nature and that the resident's need for a higher level of care may be temporary.

(4) The department shall notify the residential care facility in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(5) Reports on the results of each inspection or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services, at any time, with or

without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's facility, or against any employee of the licensee's facility, on the basis, or for the reason, that the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

(e) Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 21. Section 1569.185 of the Health and Safety Code is amended to read:

1569.185. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.

The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Capacity	Initial Application	Annual
1–3	$454	$454
4–6	$908	$454
7–15	$1,363	$681
16–30	$1,815	$908
31–49	$2,270	$1,135
50–74	$2,725	$1,363
75–100	$3,180	$1,590
101–150		

151–200	$3,634	$1,817
201–250	$4,237	$2,119
251–300	$4,840	$2,420
301–350	$5,445	$2,723
351–400	$6,050	$3,025
401–500	$6,655	$3,328
501–600	$7,865	$3,933
601–700	$9,075	$4,538
701+	$10,285	$5,143
	$12,100	$6,050

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars ($50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care or supervision by licensees and to support the activities of the licensing programs, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section to ensure that they do not exceed the costs described in this paragraph.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A residential care facility for the elderly may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

SEC. 22. Section 1569.20 of the Health and Safety Code is amended to read:

1569.20. Upon the filing of the application for issuance of an initial license, the department shall, within five working days of the filing, make a determination regarding the completeness of the application. If the application is complete, the department shall immediately request a fire clearance and notify the applicant to arrange a time for the department to conduct a prelicensure inspection. If the department determines that an application is for licensure of a currently licensed facility for which there is no material change to the management or operations of the facility, the prelicensure inspection is optional at the discretion of the department. If the application is incomplete, the department shall notify the applicant and

request the necessary information. Within 60 days of making a determination that the file is complete, the department shall make a determination whether the application is in compliance with this chapter and the rules and regulations of the department and shall either immediately issue the license or notify the applicant of the deficiencies. The notice shall specify whether the deficiencies constitute denial of the application or whether further corrections for compliance will likely result in approval of the application.

SEC. 23. Section 1569.48 of the Health and Safety Code is amended to read:

1569.48. An emergency resident contingency account may be established within the Technical Assistance Fund established under Section 1523.2 to which not more than 50 percent of each penalty assessed pursuant to Section 1569.49 is deposited for use by the Community Care Licensing Division of the department, at the discretion of the director, for the relocation and care of residents when a facility's license is revoked or temporarily suspended. The money in the account shall cover costs, including, but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care and supervision to the residents. The department shall seek the input of stakeholders and local agencies in developing policies for emergency resident care and supervision.

SEC. 24. Section 1569.481 is added to the Health and Safety Code, to read:

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

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

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

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

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

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

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

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

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

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

(A) The temporary manager notifies the department, and the department verifies, that the facility meets state and, if applicable, federal standards for

operation, and will be able to continue to maintain compliance with those standards after the termination of the appointment of the temporary manager.

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

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

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

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

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

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

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

(3) The administrative law judge shall uphold the appointment of the temporary manager if the department proves, by a preponderance of the evidence, that the circumstances specified in subdivision (c) applied to the facility at the time of the appointment. The administrative law judge shall

order the termination of the temporary manager if the burden of proof is not satisfied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) Performing all acts that are necessary and proper to maintain and operate the facility in accordance with sound fiscal policies. The temporary manager shall take action as is reasonably necessary to protect or conserve

the assets or property of which the temporary manager takes possession and may use those assets or property only in the performance of the powers and duties set forth in this section.

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

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

(*l*) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute a lien upon the assets of the facility or the proceeds from the sale thereof. The lien against the personal assets of the facility or an entity related to the licensee shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

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

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of residents under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of residents handled by the department if the licensee fails to comply with the relocation requirements of Section 1569.525 or 1569.682 when required by the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek any available criminal, civil, or

administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

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

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

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

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

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

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

SEC. 25. Section 1569.482 is added to the Health and Safety Code, to read:

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

(b) (1) Whenever circumstances exist indicating that continued management of a residential care facility by the current licensee would present a substantial probability or imminent danger of serious physical harm or death to the residents, or the facility is closing or intends to terminate operation as a residential care facility for the elderly and adequate arrangements for relocation of residents have not been made at least 30 days

prior to the closing or termination, the director may petition the superior court for the county in which the facility is located for an order appointing a receiver to temporarily operate the facility in accordance with this section.

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

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

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

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

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

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

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

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

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

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

(f) A receiver appointed pursuant to this section:

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

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

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

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

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

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

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

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

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

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

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

(G) To ask the court for direction in the treatment of debts incurred prior to the appointment, if the licensee’s debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance

and operation of the facility, or if payment of the debts will interfere with the purposes of receivership.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) The recommendations and reports of the receiver.

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

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

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

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

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

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

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

thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute a lien upon the assets of the facility or the proceeds from the sale thereof. The lien against the personal assets of the facility or an entity related to the licensee shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility.

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

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

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

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

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

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

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

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

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

SEC. 26. Section 1569.525 of the Health and Safety Code is amended to read:

1569.525. (a) If the director determines that it is necessary to temporarily suspend or to revoke any license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety pursuant to Section 1569.50, the department shall make every effort to minimize trauma for the residents.

(b) (1) (A) After a decision is made to temporarily suspend or, upon an order, to revoke the license of a residential care facility for the elderly which is likely to result in closure of the facility, the department shall contact both of the following:

(i) The Office of the State Long-Term Care Ombudsman.

(ii) Any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly.

(B) The department shall work with these agencies, and the licensee if the director determines it to be appropriate, to locate alternative placement sites and to contact relatives or other persons responsible for the care of these residents, and to assist in the transfer of residents.

(2) The department shall use appropriately skilled professionals deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(3) The department shall require the licensee to prepare and submit to the licensing agency a written plan for relocation and compliance with the terms and conditions of the approved plans, and to provide other information as necessary for the enforcement of this section.

(c) Upon receipt of an order to temporarily suspend or revoke a license, the licensee shall be prohibited from accepting new residents or entering into admission agreements for new residents.

(d) Upon an order to temporarily suspend a license, the following shall apply:

(1) The licensee shall immediately provide written notice of the temporary suspension to the resident and initiate contact with the resident's responsible person, if applicable.

(2) The department may secure, or permit the licensee to secure, the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the facility. The temporary manager shall be appointed and assume operation of the facility in accordance with Section 1569.481.

(e) Upon an order to revoke a license following the temporary suspension of a license pursuant to Section 1569.50 that led to the transfer of all residents, the following shall apply:

(1) The licensee shall provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation.

(2) The department shall permit the licensee to secure the services of a temporary manager who is not an immediate family member of the licensee or an entity that is not owned by the licensee to manage the day-to-day operations of the residential care facility for the elderly for a period of at least 60 days, provided that all of the following conditions are met:

(A) A proposal is submitted to the department within 72 hours of the licensee's receipt of the department's order of revocation that includes both of the following:

(i) A completed "Application for a Community Care Facility or Residential Care Facility for the Elderly License" form (LIC 200), or similar form as determined by the department, signed and dated by both the licensee and the person or entity described in paragraph (2).

(ii) A copy of the executed agreement between the licensee and the person or entity described in paragraph (2) that delineates the roles and responsibilities of each party and specifies that the person or entity described in paragraph (2) shall have the full authority necessary to operate the facility, in compliance with all applicable laws and regulations, and without interference from the licensee.

(B) The person or entity described in paragraph (2) shall be currently licensed and in substantial compliance to operate a residential care facility for the elderly that is of comparable size or greater and has comparable programming to the facility. For purposes of this subparagraph, the following definitions apply:

(i) "Comparable programming" includes, but is not limited to, dementia care, hospice care, and care for residents with exempted prohibited health care conditions.

(ii) "Comparable size" means a facility capacity of 1 to 15 residents, 16 to 49 residents, or 50 or more residents.

(C) The person or entity described in paragraph (2) shall not be subject to the application fee specified in Section 1569.185.

(D) If the department denies a proposal to secure the services of a person or entity pursuant to paragraph (2), this denial shall not be deemed a denial of a license application subject to the right to a hearing under Section 1569.22 and other procedural rights under Section 1569.51.

(f) (1) Notwithstanding Section 1569.651 or any other law, for paid preadmission fees, a resident who transfers from the facility due to the notice of temporary suspension or revocation of a license pursuant to this section is entitled to a refund in accordance with all of the following:

(A) A 100-percent refund if preadmission fees were paid within six months of either notice of closure required by this section.

(B) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before either notice required by this section.

(C) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before either notice required by this section.

(D) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before either notice required by this section.

(2) No preadmission fee refund is required if preadmission fees were paid 25 months or more before either notice required by this section.

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

(4) If a resident transfers from the facility due to the revocation of a license, and the resident gives notice at least five days before leaving the facility, or if the transfer is due to a temporary suspension of the license order, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

(g) Within 24 hours after each residence who is transferring pursuant to these provisions have left the facility, the licensee that had his or her license temporarily suspended or revoked shall, based on information provided by the resident or the resident's responsible person, submit a final list of names and new locations of all residents to the department and the local ombudsman program.

(h) If at any point during or following a temporary suspension or revocation order of a license the director determines that there is a risk to the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including, but not limited to, all of the following:

(1) Contact any local agency that may have placement or advocacy responsibility for the residents and work with those agencies to locate alternative placement sites.

(2) Contact the residents' relatives, legal representatives, authorized agents in a health care directive, or responsible parties.

(3) Assist in the transfer of residents, and, if necessary, arrange or coordinate transportation.

(4) Provide onsite evaluation of the residents and use any medical personnel deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.

(5) Arrange for or coordinate care and supervision.

(6) Arrange for the distribution of medications.

(7) Arrange for the preparation and service of meals and snacks.

(8) Arrange for the preparation of the residents' records and medications for transfer of each resident.

(9) Assist in any way necessary to facilitate a safe transfer of all residents.

(10) Check on the status of each transferred resident within 24 hours of transfer.

(i) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing those services. If the licensee fails to provide the services required in this section, the department shall request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages.

(j) Notwithstanding Section 1569.49, a licensee who fails to comply with the requirements of this section shall be liable for civil penalties in the amount of five hundred dollars ($500) per violation per day for each day that the licensee is in violation of this section, until the violation has been corrected. The civil penalties shall be issued immediately following the written notice of violation.

(k) This section shall not preclude the department from amending the effective date in the order of suspension or revocation of a license and closing the facility, or from pursuing any other available remedies if necessary to protect the health and safety of the residents in care.

SEC. 27. Section 1569.682 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

(C) The relocation evaluation.

(D) A list of referral agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:

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

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

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

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

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

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

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

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

(2) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing the relocation services or the costs incurred in caring for the residents through the use of

a temporary manager as provided for in Section 1569.481. If the licensee fails to provide the relocation services required in this section, then the department may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, including restitution to the department of any costs incurred in caring for the residents through the use of a temporary manager as provided for in Section 1569.481.

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

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

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

SEC. 28. Section 1596.803 of the Health and Safety Code is amended to read:

1596.803. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a child day care facility. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1–8		

		$73	$73
	9–14		
		$140	$140
Day Care Centers	1–30		
		$484	$242
	31–60		
		$968	$484
	61–75		
		$1,210	$605
	76–90		
		$1,452	$726
	91–120		
		$1,936	$968
	121+		
		$2,420	$1,210

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of twenty-five dollars ($25) for attendance by any individual at a department-sponsored family child day care home orientation session, and a fifty dollar ($50) orientation fee for attendance by any individual at a department-sponsored child day care center orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home licensed under this act.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees, and to support the activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this act, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the annual Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section as necessary to ensure they do not exceed the costs described in this paragraph.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A child day care facility may use a bona fide business or personal check to pay the license fee required under this section.

(e) The failure of an applicant for licensure or a licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

SEC. 29. 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 approval for persons to operate or provide direct care services in a child care center or family child care home. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children’s health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a child day care facility.

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

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

(3) Except during the 2003–04 to the 2014–15 fiscal years, inclusive, neither the Department of Justice nor the department may charge a fee for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section.

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

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

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

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

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

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information 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, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure,

the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

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

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

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

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

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

(i) A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.

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

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

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

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

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

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

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

(H) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal record clearance as part of an

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

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

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

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

(B) These fingerprint images and related information shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints. A licensee's failure to submit fingerprint images and related information to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, 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 licensee pursuant to Section 1596.885 or Section 1596.886. The State Department of Social Services may assess civil penalties for repeated or continued violations permitted by Sections 1596.99 and 1597.58. The fingerprint images and related information shall then be submitted to the department for processing. Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as

provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations 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 licensee pursuant to Section 1596.885 or Section 1596.886. The department may assess civil penalties for repeated or continued violations, as permitted by Sections 1596.99 and 1597.58.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the 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 envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

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

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

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

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

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

(4) 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 the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing 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 department and the Department of Justice.

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

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

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

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

shall retain a copy of the individual's written request and the response and date provided.

SEC. 30. Section 1796.12 of the Health and Safety Code is amended to read:

1796.12. For purposes of this chapter, the following definitions shall apply:

(a) "Affiliated home care aide" means an individual, 18 years of age or older, who is employed by a home care organization to provide home care services to a client and is listed on the home care aide registry.

(b) "Child" or "children" means an individual or individuals under 18 years of age.

(c) "Client" means an individual who receives home care services from a registered home care aide.

(d) "Department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services.

(f) "Family member" means any spouse, by marriage or otherwise, domestic partner, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even if the marriage has been terminated by death or dissolution.

(g) "Home care aide applicant" means an individual, 18 years of age or older, who is requesting to become a registered home care aide and the department has received and is processing the individual's complete home care aide application and nonrefundable application fee.

(h) "Home care aide application" means the official form, designated by the department, to request to become a registered home care aide.

(i) "Home care aide registry" means a department-established and department-maintained Internet Web site of registered home care aides and home care aide applicants, which includes all of the following: the individual's name, registration number, registration status, registration expiration date, and, if applicable, the home care organization to which the affiliated home care aide or affiliated home care aide applicant is associated.

(j) "Home care organization" means an individual, 18 years of age or older, firm, partnership, corporation, limited liability company, joint venture, association, or other entity that arranges for home care services by an affiliated home care aide to a client, and is licensed pursuant to this chapter.

(k) "Home care organization applicant" means an individual, 18 years of age or older, or a firm, partnership, corporation, limited liability company, joint venture, association, or other entity where the individual or individuals applying for the license are 18 years of age or older and are requesting to become a home care organization licensee and the department has received and is processing the complete home care organization application and nonrefundable application fee.

(*l*) "Home care organization application" means the official form, designated by the department, to request to become a licensed home care organization.

(m) "Home care organization licensee" means an individual, 18 years of age or older, firm, partnership, corporation, limited liability company, joint venture, association, or other entity having the authority and responsibility for the operation or management of a licensed home care organization.

(n) "Home care services" means nonmedical services and assistance provided by a registered home care aide to a client who, because of advanced age or physical or mental disability, cannot perform these services. These services enable the client to remain in his or her residence and include, but are not limited to, assistance with the following: bathing, dressing, feeding, exercising, personal hygiene and grooming, transferring, ambulating, positioning, toileting and incontinence care, assisting with medication that the client self-administers, housekeeping, meal planning and preparation, laundry, transportation, correspondence, making telephone calls, shopping for personal care items or groceries, and companionship. This subdivision shall not authorize a registered home care aide to assist with medication that the client self-administers that would otherwise require administration or oversight by a licensed health care professional.

(o) "Registered home care aide" means an affiliated home care aide or independent home care aide, 18 years of age or older, who is listed on the home care aide registry.

(p) "Independent home care aide" means an individual, 18 years of age or older, who is not employed by a home care organization, but who is listed on the home care aide registry and is providing home care services through a direct agreement with a client.

SEC. 31. Section 1796.14 of the Health and Safety Code is amended to read:

1796.14. (a) Individuals who are not employed by a home care organization but who provide home care services to a client may be listed on the home care aide registry.

(b) An affiliated home care aide shall be listed on the home care aide registry prior to providing home care services to a client.

(c) (1) Home care aides shall not include individuals who are providing home care services as part of their job duties through one of the following entities:

(A) Services authorized to be provided by a licensed home health agency under Chapter 8 (commencing with Section 1725).

(B) Services authorized to be provided by a licensed hospice pursuant to Chapter 8.5 (commencing with Section 1745).

(C) Services authorized to be provided by a licensed health facility pursuant to Chapter 2 (commencing with Section 1250).

(D) In-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

(E) A community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01

(commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), or a facility licensed pursuant to the California Child Day Care Facilities Act, (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers, as described in Chapter 3.5 (commencing with Section 1596.90), family day care homes, as described in Chapter 3.6 (commencing with Section 1597.30), and employer-sponsored child care centers, as described in Chapter 3.65 (commencing with Section 1597.70).

(F) A clinic licensed pursuant to Section 1204 or 1204.1.

(G) A home medical device retail facility licensed pursuant to Section 111656.

(H) An organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Chapter 1 (commencing with Section 4500) of Division 4.5 of the Welfare and Institutions Code) and the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by the organization are persons with developmental disabilities.

(I) An alcoholism or drug abuse recovery or treatment facility as defined in Section 11834.02.

(J) A facility in which only Indian children who are eligible under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and is either of the following:

(i) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(ii) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(2) Home care aides shall not include individuals providing services authorized to be provided pursuant to Section 2731 of the Business and Professions Code.

(d) Home care aides shall not include a nonrelative extended family member, as defined in Section 362.7 of the Welfare and Institutions Code.

(e) In the event of a conflict between this chapter and a provision listed in subdivision (b), (c), or (d), the provision in subdivision (b), (c), or (d) shall control.

SEC. 32. Section 1796.16 of the Health and Safety Code is amended to read:

1796.16. (a) A registered home care aide may provide home care services to more than one child for a family, but may not provide home care services for a child or children from more than one family at the same time. This chapter shall not preclude a registered home care aide from providing home care services for a child or children of multiple families at different times. This chapter shall not override provisions of the California Child

Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)), which includes Chapter 3.5 (commencing with Section 1596.90), Chapter 3.6 (commencing with Section 1597.30), and Chapter 3.65 (commencing with Section 1597.70).

(b) This chapter does not override provisions of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), Residential Care Facilities for Persons With Chronic Life-Threatening Illness Act (Chapter 3.01 (commencing with Section 1568.01)), or the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)).

SEC. 33. Section 1796.17 of the Health and Safety Code is amended to read:

1796.17. (a) Each home care organization shall be separately licensed. Nothing in this chapter shall prevent a licensee from obtaining more than one home care organization license or obtaining a home care organization license in addition to other licenses issued by the department, or both.

(b) A home care organization shall not include the following:

(1) A home health agency licensed under Chapter 8 (commencing with Section 1725).

(2) A hospice licensed under Chapter 8.5 (commencing with Section 1745).

(3) A health facility licensed under Chapter 2 (commencing with Section 1250).

(4) A person who performs services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

(5) A home medical device retail facility licensed under Section 111656.

(6) An organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by the organization are persons with developmental disabilities.

(7) An employment agency, as defined in Section 1812.5095 of the Civil Code, that procures, offers, refers, provides, or attempts to provide an independent home care aide who provides home care services clients.

(8) A community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), or a

facility licensed pursuant to the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers, as described in Chapter 3.5 (commencing with Section 1596.90), family day care homes, as described in Chapter 3.6 (commencing with Section 1597.30), and employer-sponsored child care centers, as described in Chapter 3.65 (commencing with Section 1597.70).

(9) An alcoholism or drug abuse recovery or treatment facility as defined in Section 11834.02.

(10) A person providing services authorized pursuant to Section 2731 of the Business and Professions Code.

(11) A clinic licensed pursuant to Section 1204 or 1204.1.

(12) A nonrelative extended family member, as defined in Section 362.7 of the Welfare and Institutions Code.

(13) A facility providing home care services in which only Indian children who are eligible under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and which satisfies either of the following:

(A) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(B) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(14) Any other individual or entity providing services similar to those described in this chapter, as determined by the director.

(c) In the event of a conflict between this chapter and a provision listed in subdivision (b), the provision in subdivision (b) shall control.

SEC. 34. Section 1796.19 of the Health and Safety Code is amended to read:

1796.19. (a) The department shall consider, but is not limited to, the following when determining whether to approve a registration application:

(1) Evidence satisfactory to the department of the ability of the home care aide applicant to comply with this chapter and the rules and regulations promulgated under this chapter by the department.

(2) Evidence satisfactory to the department that the home care aide applicant is of reputable and responsible character. The evidence shall include, but is not limited to, a review of the independent home care aide applicant's criminal offender record information pursuant to Section 1522.

(3) Any revocation or other disciplinary action taken, or in the process of being taken, related to the care of individuals against the home care aide applicant.

(4) Any other information that may be required by the department for the proper administration and enforcement of this chapter.

(b) Failure of the home care aide applicant to cooperate with the department in the completion of the Home Care Aide application shall result in the withdrawal of the registration application. "Failure to cooperate" means that the information described in this chapter and by any rules and regulations promulgated under this chapter has not been provided, or has not been provided in the form requested by the department, or both.

SEC. 35. Section 1796.22 of the Health and Safety Code is amended to read:

1796.22. Any individual who has submitted a home care aide application and who possesses any one of the following identification cards may initiate a background examination to be a registered home care aide:

(a) A valid California driver's license.

(b) A valid identification card issued by the Department of Motor Vehicles.

(c) A valid Alien Registration Card.

(d) In the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

SEC. 36. Section 1796.23 of the Health and Safety Code is amended to read:

1796.23. (a) Each person initiating a background examination to be a registered home care aide shall submit his or her fingerprints to the Department of Justice by electronic transmission in a manner approved by the department, unless exempt under subdivision (d). Each person initiating a background examination to be a registered home care aide shall also submit to the department a signed declaration under penalty of perjury regarding any prior criminal convictions pursuant to Section 1522 and a completed home care aide application.

(b) A law enforcement agency or other local agency authorized to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter. The fee revenues shall be deposited in the Fingerprint Fees Account.

(c) The Department of Justice shall use the fingerprints to search the state and Federal Bureau of Investigation criminal offender record information pursuant to Section 1522.

(d) A person who is a current licensee or employee in a facility licensed by the department, a certified foster parent, a certified administrator, or a registered TrustLine provider need not submit fingerprints to the department, and may transfer his or her current criminal record clearance or exemption pursuant to paragraph (1) of subdivision (h) of Section 1522. The person shall instead submit to the department, along with the person's registration application, a copy of the person's identification card described in Section 1796.22 and sign a declaration verifying the person's identity.

SEC. 37. Section 1796.24 of the Health and Safety Code is amended to read:

1796.24. (a) (1) The department shall establish a home care aide registry pursuant to this chapter and shall continuously update the registry information. Upon submission of the home care aide application and fingerprints or other identification documents pursuant to Section 1796.22, the department shall enter into the home care aide registry the person's name, identification number, and an indicator that the person has submitted a home care aide application and fingerprints or identification documentation. This person shall be known as a "home care aide applicant."

(2) A person shall not be entitled to apply to be a registered home care aide and shall have his or her registration application returned without the right to appeal if the person would not be eligible to obtain a license pursuant to Section 1796.40 or 1796.41.

(b) (1) Before approving an individual for registration, the department shall check the individual's criminal history pursuant to Section 1522. Upon completion of the searches of the state summary criminal offender record information and the records of the Federal Bureau of Investigation, the home care aide applicant shall be issued a criminal record clearance or granted a criminal record exemption if grounds do not exist for denial pursuant to Section 1522. The department shall enter that finding in the person's record in the home care aide registry and shall notify the person of the action. This person shall be known as a "registered home care aide." If the home care aide applicant meets all of the conditions for registration, except receipt of the Federal Bureau of Investigation's criminal offender record information search response, the department may issue a clearance if the home care aide applicant has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a minor traffic violation. If, after approval, the department determines that the registrant has a criminal record, registration may be revoked pursuant to Section 1796.26.

(2) For purposes of compliance with this section, the department may permit a home care organization applicant or a home care organization licensee to request the transfer of a home care aide's current criminal record clearance or exemption for a licensed care facility issued by the department. A signed criminal record clearance or exemption transfer request shall be submitted 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 or home care aide applicant, the department shall verify whether the individual has a clearance or exemption that can be transferred pursuant to the requirements of this chapter.

(3) The department shall hold criminal record clearances and exemptions in its active files for a minimum of three years after the individual is no longer on the registry in order to facilitate a transfer request.

SEC. 38. Section 1796.25 of the Health and Safety Code is amended to read:

1796.25. (a) (1) If the department finds that the home care aide applicant or the registered home care aide has been convicted of a crime, other than a minor traffic violation, the department shall deny the home care aide application, or revoke the registered home care aide's registration unless the director grants an exemption pursuant to subdivision (g) of Section 1522.

(2) If the department finds that the home care aide applicant or registered home care aide has an arrest as described in subdivision (a) of Section 1522, the department may deny the registration application or registration renewal application, or revoke the registered home care aide's registration, if the home care aide or registered home care aide may pose a risk to the health

and safety of any person who is or may become a client and the department complies with subdivision (e) of Section 1522.

(3) The department may deny the home care aide application or the renewal application of a registered home care aide, or revoke the home care aide registration, if the department discovers that it had previously revoked a license or certificate of approval to be a certified family home, a certified administrator, or a registered TrustLine provider held by the home care aide applicant or registered home care aide, or that it had excluded the home care aide applicant or registered home care aide from a licensed facility.

(4) The department may deny the home care aide application or registered home care aide registration renewal application, for placement or retention upon the home care aide registry or revoke the registered home care aide's registration if the department discovers that it had previously denied the home care aide applicant's or registered home care aide's application for a license from the department or certificate of approval to be a certified family home, a certified administrator, or a registered TrustLine provider.

(b) (1) If the department revokes or denies a home care aide application or registered home care aide's renewal application pursuant to subdivision (a), the department shall advise the home care aide applicant or registered home care aide, by written notification, of the right to appeal. The home care aide applicant or registered home care aide shall have 15 days from the date of the written notification to appeal the denial or revocation.

(2) Upon receipt by the department of the appeal, the appeal shall be set for hearing. The hearing shall be conducted in accordance with Section 1551.

(c) If the home care aide application or registered home care aide renewal application has been denied, the home care aide applicant or registered home care aide shall not reapply until he or she meets the timeframe set forth in Sections 1796.40 and 1796.41.

SEC. 39. Section 1796.26 of the Health and Safety Code is amended to read:

1796.26. (a) (1) The department may revoke or deny a registered home care aide's registration or request for registration renewal if any of the following apply to the registered home care aide:

(A) He or she procured or attempted to procure his or her registered home care aide registration or renewal by fraud or misrepresentation.

(B) He or she has a criminal conviction, other than a minor traffic violation, unless an exemption is granted pursuant to Section 1522.

(C) He or she engages or has engaged in conduct which is inimical to the health, morals, welfare, or safety of the people of the State of California or an individual receiving or seeking to receive home care services.

(2) An individual whose registration has been revoked shall not reapply until he or she meets the timeframe as set forth in Section 1796.40 or 1796.41.

(3) An individual whose criminal record exemption has been denied shall not reapply for two years from the date of the exemption denial.

(4) The hearing to revoke or deny the registered home care aide registration or registration renewal request shall be conducted in accordance with Section 1551.

(b) (1) The registered home care aide's registration shall be considered forfeited under the following conditions:

(A) The registered home care aide has had a license or certificate of approval revoked, suspended, or denied as authorized under Section 1534, 1550, 1568.082, 1569.50, 1596.608, or 1596.885.

(B) The registered home care aide has been denied employment, residence, or presence in a facility or client's home based on action resulting from an administrative hearing pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897.

(C) The registered home care aide fails to maintain a current mailing address with the department.

(D) The registered home care aide's registration is not renewed.

(E) The registered home care aide surrenders his or her registration to the department.

(F) The registered home care aide dies.

(2) An individual whose registered home care aide registration has been forfeited shall not reapply until he or she meets the timeframe set forth by the department in Sections 1796.40 and 1796.41.

(c) A registered home care aide's registration shall not be transferred or sold to another individual or entity.

SEC. 40. Section 1796.29 of the Health and Safety Code is amended to read:

1796.29. The department shall do both of the following in the administration of the home care aide registry:

(a) Establish and maintain on the department's Internet Web site the registry of registered home care aides and home care aide applicants.

(1) To expedite the ability of a consumer to search and locate a registered home care aide or home care aide applicant, the Internet Web site shall enable consumers to look up the registration status by providing the registered home care aide's or home care aide applicant's name, registration number, registration status, registration expiration date, and, if applicable, the home care organization with which the affiliated home care aide is associated.

(2) The Internet Web site shall not provide any additional, individually identifiable information about a registered home care aide or home care aide applicant. The department may request and may maintain additional information for registered home care aides or home care aide applicants, as necessary for the administration of this chapter, which shall not be publicly available on the home care aide registry.

(b) Update the home care registry upon receiving notification from a home care organization that an affiliated home care aide is no longer employed by the home care organization.

SEC. 41. Section 1796.31 of the Health and Safety Code is amended to read:

1796.31. (a) To remain on the home care aide registry, a registered home care aide shall renew his or her registration every two years.

(1) A registered home care aide's registration shall expire every two years, on the anniversary date of the initial registration date. If the registration is not renewed on or prior to its expiration date, the registration shall be forfeited pursuant to subdivision (b) of Section 1796.26.

(2) To renew a registration, the registered home care aide shall, on or before the registration expiration date, request renewal by submitting to the department the registration renewal application form and paying the nonrefundable registration renewal application fee in the amount determined by the department.

(b) Renewal of a registered home care aide's registration is conditioned on compliance with all of the following:

(1) Submitting a complete registration renewal application form and payment of the nonrefundable renewal fee, both of which shall be postmarked on or before the expiration of the registration.

(2) Continuing to satisfy the requirements set forth in this chapter.

(3) Cooperating with the department in the completion of the renewal process. Failure of the registered home care aide to cooperate shall result in the withdrawal of the registration renewal application by the department. For purposes of this section, "failure to cooperate" means that the information described in this chapter and in any rules and regulations promulgated under this chapter has not been provided, or has not been provided in the form requested by the department, or both.

(c) (1) The department shall notify a registered home care aide in writing of his or her registration expiration date and the process of renewal.

(2) Written notification pursuant to this subdivision shall be mailed to the registered home care aide's mailing address of record at least 60 days before the registration expiration date.

SEC. 42. Section 1796.33 of the Health and Safety Code is amended and renumbered to read:

1796.32. Any individual who has submitted an application and who possesses any one of the following identification cards may initiate a background examination to be a licensed home care organization:

(a) A valid California driver's license.

(b) A valid identification card issued by the Department of Motor Vehicles.

(c) A valid Alien Registration Card.

(d) In the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

SEC. 43. Section 1796.34 of the Health and Safety Code is amended and renumbered to read:

1796.33. In order to obtain a home care organization license, the following individual or individuals shall consent to the background examination described in Section 1796.23:

(a) The owner of the home care organization, if the owner is an individual.

(b) If the owner of a home care organization is a corporation, limited liability company, joint venture, association, or other entity, an individual having a 10-percent or greater ownership in that entity and the chief executive officer or other person serving in a similar capacity. The department shall not issue a provisional license or license to any corporate home care organization applicant that has a member of the board of directors, executive director, or officer who is not eligible for licensure pursuant to Sections 1796.40 and 1796.41.

SEC. 44. Section 1796.35 of the Health and Safety Code is amended and renumbered to read:

1796.34. (a) A person or a private or public organization, with the exception of any person who performs in-home supportive services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code, and the exceptions provided for in subdivision (b), shall not do any of the following, unless it is licensed pursuant to this chapter:

(1) Own, manage, or represent himself, herself or itself to be a home care organization by name, advertising, soliciting, or any other presentments to the public, or in the context of services within the scope of this chapter, imply that he, she, or it is licensed to provide those services or to make any reference to employee bonding in relation to those services.

(2) Use the terms "home care organization," "home care," "in-home care," or any combination of those terms, within its name.

(b) This section does not apply to either of the following:

(1) Any person who performs in-home supportive services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or Section 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

(2) An employment agency, as defined in Section 1812.5095 of the Civil Code, that procures, offers, refers, provides, or attempts to provide an independent home care aide who provides home care to clients.

SEC. 45. Section 1796.36 of the Health and Safety Code is amended and renumbered to read:

1796.35. (a) Subject to the exceptions set forth in Section 1796.17, an individual, partnership, corporation, limited liability company, joint venture, association, or other entity shall not arrange for the provision of home care services by a registered home care aide to a client in this state before obtaining a license pursuant to this chapter. This shall be deemed "unlicensed home care services."

(b) Upon discovering an individual or entity is in violation of subdivision (a), the department shall send a written notice of noncompliance to the individual or entity and assess a civil penalty of nine hundred dollars ($900) per day for each calendar day of each violation.

(c) Upon discovering that an individual or entity is in violation of subdivision (a), the department shall send a copy of the written notice of

noncompliance to the individual or entity and to the Attorney General or appropriate district attorney or city attorney.

(d) Upon receiving this notice, the Attorney General, district attorney, or city attorney may do any or all of the following:

(1) Issue a cease and desist order, which shall remain in effect until the individual or entity has obtained a license pursuant to this chapter. If the individual or entity fails to comply with the cease and desist order within 20 calendar days, the Attorney General, district attorney, or city attorney may apply for an injunction.

(2) Bring an action against the individual or entity under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

SEC. 46. Section 1796.37 of the Health and Safety Code is amended and renumbered to read:

1796.36. (a) A home care organization that has its principal place of business in another state, in addition to the other requirements of this chapter, before arranging for home care services provided by an affiliated home care aide to a client in the state, shall comply with all of the following:

(1) Have an office in California.

(2) Maintain all pertinent records of the operation in California at the California office. All records shall be available to review, copy, audit, and inspect by the department.

(b) If the home care organization is a foreign corporation, foreign limited liability company, foreign limited partnership, foreign association, or a foreign limited liability partnership, as defined in Sections 170, 171, 171.03, 171.05, and 16101 of the Corporations Code, before arranging for home care services provided by an affiliated home care aide to a client in the state, the home care organization shall have an office in California and shall comply with both of the following:

(1) Register with the Secretary of State to conduct intrastate business in California.

(2) Maintain all pertinent records of the operation in California at the California office. All records shall be available to review, copy, audit, and inspect by the department.

SEC. 47. Section 1796.38 of the Health and Safety Code is amended and renumbered to read:

1796.37. (a) The department may issue a home care organization license to a home care organization applicant that satisfies the requirements set forth in this chapter, including all of the following:

(1) Files a complete home care organization application, including the fees required pursuant to Section 1796.49.

(2) Submits proof of general and professional liability insurance in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the aggregate.

(3) Submits proof of a valid workers' compensation policy covering its affiliated home care aides. The proof shall consist of the policy number, the

effective and expiration dates of the policy, and the name and address of the policy carrier.

(4) Submits proof of an employee dishonesty bond, including third-party coverage, with a minimum limit of ten thousand dollars ($10,000). This proof shall be submitted at each subsequent renewal.

(5) Provides the department, upon request, with a complete list of its affiliated home care aides, and proof that each satisfies the requirements of Sections 1796.43, 1796.44, and 1796.45.

(6) Passes a background examination, as required pursuant to Section 1796.33.

(7) Completes a department orientation.

(8) Does not have any outstanding fees or civil penalties due to the department.

(9) Discloses prior or present service as an administrator, general partner, corporate officer or director of, or discloses that he or she has held or holds a beneficial ownership of 10 percent or more in, any of the following:

(A) A community care facility, as defined in Section 1502.

(B) A residential care facility, as defined in Section 1568.01.

(C) A residential care facility for the elderly, as defined in Section 1569.2.

(D) A child day care facility, as defined in Section 1596.750.

(E) A day care center, as described in Chapter 3.5 (commencing with Section 1596.90).

(F) A family day care home, as described in Chapter 3.6 (commencing with Section 1597.30).

(G) An employer-sponsored child care center, as described in Chapter 3.65 (commencing with Section 1597.70).

(H) A home care organization licensed pursuant to this chapter.

(10) Discloses any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in paragraph (9).

(11) Provides evidence that every member of the board of directors, if applicable, understands his or her legal duties and obligations as a member of the board of directors and that the home care organization's operation is governed by laws and regulations that are enforced by the department.

(12) Provides any other information as may be required by the department for the proper administration and enforcement of this chapter.

(13) Cooperates with the department in the completion of the home care organization license application process. Failure of the home care organization licensee to cooperate may result in the withdrawal of the home care organization license application. "Failure to cooperate" means that the information described in this chapter and in any rules and regulations promulgated pursuant to this chapter has not been provided, or not provided in the form requested by the department, or both.

(b) A home care organization licensee shall renew the home care organization license every two years. The department may renew a home care organization license if the licensee satisfies the requirements set forth in this chapter, including all of the following:

(1) Files a complete home care organization license renewal application, including the nonrefundable fees required pursuant to Section 1796.49, both of which shall be postmarked on or before the expiration of the license.

(2) Submits proof of general and professional liability insurance in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the aggregate.

(3) Submits proof of a valid workers' compensation policy covering its affiliated home care aides. The proof shall consist of the policy number, the effective and expiration dates of the policy, and the name and address of the policy carrier.

(4) Submits proof of an employee dishonesty bond, including third-party coverage, with a minimum limit of ten thousand dollars ($10,000).

(5) Does not have any outstanding fees or civil penalties due to the department.

(6) Provides any other information as may be required by the department for the proper administration and enforcement of this chapter.

(7) Cooperates with the department in the completion of the home care organization license renewal process. Failure of the home care organization licensee to cooperate may result in the withdrawal of the home care organization license renewal application. "Failure to cooperate" means that the information described in this chapter and in any rules and regulations promulgated pursuant to this chapter has not been provided, or not provided in the form requested by the department, or both.

(c) (1) The department shall notify a licensed home care organization in writing of its registration expiration date and the process of renewal.

(2) Written notification pursuant to this subdivision shall be mailed to the registered home care organization's mailing address of record at least 60 days before the registration expiration date.

SEC. 48. Section 1796.38 is added to the Health and Safety Code, to read:

1796.38. The department may deny an application for licensure or suspend or revoke any license issued pursuant to this chapter, pursuant to Sections 1550.5 and 1551 and in the manner provided in this chapter on any of the following grounds:

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

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

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual receiving home care services or the people of the State of California.

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

(e) Engaging in acts of financial malfeasance concerning the operation of a home care organization.

SEC. 49. Section 1796.39 of the Health and Safety Code is repealed.

SEC. 50. Section 1796.40 is added to the Health and Safety Code, to read:

1796.40. (a) (1) If an application for a home care organization license indicates, or the department determines during the application review process, that the home care organization applicant was previously issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65 (commencing with Section 1597.70), and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation. All home care organizations are exempt from the health planning requirements contained in Part 2 (commencing with Section 127125) of Division 107.

(2) If an application for a license indicates, or the department determines during the application review process, that the home care organization applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(3) If an application for a license indicates, or the department determines during the application review process, that the home care organization applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license indicates, or the department determines during the application review process, that the home care organization applicant had previously applied for a license pursuant to any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances in which denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order of the department.

(c) If an application for a license indicates, or the department determines during the application review process, that the home care organization applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the home care organization applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding the denial.

(2) In cases where the department informed the home care organization applicant of his or her right to petition for a hearing and the home care organization applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(d) Cessation of review pursuant to this section does not constitute a denial of the application.

SEC. 51. Section 1796.41 of the Health and Safety Code is amended and renumbered to read:

1796.42. A home care organization licensee shall do all of the following:

(a) Post its license, business hours, and any other information required by the department in its place of business in a conspicuous location, visible both to clients and affiliated home care aides.

(b) Maintain and abide by a valid workers' compensation policy covering its affiliated home care aides.

(c) Maintain and abide by an employee dishonesty bond, including third-party coverage, with a minimum limit of ten thousand dollars ($10,000).

(d) Maintain proof of general and professional liability insurance in the amount of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) in the aggregate.

(e) Report any suspected or known dependent adult or elder abuse as required by Section 15630 of the Welfare and Institutions Code and suspected or known child abuse as required by Sections 11164 to 11174.3, inclusive, of the Penal Code. A copy of each suspected abuse report shall be maintained and available for review by the department during normal business hours.

SEC. 52. Section 1796.41 is added to the Health and Safety Code, to read:

1796.41. (a) (1) If the department determines that a person was issued a license pursuant to this chapter or Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65 (commencing with Section 1597.70), and the prior license was revoked within the preceding two years, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an

executive director, or an officer of a licensee of any home care organizations licensed by the department pursuant to this chapter.

(2) If the department determines that a person was previously issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of any home care organizations licensed by the department pursuant to this chapter as follows:

(1) In cases where the home care organization applicant petitioned for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the home care organization applicant of his or her right to petition for a hearing and the home care organization applicant did not petition for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter and as follows:

(1) In cases where the home care organization applicant petitioned for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department

pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the home care organization applicant of his or her right to petition for a hearing and the home care organization applicant did not petition for a hearing, the department shall exclude the person from acting as, and require the home care organization to remove him or her from his or her position as, a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1796.25 or any other law.

(e) The department may determine not to exclude a person from acting as or require that he or she be removed from his or her position as a member of the board of directors, an executive director, or an officer of a licensee of, any home care organizations licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

SEC. 53. Section 1796.42 of the Health and Safety Code is amended and renumbered to read:

1796.43. (a) Home care organizations that employ affiliated home care aides shall ensure the affiliated home care aides are cleared on the home care aide registry before placing the individual in direct contact with clients. In addition, the home care organization shall do all of the following:

(1) Ensure any staff person, volunteer, or employee of a home care organization who has contact with clients, prospective clients, or confidential client information that may pose a risk to the clients' health and safety has met the requirements of Sections 1796.23, 1796.24, 1796.25, 1796.26, and 1796.28 before there is contact with clients or prospective clients or access to confidential client information.

(2) Require home care aides to demonstrate that they are free of active tuberculosis disease, pursuant to Section 1796.45.

(3) Immediately notify the department when the home care organization no longer employs an individual as an affiliated home care aide.

(b) This section shall not prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

SEC. 54. Section 1796.44 of the Health and Safety Code is amended to read:

1796.44. (a) A licensee shall ensure that prior to providing home care services, an affiliated home care aide shall complete the training requirements specified in this section.

(b) An affiliated home care aide shall complete a minimum of five hours of entry-level training prior to presence with a client, as follows:

(1) Two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment.

(2) Three hours of safety training, including basic safety precautions, emergency procedures, and infection control.

(c) In addition to the requirements in subdivision (b), an affiliated home care aide shall complete a minimum of five hours of annual training. The annual training shall relate to core competencies and be population specific, which shall include, but not be limited to, the following areas:

(1) Clients' rights and safety.

(2) How to provide for and respond to a client's daily living needs.

(3) How to report, prevent, and detect abuse and neglect.

(4) How to assist a client with personal hygiene and other home care services.

(5) If transportation services are provided, how to safely transport a client.

(d) The entry-level training and annual training described in subdivisions (b) and (c) may be completed through an online training program.

SEC. 55. Section 1796.45 of the Health and Safety Code is amended to read:

1796.45. (a) Affiliated home care aides hired on or after January 1, 2016, shall submit to an examination 90 days prior to employment or within seven days after employment to determine that the individual is free of active tuberculosis disease.

(b) For purposes of this section, "examination" means a test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and that is licensed by the federal Food and Drug Administration (FDA) and, if that test is positive, an X-ray of the lungs. The aide shall not work as an affiliated home care aide unless the licensee obtains documentation from a licensed medical professional that there is no risk of spreading the disease.

(c) After submitting to an examination, an affiliated home care aide whose test for tuberculosis infection is negative shall be required to undergo an examination at least once every two years. Once an affiliated home care aide has a documented positive test for tuberculosis infection that has been followed by an X-ray, the examination is no longer required.

(d) After each examination, an affiliated home care aide shall submit, and the home care organization shall keep on file, a certificate from the examining practitioner showing that the affiliated home care aide was examined and found free from active tuberculosis disease.

(e) The examination is a condition of initial and continuing employment with the home care organization.

(f) An affiliated home care aide who transfers employment from one home care organization to another shall be deemed to meet the requirements of subdivision (a) or (c) if the affiliated home care aide can produce a certificate showing that he or she submitted to the examination within the past two years and was found to be free of active tuberculosis disease, or if

it is verified by the home care organization previously employing him or her that it has a certificate on file that contains that showing and a copy of the certificate is provided to the new home care organization prior to the affiliated home care aide beginning employment.

SEC. 56. Section 1796.47 of the Health and Safety Code is amended to read:

1796.47. (a) (1) Administration of this program shall be fully supported by fees and not civil penalties. Initial costs to implement this chapter may be provided through a General Fund loan that is to be repaid in accordance with a schedule provided by the Department of Finance. The department shall assess fees for home care organization licensure, and home care aide registration related to activities authorized by this chapter. The department may adjust fees as necessary to fully support the administration of this chapter. Except for General Fund moneys that are otherwise transferred or appropriated for the initial costs of administering this chapter, or penalties collected pursuant to this chapter that are appropriated by the Legislature for the purposes of this chapter, no General Fund moneys shall be used for any purpose under this chapter.

(2) A portion of moneys collected in the administration of this chapter, as designated by the department, may be used for community outreach consistent with this chapter.

(b) The Home Care Fund is hereby created within the State Treasury for the purpose of this chapter. All licensure and registration fees authorized by this chapter shall be deposited into the Home Care Fund, except the fingerprint fees collected pursuant to Section 1796.23, which shall be deposited into the Fingerprint Fees Account. Moneys in this fund shall, upon appropriation by the Legislature, be made available to the department for purposes of administering this chapter.

(c) Any fines and penalties collected pursuant to this chapter shall be deposited into the Home Care Technical Assistance Fund, which is hereby created as a subaccount within the Home Care Fund. Moneys in the Home Care Technical Assistance Fund shall, upon appropriation by the Legislature, be available to the department for the purposes of providing technical assistance, training, and education pursuant to this chapter.

SEC. 57. Section 1796.48 of the Health and Safety Code is amended to read:

1796.48. (a) The department may charge a nonrefundable application and nonrefundable renewal fee to become a registered home care aide and to renew a registered home care aide’s registration.

(b) The maximum fee shall not exceed the total actual costs, which include, but are not limited to, of all of the following:

(1) The searches for criminal offender records performed by the Department of Justice.

(2) The cost incurred by the Department of Justice for the searches of the records of the Federal Bureau of Investigation.

(3) The cost to the department to process the applications and maintain the home care aide registry and perform the duties required by this chapter and any rules and regulations promulgated pursuant to this chapter.

(c) The fees collected shall be deposited into the Home Care Fund pursuant to subdivision (b) of Section 1796.47, except the fingerprint fees collected pursuant to Section 1796.23, which shall be deposited into the Fingerprint Fees Account.

SEC. 58. Section 1796.49 of the Health and Safety Code is amended to read:

1796.49. (a) A licensee shall pay the following fees:

(1) A nonrefundable 24-month initial license fee, as prescribed by the department, for a licensee not currently licensed to provide home care services in the state.

(2) A two-year nonrefundable renewal fee, as determined by the department, based on the number of full-time equivalents (FTEs), including paid personnel or contractors needed to oversee the enforcement of this chapter.

(3) Other reasonable fees as prescribed by the department necessary for the administration of this chapter.

(b) The fees collected shall be deposited into the Home Care Fund pursuant to subdivision (b) of Section 1796.47, except the fingerprint fees collected pursuant to Section 1796.23, which shall be deposited into the Fingerprint Fees Account.

SEC. 59. Section 1796.52 of the Health and Safety Code is amended to read:

1796.52. (a) The department may review and, if it determines necessary, investigate complaints filed against home care organizations regarding violations of this chapter or any rules or regulations promulgated pursuant to this chapter.

(b) The department shall verify through random, unannounced inspections that a home care organization meets the requirements of this chapter and the rules and regulations promulgated pursuant to this chapter.

(c) An investigation or inspection conducted by the department pursuant to this chapter may include, but is not limited to, inspection of the books, records, or premises of a home care organization. A home care organization's refusal to make records, books, or premises available shall constitute cause for the revocation of the home care organization's license.

(d) Other than maintaining the home care registry, the department shall have no oversight responsibility regarding registered home care aides.

(e) Upon receipt of a report of suspected or known abuse, as set forth in subdivision (e) of Section 1796.42, the department shall cross-report the suspected or known abuse to local law enforcement and Adult Protective Services if the alleged victim is 18 years of age or older, or local law enforcement and Child Protective Services if the alleged victim is under 18 years of age. Other than the cross-reporting required by this subdivision, the department shall not be required to investigate suspected or known abuse or have other responsibilities related to the suspected or known abuse. This

subdivision shall not supersede the existing duty of home health aides and home health agencies as mandated reporters to report directly to local law enforcement or county adult protective services pursuant to Section 15630.

SEC. 60. Section 1796.55 of the Health and Safety Code is amended to read:

1796.55. (a) A home care organization that operates in violation of any requirement or obligation imposed by this chapter or any rule or regulation promulgated pursuant to this chapter may be subject to the fines levied or licensure action taken by the department as specified in this chapter.

(b) When the department determines that a home care organization is in violation of this chapter or any rules or regulations promulgated pursuant to this chapter, a notice of violation shall be served upon the licensee. Each notice of violation shall be prepared in writing and shall specify the nature of the violation and the statutory provision, rule, or regulation alleged to have been violated. The notice shall inform the licensee of any action the department may take pursuant to this chapter, including the requirement of a plan of correction, assessment of a penalty, or action to suspend, revoke, or deny renewal of the license. The director or his or her designee shall also inform the licensee of rights to a hearing pursuant to this chapter.

(c) The department may impose a fine of up to nine hundred dollars ($900) per violation per day commencing on the date the violation was identified and ending on the date each violation is corrected.

(d) The department shall adopt regulations establishing procedures for notices, correction plans, appeals, and hearings.

SEC. 61. Section 1796.56 of the Health and Safety Code is repealed.

SEC. 62. Section 1796.61 of the Health and Safety Code is amended to read:

1796.61. (a) This chapter shall be implemented on January 1, 2016.

(b) Home care organization applicants and home care aide applicants who submit applications prior to January 1, 2016, shall be authorized to provide home care services without meeting the requirements of Section 1796.45, provided the requirements of that section are met no later than July 1, 2016.

(c) The applicants described in subdivision (b) shall meet all the requirements of this chapter no later than July 1, 2016, in order to continue to provide home care services.

SEC. 63. Section 1796.63 of the Health and Safety Code is amended to read:

1796.63. (a) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code, any reasonable rules, regulations, and standards as may be necessary or proper to carry out the purpose and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state. 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 chapter through written directives, without taking regulatory action, subject to the limitations provided in subdivision (b).

(b) The department's authority to implement and administer this chapter through written directives shall expire no later than January 1, 2018, or upon the effective date of regulations promulgated in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), whichever occurs sooner.

(c) The department may adopt emergency regulations to implement and administer the provisions of this chapter. The department may readopt any emergency regulations that are the same as, or substantially equivalent to, any emergency regulations previously adopted. The initial adoption and readoption of emergency regulations for the implementation and administration of this chapter pursuant to this subdivision shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial and readopted emergency regulations shall be exempt from review by the Office of Administrative Law. The initial and readopted emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each adoption or readoption shall remain in effect for no more than 180 days.

SEC. 64. Section 300 of the Welfare and Institutions Code is amended to read:

300. Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) (1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found

to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No child shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause

permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child's parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (e) of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

It is the intent of the Legislature that nothing in this section disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency

in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.

SEC. 65. Section 10104 of the Welfare and Institutions Code is amended to read:

10104. (a) It is the intent of the Legislature to ensure that the impacts of the 2011 realignment of child welfare services, foster care, adoptions, and adult protective services programs are identified and evaluated initially and over time. It is further the intent of the Legislature to ensure that information regarding these impacts is publicly available and accessible and can be utilized to support the state's and counties' effectiveness in delivering these critical services and supports.

(b) The State Department of Social Services shall annually report to the appropriate fiscal and policy committees of the Legislature, and publicly post on the department's Internet Web site a summary of outcome and expenditure data that allows for monitoring of changes over time.

(c) The report shall be submitted and posted by April 15 of each year and shall contain expenditures for each county for the programs described in clauses (i) to (vii), inclusive, of subparagraph (A) of paragraph (16) of subdivision (f) of Section 30025 of the Government Code. To the extent that the information is readily or publicly available, the report shall also contain the amount of funds each county receives from the Protective Services Growth Special Account created pursuant to Section 30025 of the Government Code, child welfare services social worker caseloads per county, and the number of authorized positions in the local child welfare services agency.

(d) The department shall consult with legislative staff and with stakeholders to develop a reporting format consistent with the Legislature's desired level of outcome and expenditure reporting detail.

SEC. 66. Section 10553.11 of the Welfare and Institutions Code is amended to read:

10553.11. (a) Effective July 1, 2011, notwithstanding any other law or regulation, a tribe, consortium of tribes, or a tribal organization that is operating a program pursuant to an agreement with the department under Section 10553.1, shall be responsible for the following share of costs:

(1) For the adequate care of each child receiving AFDC-FC as identified in subdivision (d) of Section 11450, the tribal share shall be 60 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 60 percent of the costs.

(2) For administrative costs of administering the AFDC-FC program, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible administrative costs, the tribal share shall be 30 percent of the costs.

(3) For the provision of child welfare services pursuant to Section 10101, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 30 percent of the costs.

(4) For the provision of Title XIX child welfare services, the tribal share shall be 30 percent of the nonfederal costs. For services delivered by skilled professional medical personnel, reimbursement may be claimed under Title XIX at an enhanced rate and the tribal share shall be 30 percent of the nonfederal share.

(5) For wraparound services approved by the department for children described in Section 18250, the tribal share shall be 60 percent of the costs.

(6) For the support and care of hard-to-place adoptive children, the tribal share shall be 25 percent of the nonfederal share of the amount specified in Section 16121. For nonfederally eligible children, the tribal share shall be 25 percent of the costs.

(7) For monthly visitation of children placed in group homes, there shall be no tribal share.

(8) For the support and care of former dependent children who have been made wards of related guardians, the tribal share shall be 21 percent of the nonfederal share. For nonfederally eligible children, the tribal share shall be 21 percent of the costs. There shall be no tribal share for federally eligible administrative costs. For nonfederally eligible administrative costs, the tribal share shall be 50 percent.

(9) For the cost of extending aid pursuant to Section 11403 to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the tribal program, the tribal share shall be 21 percent of the nonfederal share.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, a tribe, consortium of tribes, or a tribal organization, that is operating a program pursuant to an agreement with the department under Section 10553.1, shall be responsible for the share of costs, as follows:

(1) For the adequate care of each child receiving AFDC-FC as identified in subdivision (d) of Section 11450, there shall be no tribal share of costs of the nonfederal share with an enhanced federal medical assistance percentage of 80 percent or higher. If the federal medical assistance percentage is below 80 percent, the tribal share of cost shall be 60 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 80 percent, in which case the tribal share for nonfederally eligible costs shall be 60 percent.

(2) For administrative costs of administering the AFDC-FC program, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible administrative costs, the tribal share shall be 30 percent of the costs.

(3) For the provision of child welfare services pursuant to Section 10101, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 30 percent of the costs.

(4) For the provision of child welfare services under Title XIX of the federal Social Security Act, the tribal share shall be 30 percent of the nonfederal share. For services delivered by skilled professional medical personnel, reimbursement may be claimed under Title XIX of the federal Social Security Act at an enhanced rate and the tribal share shall be 30 percent of the nonfederal share.

(5) For wraparound services approved by the department for children described in Section 18250, there shall be no tribal share of the costs with an enhanced federal medical assistance percentage of 80 percent or higher. If the federal medical assistance percentage is below 80 percent, the tribal share of cost shall be 60 percent of the nonfederal share.

(6) For the support and care of hard-to-place adoptive children, there shall be no tribal share of cost of the nonfederal share of the amount specified in Section 16121 with an enhanced federal medical assistance percentage of 62.5 percent or higher. If the federal medical assistance percentage is below 62.5 percent, the tribal share of cost shall be 25 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 62.5 percent, in which case the tribal share for nonfederally eligible costs shall be 25 percent.

(7) For monthly visitation of children placed in group homes, there shall be no tribal share.

(8) For the support and care of former dependent children who have been made wards of related guardians, there shall be no tribal share of cost of the nonfederal share with an enhanced federal medical assistance percentage of 60.5 percent or higher. If the federal medical assistance percentage is below 60.5 percent, the tribal share shall be 21 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 60.5 percent, in which case the tribal share for nonfederally eligible costs shall be 21 percent. For nonfederally eligible administrative costs, the tribal share shall be 50 percent.

(9) For the cost of extending aid pursuant to Section 11403 to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the tribal program, the tribal share shall be based on the sharing ratios set forth in paragraphs (1), (5), (6), and (8).

(c) Notwithstanding any other law or regulation, for programs, services, or administrative costs provided pursuant to Section 10553.1, but for which the sharing ratios are not specified in this section, the tribal share of costs shall be equal to the county statutory share of costs as set forth in statutory sharing ratios for each of these programs as in effect on June 30, 2011.

(d) Notwithstanding any other law, for the purposes of this section, the nonfederal costs for programs, services, or administrative costs provided pursuant to Section 10553.1 shall be borne by the tribe, consortium of tribes,

or tribal organization, and the state. However, in the event that an Indian child is transferred from the tribal program to the jurisdiction of the county, the costs for the child shall be borne by the county as for any other child under the county's jurisdiction.

SEC. 67. Section 11320.32 of the Welfare and Institutions Code is amended to read:

11320.32. (a) The department shall administer a voluntary Temporary Assistance Program (TAP) for current and future CalWORKs recipients who meet the exemption criteria for work participation activities set forth in Section 11320.3, and are not single parents who have a child under the age of one year. Temporary Assistance Program recipients shall be entitled to the same assistance payments and other benefits as recipients under the CalWORKs program. The purpose of this program is to provide cash assistance and other benefits to eligible families without any federal restrictions or requirements and without any adverse impact on recipients. The Temporary Assistance Program shall commence no later than October 1, 2016.

(b) CalWORKs recipients who meet the exemption criteria for work participation activities set forth in subdivision (b) of Section 11320.3, and are not single parents with a child under the age of one year, shall have the option of receiving grant payments, child care, and transportation services from the Temporary Assistance Program. The department shall notify all CalWORKs recipients and applicants meeting the exemption criteria specified in subdivision (b) of Section 11320.3, except for single parents with a child under the age of one year, of their option to receive benefits under the Temporary Assistance Program. Absent written indication that these recipients or applicants choose not to receive assistance from the Temporary Assistance Program, the department shall enroll CalWORKs recipients and applicants into the program. However, exempt volunteers shall remain in the CalWORKs program unless they affirmatively indicate, in writing, their interest in enrolling in the Temporary Assistance Program. A Temporary Assistance Program recipient who no longer meets the exemption criteria set forth in Section 11320.3 shall be enrolled in the CalWORKs program.

(c) Funding for grant payments, child care, transportation, and eligibility determination activities for families receiving benefits under the Temporary Assistance Program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under clause (i) of subparagraph (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42 of the United States Code, up to the caseload level equivalent to the amount of funding provided for this purpose in the annual Budget Act.

(d) It is the intent of the Legislature that recipients shall have and maintain access to the hardship exemption and the services necessary to begin and increase participation in welfare-to-work activities, regardless of their county of origin, and that the number of recipients exempt under subdivision (b) of Section 11320.3 not significantly increase due to factors other than changes in caseload characteristics. All relevant state law applicable to

CalWORKs recipients shall also apply to families funded under this section. This section does not modify the criteria for exemption in Section 11320.3.

(e) To the extent that this section is inconsistent with federal regulations regarding implementation of the Deficit Reduction Act of 2005, the department may amend the funding structure for exempt families to ensure consistency with these regulations, not later than 30 days after providing written notification to the chair of the Joint Legislative Budget Committee and the chairs of the appropriate policy and fiscal committees of the Legislature.

SEC. 68. Section 11322.8 of the Welfare and Institutions Code is amended to read:

11322.8. (a) For a recipient required to participate in accordance with paragraph (1) of subdivision (a) of Section 11322.85, unless the recipient is otherwise exempt, the following shall apply:

(1) (A) An adult recipient in a one-parent assistance unit that does not include a child under six years of age shall participate in welfare-to-work activities for an average of at least 30 hours per week during the month.

(B) An adult recipient in a one-parent assistance unit that includes a child under six years of age shall participate in welfare-to-work activities for an average of at least 20 hours per week during the month.

(2) An adult recipient who is an unemployed parent, as defined in Section 11201, shall participate for an average of at least 35 hours of welfare-to-work activities per week during the month. However, both parents in a two-parent assistance unit may contribute to the 35 hours.

(b) For a recipient required to participate in accordance with paragraph (3) of subdivision (a) of Section 11322.85, the following shall apply:

(1) Unless otherwise exempt, an adult recipient in a one-parent assistance unit shall participate in welfare-to-work activities for an average of at least 30 hours per week during the month, subject to the special rules and limitations described in Section 607(c)(1)(A) of Title 42 of the United States Code as of January 1, 2013.

(2) Unless otherwise exempt, an adult recipient in a one-parent assistance unit that includes a child under six years of age shall participate in welfare-to-work activities for an average of at least 20 hours per week during the month, as described in Section 607(c)(2)(B) of Title 42 of the United States Code as of January 1, 2013.

(3) Unless otherwise exempt, an adult recipient who is an unemployed parent, as defined in Section 11201, shall participate in welfare-to-work activities for an average of at least 35 hours per week during the month, subject to the special rules and limitations described in Section 607(c)(1)(B) of Title 42 of the United States Code as of January 1, 2013.

SEC. 69. Section 11325.24 of the Welfare and Institutions Code is amended to read:

11325.24. (a) If, in the course of appraisal pursuant to Section 11325.2 or at any point during an individual's participation in welfare-to-work activities in accordance with paragraph (1) of subdivision (a) of Section 11322.85, it is determined that a recipient meets the criteria described in

subdivision (b), the recipient shall be eligible to participate in family stabilization.

(b) (1) A recipient shall be eligible to participate in family stabilization if the county determines that his or her family is experiencing an identified situation or crisis that is destabilizing the family and would interfere with participation in welfare-to-work activities and services.

(2) A situation or a crisis that is destabilizing the family in accordance with paragraph (1) may include, but shall not be limited to:

(A) Homelessness or imminent risk of homelessness.

(B) A lack of safety due to domestic violence.

(C) Untreated or undertreated behavioral needs, including mental health or substance abuse-related needs.

(c) Family stabilization shall include intensive case management and services designed to support the family in overcoming the situation or crisis, which may include, but are not limited to, welfare-to-work activities.

(d) Funds allocated for family stabilization in accordance with this section shall be in addition to, and independent of, the county allocations made pursuant to Section 15204.2.

(e) Funds allocated for family stabilization in accordance with this section, or the county allocations made pursuant to Section 15204.2, may be used to provide housing and other needed services to a family during any month that a family is participating in family stabilization.

(f) Each county shall submit to the department a plan, as defined by the department, regarding how it intends to implement the provisions of this section and shall report information to the department, including, but not limited to, the number of recipients served pursuant to this section, information regarding the services provided, outcomes for the families served, and any lack of availability of services. The department shall provide an update regarding this information to the Legislature during the 2014–15 budget process.

(g) It is the intent of the Legislature that family stabilization is a voluntary component intended to provide needed services and constructive interventions for parents and to assist in barrier removal for families facing very difficult needs. Participants in family stabilization are encouraged to participate, but the Legislature does not intend that parents be sanctioned as part of their experience in this program component. The Legislature further intends that recipients refusing or unable to follow their family stabilization plans without good cause be returned to the traditional welfare-to-work program.

SEC. 70. Article 3.3 (commencing with Section 11330) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.3. CalWORKs Housing Support

11330. The Legislature finds and declares all of the following:

(a) Stable housing is a fundamental component of self-sufficiency and child well-being.

(b) According to the National Alliance to End Homelessness, residential stability is a necessary precursor to effectively addressing barriers that inhibit self-sufficiency, and research is clear that children who lack safe and stable housing demonstrate worse academic and social outcomes.

(c) Housing support in the CalWORKs program is minimal and families struggle to find and retain safe, affordable, and stable housing.

(d) Expanding homeless and housing support in the CalWORKs program would help meet a critical need for families working to achieve self-sufficiency.

11330.5. (a) A recipient shall be eligible to receive CalWORKs housing supports if the county determines that his or her family is experiencing homelessness or housing instability that would be a barrier to self-sufficiency or child well-being.

(b) Notwithstanding subdivision (a), this section does not create an entitlement to housing supports, which are intended to be a service to CalWORKs families and not a form of assistance, to be provided to families at the discretion of the county.

(c) It is the intent of the Legislature that housing supports provided pursuant to this article utilize evidence-based models, including those established in the federal Department of Housing and Urban Development's Homeless Prevention and Rapid Re-Housing Program. Supports provided may include, but shall not be limited to, all of the following:

(1) Financial assistance, including rental assistance, security deposits, utility payments, moving cost assistance, and motel and hotel vouchers.

(2) Housing stabilization and relocation, including outreach and engagement, landlord recruitment, case management, housing search and placement, legal services, and credit repair.

(d) The asset limit threshold specified in subdivision (f) of Section 11450 shall not be used to determine a family's eligibility for receipt of housing supports provided pursuant to this article.

(e) Funds appropriated for purposes of this article shall be allocated to participating counties by the State Department of Social Services according to an allocation methodology developed by the department in consultation with the County Welfare Directors Association.

(f) The department, in consultation with the County Welfare Directors Association and other stakeholders, shall develop each of the following:

(1) The criteria by which counties may opt to participate in providing housing supports to eligible CalWORKs recipients pursuant to this article.

(2) The proportion of funding to be expended on reasonable and appropriate administrative activities to minimize overhead and maximize services.

(3) Tracking and reporting procedures.

(g) The department, in consultation with appropriate legislative staff and the County Welfare Directors Association, shall determine, in a manner that reflects the legislative intent for the use of these funds and that is most

beneficial to the overall CalWORKs program, whether housing supports provided with this funding are considered to be assistance or nonassistance payments.

SEC. 71. Section 11402.4 of the Welfare and Institutions Code is amended to read:

11402.4. (a) Subject to the conditions set forth in subdivisions (b) and (c), and notwithstanding any other provision of law, with respect to an approved home of a relative or nonrelative extended family member for which an annual visit to ensure the quality of care provided is pending, the relative or nonrelative extended family member home's approval shall remain in full force and effect. Payment to the relative or nonrelative extended family member provider shall not be delayed or terminated solely due to late completion of the annual visit to ensure the quality of care provided.

(b) The frequency of required visits to ensure the quality of care provided shall not be less than the frequency of visits for licensed foster family homes as specified in Section 1534 of the Health and Safety Code. If late completion of an annual visit occurs, under no circumstances shall the county visit an approved home of a relative or nonrelative extended family member less than once every 24 months.

(c) The frequency of required visits to ensure the quality of care provided shall be subject to state plan approval.

SEC. 72. Section 11450.025 of the Welfare and Institutions Code is amended to read:

11450.025. (a) (1) Notwithstanding any other law, effective on March 1, 2014, the maximum aid payments in effect on July 1, 2012, as specified in subdivision (b) of Section 11450.02, shall be increased by 5 percent.

(2) Effective April 1, 2015, the maximum aid payments in effect on July 1, 2014, as specified in paragraph (1), shall be increased by 5 percent.

(b) Commencing in 2014 and annually thereafter, on or before January 10 and on or before May 14, the Director of Finance shall do all of the following:

(1) Estimate the amount of growth revenues pursuant to subdivision (f) of Section 17606.10 that will be deposited in the Child Poverty and Family Supplemental Support Subaccount of the Local Revenue Fund for the current fiscal year and the following fiscal year and the amounts in the subaccount carried over from prior fiscal years.

(2) For the current fiscal year and the following fiscal year, determine the total cost of providing the increases described in subdivision (a), as well as any other increase in the maximum aid payments subsequently provided only under this section, after adjusting for updated projections of CalWORKs costs associated with caseload changes, as reflected in the local assistance subvention estimates prepared by the State Department of Social Services and released with the annual Governor's Budget and subsequent May Revision update.

(3) If the amount estimated in paragraph (1) plus the amount projected to be deposited for the current fiscal year into the Child Poverty and Family

Supplemental Support Subaccount pursuant to subparagraph (3) of subdivision (e) of Section 17600.15 is greater than the amount determined in paragraph (2), the difference shall be used to calculate the percentage increase to the CalWORKs maximum aid payment standards that could be fully funded on an ongoing basis beginning the following fiscal year.

(4) If the amount estimated in paragraph (1) plus the amount projected to be deposited for the current fiscal year into the Child Poverty and Family Supplemental Support Subaccount pursuant to subparagraph (3) of subdivision (e) of Section 17600.15 is equal to or less than the amount determined in paragraph (2), no additional increase to the CalWORKs maximum aid payment standards shall be provided in the following fiscal year in accordance with this section.

(5) (A) Commencing with the 2014–15 fiscal year and for all fiscal years thereafter, if changes to the estimated amounts determined in paragraphs (1) or (2), or both, as of the May Revision, are enacted as part of the final budget, the Director of Finance shall repeat, using the same methodology used in the May Revision, the calculations described in paragraphs (3) and (4) using the revenue projections and grant costs assumed in the enacted budget.

(B) If a calculation is required pursuant to subparagraph (A), the Department of Finance shall report the result of this calculation to the appropriate policy and fiscal committees of the Legislature upon enactment of the Budget Act.

(c) An increase in maximum aid payments calculated pursuant to paragraph (3) of subdivision (b), or pursuant to paragraph (5) of subdivision (b) if applicable, shall become effective on October 1 of the following fiscal year.

(d) (1) An increase in maximum aid payments provided in accordance with this section shall be funded with growth revenues from the Child Poverty and Family Supplemental Support Subaccount in accordance with paragraph (3) of subdivision (e) of Section 17600.15 and subdivision (f) of Section 17606.10, to the extent funds are available in that subaccount.

(2) If funds received by the Child Poverty and Family Supplemental Support Subaccount in a particular fiscal year are insufficient to fully fund any increases to maximum aid payments made pursuant to this section, the remaining cost for that fiscal year will be addressed through existing provisional authority included in the annual Budget Act. Additional grant increases shall not be provided until and unless the ongoing cumulative costs of all prior grant increases provided pursuant to this section are fully funded by the Child Poverty and Family Supplemental Support Subaccount.

(e) Notwithstanding Section 15200, counties shall not be required to contribute a share of the costs to cover the increases to maximum aid payments made pursuant to this section.

SEC. 73. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with

them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments or Indian tribes, consortia of tribes, or tribal organizations that have entered into an agreement pursuant to Section 10553.1.

(b) "Care and supervision" includes food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which he or she is enrolled at the time of placement. Reimbursement for the costs of educational travel, as provided for in this subdivision, shall be made pursuant to procedures determined by the department, in consultation with representatives of county welfare and probation directors, and additional stakeholders, as appropriate.

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider which are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish the maximum level of state participation in out-of-state foster care group home program rates effective January 1, 1992.

(1) The department shall develop regulations that establish the method for determining the level of state participation for each out-of-state group home program. The department shall consider all of the following methods:

(A) A standardized system based on the level of care and services per child per month as detailed in Section 11462.

(B) A system which considers the actual allowable and reasonable costs of care and supervision incurred by the program.

(C) A system which considers the rate established by the host state.

(D) Any other appropriate methods as determined by the department.

(2) State reimbursement for the AFDC-FC group home rate to be paid to an out-of-state program on or after January 1, 1992, shall only be paid to programs which have done both of the following:

(A) Submitted a rate application to the department and received a determination of the level of state participation.

(i) The level of state participation shall not exceed the current fiscal year's standard rate for rate classification level 14.

(ii) The level of state participation shall not exceed the rate determined by the ratesetting authority of the state in which the facility is located.

(iii) The level of state participation shall not decrease for any child placed prior to January 1, 1992, who continues to be placed in the same out-of-state group home program.

(B) Agreed to comply with information requests, and program and fiscal audits as determined necessary by the department.

(3) State reimbursement for an AFDC-FC rate paid on or after January 1, 1993, shall only be paid to a group home organized and operated on a nonprofit basis.

(d) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This shall apply regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(e) Nothing shall preclude a county from using a portion of its county funds to increase rates paid to family homes and foster family agencies within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county's expense.

(f) Nothing shall preclude a county from providing a supplemental rate to serve commercially sexually exploited foster children to provide for the additional care and supervision needs of these children. To the extent that federal financial participation is available, it is the intent of the Legislature that the federal funding shall be utilized.

SEC. 74. Section 11461.3 is added to the Welfare and Institutions Code, to read:

11461.3. (a) The Approved Relative Caregiver Funding Option Program is hereby established for the purpose of making the amount paid to approved relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments. This is an optional program for counties choosing to participate, and in so doing, participating counties agree to the terms of this section as a condition of their participation. It is the intent of the Legislature that the funding described in paragraph (1) of subdivision (e) for the Approved Relative Caregiver Funding Option Program be appropriated, and available for use from January through December of each year, unless otherwise specified.

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

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

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

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

(B) The child is described by subdivision (b), (c), or (e) of Section 11401 and is not eligible for AFDC-FC pursuant to subdivision (a) of Section 11404.

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

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

(1) Commencing October 1, 2014, the county shall notify the department in writing of its decision to participate in the Approved Relative Caregiver Funding Option Program. Failure to make timely notification, without good cause as determined by the department, shall preclude the county from participating in the program for the upcoming year. Annually thereafter, any county not presently participating who elects to do so shall notify the department in writing no later than October 1 of its decision to participate for the upcoming calendar year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) To the extent permitted by federal law, payments received by the approved relative caregiver from the Approved Relative Caregiver Funding

Option Program shall not be considered income for the purpose of determining other public benefits.

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

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

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

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

SEC. 75. Section 11477 of the Welfare and Institutions Code is amended to read:

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

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

(i) For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee

of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

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

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

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

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

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

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

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

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

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

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

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

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

(A) The age of the child for whom support is sought.

(B) The circumstances surrounding the conception of the child.

(C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.

(D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.

(2) Cooperation includes all of the following:

(A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

(B) Appearing at interviews, hearings, and legal proceedings provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.

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

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

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

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

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

SEC. 76. Section 12300.4 is added to the Welfare and Institutions Code, to read:

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

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

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

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

(B) Travel time as defined in subdivision (f), only if federal financial participation is not available to compensate for that travel time. If federal financial participation is available for travel time as defined in subdivision (f), the travel time shall not be included in the calculation of the total weekly authorized hours of services.

(3) (A) If the authorized in-home supportive services of a recipient cannot be provided by a single provider as a result of the limitation specified in paragraph (2), it is the responsibility of the recipient to employ an additional provider or providers, as needed, to ensure his or her authorized

services are provided within his or her total weekly authorized hours of services established pursuant to subdivision (b) of Section 12301.1.

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

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

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

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

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

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

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

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

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

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

(2) A provider of in-home supportive services described in subdivision (a) who serves multiple recipients is not authorized to, and shall not, work

more than 66 total hours in a workweek, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, regardless of the number of recipients for whom the provider provides services authorized by subdivision (a). Providers are subject to the limits of each recipient's total authorized weekly hours of in-home supportive services described in subdivision (a), except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b).

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

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

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

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

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

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

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

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

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

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

(k) 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 State Department of Social Services and the State Department of Health Care Services may implement, interpret, or make specific this section by means of all-county letters or similar instructions, without taking any regulatory action.

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

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

SEC. 77. Section 12300.41 is added to the Welfare and Institutions Code, to read:

12300.41. (a) For three months following the effective date specified in paragraph (1) of subdivision (*l*) of Section 12300.4, timesheets submitted by providers may be paid in excess of the limitations specified in Section 12300.4, so long as the number of hours worked by the provider within a month do not exceed the authorized hours of the recipient or recipients served by that provider.

(b) The State Department of Social Services, in consultation with stakeholders, shall oversee a study of the implementation of Section 12300.4, Section 12301.1, and this section. This study shall cover the 24-month period subsequent to the three-month period specified in subdivision (a). Information collected for the study shall periodically be made available to stakeholders, including but not limited to representatives of recipients and providers, counties, and the legislative staff. Upon completion of the study, a report shall be submitted to the Legislature.

(c) Using the study described in (b), it is the intent of the Legislature to evaluate implementation of the federal regulations described in paragraph (1) of subdivision (*l*) of Section 12300.4 and make any adjustments determined appropriate or necessary through subsequent legislation.

SEC. 78. Section 12301.1 of the Welfare and Institutions Code is amended to read:

12301.1. (a) The department shall adopt regulations establishing a uniform range of services available to all eligible recipients based upon individual needs. The availability of services under these regulations is

subject to the provisions of Section 12301 and county plans developed pursuant to Section 12302.

(b) (1) The county welfare department shall assess each recipient's continuing monthly need for in-home supportive services at varying intervals as necessary, but at least once every 12 months. The results of this assessment of monthly need for hours of in-home supportive services shall be divided by 4.33, to establish a recipient's weekly authorized number of hours of in-home supportive services, subject to any of the following, as applicable:

(A) Within the limit of the assessed monthly need for hours of in-home supportive services, a county welfare department may adjust the authorized weekly hours of a recipient for any particular week for known recurring or periodic needs of the recipient.

(B) Within the limit of the assessed monthly need for hours of in-home supportive services, a county welfare department may temporarily adjust the authorized weekly hours of a recipient at the request of the recipient, to accommodate unexpected extraordinary circumstances.

(C) In addition to the flexibility provided to a recipient pursuant to subparagraph (C) of paragraph (4) of subdivision (b) of Section 12300.4, a recipient may request the county welfare department to adjust his or her weekly authorized hours of services to exceed 40 hours of weekly authorized hours of services per week, within his or her total monthly authorized hours of services. A request for adjustment may be made retrospective to the hours actually worked. The county welfare department shall not unreasonably withhold approval of a recipient request made pursuant to this subparagraph.

(2) For purposes of subparagraph (C) of paragraph (1), and prior to its implementation, the State Department of Social Services shall develop a process for requests pursuant to that subparagraph. The process shall include all of the following:

(A) The procedure, standards, and timeline for making a request to adjust the authorized weekly hours of service for a recipient defined in this section.

(B) The language used for notices about the process.

(C) Provisions for adjustments to authorization, and for authorization after services have been provided, when the criteria for approval have been met.

(D) A requirement that the opportunity for a revision to the limitations of this section shall be discussed at each annual reassessment, and also may be authorized by the county welfare department outside of the reassessment process.

(3) Recipients shall be timely informed of their total monthly and weekly authorized hours.

(4) The weekly authorization of services defined in this section shall be used solely for the purposes of ensuring compliance with the federal Fair Labor Standards Act and its implementing regulations.

(5) 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, interpret, or make specific this subdivision by means of all-county letters, or similar instructions, without taking any regulatory action.

(c) (1) Notwithstanding subdivision (b), at the county's option, assessments may be extended, on a case-by-case basis, for up to six months beyond the regular 12-month period, provided that the county documents that all of the following conditions exist:

(A) The recipient has had at least one reassessment since the initial program intake assessment.

(B) The recipient's living arrangement has not changed since the last annual reassessment and the recipient lives with others, or has regular meaningful contact with persons other than his or her service provider.

(C) The recipient or, if the recipient is a minor, his or her parent or legal guardian, or if incompetent, his or her conservator, is able to satisfactorily direct the recipient's care.

(D) There has been no known change in the recipient's supportive service needs within the previous 24 months.

(E) No reports have been made to, and there has been no involvement of, an adult protective services agency or agencies since the county last assessed the recipient.

(F) The recipient has not had a change in provider or providers for at least six months.

(G) The recipient has not reported a change in his or her need for supportive services that requires a reassessment.

(H) The recipient has not been hospitalized within the last three months.

(2) If some, but not all, of the conditions specified in paragraph (1) of subdivision (c) are met, the county may consider other factors in determining whether an extended assessment interval is appropriate, including, but not limited to, involvement in the recipient's care of a social worker, case manager, or other similar representative from another human services agency, such as a regional center or county mental health program, or communications, or other instructions from a physician or other licensed health care professional that the recipient's medical condition is unlikely to change.

(3) A county may reassess a recipient's need for services at a time interval of less than 12 months from a recipient's initial intake or last assessment if the county social worker has information indicating that the recipient's need for services is expected to decrease in less than 12 months.

(d) A county shall assess a recipient's need for supportive services any time that the recipient notifies the county of a need to adjust the supportive services hours authorized, or when there are other indications or expectations of a change in circumstances affecting the recipient's need for supportive services.

(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, until emergency regulations are filed with the Secretary of State, the department may implement this

section through all-county letters or similar instructions from the director. The department shall adopt emergency regulations implementing this section no later than September 30, 2005, unless notification of a delay is made to the Chair of the Joint Legislative Budget Committee prior to that date. The notification shall include the reason for the delay, the current status of the emergency regulations, a date by which the emergency regulations shall be adopted, and a statement of need to continue use of all-county letters or similar instructions. Under no circumstances shall the adoption of emergency regulations be delayed, or the use of all-county letters or similar instructions be extended, beyond June 30, 2006.

(2) The adoption of regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days by which time final regulations shall be adopted. The department shall seek input from the entities listed in Section 12305.72 when developing all-county letters or similar instructions and the regulations.

SEC. 79. Chapter 5.2 (commencing with Section 16524.6) is added to Part 4 of Division 9 of the Welfare and Institutions Code, to read:

Chapter 5.2. Commercially Sexually Exploited Children Program

16524.6. The Legislature finds and declares that in order to adequately serve children who have been sexually exploited, it is necessary that counties develop and utilize a multidisciplinary team approach to case management, service planning, and provision of services, and that counties develop and utilize interagency protocols to ensure services are provided as needed to this population.

16524.7. (a) (1) There is hereby established the Commercially Sexually Exploited Children Program. This program shall be administered by the State Department of Social Services.

(2) The department, in consultation with the County Welfare Directors Association of California, shall develop an allocation methodology to distribute funding for the program. Funds allocated pursuant to this section shall be utilized to cover expenditures related to the costs of implementing the program, prevention and intervention services, and training related to children who are victims of commercial sexual exploitation.

(3) (A) Funds shall be provided to counties that elect to participate in the program for the provision of training to county children's services workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation and trafficking, and to foster caregivers for the prevention and identification of potential victims.

(B) The department shall contract to provide training for county workers and foster caregivers. Training shall be selected and contracted for in consultation with the County Welfare Directors Association, county children's services representatives, and other stakeholders. The department shall consult and collaborate with the California Community Colleges Chancellor's Office to provide training for foster parents of licensed foster family homes.

(4) Funds provided to the counties electing to participate in the program shall be used for prevention activities, intervention activities, and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation. These activities and services may include, but are not limited to, all of the following:

(A) Training foster children to help recognize and help avoid commercial sexual exploitation. Counties may target training activities to foster children who are at higher risk of sexual exploitation.

(B) Engaging survivors of commercial sexual exploitation to: (i) provide support to county staff who serve children who are victims of commercial sexual exploitation; (ii) for activities that may include training and technical assistance; and (iii) to serve as advocates for and perform outreach and support to children who are victims of commercial sexual exploitation.

(C) Consulting and coordinating with homeless youth shelters and other service providers who work with children who are disproportionately at risk of, or involved in, commercial sexual exploitation, including, but not limited to, lesbian, gay, bisexual, and transgender youth organizations, regarding outreach and support to children who are victims of commercial sexual exploitation.

(D) Hiring county staff trained and specialized to work with children who are victims of commercial sexual exploitation to support victims and their caregivers, and to provide case management to support interagency and cross-departmental response.

(E) Providing supplemental foster care rates for placement of child victims of commercial sexual exploitation adjudged to be within the definition of Section 300 to be paid to foster homes, relatives, foster family agency certified homes, or other specialized placements to provide for the increased care and supervision needs of the victim in accordance with Section 11460.

(b) Funds allocated for the program shall not supplant funds for existing programs.

(c) (1) In order to ensure timely access to services to which commercially sexually exploited children are entitled to as dependents in foster care, in participating counties, county agency representatives from mental health, probation, public health, and substance abuse disorders shall participate in the case planning and assist in linking commercially sexually exploited children to services that serve children who are in the child welfare system and that are identified in the child's case plan and may include other stakeholders as determined by the county.

(2) The entities described in paragraph (1) shall provide input to the child welfare services agency regarding the services and supports needed for

children to support treatment needs and aid in their recovery and may assist in linking these children to services that are consistent with their county plans submitted to the department pursuant to subdivision (d).

(d) (1) A county electing to receive funding from the Commercially Sexually Exploited Children Program pursuant to this chapter shall submit a plan describing how the county intends to utilize the funds allocated pursuant to paragraph (4) of subdivision (a).

(2) The county shall submit a plan to the department pursuant to a process developed by the department, in consultation with the County Welfare Directors Association. The plan shall include documentation indicating the county's collaboration with county partner agencies and children-focused entities, which shall include the formation of a multidisciplinary team to serve children pursuant to this chapter.

A multidisciplinary team serving a child pursuant to this chapter shall include, but is not limited to, appropriate staff from the county child welfare, probation, mental health, substance abuse disorder, and public health departments. Staff from a local provider of services to this population, local education agencies, and local law enforcement, and survivors of commercial sexual exploitation and trafficking may be included on the team.

16524.8. (a) Each county electing to receive funds from the Commercially Sexually Exploited Children Program pursuant to this chapter shall develop an interagency protocol to be utilized in serving sexually exploited children. The county protocol shall be developed by a team led by a representative of the county human services department and shall include representatives from each of the following agencies:

(1) The county probation department.

(2) The county mental health department.

(3) The county public health department.

(4) The juvenile court in the county.

The team may include, but shall not be limited to, representatives from local education agencies, local law enforcement, survivors of sexual exploitation and trafficking, and other providers as necessary.

(b) At a minimum the interagency protocol shall address the provision of services to children who have been sexually exploited and are within the definition of Section 300, including, but not limited to, the use of a multidisciplinary team approach to provide coordinated case management, service planning, and services to children.

16524.9. The State Department of Social Services, in consultation with the County Welfare Directors Association, shall ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are commercially sexually exploited, including children who are referred to the child abuse hotline, children currently served by county child welfare and probation departments who are subsequently identified as victims of commercial sexual exploitation.

(a) The department shall disseminate any necessary instructions on data entry to the county child welfare and probation department staff.

(b) The department shall implement this section no later than June 1, 2015.

16524.10. The State Department of Social Services, no later than April 1, 2017, shall provide the following information to the Legislature regarding the implementation of this chapter:

(a) The participating counties.

(b) The number of victims served by each county.

(c) The types of services provided.

(d) Innovative strategies relating to collaboration with children, child service providers, and survivors of commercial sexual exploitation regarding prevention, training, and services.

(e) The identification of further barriers and challenges to preventing and serving commercially sexually exploited children.

16524.11. This chapter shall become operative on January 1, 2015.

SEC. 80. Section 18901.2 of the Welfare and Institutions Code is amended to read:

18901.2. (a) It is the intent of the Legislature to create a program in California that provides a nominal Low-Income Home Energy Assistance Program (LIHEAP) service benefit, through the LIHEAP block grant, to all recipient households of CalFresh so that they are made aware of services available under LIHEAP and so that some households may experience an increase in federal Supplemental Nutrition Assistance Program benefits, as well as benefit from paperwork reduction.

(b) To the extent permitted by federal law, the State Department of Social Services (DSS) shall, in conjunction with the Department of Community Services and Development (CSD), design, implement, and maintain a utility assistance initiative: the "Heat and Eat" program.

(1) The nominal LIHEAP service benefit shall be funded through the LIHEAP block grant allocated for outreach activities in accordance with state and federal requirements, and shall be provided by the CSD to the DSS after receipt by the CSD of the LIHEAP block grant funds from the federal funding authorities.

(2) The total amount transferred shall be the product of the nominal LIHEAP service benefit established by the CSD in the LIHEAP state plan multiplied by the number of CalFresh recipient households as agreed upon annually by the CSD and the DSS.

(3) The total amount transferred shall be reduced by any unexpended or reinvested amounts remaining from prior transfers for the nominal LIHEAP service benefits as provided in subparagraph (C) of paragraph (1) of subdivision (c).

(c) In implementing and maintaining the utility assistance initiative, the State Department of Social Services shall do all of the following:

(1) (A) Grant recipient households of CalFresh benefits pursuant to this chapter a nominal LIHEAP service benefit out of the federal LIHEAP block grant (42 U.S.C. Sec. 8621 et seq.).

(B) In establishing the nominal LIHEAP service benefit amount, the department shall take into consideration that the benefit level need not provide significant utility assistance.

(C) Any funds allocated for this purpose not expended by CalFresh recipient households shall be recouped through the "Heat and Eat" program and reinvested into the program on an annual basis, as determined by both departments.

(2) Provide the nominal LIHEAP service benefit without requiring the applicant or recipient to provide additional paperwork or verification.

(3) To the extent permitted by federal law and to the extent federal funds are available, provide the nominal LIHEAP service benefit annually to each recipient of CalFresh benefits.

(4) (A) Deliver the nominal LIHEAP service benefit using the Electronic Benefit Transfer (EBT) system or other nonpaper delivery system.

(B) Notification of a recipient's impending EBT dormant account status shall not be required when the remaining balance in a recipient's account at the time the account becomes inactive is ninety-nine cents ($0.99) or less of LIHEAP service benefits.

(5) Ensure that receipt of the nominal LIHEAP service benefit pursuant to this section shall not adversely affect a CalFresh recipient household's eligibility, reduce a household's CalFresh benefits, or disqualify the applicant or recipient of CalFresh benefits from receiving other nominal LIHEAP service benefits or other utility benefits for which they may qualify.

(d) Recipients of the nominal LIHEAP service benefit pursuant to this section shall remain subject to the additional eligibility requirements for LIHEAP assistance as outlined in the California LIHEAP state plan that is developed by the CSD.

(e) (1) To the extent permitted by federal law, a CalFresh household receiving or anticipating receipt of nominal LIHEAP service benefits pursuant to the utility assistance initiative or any other law shall be entitled to use the full standard utility allowance (SUA) for the purposes of calculating CalFresh benefits. A CalFresh household shall be entitled to use the full SUA regardless of whether the nominal LIHEAP service benefit is actually redeemed.

(2) If use of the full SUA, instead of the homeless shelter deduction, results in a lower amount of CalFresh benefits for a homeless household, the homeless household shall be entitled to use the homeless shelter deduction instead of the full SUA.

(f) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 81. Section 18901.2 is added to the Welfare and Institutions Code, to read:

18901.2. (a) There is hereby created the State Utility Assistance Subsidy (SUAS), a state-funded energy assistance program that shall provide energy assistance benefits to eligible CalFresh households so that the households

may receive a standard utility allowance to be used to help meet its energy costs, receive information about energy efficiency, and so that some households may experience an increase in federal Supplemental Nutrition Assistance Program benefits, as well as benefit from paperwork reduction.

(b) To the extent required by federal law, the Department of Community Services and Development shall delegate authority to the State Department of Social Services to design, implement, and maintain SUAS as a program created exclusively for purposes of this section, similar to the federal Low-Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. Sec. 8621 et seq.).

(c) In designing, implementing, and maintaining the SUAS program, the State Department of Social Services shall do all of the following:

(1) Provide households that do not currently qualify for, nor receive, a standard utility allowance, with a SUAS benefit in an amount and frequency sufficient to meet federal requirements specified in Section 2014(e)(6)(C)(iv) of Title 7 of the United States Code if the household meets either of the following requirements:

(A) The household would become eligible for CalFresh benefits if the standard utility allowance was provided.

(B) The household would receive increased benefits if the standard utility allowance was provided.

(2) Provide the SUAS benefit without requiring the applicant or recipient to provide additional paperwork or verification.

(3) Deliver the SUAS benefit using the Electronic Benefit Transfer (EBT) system.

(4) Notwithstanding any other law, notification of a recipient's impending EBT dormant account status shall not be required when the remaining balance in a recipient's account at the time the account becomes inactive is equal to or less than the value of one year of SUAS benefits.

(5) Ensure that receipt of the SUAS benefit pursuant to this section does not adversely affect a CalFresh recipient household's eligibility, reduce a household's CalFresh benefits, or disqualify the applicant or recipient of CalFresh benefits from receiving other public benefits, including other utility benefits, for which it may qualify.

(d) (1) To the extent permitted by federal law, a CalFresh household that receives SUAS benefits in the month of application for new cases or in the previous 12 months for existing cases is entitled to use the full standard utility allowance for the purposes of calculating CalFresh benefits. A CalFresh household shall be entitled to use the full standard utility allowance regardless of whether the SUAS benefit actually is expended by the household.

(2) If use of the full standard utility allowance, instead of the homeless shelter deduction, results in a lower amount of CalFresh benefits for a homeless household, the homeless household shall be entitled to use the homeless shelter deduction instead of the full standard utility allowance.

(e) This section shall not be implemented until funds are appropriated for that purpose by the Legislature in the annual Budget Act or related legislation.

(f) This section shall become operative on July 1, 2014.

SEC. 82. Section 18901.5 of the Welfare and Institutions Code is amended to read:

18901.5. (a) (1) The department shall establish a program of categorical eligibility for CalFresh in accordance with Section 5(a) of the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2014(a)), and implementing regulations, to improve nutrition and promote the retention and development of assets and resources for needy households who meet all other federal Supplemental Nutrition Assistance Program eligibility requirements. Categorical eligibility for CalFresh shall also apply to any individual who is a member of a household that will be receiving or is eligible to receive cash assistance under Part 5 (commencing with Section 17000), or eligible to receive food assistance under Chapter 10.1 (commencing with Section 18930).

(2) The department, to the extent permitted by federal law, shall design and implement a program of categorical eligibility for CalFresh for the purpose of establishing the gross income limit for the federal Temporary Assistance for Needy Families and state maintenance of effort funded service that confers categorical eligibility for any household that is categorically eligible pursuant to paragraph (1), and that includes a member who receives medical assistance under Chapter 7 (commencing with Section 14000) of Part 3.

(b) The director shall implement the program established pursuant to this section only with the appropriate federal authorization and if implementation would not result in the loss of federal financial participation.

(c) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 83. Section 18901.5 is added to the Welfare and Institutions Code, to read:

18901.5. (a) The department shall establish a program of categorical eligibility for CalFresh in accordance with Section 5(a) of the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec. 2014(a)), and implementing regulations, to improve nutrition and promote the retention and development of assets and resources for needy households who meet all other federal Supplemental Nutrition Assistance Program eligibility requirements. Categorical eligibility for CalFresh shall also apply to any individual who is a member of a household that will be receiving or is eligible to receive cash assistance under Part 5 (commencing with Section 17000), or eligible to receive food assistance under Chapter 10.1 (commencing with Section 18930).

(b) The director shall implement the program established pursuant to this section only with the appropriate federal authorization and if implementation would not result in the loss of federal financial participation.

(c) This section shall become operative on July 1, 2014.

SEC. 84. Section 18906.55 of the Welfare and Institutions Code is amended to read:

18906.55. (a) (1) Notwithstanding Section 18906.5 or any other law, as a result of the substantial fiscal pressures on counties created by the unprecedented and unanticipated CalFresh caseload growth associated with the economic downturn beginning in 2008, and in order to provide fiscal relief to counties as a result of this growth, a county that meets the maintenance of effort requirement pursuant to Section 15204.4 entirely through expenditures for the administration of CalFresh in the 2010–11, 2011–12, 2012–13, 2013–14, and 2014–15 fiscal years shall receive the full General Fund allocation for administration of CalFresh without paying the county's share of the nonfederal costs for the amount above the maintenance of effort required by Section 15204.4.

(2) For the 2015–16, 2016–17, and 2017–18 fiscal years, the waived portion of each county's share of the nonfederal costs for the amount above the maintenance of effort required by Section 15204.4 shall be reduced incrementally, so that there will be no waiver of the county's share in the 2018–19 fiscal year and each fiscal year thereafter. The waived portion of the county's share shall be 75 percent in the 2015–16 fiscal year, 50 percent in the 2016–17 fiscal year, and 25 percent in the 2017–18 fiscal year of the amount above the maintenance of effort required by Section 15204.4 that would be required to access the county's full General Fund allocation for administration of CalFresh from the state. Once a county satisfies its maintenance of effort obligation under Section 15204.4, the department shall grant the county access to the state funds for which the match is waived. Any county that expends funds in excess of the amount required to meet the maintenance of effort required by Section 15204.4 in the 2015–16, 2016–17, and 2017–18 fiscal years shall receive the amount of General Fund moneys that the county would have otherwise received based on the nonfederal sharing ratios in Section 18906.5, up to the county's full General Fund allocation for that fiscal year.

(b) The full General Fund allocation for administration of CalFresh pursuant to subdivision (a) shall equal 35 percent of the total federal and nonfederal projected funding need for administration of CalFresh. The methodology used for calculating those projections shall remain the same as it was for the 2009–10 fiscal year for as long as this section remains in effect.

(c) Relief to the county share of administrative costs authorized by this section shall not result in any increased cost to the General Fund as determined in subdivision (b).

(d) Subdivision (a) shall not be interpreted to prevent a county from expending funds in excess of the amount required to meet the maintenance of effort required by Section 15204.4.

(e) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 85. (a) It is the intent of the Legislature that increased staffing and funding resources for the State Department of Social Service's Community Care Licensing Division (CCLD) appropriated in the Budget Act of 2014 be used to enhance the CCLD's structure and improve its operations, including the recruitment and training of qualified licensing analysts and managers, and to address the changing nature of licensed facilities. These quality enhancement measures, once fully implemented, are intended to improve the underlying foundation of CCLD's regulatory operations. It is further the intent of the Legislature, once these actions are implemented to, over a specified period of time, increase the frequency of facility inspections resulting in annual inspections for some or all facility types.

(b) During the 2015–16 legislative budget subcommittee hearings, the State Department of Social Services shall update the Legislature on the status of the structural and quality enhancement improvements described in subdivision (a), including all of the following:

(1) The status of CCLD's filling of the authorized positions included in the Budget Act of 2014 and current division staffing levels, filled positions, and vacant positions.

(2) A description of the quality enhancement and program improvement activities implemented to date, and the timeframe for implementing the remaining improvements.

(3) Based on the information provided in paragraphs (1) and (2), and any other relevant factors, an estimated timeframe for beginning a ramp-up to increase the frequency of facility inspections.

SEC. 86. Except as otherwise provided in this act, the Department of Community Services and Development shall receive and administer all state and federal funds that are allocated for programs to provide energy assistance to qualified low-income individuals, in accordance with subdivision (a) of Section 16367.6 of the Government Code.

SEC. 87. The amounts appropriated in Item 5180-111-0001 and Item 5180-111-0890 of Section 2.00 of the Budget Act of 2014 for implementation of regulations promulgated by the federal Department of Labor shall be available solely for the purpose of complying with those regulations. In the event that federal implementation of those regulations is fully or partially postponed beyond January 1, 2015, the amount of funding appropriated for purposes of implementing those regulations that no longer is necessary for that purpose shall be available for other purposes within the In-Home Supportive Services program, upon 30-day prior written notification by the Department of Finance to the Joint Legislative Budget Committee, specifying the amount of available funding and the alternative purposes for which those available funds are proposed to be used.

SEC. 88. (a) 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 the changes made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80, and 81 of this act through all-county letters or similar instructions until regulations are adopted.

(b) The department shall adopt emergency regulations implementing these provisions no later than January 1, 2016. The department may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, any emergency regulation previously adopted pursuant to this section. The initial adoption of regulations pursuant to this section and one readoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of 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 shall be adopted.

SEC. 89. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 90. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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