Senate Bill No. 1104

CHAPTER 229

An act to amend Section 8263 of, to add Section 8263.4 to, and to add Article 16.5 (commencing with Section 8385) to Chapter 2 of Part 6 of, the Education Code, to amend Section 11796 of the Government Code, to amend Sections 1522, 1523.1, 1523.2, 1568.05, 1569.185, 1596.803, 1596.816, 1596.871, 1596.872a, 1596.872b, and 11970.2 of, and to add Section 128241 to, the Health and Safety Code, to amend Section 273d of the Penal Code, to amend Section 1611.5 of the Unemployment Insurance Code, and to amend Sections 10531, 10532, 11320.1, 11322.8, 11322.9, 11325.21, 11325.22, 11325.23, 11325.7, 11326, 11403.1, 11403.3, 11453, 11454, 11454.5, 11454.6, 11462, 11462.06, 11466.21, 12201, 12300, 12301.1, 14132.95, 15204.2, 17021, 18939, and 19806 of, to amend and renumber Section 10553.2 of, to add Sections 9404, 11401.5, 11486.3, 12301.21, 12305.7, 12305.71, 12305.72, 12305.8, 12305.81, 12305.82, 12305.83, 12317, 12317.1, 12317.2, 14132.951, and 16521.3 to, to repeal and add Section 12301.2 of, and to repeal Chapter 2.4 (commencing with Section 16145) of Part 4 of Division 9 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 2004. Filed with Secretary of State August 16, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1104, Committee on Budget and Fiscal Review. Budget Act of 2004: human services.

(1) Existing law provides for a system of priority for state and federally subsidized child development services and provides that first priority is given to neglected or abused children, or children who are at risk of being neglected or abused.

This bill would provide that a family receiving child care services on the basis of a child being at risk of abuse is eligible to receive services for up to 3 months, unless the county child welfare agency certifies that child care services continue to be necessary, or the child is receiving child protection services, requires child care, and remains otherwise eligible for services, in which case the family may receive child care services for up to 12 months.

(2) Under existing law, the Child Care and Development Services Act, children up to 14 years of age are eligible, with certain requirements, for child care and development services.

This bill would provide that the preferred placement for children who are 11 and 12 years of age is an after school program, as specified, with certain requirements.

(3) Under existing law, one of the purposes of the Child Care and Development Services Act is to provide a comprehensive, coordinated, and cost-effective system of child care and development services for children to 14 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. These programs include state-subsidized child care programs such as alternative payment programs and child care for recipients of benefits under the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

This bill would require the State Department of Education to perform an error rate study to estimate the percentage of errors in the alternative payment and CalWORKs programs, and to report in writing to the Legislature designated information regarding the study. The bill would also require the department to develop recommendations for the prevention of child care fraud and programmatic errors and the identification and collection of child care overpayments, and report the recommendations to the Legislature by April 1, 2005. The bill would require the department to post existing best practices for the prevention of fraud and overpayment considered in making these recommendations on the department's Web site, and would require child care contracts entered into on or after July 1, 2005, to implement these best practices.

(4) Existing law requires the state, through the State Department of Social Services and county welfare departments, to establish and support a public system of statewide child welfare services to be available in each county of the state. Existing law requires all counties to establish and maintain specialized organizational entities within the county welfare department that have sole responsibility for operating the child welfare services program.

This bill would require the Department of General Services and all other affected state agencies to cooperate with the State Department of Social Services and the California Health and Human Services Agency Data Center to expedite and achieve timely completion and review of the technical architecture alternatives analysis plan and all procurements related to child welfare services. The bill would authorize the department to obtain outside legal counsel to assist in related contract negotiations, and would require the department to consult with stakeholders during

the development of procurement and automation strategies related to child welfare services.

(5) Under existing law, the California Health and Human Services Agency Data Center is created in the California Health and Human Services Agency.

This bill would require the data center, beginning with the 2005–06 fiscal year and each fiscal year thereafter, to submit a proposal to the Department of Finance that reconciles the current year's rates and details any proposed rate adjustments to be included in the Governor's Budget.

(6) 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 persons with chronic, life-threatening diseases, residential care facilities for the elderly, and child day care facilities. 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, except for residential care facilities for persons with chronic, life-threatening diseases licensing fees, which are deposited into the Residential Facilities for Persons with Chronic, Life-Threatening Diseases Fund.

This bill would delete the existing fee schedules for these types of facilities and would establish new fee schedules, including a fee for initial licensure application and an annual licensing fee. The bill would establish various other fees, including a fee for moving the facility to a new physical address, an orientation fee, a probation monitoring fee, a late fee, and a plan of correction fee. The bill would provide only one type of license for each of the facilities in question, and would delete any references to special permits for their operation. This bill would eliminate the Residential Care Facilities for Persons with Chronic, Life-Threatening Illnesses Fund, and would require fees otherwise payable to the fund to be deposited in the Technical Assistance Fund.

This bill would also revise provisions relating to the operation of child day care facilities, including making an existing requirement that the department operate a child care ombudsman program discretionary with the department, and designating the program as a child care advocate program.

(7) Existing law creates the Technical Assistance Fund in the State Treasury, from which moneys appropriated by the Legislature are expended by the State Department of Social Services to fund the creation and maintenance of new licensing staff positions, and to provide technical assistance to licensees paying fees to the department.

This bill would require moneys in the Technical Assistance Fund to be used to ensure the health and safety of all individuals provided care

and supervision by licensees, and to fund administrative and other activities in support of various licensing programs.

(8) Under existing law, the State Department of Social Services is prohibited from charging a fee for the fingerprinting of an applicant for licensure to provide child care to 6 or fewer children, or any family day care applicant for a license, or for obtaining a criminal record check of a licensure applicant, except during the 2003–04 fiscal year. Existing law provides for a similar exception from charging for fingerprinting during the 2003–04 fiscal year for an applicant for a license or special permit to operate a community care facility providing care for six or fewer children or for obtaining a criminal record of the applicant.

This bill would also make an exception to the prohibition against charging a fee for these services during the 2004–05 fiscal year.

(9) Existing law requires a county alcohol and drug program administrator and the county's presiding judge to develop and submit a comprehensive multiagency drug court plan for implementing cost-effective local drug court systems. The State Department of Alcohol and Drug Programs is required to distribute funds for these purposes to eligible counties according to a specified methodology, subject to appropriation in the Budget Act.

This bill, subject to a Budget Act appropriation for this purpose in the 2004–05 fiscal year, would require the department to provide a supplemental allocation of funding for the planning or expansion of new or existing dependency drug court programs in selected counties. The bill would set forth the manner in which the counties would be selected by the department, in collaboration with the Judicial Council and with input from the State Department of Social Services.

(10) Existing law, the Song-Brown Family Physician Training Program, is a state medical contract program with medical schools, programs that train primary care physician's assistants, programs that train primary care nurse practitioners, hospitals, and other health care delivery systems, that is intended to increase the number of students and residents receiving quality education and training in the specialty of family practice and to maximize the delivery of primary care family physician services to areas of California where there is a recognized unmet priority need for those services.

This bill would require the Office of Statewide Health Planning and Development to provide long-term stability and non-General Fund support for these programs, and to report on these strategies to the legislative budget committees by February 1, 2005.

(11) Under existing law, a person who willfully inflicts cruel or inhuman corporal punishment or an injury resulting in a traumatic condition upon a child is guilty of a felony, punishable by a fine,

imprisonment, or both. A person who has been convicted of this crime may be granted probation under certain conditions, including successful completion of at least one year of a child abusers treatment counseling program approved by the probation department.

This bill would delete the requirement that the child abusers treatment counseling program completed by the convicted person be approved by the probation department.

(12) Existing law authorizes the Legislature to appropriate $56,432,000 in the Budget Act of 2003 from the Employment Training Fund to fund the local assistance portion of welfare-to-work activities under the CalWORKs program.

This bill would authorize the Legislature to appropriate the same amount in the Budget Act of 2004 from the Employment Training Fund to fund the local assistance portion of welfare-to-work activities under the CalWORKs program.

(13) Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program for the allocation of federal funds received through the TANF program, under which each county provides cash assistance and other benefits to qualified low-income families. Existing law requires the State Department of Social Services, among other things, to annually allocate appropriated funds to federally recognized American Indian tribes with reservation lands or rancherias in the state to administer a program under the federal Personal Responsibility and Work Opportunity Recovery Act of 1996.

This bill would require the annual allocation to the tribes to be reduced by $30,532,000 in the 2004–05 fiscal year. The bill would require that for the 2004–05 fiscal year, $15,500,000 in unspent funds originally allocated to the Torres-Martinez Tribal TANF program in 2003–04 is to be used to partially offset the reduction. To the extent this would permit these funds to be expended for new purposes, this bill would make an appropriation. The bill would require each tribal TANF program budgeted to receive a tribal TANF grant in the 2004–05 fiscal year to receive a proportionate share of the net reduction.

This bill would require state funding for tribal TANF programs to be based on actual program caseloads beginning on July 1, 2005, and would require the tribal TANF programs to provide the department with specified information in this regard, on an ongoing basis. The bill would apply this provision only to programs that have received state funding for at least 3 years prior to the beginning of the fiscal year.

This bill would require the department to amend the state TANF plan to adopt by reference the federally approved financial eligibility criteria established by each tribal TANF program as the state's eligibility criteria when determining eligibility for state-funded services provided by the tribal TANF programs.

Beginning July 1, 2005, this bill would prohibit the department from reducing county single allocations to offset funding provided for tribal TANF programs, but would authorize the department to adjust county single allocations to reflect actual case load declines.

(14) (a) Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, 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 permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Under existing law, the mission of the California Department of Aging is to provide leadership to the area agencies on aging in developing systems of home- and community-based services to maintain individuals in their own homes or in the least restrictive homelike environments. Under existing law, the department distributes funds to the area agencies on aging, as the local unit on aging in California, in accordance with specified criteria.

This bill would provide that an individual's receipt of services under the In-Home Supportive Services program shall not be the sole cause for denial of any services provided by area agencies on aging.

(b) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Personal care services provided to an individual who is eligible for Medi-Cal benefits as a categorically needy person are a Medi-Cal covered benefit. Personal care services are also a covered benefit under the In-Home Supportive Services program.

This bill would require the State Department of Social Services to procure and implement a new Case Management Information and Payrolling System (CMIPS) for the IHSS program and Personal Care Services Program. The bill would establish the components of the new system, and would require the state to begin a fair and open competitive procurement for the new system by August 31, 2004.

(c) Existing law requires the county welfare department to assess each recipient's continuing need of services as necessary, but at least once every 12 months.

This bill would authorize a county welfare department to extend these reassessments up to 6 months beyond the 12-month period, if the county meets certain conditions. The bill would require a county to assess a recipient's need for supportive services when a recipient notifies the county of a need to adjust the service hours authorized, or when a change of circumstances is expected that will affect the recipient's need for supportive services. The bill would require the department to adopt emergency regulations to implement these provisions no later than September 30, 2005.

(d) Existing law authorizes the use of a time for task guideline only when appropriate in meeting the individual's particular circumstances.

This bill would instead require the department, in consultation and coordination with county welfare departments, to establish and implement statewide hourly task guidelines and instructions, and would require counties to use these guidelines when conducting an individual assessment of an individual's need for supportive services. The bill would require the department to adopt implementing regulations by June 30, 2006, with the input of designated public and private entities.

(e) This bill would require the department to develop, and counties to use, a standardized form for statewide use to obtain medical certification for a person's need for protective supervision.

(f) This bill would require the department to conduct an error rate study beginning with the 2004–05 fiscal year. The bill would require the department, in consultation with the State Department of Health Services and county welfare departments to design and conduct the error rate study to estimate the extent of payment and service authorization errors and fraud in the provision of supportive services. The bill would require the department and the State Department of Health Services to conduct automated data matches to compare supportive services paid services hours data with Medi-Cal and third-party liability data, to identify potential supportive services delivery discrepancies. The bill would require the department to develop methods for verifying the receipt of supportive services by program recipients. The bill would require the department to develop a standardized curriculum, and operate an ongoing training program for county and state personnel. It would require the department, in conjunction with the counties, to develop protocols and procedures for monitoring county IHSS quality assurance programs, as established by the bill.

(g) This bill would require the department to convene periodic meetings to provide information and the opportunity for input from

designated stakeholders regarding IHSS quality assurance, program integrity, and program consistency.

(h) This bill would define fraud and overpayment for purposes of IHSS. The bill would deny eligibility to provide or receive payment for providing supportive services for a period of 10 years of a conviction for, or incarceration following conviction for, fraud against a government health care or supportive services program, or other designated crimes. It would require the department and the State Department of Health Services to develop a provider enrollment form, to be signed under penalty of perjury, containing certain information relating to any convictions or incarcerations of this nature. By expanding the crime of perjury, this bill would impose a state-mandated local program. The bill would require the nonprofit consortium or public authority to exclude the provider from its registry, and to report an ineligible provider to the State Department of Social Services.

(i) This bill would authorize the State Department of Health Services to investigate fraud in the provision or receipt of supportive services, and would require counties to refer instances of suspected fraud to that department for investigation. This bill would require the State Department of Health Services to notify the State Department of Social Services, the county, and the county's nonprofit consortium or public authority, if any, of a determination that the provider has engaged in fraud.

(j) This bill would authorize the director or the county to recover an overpayment to a participating provider by means of an offset against any amount currently due to the provider under the Medi-Cal program or a prepaid health plan, or by means of an executed repayment agreement between the provider and the director or the county. The bill would require the department to develop policies, procedures, and due process requirements for identifying and recovering provider overpayments. The bill would set forth additional requirements applicable to the county and the department in connection with recovering overpayments.

(k) Existing law limits the number of hours each month of combined services the recipients of IHSS and personal care services may receive to no more than 283 hours.

This bill would increase this monthly limitation to 283 hours apply the 283 hour per month limitation to personal care services, IHSS services and the IHSS Plus waiver services described in paragraph (*l*) below, combined.

(*l*) This bill would declare the intent of the Legislature that the State Department of Health Services seek approval of a Medicaid waiver from the federal government, to be known as the IHSS Plus waiver. The bill

would revise eligibility requirements, as prescribed, for those receiving benefits under the existing IHSS program, the existing Medicaid waiver, and the IHSS Plus waiver.

This bill would authorize the State Department of Social Services to enter into interagency agreements with the State Department of Health Services to administer approved federal waivers authorized under the bill. The bill would provide that the waiver terms control over conflicting provisions of law relating to the IHSS program or the Medi-Cal program, except as prescribed. The bill would authorize the State Department of Health Services to implement the waiver through all-county letters or similar instructions. This bill would provide that aged, blind, and disabled persons who would have been eligible for personal care services would be immediately eligible for services under the waiver, or shall be eligible for services under the IHSS program, in accordance with the bill, if existing law that establishes their eligibility for these services becomes inoperative.

(m) By imposing new duties on counties administering the IHSS program, including with respect to service assessments, statewide hourly task guidelines, medical certification for protective supervision services, recovery of overpayments, and the IHSS Plus waiver program, the bill would impose a state-mandated local program.

(15) Existing law provides for the CalWORKs program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals.

Existing law requires each county to develop a plan pertaining to the delivery of activities and services necessary to move CalWORKs recipients from welfare to work, and requires that the plan describe, among other things, the extent to which, and the manner in which, mental health services will be available to recipients after the expiration of the maximum period of participation in the program.

This bill would delete the requirement that the plan describe the availability of mental health services under this provision.

Existing law declares the intent of the Legislature to create a funding stream and program to assist certain recipients of aid under the CalWORKs program in obtaining necessary mental health services to enable them to make the transition from welfare to work. Existing law, which would become inoperative on June 1, 2005, authorizes any county to participate in a pilot program to set aside funds appropriated by the Legislature to cover the cost of these mental health employment assistance services as part of a Medi-Cal mental health managed care program.

This bill would delete the provisions authorizing and establishing this pilot program.

(16) Existing law, with certain exemptions, requires a prescribed sequence of employment-related welfare-to-work activities by participants in the CalWORKs program, including job search, assessment, work, and community service activities.

This bill would revise the requirements and standards applicable to the work and community service activities under the program.

Existing law provides that individuals required to engage in welfare-to-work activities enter into a written welfare-to-work plan with the county welfare department after assessment.

This bill would specify that the participant shall enter into this plan within a prescribed time period.

Existing law authorizes a county to provide for community service activities for certain participants in the CalWORKs program, requires that child care as a supportive service be provided to participants in certain community service activities and authorizes the county to provide other supportive services, and requires a county that does not provide mental health services to address in its county plan the availability of mental health services for participants in a community service job.

This bill would delete these provisions.

Existing law limits a parent's or caretaker's participation in the program to a maximum of 18 months, or in certain cases 24 months, unless the county certifies that employment is not available, and requires a county to adopt criteria to grant a 6-month extension.

This bill would delete these provisions.

Existing law establishes sanctions for fraudulent or misleading statements relating to eligibility under the program.

The bill would require the department to examine the CalWORKs sanction policy and to report to the Legislature by April 1, 2005.

(16.5) Existing law, with certain exceptions, requires an annual cost-of-living adjustment to be made in maximum aid payments provided to needy families under the CalWORKs program.

This bill would provide that, for the 2004–05 fiscal year, the adjustment to the maximum aid payment set forth in existing law shall be suspended for three months commencing on the first day of the first month following the effective date of the bill.

(17) 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. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state's share of AFDC-FC costs.

This bill would require the county to redetermine AFDC-FC eligibility annually and no less than required under federal law. The bill would require the parent or legal guardian from whom a foster child was removed or, if he or she is unavailable, the county on the child's behalf to complete a statement of facts supporting continued eligibility. By requiring counties to redetermine eligibility of these benefits on an annual basis, the bill would impose a state-mandated local program.

Existing law provides that any month in which certain conditions exist shall not be counted as a month of receipt of aid for purposes of calculating the expiration of the maximum period of participation in the program.

This bill would revise these conditions.

(18) Existing law provides for the Supportive Transitional Emancipation Program (STEP) under which emancipated foster youth up to 21 years of age are eligible to receive support while participating in an educational or training program, or any activity consistent with the youth's transitional independent living plan.

This bill would provide that this program shall be implemented only to the extent that funds are appropriated for that purpose in the annual Budget Act.

Existing law authorizes payment for transitional housing services to an eligible youth from available moneys in the Transitional Housing for Foster Youth Fund.

This bill would also authorize payment for these services from available moneys in the annual Budget Act.

(19) Existing law, pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, requires that foster care providers licensed as group homes have rates established by classifying each group home program and applying the standardized schedule of rates. Existing law establishes a standardized schedule of rates for the 2002–03 and 2003–04 fiscal years.

This bill would extend the standardized schedule of rates to the 2004–05 fiscal year.

Under existing law, commencing July 1, 2003, any group home provider with an affiliated lease is not eligible for AFDC-FC rates.

This bill would instead provide that a group home with a self-dealing lease transaction for shelter costs, as defined by a specified provision of existing law, shall not be eligible for AFDC-FC rates.

This bill would also eliminate provisions that make funding available to certain group homes for the purpose of conducting financial audits required by law.

(20) Existing law declares the intent of the Legislature to appropriate funds in a single allocation to counties for the support of county

administration activities to provide benefit payments under the CalWORKs program.

This bill would require the State Department of Social Services, no later than 30 days after the enactment of the Budget Act of 2004, to estimate the amount of unspent funds in the CalWORKs single allocation. The bill would require the unspent amount, not to exceed $40,000,000, to be reappropriated to, and in augmentation of, a specified item in the annual Budget Act, and provided to the counties in a planning allocation no later than 30 days after the enactment of the Budget Act of 2004. The bill would require the department, in consultation with the County Welfare Directors Association, to develop an allocation methodology for purposes of these provisions.

(21) Existing law establishes a program to provide maternity care services to needy minors, administered by the State Department of Social Services.

This bill would eliminate this program.

(22) Existing law, the Burton-Moscone-Bagley Citizens' Income Security Act for Aged Blind and Disabled, establishes a state program to implement provisions of the federal Social Security Act for services to the aged, blind, and disabled. Existing law provides for annual cost-of-living adjustments to be effective January 1 of each year.

This bill would, for the 2005 calendar year, delay those adjustments until April 1. Existing law requires the State Department of Social Services to establish and supervise a county- or county consortia-administered program to provide cash assistance to aged, blind, and disabled legal immigrants who are not citizens and who successfully complete an application process. Existing law requires any person found by the department to be eligible for federal Supplemental Security Income (SSI) benefits to be required to apply for those benefits.

This bill would, until July 1, 2009, require the department to require counties with a base caseload of 70 or more, and to encourage other counties, to establish an advocacy program to assist applicants and recipients of aid under these provisions in applying for SSI benefits. The bill would require the department to provide assistance to the counties in this regard. The bill would also require the department to reimburse counties for legal fees incurred during the appeals phase of the SSI application process when the legal representative successfully secures approval of SSI benefits. The bill would require the department to report to the Legislature by July 1, 2007, regarding the savings realized through the cases transferred to SSI as a result of the county SSI advocacy programs. By requiring counties to establish advocacy programs, the bill would impose a state-mandated local program.

(23) Existing law provides for the establishment of independent living centers for individuals with disabilities. Under existing law, to the extent that funds are appropriated by the Legislature, for the purposes of providing assistive technology services in independent living centers, $300,000 shall be allocated to a nonprofit coordinator selected by the Department of Rehabilitation, and the remainder shall be allocated equally among the independent living centers.

This bill would reduce the amount allocated to the independent contractor to $210,000.

(24) (a) This bill would require the California Health and Human Services Agency, to the extent feasible, to examine the criminal background check requirements for all programs within its purview and the processes to administer and enforce these requirements, and to report its findings to the Legislature at budget hearings. The bill would also require the agency to report on strategies to streamline and standardize criminal background check requirements and their processing, to create administrative efficiency.

(b) This bill would require the agency, to the extent feasible, and in consultation with the Department of Aging, the State Department of Social Services, and appropriate stakeholders, to consider strategies to coordinate state and federally funded services and programs, in order to maximize cost-effectiveness and programmatic efficiency in the delivery of services to program consumers. The bill would require the agency to report during budget hearings for the 2005–06 fiscal year, regarding these strategies and the resulting programmatic effect.

(25) This bill would declare legislative intent to address the issue of child care in and out of market rate differentiation in the statutory process, and would declare that certain related regulations filed with the Office of Administrative Law by the State Department of Education, shall not become effective until July 1, 2005.

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

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

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

(27) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family is (A) a current aid recipient, (B) income eligible, (C) homeless, or (D) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

(2) A family needs the child care service because (A) the child is identified by a legal, medical, social service agency, or emergency shelter as (i) a recipient of protective services or (ii) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (B) because the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, (iii) seeking permanent housing for family stability, or (iv) incapacitated.

(b) Except as provided in Article 15.5 (commencing with Section 8350), priority for state and federally subsidized child development services is as follows:

(1) (A) First priority shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(B) A family who is receiving child care on the basis of a child being at risk of abuse, neglect, or exploitation, as defined in subdivision (k) of Section 8208, is eligible to receive services pursuant to subparagraph (A) for up to three months, unless the family becomes eligible pursuant to subparagraph (C).

(C) A family may receive child care services for up to 12 months on the basis of a certification by the county child welfare agency that child care services continue to be necessary or, if the child is receiving child

protection services during that period of time, and the family requires child care and remains otherwise eligible. This time limit does not apply if the family's child care referral is recertified by the county child welfare agency.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the Superintendent, shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first. If there is no family of the same priority with a child with exceptional needs, the same priority family that has been on the waiting list for the longest time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The Superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers may not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) Notwithstanding any other law, in order to promote continuity of services, a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services in another state or federally funded child care and development program if the contractor is able to transfer the family's enrollment to another program for which the family is eligible prior to the date of termination of services or to exchange the family's existing enrollment with the enrollment of a family in another program, provided that both families satisfy the eligibility requirements for the program in which they are being enrolled. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs.

(d) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. A standard, rule, or regulation shall not require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program

stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, if there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that the child is not suffering from that contagious or infectious disease.

(e) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The Superintendent shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill children or children with exceptional needs.

(f) (1) The Superintendent shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter, including families receiving services under paragraph (1) of subdivision (b). Families receiving services under subparagraph (B) of paragraph (1) of subdivision (b) may be exempt from these fees for up to three months. Families receiving services under subparagraph (C) of paragraph (1) of subdivision (b) may be exempt from these fees for up to 12 months. The cumulative period of time of exemption from these fees for families receiving services under paragraph (1) of subdivision (b) shall not exceed 12 months.

(2) The income of a recipient of federal supplemental security income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program benefits pursuant to Title XVI of the federal Social Security Act and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code may not be included as income for the purposes of determining the amount of the family fee.

(g) The family fee schedule shall include, but not be limited to, the following restrictions:

(1) No fees shall be assessed for families whose children are enrolled in the state preschool program.

(2) A contractor or provider may require parents to provide diapers. A contractor or provider offering field trips either may include the cost of the field trips within the service rate charged to the parent or may charge parents an additional fee. Federal or state money may not be used to reimburse parents for the costs of field trips if those costs are charged as an additional fee. A contractor or provider that charges parents an additional fee for field trips shall inform parents, prior to enrolling the

child, that a fee may be charged and that no reimbursement will be available. A contractor or provider may charge parents for field trips or require parents to provide diapers only under the following circumstances:

(A) The provider has a written policy that is adopted by the agency's governing board that includes parents in the decisionmaking process regarding both of the following:

(i) Whether or not, and how much, to charge for field trip expenses.

(ii) Whether or not to require parents to provide diapers.

(B) The maximum total of charges per child in a contract year does not exceed twenty-five dollars ($25).

(C) No child is denied participation in a field trip due to the parent's inability or refusal to pay the charge. Adverse action may not be taken against any parent for that inability or refusal.

Each contractor or provider shall establish a payment system that prevents the identification of children based on whether or not their parents have paid a field trip charge.

Expenses incurred and income received for field trips pursuant to this section shall be reported to the State Department of Education. The income received for field trips shall be reported specifically as restricted income.

(h) The Superintendent shall establish guidelines for the collection of employer-sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(i) The Superintendent shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(j) Public funds may not be paid directly or indirectly to any agency that does not pay at least the minimum wage to each of its employees.

SEC. 1.2. Section 8263.4 is added to the Education Code, to read:

8263.4. (a) The preferred placement for children who are 11 or 12 years of age and who are otherwise eligible for subsidized child care services shall be in an after school program.

(b) Children who are 11 or 12 years of age and who are enrolled in an after school program are not eligible for other subsidized child care services if, and to the extent that, the after school program meets the child care needs of the family. The child care needs of the family shall be

considered to be met when a parent certifies in writing that the after school program meets the child care needs of the family.

(c) Unless the conditions in subdivision (b) are met, children who are eligible for and who are receiving subsidized child care services shall continue to receive subsidized child care services.

(d) If a child who becomes ineligible for subsidized child care under subdivision (b) is disenrolled from an after school program, or if the after school program no longer meets the child care needs of the family, the child shall be able to receive subsidized child care.

(e) This section does not apply to a child with exceptional needs who has an individual education plan as required by the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), or Part 30 (commencing with Section 56000), and who has a demonstrated need for child care.

(f) For purposes of this section, ''after school program'' means a program provided pursuant to Article 22.5 (commencing with Section 8482) and Article 22.6 (commencing with Section 8484.7) of Chapter 2 of Part 6.

SEC. 1.3. Article 16.5 (commencing with Section 8385) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 16.5. Fraud And Overpayments

8385. (a) (1) The department, in consultation with the State Department of Social Services, county fraud investigators, and other fraud investigation experts, shall perform an error rate study to estimate the percentage of errors, including, but not limited to, overpayments and fraud, in determinations of eligibility, the need for child care pursuant to paragraph (2) of subdivision (a) of Section 8263, family fees, and reimbursement payments to child care providers, including, but not limited to, authorized hours of care and the use of adjustment factors, in programs operated pursuant to Article 3 (commencing with Section 8220) and Article 15.5 (commencing with Section 8350). The study shall include, but not be limited to, an analysis of a statistically valid, random, sample of family files and reimbursement payments that have been processed over a specified time. Each payment from the sample shall be audited to determine whether it was correctly paid or paid in error. Those payments identified as being paid in error shall be classified based on the type of the error that occurred, including, but not limited to, administrative errors, overpayment caused by providers, overpayments caused by parents, provider fraud, and beneficiary fraud.

(2) In conducting the compliance reviews required by regulations of the Superintendent pursuant to Section 8261 for programs operated pursuant to Article 8 (commencing with Section 8240), the department shall survey a statistically valid sample of files for the program and identify and report the errors, by category, resulting from that survey.

(3) The department shall report in writing to the Governor, the Chair of the Joint Legislative Budget Committee, the chairs of the fiscal committees for both houses of the Legislature, and the Department of Finance, information regarding the error rate study by April 1, 2005. The report shall include, but not be limited to, all of the following:

(A) The results of the error rate study.

(B) Fraud and overpayment reduction targets that have been established based on the data from the error rate study.

(C) The timeframe for achieving the targets.

(D) Recommendations developed pursuant to subdivision (b).

(b) The department shall develop recommendations for the prevention and elimination of child care fraud and programmatic errors and the identification and collection of child care overpayments. The recommendations shall include, but not be limited to:

(1) Precise definitions of what constitutes child care fraud and overpayments.

(2) A consistent statewide system to identify fraud and overpayments.

(3) A consistent statewide system of standards for fraud prevention, intervention, and overpayment collection that is applied to all child care program provider categories.

(4) Statewide fraud and overpayment measures that will be reported annually by the department.

(5) Standards for independent financial compliance audits, including provisions to ensure that small programs are not unduly burdened.

(6) Consistent statewide mechanisms for due process for parents.

(7) Consistent statewide mechanisms for dispute resolution for child care programs and providers.

(8) Assessment of the cost-effectiveness of prevention and intervention activities.

(9) Equitable treatment of all consumers of subsidized child care.

(10) Consideration of the need to minimize new barriers to family access to child care.

(11) A survey of best practices from both California agencies and providers and from other states.

(c) In developing its recommendations, the department shall place priority on prevention of fraud and overpayments, and shall consider

existing best practices for doing so. The department shall make any identified best practices available on its Web site by March 1, 2005.

(d) The department shall consult with representatives of the State Department of Social Services, the Legislative Analyst's Office, the Department of Finance, staff from the appropriate policy and fiscal committees of each house of the Legislature, and other interested parties including, but not limited to, child care consumers and providers, representatives from county welfare departments, district attorneys, county special investigative units, and legal advocacy organizations representing consumers in developing these recommendations.

(e) The department shall report its recommendations directly to the respective policy and fiscal committees of the Legislature by April 1, 2005.

(f) On or after July 1, 2005, all child care contracts entered into by the State Department of Education for means-tested child care programs, including, but not limited to, the programs described in Article 3 (commencing with Section 8220), Article 8 (commencing with Section 8240), and Article 15.5 (commencing with Section 8350), shall require implementation of best practices identified pursuant to subdivision (c).

SEC. 1.5. Section 11796 of the Government Code is amended to read:

11796. (a) There is in the California Health and Human Services Agency the California Health and Human Services Agency Data Center.

(b) The data center shall be under the supervision of a data center director who shall be appointed by the Secretary of the California Health and Human Services Agency pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

(c) (1) The Legislature finds and declares that the name of the Health and Welfare Agency Data Center was changed to the California Health and Human Services Agency Data Center by Chapter 873 of the Statutes of 1999, effective January 1, 2000. The Legislature further finds and declares that this change of name was and is not intended to alter or modify any power, right, obligation, or duty of the data center that is found in statute, regulation, or contract.

(2) Any reference in statute, regulation, or contract to the Health and Welfare Agency Data Center shall be deemed to refer to the California Health and Human Services Agency Data Center.

(d) Beginning with the 2005–06 fiscal year, and each fiscal year thereafter, by August 1, the data center shall submit a proposal to the Department of Finance that reconciles the current year's rates, and details any adjustments proposed for budget year rates to be included in the Governor's Budget.

SEC. 2. 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.

(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, 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 and 2004–05 fiscal years, no fee shall be charged by the Department of Justice or the State Department of Social Services 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 (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 (g).

(E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints 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 history information 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 defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(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.

(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. 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 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 repairperson 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 shall 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 shall 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 licensee 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 are not left alone with the foster children.

(B) Parents of a foster child's friends when the foster child is visiting the friend's home and the friend, foster parent, or both are also present.

(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, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services or 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 submit fingerprints 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 the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services 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 fingerprints, 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 fingerprints. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprints 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. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the State Department of Social Services, as required by that section, 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. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) 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 State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that 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 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 (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption 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 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 be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption 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 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 pursuant to subdivision (g). 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) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage 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 from an appropriate law enforcement agency a criminal record to determine whether the applicant or any 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, 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.

(3) No fee shall be charged by the Department of Justice or the State Department of Social Services 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) 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) 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 the 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) An applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall

submit a set of fingerprints 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 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 all persons described in subdivision (b), the department may issue a license, or the foster family agency may issue a certificate of approval, 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 defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure or certification, the department determines that the licensee, certified foster parent, or any person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550 and the certificate of approval revoked pursuant to subdivision (b) of Section 1534. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(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) The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice or send them by electronic transmission in a manner approved by the State Department of Social Services. A foster family home licensee or foster family agency shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence. A licensee's failure to submit fingerprints to the Department of Justice, 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. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services 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 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).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, 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 or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption 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 which 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, or 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 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.

(g) (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 a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) 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 such 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, no exemption shall 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 (a) 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.

(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.

(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 two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(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) (1) The Department of Justice shall coordinate with the State Department of Social Services to establish and implement an automated live-scan processing system for fingerprints in the district offices of the Community Care Licensing Division of the State Department of Social

Services by July 1, 1999. These live-scan processing units shall be connected to the main system at the Department of Justice by July 1, 1999, and shall become part of that department's pilot project in accordance with its long-range plan. The State Department of Social Services may charge a fee for the costs of processing a set of live-scan fingerprints.

(2) The Department of Justice shall provide a report to the Senate and Assembly fiscal committees, the Assembly Human Services Committee, and to the Senate Health and Human Services Committee by April 15, 1999, regarding the completion of backlogged criminal record clearance requests for all facilities licensed by the State Department of Social Services and the progress on implementing the automated live-scan processing system in the two district offices pursuant to paragraph (1).

(*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. 3. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) 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:

Fee Schedule

Facility Type	Capacity	Initial Application	Annual
Foster Family and Adoption Agencies		$2,500	$1,250

Adult Day Programs	1–15	$150	$75
	16–30	$250	$125
	31–60	$500	$250
	61–75	$626	$313
	76–90	$750	$375
	91–120	$1,000	$500
	121+	$1,250	$625
Other Community	1–3	$375	$375
Care Facilities	4–6	$750	$375
	7–15	$1,126	$563
	16–30	$1,500	$750
	31–49	$1,876	$938
	50–74	$2,252	$1,126
	75–100	$2,628	$1,314
	101–150	$3,004	$1,502
	151–200	$3,502	$1,751
	201–250	$4,000	$2,000
	251–300	$4,500	$2,250
	301–350	$5,000	$2,500
	351–400	$5,500	$2,750
	401–500	$6,500	$3,250
	501–600	$7,500	$3,750
	601–700	$8,500	$4,250
	701+	$10,000	$5,000

(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 annual fee, in addition to the 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 annual fee when any licensee fails to pay the 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 dollars ($80) 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.

(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. 4. 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 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.

SEC. 5. Section 1568.05 of the Health and Safety Code is amended to read:

1568.05. (a) An application fee adjusted by facility and capacity, shall be charged by the department for a license to operate a residential 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 the activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule

Capacity	Initial Application	Annual
1–6	$500	$250 plus $10 per bed
7–15	$626	$313 plus $10 per bed
16–25	$750	$375 plus $10 per bed
26–50	$876	$438 plus $10 per bed
51+	$876	$438 plus $10 per bed

(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 annual fee, in addition to the 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 annual fee when any licensee fails to pay the 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.

(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. 6. Section 1569.185 of the Health and Safety Code is amended to read:

1569.185. (a) 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:

Fee Schedule

Capacity	Initial Application	Annual
1–3	$375	$375
4–6	$750	$375
7–15	$1,126	$563
16–30	$1,500	$750
31–49	$1,876	$938
50–74	$2,252	$1,126
75–100	$2,628	$1,314
101–150	$3,004	$1,502
151–200	$3,502	$1,751
201–250	$4,000	$2,000
251–300	$4,500	$2,250
301–350	$5,000	$2,500
351–400	$5,500	$2,750
401–500	$6,500	$3,250
501–600	$7,500	$3,750
601–700	$8,500	$4,250
701+	$10,000	$5,000

(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 annual fee, in addition to the 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 annual fee when any licensee fails to pay the 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.

(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. 7. Section 1596.803 of the Health and Safety Code is amended to read:

1596.803. (a) 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:

Fee Schedule

Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1–8	$60	$60
	9–14	$115	$115
Day Care Centers	1–30	$400	$200
	31–60	$800	$400
	61–75	$1,000	$500
	76–90	$1,200	$600
	91–120	$1,600	$800
	121+	$2,000	$1,000

(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 annual fee, in addition to the 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 annual fee when any licensee fails to pay the 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.

(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. 8. Section 1596.816 of the Health and Safety Code is amended to read:

1596.816. (a) The Community Care Licensing Division of the department shall regulate child care licensees through an organizational unit that is separate from that used to regulate all other licensing programs. The chief of the child care licensing branch shall report directly to the Deputy Director of the Community Care Licensing Division.

(b) All child care regulatory functions of the licensing division, including the adoption and interpretation of regulations, staff training, monitoring and enforcement functions, administrative support functions, and child care advocacy responsibilities shall be carried out by the child care licensing branch to the extent that separation of these activities can be accomplished without new costs to the department.

(c) Those persons conducting inspections of a day care facilities shall meet qualifications approved by the State Personnel Board.

(d) The department shall notify the appropriate legislative committees whenever actual staffing levels of licensing program analysts within the child care licensing branch drops more than 10 percent below authorized positions.

(e) The budget for the child care licensing branch shall be included as a separate entry within the budget of the department.

SEC. 9. 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. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as defined 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 child day care facility clients may pose a risk to the children's health and safety.

(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 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 and 2004–05 fiscal years, no fee shall be charged by the Department of Justice or the department 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 a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, 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 records 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 these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to 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 fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints 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. The State Department of Social Services may assess civil penalties for continued violations permitted by Sections 1596.99 and 1597.62. The fingerprints shall then be submitted to the State Department of Social Services for processing. Within 14 calendar days of the receipt of the fingerprints, 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 fingerprints. If new fingerprints 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.

(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. The department may assess civil penalties for continued violations, as permitted by Sections 1596.99 and 1597.62.

(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 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 which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or 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 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) 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, no exemption shall 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 (a) 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 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 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 fingerprints.

(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.

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

SEC. 10. Section 1596.872a of the Health and Safety Code is amended to read:

1596.872a. (a) The department may establish a child care advocate program. Each regional office, as well as the central office of the department, may have an advocate who has knowledge of state child care laws, regulations, and programs. The advocate's duties shall include, but not be limited to, all of the following:

(1) Providing information to the general public and parents on child care licensing standards and regulations.

(2) Serving as a liaison to local business, community, law enforcement, labor, and education groups, as well as child care providers and consumers, for the purpose of providing information about licensing standards and regulations.

(3) Disseminating information on the state's licensing role and activities, child care resource and referral agencies, and other child care programs.

(4) Acting as a liaison to child care resource and referral agencies to provide current information on licensing regulations, procedures, violations, revocations, and activities.

(5) Investigating and seeking to resolve complaints and concerns communicated on behalf of children served by a child day care facility. Complaints shall be handled in an objective manner to ascertain the pertinent facts. The ombudsman may refer any complaint to the appropriate state or local government agency.

(b) The advocate shall have access to child day care facilities and shall have the authority to speak with children and staff.

(c) The department shall report to the Legislature and the Governor, on December 31, 1985, and annually thereafter, the number of complaints resolved and referred and any related followup activities, and the number of facilities visited pursuant to subdivision (a).

(d) The department shall implement this section during periods that Section 1596.872b is not being implemented in accordance with Section 18285.5 of the Welfare and Institutions Code.

SEC. 11. Section 1596.872b of the Health and Safety Code is amended to read:

1596.872b. (a) The department may establish a child care advocate program. This program may have one child care advocate for each licensing district regional office providing child care licensing services. A chief child care advocate shall be responsible for operations of the program and shall report to the chief of the child care licensing branch.

Each child care advocate shall have knowledge of state child care laws, regulations, and programs. The child care advocate's duties shall include, but not be limited to, all of the following:

(1) Providing information to the general public and parents on child care licensing standards and regulations.

(2) Serving as a liaison to local business, community, law enforcement, labor, and education groups, as well as child care providers and consumers, for the purpose of providing information about licensing standards and regulations.

(3) Disseminating information on the state's licensing role and activities, child care resource and referral agencies, and other child care programs.

(4) Acting as a liaison to child care resource and referral agencies to provide current information on licensing regulations, procedures, violations, revocations, and activities.

(5) Evaluating and seeking to resolve complaints and concerns communicated on behalf of children served by a child day care facility. Complaints shall be handled in an objective manner to ascertain the pertinent facts. The child care advocate may refer any complaint to the appropriate state or local government agency.

(6) Seeking to mediate disputes between the department and child care licensees, where licensees allege misapplication of licensing regulations and have exercised any initial appeal rights as specified in Section 1596.842.

(b) The child care advocate shall have access to child day care facilities and shall have the authority to speak with children and staff.

(c) The department may implement this section only to the extent funds are available in accordance with Section 18285.5 of the Welfare and Institutions Code.

SEC. 12. Section 11970.2 of the Health and Safety Code is amended to read:

11970.2. (a) A county alcohol and drug program administrator and the presiding judge in the county shall develop and submit a comprehensive multiagency drug court plan for implementing cost-effective local drug court systems for adults, juveniles, and parents of children who are detained by, or are dependents of, the juvenile court to be eligible for funding under this chapter. The plan shall do all of the following:

(1) Describe existing programs that serve substance abusing adults, juveniles, and parents of children who are detained by, or are dependents of, the juvenile court.

(2) Provide a local action plan for implementing cost-effective drug court systems, including any or all of the following drug court systems:

(A) Drug courts operating pursuant to Sections 1000 to 1000.5, inclusive, of the Penal Code.

(B) Drug courts for juvenile offenders.

(C) Drug courts for parents of children who are detained by, or are dependents of, the juvenile court.

(D) Drug courts for parents of children in family law cases involving custody and visitation issues.

(E) Other drug court systems that are approved by the Drug Court Partnership Executive Steering Committee.

(3) Develop information-sharing systems to ensure that county actions are fully coordinated, and to provide data for measuring the success of the local action plan in achieving its goals.

(4) Identify outcome measures that will determine the cost effectiveness of the local action plan.

(b) (1) Except as provided in paragraph (4), the department, in collaboration with the Judicial Council, shall distribute funds to eligible counties using the two thousand five hundred dollars ($2,500) per million/remainder per capita methodology, subject to appropriation in the Budget Act. Funding shall be used to supplement, rather than supplant, existing programs. Funding for counties that opt not to participate in the program shall be distributed on a per capita basis to participating counties.

(2) Funds distributed to counties shall be used for programs that are identified in the local plan. Acceptable uses may include, but are not limited to, any of the following: drug court coordinators, case management, training, drug testing, treatment, transportation, and other costs related to the implementation of the plan.

(3) No funds shall be distributed unless the applicant makes available resources in an amount equal to at least 10 percent of the amount of the

funds distributed in years one and two, and 20 percent of the amount of the funds distributed in years three, four, and five.

(4) Subject to an appropriation by the Budget Act for this purpose in the 2004–05 fiscal year, and for any subsequent fiscal year for which an appropriation has been provided, the department shall provide a supplemental allocation of funding for the planning or expansion of new or existing dependency drug court programs in selected counties. The department, in collaboration with the Judicial Council and with input from the State Department of Social Services, shall select counties for this supplemental allocation of funds for dependency drug courts on the basis of a determination, in its discretion, that a selected county is prepared to implement or expand a dependency drug court or to engage in planning for the development of court systems and has a good record of complying with program rules in the past. The department may prioritize funding allocations for a county that has included a dependency drug court proposal in its system improvement plan for child welfare services. Any county that is selected for and accepts a supplemental allocation of dependency court funds shall, pursuant to this paragraph, agree not to use state funds to supplant any existing resources now used by that county for a dependency drug court. The department, in collaboration with the Judicial Council and with input from the State Department of Social Services, shall adopt appropriate data collection and reporting requirements to measure program outcomes and cost-effectiveness, including the amount of foster care savings realized.

(c) The department, with concurrence from the Judicial Council, shall establish minimum standards, funding schedules, and procedures for funding programs.

(d) The department, in collaboration with the Judicial Council, shall create an evaluation design for the Comprehensive Drug Court Implementation Act of 1999, that will assess the effectiveness of the program. The department, together with the Judicial Council, shall develop an interim report to be submitted to the Legislature on or before March 1, 2004, and a final analysis of the program in a report to be submitted to the Legislature on or before March 1, 2005.

SEC. 13. Section 128241 is added to the Health and Safety Code, to read:

128241. The Office of Statewide Health Planning and Development shall develop alternative strategies to provide long-term stability and non-General Fund support for programs established pursuant to this article. The office shall report on these strategies to the legislative budget committees by February 1, 2005.

SEC. 14. Section 273d of the Penal Code is amended to read:

273d. (a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars ($6,000), or by both that imprisonment and fine.

(b) Any person who is found guilty of violating subdivision (a) shall receive a four-year enhancement for a prior conviction of that offense provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 36 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 15. Section 1611.5 of the Unemployment Insurance Code is amended to read:

1611.5. Notwithstanding Section 1611, the Legislature may appropriate from the Employment Training Fund fifty-six million four hundred thirty-two thousand dollars ($56,432,000) in the Budget Act of 2004 to fund the local assistance portion of welfare-to-work activities under the CalWORKs program, provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as administered by the State Department of Social Services.

SEC. 16. Section 9404 is added to the Welfare and Institutions Code, to read:

9404. An individual's receipt of services under the In-Home Supportive Services Program (Article 7 (commencing with Section 12300), Part 3, Division 9) shall not be the sole cause for denial of any services provided by area agencies on aging or their contractors.

SEC. 17. Section 10531 of the Welfare and Institutions Code is amended to read:

10531. Each county shall develop a plan consistent with state law that describes how the county intends to deliver the full range of activities and services necessary to move CalWORKs recipients from welfare to work. The plan shall be updated as needed. The plan shall describe:

(a) How the county will collaborate with other public and private agencies to provide for all necessary training, and support services.

(b) The county's partnerships with the private sector, including employers and employer associations, and how those partnerships will identify jobs for CalWORKs program recipients.

(c) Other means the county will use to identify local labor market needs.

(d) The range of welfare-to-work activities the county will offer recipients and the identification of any allowable activities that will not be offered.

(e) The process the county will use to provide for the availability of substance abuse and mental health treatment services.

(f) The process the county will use to provide for child care and transportation services.

(g) The county's community service plan.

(h) How the county will provide training of county workers responsible for working with CalWORKs recipients who are victims of domestic violence.

(i) The performance outcomes identified during the local planning process that the county or other local agencies will track in order to measure the extent to which the county's program meets locally established objectives.

(j) The means the county used to provide broad public input to the development of the county's plan.

(k) A budget that specifies the source and expenditures of funds for the program.

(*l*) How the county will assist families that are transitioning off aid.

(m) All necessary components of the job creation plan required by Section 15365.55 of the Government Code in counties that choose to implement the program described in Chapter 1.12 (commencing with Section 15365.50) of Part 6.7 of Division 3 of Title 2 of the Government Code.

(n) Other elements identified by the director, in consultation with the steering committee under Section 10544.5, including elements related to the performance outcomes listed in Sections 10540 and 10541.

(o) How the county will comply with federal requirements of the Temporary Assistance for Needy Families program (Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code).

(p) How the county will coordinate welfare-to-work activities with the local private industry councils or alternate administrative entities designated by the Governor to administer local welfare-to-work programs, including the expenditure of state or other matching funds provided to the county welfare department for welfare-to-work activities. No later than September 1, 1998, and each year thereafter, subject to continued welfare-to-work funding, each county shall submit an addendum to its plan required under this section that describes its coordination efforts.

SEC. 18. Section 10532 of the Welfare and Institutions Code is amended to read:

10532. The department and the counties shall implement the provisions of the CalWORKs program in the following manner:

(a) The department shall issue a planning allocation letter and county plan instructions to the counties within 30 days of the enactment of the CalWORKs program.

(b) (1) Each county shall submit a plan for implementation of the CalWORKs program within four months of the issuance of the planning allocation letter by the department. A county may begin implementation of its plan upon submission of the plan to the department or the effective date of the CalWORKs program, whichever is later.

(2) Within 30 days of receipt of a county plan, the department shall either certify that the plan includes the description of the elements required by Section 10531 and that the descriptions are consistent with the requirements of state law and, to the extent applicable, federal law

or notify the county that the plan is not complete or consistent stating the reasons therefor.

(3) If a county is notified that its plan is not complete or consistent, the county shall, within 30 days, resubmit a revised plan to the department for certification.

(c) A county shall begin enrolling all new applicants for aid under this chapter in the county's welfare-to-work program no later than six months from the date of issuance of the planning allocation letter references in subdivision (a) or two months after the certification of the county plan, whichever is later.

(d) Funds remaining at the end of the 1997–98 fiscal year or the 1998–99 fiscal year from the funds provided to a county in those years pursuant to Section 15204.2 shall be available to a county until July 1, 2000, and may be expended only for the purposes set forth in Section 15204.2.

SEC. 19. Section 10553.2 of the Welfare and Institutions Code, as added by Section 34 of Chapter 270 of the Statutes of 1997, is amended and renumbered, to read:

10553.25. (a) The department shall make an annual allocation of funds appropriated for the purpose of this subdivision to all eligible federally recognized American Indian tribes with reservation lands or rancherias located in this state that administer a program pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

(b) The department shall collect and maintain specific available data for each tribe in this state for federal fiscal year 1994 for the purpose of the implementation and administration of the federal program.

(c) The department shall submit requests on behalf of tribes, for all applicable federal waivers and exemptions for all eligible federally recognized American Indian tribes located on reservations and rancherias, or for consortia of tribes, for the administration of the CalWORKs program, whether or not tribes administer an approved Temporary Assistance for Needy Families (TANF) plan, independent of any county participation, demographics, or circumstances.

(d) Each county, in the administration of the CalWORKs program, shall consult with all eligible federally recognized tribes within any portion of the county, for the purpose of providing American Indian recipients with equitable access to assistance under the state program or an approved tribal TANF program if implemented in the county, and for the consideration of transfers of administration responsibilities to those entities.

(e) For the 2004–05 fiscal year, the annual allocation of funds made pursuant to subdivision (a) shall be reduced by thirty million five hundred thirty-two thousand dollars ($30,532,000).

(f) (1) For the 2004–05 fiscal year, fifteen million five hundred thousand dollars ($15,500,000) in unspent funds originally allocated to the Torres-Martinez Tribal TANF program in 2003–04 shall be used, to partially offset the reduction for tribal TANF programs specified in subdivision (e).

(2) The fifteen million five hundred thousand dollars ($15,500,000) shall be made available contingent upon the approval from the Torres-Martinez Tribal TANF program, if the department deems that approval is necessary.

(3) Each tribal TANF program that has been budgeted to receive a tribal TANF grant in the 2004–05 fiscal year shall receive a proportionate share of the net reduction specified in this subdivision and subdivision (e). However, no tribal TANF grant for the 2004–05 fiscal year shall be reduced by more than 20 percent.

(g) Beginning July 1, 2005, state funding for existing tribal TANF programs provided pursuant to this section shall be based on actual program caseloads, including both assistance and service only cases. The definition of ''assistance cases'' and ''service only cases'' shall be consistent with federal TANF requirements contained in Part 260.31 of Title 45 of the Code of Federal Regulations. Tribal TANF programs shall do both of the following:

(1) Report to the department on a quarterly basis the number of cases served by designated category, assistance cases, or service only cases.

(2) Provide the department, on an annual basis, an audited certification that the number of cases designated in each category have been sampled and verified.

(h) In no case shall the state match under subdivision (g) exceed the original state share designated for the tribal TANF program in the original negotiation of 1994 caseload counts.

(i) Subdivisions (g) and (h) shall apply only to tribal TANF programs that have received state funding for at least three years prior to the beginning of the fiscal year. Those programs that have received funding for less than three years shall not have their state match adjusted.

(j) The department shall amend the state TANF plan to reflect that the state adopts by reference the federally approved financial eligibility criteria established by each tribal TANF program as the state's financial eligibility criteria when determining eligibility for state funded services provided by tribal TANF programs.

(k) Beginning July 1, 2005, the department shall not reduce county single allocations to offset funding provided for tribal TANF programs.

The department may adjust county single allocations to reflect the actual caseload declines associated with the number of Native American cases transferring from the counties to the tribal TANF programs.

SEC. 20. Section 11320.1 of the Welfare and Institutions Code is amended to read:

11320.1. Subsequent to the commencement of the receipt of aid under this chapter, the sequence of employment related activities required of participants under this article, unless exempted under Section 11320.3, shall be as follows:

(a) Job search. Recipients shall, and applicants may, at the option of a county and with the consent of the applicant, receive orientation to the welfare-to-work program provided under this article, receive appraisal pursuant to Section 11325.2, and participate in job search and job club activities provided pursuant to Section 11325.22.

(b) Assessment. If employment is not found during the period provided for pursuant to subdivision (a), or at any time the county determines that participation in job search for the period specified in subdivision (a) of Section 11325.22 is not likely to lead to employment, the participant shall be referred to assessment, as provided for in Section 11325.4. Following assessment, the county and the participant shall develop a welfare-to-work plan, as specified in Section 11325.21. The plan shall specify the activities provided for in Section 11322.6 to which the participant shall be assigned, and the supportive services, as provided for pursuant to Section 11323.2, with which the recipient will be provided.

(c) Work activities. A participant who has signed a welfare-to-work plan pursuant to Section 11325.21 shall participate in work activities. Except as provided in Section 11325.23, at least 20 hours per week shall be spent in core activities, as specified in subdivision (c) of Section 11322.8.

SEC. 21. Section 11322.8 of the Welfare and Institutions Code is amended to read:

11322.8. (a) Unless otherwise exempt, an adult recipient in a one-parent assistance unit shall participate in welfare-to-work activities for 32 hours each week.

(b) Unless otherwise exempt, an adult recipient who is an unemployed parent, as defined in Section 11201, shall participate in at least 35 hours of welfare-to-work activities each week. However, both parents in a two-parent assistance unit may contribute to the 35 hours if at least one parent meets the federal one-parent work requirement applicable on January 1, 1998.

(c) An adult recipient required to participate under subdivision (a) or (b) shall participate for at least 20 hours each week in core

welfare-to-work activities. The welfare-to-work activities listed in subdivisions (a) to (j), inclusive, and (m) and (n) of Section 11322.6, are core activities for the purposes of this section. Participation in core activities under subdivision (m) of Section 11322.6 shall be limited to a total of 12 months. Additional hours that the applicant or recipient is required to participate under subdivisions (a) or (b) of this section may be satisfied by any of the welfare-to-work activities described in Section 11322.6 that are consistent with the assessment performed in accordance with Section 11325.4, and included in the individual's welfare-to-work plan, described in Section 11325.21.

(d) Hours spent in activities listed under subdivision (q) of Section 11322.6 shall count toward the core activity requirement in subdivision (c) to the extent that these activities are necessary to enable the individual to participate in core activities and to the extent these activities cannot be accomplished within the additional noncore hours of participation required by subdivision (c).

(e) Hours spent in classroom, laboratory, or internship activities pursuant to subdivisions (k), (*l*), and (o) of Section 11322.6 shall count toward the core activity requirement in subdivision (c) to the extent these activities cannot be accomplished within the additional noncore hours of participation, the county determines the program is likely to lead to self-supporting employment, and the recipient makes satisfactory progress. The provisions in paragraph (2), and subparagraphs (A) and (B) of paragraph (3), of subdivision (a) of Section 11325.23 shall apply to participants in these activities.

SEC. 22. Section 11322.9 of the Welfare and Institutions Code is amended to read:

11322.9. (a) Community service activities shall meet all of the following criteria:

(1) Be performed in the public and private nonprofit sector.

(2) Provide participants with job skills that can lead to unsubsidized employment.

(3) Comply with the antidisplacement provisions contained in Section 11324.6.

(b) Participants in community service activities shall do all of the following:

(1) Participate in a community service activity for the number of hours required by Section 11322.8, unless fewer hours of community service participation are required by federal law.

(2) Participate in other work activities for the number of hours equal to the difference between the hours of participation in community service and the number of hours of participation required under Section 11322.8.

(c) The county plan pursuant to Section 10531 shall include a component, developed by the county in collaboration with local private sector employers, local education agencies, county welfare departments, organized labor, recipients of aid under this chapter, and government and community-based organizations providing job training and economic development, in order to identify all of the following:

(1) Unmet community needs that could be met through community service activities.

(2) The target population to be served.

(3) Entities responsible for project development, fiscal administration, and case management services.

(4) The terms of community service activities, that, to the extent feasible, shall be temporary and transitional, and not permanent.

(5) Supportive efforts, including job search, education, and training, which shall be provided to participants in community service activities.

(6) If the county intends to include grant-based on-the-job training in its community service plan, the process by which the county will comply with the voluntary consent form requirement established in subdivision (f) of Section 11322.6, including a list of the languages in which the consent form will be available.

(d) Aid under this chapter for any participant who fails to comply with the requirements of this section without good cause shall be reduced in accordance with Section 11327.5.

SEC. 23. Section 11325.21 of the Welfare and Institutions Code is amended to read:

11325.21. (a) Any individual who is required to participate in welfare-to-work activities pursuant to this article shall enter into a written welfare-to-work plan with the county welfare department after assessment as required by subdivision (b) of Section 11320.1, but no more than 90 days after the date that a recipient's eligibility for aid is determined or the date the recipient is required to participate in welfare-to-work activities pursuant to Section 11320.3. The recipient and the county may enter into a welfare-to-work plan as late as 90 days after the completion of the job search activity, as defined in subdivision (a) of Section 11320.1, if the job search activity is initiated within 30 days after the recipient's eligibility for aid is determined. The plan shall include the activities and services that will move the individual into employment.

(b) The county shall allow the participant three working days after completion of the plan or subsequent amendments to the plan in which to evaluate and request changes to the terms of the plan.

(c) The plan shall be written in clear and understandable language, and have a simple and easy-to-read format.

(d) The plan shall contain at least all of the following general information:

(1) A general description of the program provided for in this article, including available program components and supportive services.

(2) A general description of the rights, duties, and responsibilities of program participants, including a list of the exemptions from the required participation under this article, the consequences of a refusal to participate in program components, and criteria for successful completion of the program.

(3) A description of the grace period required in paragraph (5) of subdivision (b) of Section 11325.22.

(e) The plan shall specify, and shall be amended to reflect changes in, the participant's welfare-to-work activity, a description of services to be provided in accordance with Sections 11322.6, and 11322.8 as needed, and specific requirements for successful completion of assigned activities including required hours of participation.

The plan shall also include a general description of supportive services pursuant to Section 11323.2 that are to be provided as necessary for the participant to complete assigned program activities.

(f) Any assignment to a program component shall be reflected in the plan or an amendment to the plan. The participant shall maintain satisfactory progress toward employment through the methods set forth in the plan, and the county shall provide the services pursuant to Section 11323.2.

(g) This section shall not apply to individuals subject to Article 3.5 (commencing with Section 11331) during the time that article is operative.

SEC. 24. Section 11325.22 of the Welfare and Institutions Code is amended to read:

11325.22. (a) (1) Following the appraisal required by Section 11325.2, all participants except those described in paragraph (4) of this subdivision, shall be assigned to participate for a period of up to four consecutive weeks in job search activities. These activities may include the use of job clubs to identify the participant's qualifications. The county shall consider the skills and interests of the participants in developing a job search strategy. The period of job search activities may be shortened if the participant and the county agree that further activities would not be beneficial. Job search activities may be shortened for a recipient if the county determines that the recipient will not benefit because he or she may suffer from an emotional or mental disability that will limit or preclude the recipient's participation under this article.

(2) Nothing in this section shall require participation in job search activities, the schedule for which interferes with unsubsidized employment or participation pursuant to Section 11325.23.

(3) Job search activities may be required in excess of the limits specified in paragraph (1) on the basis of a review by the county of the recipient's performance during job search to determine whether extending the job search period would result in unsubsidized employment.

(4) A person subject to Article 3.5 (commencing with Section 11331) or subdivision (d) of Section 11320.3 shall not be required, but may be permitted, to participate in job search activities as his or her first program assignment following appraisal upon earning a high school diploma or its equivalent, if she or he has not already taken the option to complete these activities as the first program assignment following appraisal.

(b) (1) Upon the completion of job search activities, or a determination that those activities are not required in accordance with paragraph (3) of subdivision (a), the participant shall be assigned to one or more of the activities described in Section 11322.6 as needed to attain employment.

(2) (A) The assignment to one or more of the program activities as required in paragraph (1) of this subdivision shall be based on the welfare-to-work plan developed pursuant to an assessment as described in Section 11325.4. The plan shall be based, at a minimum, on consideration of the individual's existing education level, employment experience and relevant employment skills, available program resources, and local labor market opportunities.

(B) An assessment pursuant to Section 11325.4 shall be performed upon completion of job search activities or at such time as it is determined that job search will not be beneficial.

(C) Notwithstanding subparagraphs (A) and (B), an assessment shall not be required to develop a welfare-to-work plan for a person who is participating in an approved self-initiated program pursuant to Section 11325.23 unless the county determines that an assessment is necessary to meet the hours specified in Section 11325.23.

(3) A participant who lacks basic literacy or mathematics skills, a high school diploma or general educational development certificate, or English language skills, shall be assigned to participate in adult basic education as described in subdivision (k) of Section 11322.6, as appropriate and necessary for removal of the individual's barriers to employment.

(4) Participation in activities assigned pursuant to this section may be sequential or concurrent. The county may require concurrent participation in the assigned activities if it is appropriate to the

participant's abilities, consistent with the participant's welfare-to-work plan, and the activities can be concurrently scheduled.

(5) The participant has 30 days from the beginning of the initial training or education assignment in which to request a change or reassignment to another component. The county shall grant the participant's request for reassignment if another assignment is available that is consistent with the participant's welfare-to-work plan and the county determines the other assignment will readily lead to employment. This grace period shall be available only once to each participant.

(c) Any assignment or change in assignment to a program activity pursuant to this section shall be included in the welfare-to-work plan, or an amendment to the plan, as required in Section 11325.21.

(d) A participant who has not obtained unsubsidized employment upon completion of the activities in a welfare-to-work plan developed pursuant to the job search activities required by subdivision (a) and an assessment required by subdivision (b) shall be referred to reappraisal as described in Section 11326.

(e) The criteria for successful completion of an assigned education or training activity shall include regular attendance, satisfactory progress, and completion of the assignment. A person who fails or refuses to comply with program requirements for participation in the activities assigned pursuant to this section shall be subject to Sections 11327.4 and 11327.5.

(f) Except as provided in paragraph (4) of subdivision (a), this section shall not apply to individuals subject to Article 3.5 (commencing with Section 11331) during the time that article is operative.

SEC. 25. Section 11325.23 of the Welfare and Institutions Code is amended to read:

11325.23. (a) (1) Except as provided in paragraph (2), any student who, at the time he or she is required to participate under this article pursuant to Section 11320.3, is enrolled in any undergraduate degree or certificate program that leads to employment may continue in that program if he or she is making satisfactory progress in that program, the county determines that continuing in the program is likely to lead to self-supporting employment for that recipient, and the welfare-to-work plan reflects that determination.

(2) Any individual who possesses a baccalaureate degree shall not be eligible to participate under this section unless the individual is pursuing a California regular classroom teaching credential in a college or university with an approved teacher credential preparation program.

(3) (A) Subject to the limitation provided in subdivision (f), a program shall be determined to lead to employment if it is on a list of

programs that the county welfare department and local education agencies or providers agree lead to employment. The list shall be agreed to annually, with the first list completed no later than January 31, 1998. By January 1, 2000, all educational providers shall report data regarding programs on the list for the purposes of the report card established under Section 15037.1 of the Unemployment Insurance Code for the programs to remain on the list.

(B) For students not in a program on the list prepared under subparagraph (A), the county shall determine if the program leads to employment. The recipient shall be allowed to continue in the program if the recipient demonstrates to the county that the program will lead to self-supporting employment for that recipient and the documentation is included in the welfare-to-work plan.

(C) If participation in educational or vocational training, as determined by the number of hours required for classroom, laboratory, or internship activities, is not at least 32 hours, the county shall require concurrent participation in work activities pursuant to subdivisions (a) to (j), inclusive, of Section 11322.6 and Section 11325.22.

(b) Participation in the self-initiated education or vocational training program shall be reflected in the welfare-to-work plan required by Section 11325.21. The welfare-to-work plan shall provide that whenever an individual ceases to participate in, refuses to attend regularly, or does not maintain satisfactory progress in the self-initiated program, the individual shall participate under this article in accordance with Section 11325.22.

(c) Any person whose previously approved self-initiated education or training program is interrupted for reasons that meet the good cause criteria specified in subdivision (f) of Section 11320.3 may resume participation in the same program if the participant maintained good standing in the program while participating and the self-initiated program continues to meet the approval criteria.

(d) Supportive services reimbursement shall be provided for any participant in a self-initiated training or education program approved under this subdivision. This reimbursement shall be provided if no other source of funding for those costs is available. Any offset to supportive services payments shall be made in accordance with subdivision (e) of Section 11323.4.

(e) Any student who, at the time he or she is required to participate under this article pursuant to Section 11320.3, has been enrolled and is making satisfactory progress in a degree or certificate program, but does not meet the criteria set forth in subdivision (a), shall have until the beginning of the next educational semester or quarter break to continue his or her educational program if he or she continues to make satisfactory

progress. At the time the educational break occurs, the individual is required to participate pursuant to Section 11320.1. A recipient not expected to complete the program by the next break may continue his or her education, provided he or she transfers at the end of the current quarter or semester to a program that qualifies under that subdivision, the county determines that participation is likely to lead to self-supporting employment of the recipient, and the welfare-to-work plan reflects that determination.

(f) Any degree, certificate, or vocational program offered by a private postsecondary training provider shall not be approved under this section unless the program is either approved or exempted by the appropriate state regulatory agency and the program is in compliance with all other provisions of law.

SEC. 26. Section 11325.7 of the Welfare and Institutions Code is amended to read:

11325.7. (a) It is the intent of the Legislature in enacting this section to create a funding stream and program that assists certain recipients of aid under this chapter to receive necessary mental health services, including case management and treatment, thereby enabling them to make the transition from welfare to work. This funding stream shall be used specifically to serve recipients in need of mental health services, and shall be accounted for and expended by each county in a manner that ensures that recipients in need of mental health services are receiving appropriate services.

(b) The county plan required by Section 10531 shall include a plan for the development of mental health employment assistance services, developed jointly by the county welfare department and the county department of mental health. The plan shall have as its goal the treatment of mental or emotional disabilities that may limit or impair the ability of a recipient to make the transition from welfare-to-work, or that may limit or impair the ability to retain employment over a long-term period. The plan shall be developed in a manner consistent with both the county's welfare-to-work program and the county's consolidated mental health Medi-Cal services plan. The county may use community based providers, as necessary, that have experience in addressing the needs of the CalWORKs population. The county, whenever possible, shall ensure that the services provided qualify for federal reimbursement of the nonstate share of Medi-Cal costs.

(c) Subject to specific expenditure authority, mental health services available under this section shall include all of the following elements:

(1) Assessment for the purpose of identifying the level of the participant's mental health needs and the appropriate level of treatment and rehabilitation for the participant.

(2) Case management, as appropriate, as determined by the county.

(3) Treatment and rehabilitation services, that shall include counseling, as necessary to overcome mental health barriers to employment and mental health barriers to retaining employment, in coordination with an individual's welfare-to-work plan.

(4) In cases where a secondary diagnosis of substance abuse is made in a person referred for mental or emotional disorders, the welfare-to-work plan shall also address the substance abuse treatment needs of the participant.

(5) A process by which the county can identify those with severe mental disabilities that may qualify them for aid under Chapter 3 (commencing with Section 12000).

(d) Any funds appropriated by the Legislature to cover the nonfederal costs of the mental health employment assistance services required by this section shall be allocated consistent with the formula used to distribute each county's CalWORKs program allocation. Each county shall report annually to the state the number of CalWORKs program recipients who received mental health services and the extent to which the allocation is sufficient to meet the need for these services as determined by the county. The State Department of Mental Health shall develop a uniform methodology for ensuring that this allocation supplements and does not supplant current expenditure levels for mental health services for this population.

SEC. 27. Section 11326 of the Welfare and Institutions Code is amended to read:

11326. (a) The county shall conduct a reappraisal of any participant who does not obtain unsubsidized employment upon completion of all activities included in the welfare-to-work plan developed pursuant to Section 11325.4. The reappraisal shall evaluate whether there are extenuating circumstances as defined by the county that prevent the participant from obtaining employment within the local labor market area.

(b) Upon a determination that extenuating circumstances exist, the participant shall be assigned to additional activities in accordance with subdivision (b) of Section 11325.22 as the county determines to be appropriate and necessary.

(c) Upon a determination that no extenuating circumstances exist, and until this determination is reversed, the participant shall be limited to the activities in subdivisions (a), (d), (i), (*l*), and (q) of Section 11322.6. Participation in those activities shall be subject to the requirements of Section 11322.8.

SEC. 28. Section 11401.5 is added to the Welfare and Institutions Code, to read:

11401.5. (a) The county shall redetermine AFDC-FC eligibility annually and no less than required under federal law. This shall include an examination of any circumstances of a foster child that are subject to change and could effect the child's potential eligibility, including, but not limited to, deprivation, financial need, authority for placement, eligible facility, and age.

(b) At the time of the redetermination, the parent or legal guardian from whom the child was removed shall complete a statement of facts supporting continued eligibility. If the parent or legal guardian is unavailable or uncooperative, the county shall complete the statement of facts on the child's behalf.

SEC. 29. Section 11403.1 of the Welfare and Institutions Code is amended to read:

11403.1. (a) (1) The Legislature finds and declares that former foster youth are a vulnerable population at risk of homelessness, unemployment, welfare dependency, incarceration, and other adverse outcomes if they exit the foster care system unprepared to become self-sufficient. Unlike many young individuals 18 years of age who can depend on family for ongoing support while they complete postsecondary education or develop career opportunities, emancipating foster youth have their primary source of support, AFDC-Foster Care payments, terminated at 18 years of age and are then dependent on their own resources for self-support. Some foster youth are not able to complete high school or other education or training programs due to ongoing trauma from the parental abuse or neglect and gaps in their educational attainment stemming from the original removal and subsequent changes in placement.

(2) Completion of an educational or training program is an essential, minimum skill needed by foster youth in order to be competitive in today's economy.

(3) It is therefore the intent of the Legislature to create, for counties that opt to participate, the Supportive Transitional Emancipation Program (STEP) in which emancipated foster youth shall be eligible to receive support while participating in an educational or training program, or any activity consistent with their transitional independent living plan up to 21 years of age.

(b) A person who meets all of the following conditions shall be eligible to receive aid under this section:

(1) The person either was in foster care and emancipated upon reaching the age limitations specified in Section 11401 or received aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) and emancipated upon reaching the age limitations specified in Section 11363.

(2) The person is participating in an educational or training program, or any activity consistent with his or her transitional independent living plan.

(3) The person is under 21 years of age.

(4) The person has emancipated from a county that is participating in the STEP program.

(c) Aid under this section shall be provided pursuant to a transitional independent living plan mutually agreed upon by the emancipated foster youth and the county welfare or probation department or independent living program coordinator, which shall be reviewed annually. The youth participating in STEP has the responsibility to inform the county of changes to the conditions in the agreed-upon plan that affect payment of aid, including changes in address, living circumstances, and the educational or training program.

(d) For purposes of this section, ''emancipated foster youth'' means a person who meets the eligibility criteria in subdivision (b).

(e) (1) In determining the amount of aid under this section, the rate provided to the youth shall be equivalent to the basic rate provided to a foster family home provider pursuant to Section 11461.

(2) If the emancipated youth remains in placement, payment shall be made to the care provider, including a transitional housing placement program, at a rate equivalent to the basic rate provided to a foster family home provider pursuant to Section 11461.

(f) Unless otherwise provided by federal law, receipt of aid under this section shall not be considered income either for purposes of eligibility for services provided in other federal or state programs, or for grants that may be provided by an institution of higher education, including, but not limited to, Cal Grants or other grants or fee waivers.

(g) (1) Aid under this section shall be provided to eligible youth who have emancipated from a county that elects to participate under this section.

(2) Each participating county welfare department shall notify all foster youth in that county, including those receiving Kin-GAP, ages 16 to 19 years, inclusive, of the existence of the program prescribed by this section.

(h) The department shall seek any federal funds available for implementation of this section, including, but not limited to, funds available under Title IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.). Implementation of this section shall not, however, be contingent upon receipt of any federal funding. The department shall seek any waiver from the Secretary of the United States Department of Health and Human Services that is necessary to implement this section.

(i) Funding shall be subject to the sharing ratios specified in subdivision (c) of Section 15200.

(j) This section shall be implemented only to the extent funds are appropriated for that purpose in the annual Budget Act.

(k) This section shall be operative on January 1, 2002.

SEC. 30. Section 11403.3 of the Welfare and Institutions Code is amended to read:

11403.3. (a) (1) Subject to subdivision (b), a transitional housing placement program, as defined in Section 11400, that provides transitional housing services to an eligible youth in a facility licensed pursuant to subdivision (a) of Section 1559.110 of the Health and Safety Code, shall be paid a monthly rate that is 75 percent of the average foster care expenditures for foster youth 16 to 18 years of age, inclusive, in group home care in the county in which the program operates.

(2) Subject to subdivision (c), a transitional housing placement program, as defined in Section 11400, that provides transitional housing services to an eligible youth in a facility certified pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code, shall be paid a monthly rate that is 70 percent of the average foster care expenditures for foster youth 16 to 18 years of age, inclusive, in group home care in the county in which the program operates.

(b) Payment to a transitional housing placement program for transitional housing services provided to a person described in paragraph (1) of subdivision (a) of Section 11403.2 shall be subject to the following conditions:

(1) An amount equal to the base rate, as defined in subdivision (d), shall be paid for transitional housing services provided.

(2) Any additional amount payable pursuant to subdivision (a) shall be contingent on both of the following:

(A) The availability of moneys in the Transitional Housing for Foster Youth Fund established in Section 11403.4, or in the annual Budget Act, to pay the state share of cost of the additional amount.

(B) Election by the county placing the youth in the transitional housing placement program to participate in the costs of the additional amount, pursuant to subdivision (g).

(c) (1) Payment to a transitional housing placement program for transitional housing services provided pursuant to paragraph (2) of subdivision (a) of Section 11403.2 shall be subject to the following conditions:

(A) Any Supportive Transitional Emancipation Program (STEP) payment payable pursuant to Section 11403.1 shall be paid for transitional housing services provided.

(B) Any amount payable pursuant to subdivision (a) to a transitional housing placement program for services provided to a person described in paragraph (2) of subdivision (a) of Section 11403.2 shall be paid contingent on both of the following:

(i) The availability of moneys in the Transitional Housing for Foster Youth Fund established in Section 11403.4, or in the annual Budget Act, to pay the state share of cost of the payment.

(ii) Election by the county from which the person has emancipated to participate in the costs of the payment, pursuant to subdivision (g).

(2) The department may limit new participants into transitional housing placement programs if costs for this subdivision are projected to exceed moneys available in the Transitional Housing for Foster Youth Fund established in Section 11403.4, or the moneys appropriated for this purpose in the annual Budget Act.

(d) (1) As used in this section, ''base rate'' means the rate a transitional housing placement program was approved to receive on June 30, 2001. If a program commences operation after this date, the base rate shall be the rate the program would have received if it had been operational on June 30, 2001.

(2) Notwithstanding subdivision (a), no transitional housing placement program with an approved rate on July 1, 2001, shall receive a lower rate than its base rate.

(e) Any reductions in payments to a transitional housing placement program pursuant to the implementation of paragraph (2) of subdivision (b) or subparagraph (B) of paragraph (1) of subdivision (c) shall not preclude the program from acquiring from other sources, additional funding necessary to provide program services.

(f) The department shall develop, implement, and maintain a ratesetting system schedule for transitional housing placement programs pursuant to subdivisions (a) to (d), inclusive.

(g) Funding for the rates payable under this section shall be subject to the sharing ratios specified in subdivision (c) of Section 15200.

SEC. 31. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), the amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living. These adjustments shall become effective July 1 of each year, unless otherwise specified by the Legislature. For the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, these adjustments shall become effective October 1 of each year. The cost-of-living adjustment shall be calculated by the Department of Finance based on the changes in the California Necessities Index, which

as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current

year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, to reflect any change in the cost of living. For the 1998–99 fiscal year, the cost-of-living adjustment that would have been provided on July 1, 1998, pursuant to subdivision (a) shall be made on November 1, 1998. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(3) In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is any increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then the increase pursuant to subdivision (a) of this section shall occur. In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is no increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then any increase pursuant to subdivision (a) of this section shall be suspended.

(4) Notwithstanding paragraph (3), an adjustment to the maximum aid payments set forth in subdivision (a) of Section 11450 shall be made under this section for the 2002–03 fiscal year, but the adjustment shall become effective June 1, 2003.

(d) For the 2004–05 fiscal year, the adjustment to the maximum aid payment set forth in subdivision (a) shall be suspended for three months commencing on the first day of the first month following the effective date of the act adding this subdivision.

(e) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the cost of living was suspended pursuant to subdivision (c).

SEC. 32. Section 11454 of the Welfare and Institutions Code is amended to read:

11454. (a) A parent or caretaker relative shall not be eligible for aid under this chapter when he or she has received aid under this chapter or from any state under the Temporary Assistance for Needy Families program (Part A (commencing with Section 401) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.) for a cumulative total of 60 months.

(b) No month in which aid has been received prior to January 1, 1998, shall be taken into consideration in computing the 60-month limitation provided for in subdivision (a).

(c) Subdivision (a) shall not be applicable when all parent or caretaker relatives of the aided child who are living in the home of the child meet any of the following requirements:

(1) They are 60 years of age or older.

(2) They meet one of the conditions specified in paragraph (4) or (5) of subdivision (b) of Section 11320.3.

(3) They are not included in the assistance unit.

(4) They are receiving benefits under Section 12200 or Section 12300, State Disability Insurance benefits or Workers' Compensation Temporary Disability Insurance, if the disability significantly impairs the recipient's ability to be regularly employed or participate in welfare-to-work activities.

(5) They are incapable of maintaining employment or participating in welfare-to-work activities, as determined by the county, based on the assessment of the individual and the individual has a history of participation and full cooperation in welfare-to-work activities.

SEC. 33. Section 11454.5 of the Welfare and Institutions Code is amended to read:

11454.5. (a) Any month in which the following conditions exist shall not be counted as a month of receipt of aid for the purposes of subdivision (a) of Section 11454:

(1) The recipient is exempt from participation under Article 3.2 (commencing with Section 11320) due to disability, or advanced age in accordance with paragraph (3) of subdivision (b) of Section 11320.3, or due to caretaking responsibilities that impair the recipient's ability to be regularly employed, in accordance with paragraph (4) or (5) of subdivision (b) of Section 11320.3.

(2) The recipient is eligible for, participating in, or exempt from, the Cal-Learn Program provided for pursuant to Article 3.5 (commencing

with Section 11331) or is participating in another teen parent program approved by the department.

(3) The cost of the cash aid provided to the recipient for the month is fully reimbursed by child support, whether collected in that month or any subsequent month.

(4) The family is a former recipient of cash aid under this chapter and currently receives only child care, case management, or supportive services pursuant to Section 11323.2 or Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code.

(5) To the extent provided by federal law, the recipient lived in Indian country, as defined by federal law, or an Alaskan native village in which at least 50 percent of the adults living in the Indian country or in the village are not employed.

(b) In cases where a lump-sum diversion payment is provided in lieu of cash aid under Section 11266.5, the month in which the payment is made or the months calculated pursuant to subdivision (f) of Section 11266.5 shall count against the limits specified in Section 11454.

SEC. 34. Section 11454.6 of the Welfare and Institutions Code is amended to read:

11454.6. (a) Notwithstanding Section 15200, to the extent that the exemptions from the time limits on aid specified in paragraphs (1), (2), (4), and (5) of subdivision (c) of Section 11454 and subdivision (a) of Section 11454.5 exceed 20 percent of the number of families aided in a county, for a period as determined by the United States Department of Health and Human Services, for purposes of measuring the hardship exemption for time limits, the county shall be responsible for the amount of aid that would otherwise have been paid through federal Temporary Assistance for Needy Families block grant funds pursuant to Section 11450, with respect to those persons exempt under either paragraphs (1), (2), (4), and (5) of subdivision (c) of Section 11454 or subdivision (a) of Section 11454.5 that exceed the 20 percent hardship exemption during the period determined by the United States Department of Health and Human Services and provided for in federal law.

(b) Subdivision (a) shall not apply if the statewide percentage of families aided during that period is 20 percent or less.

(c) The department may determine that a county has good cause for exceeding the 20-percent limitation provided for in subdivision (a). Under this determination, the county share may be reduced or waived by the department.

(d) It is the intent of the Legislature that the steering committee as specified in Section 10544.317 review this provision to ensure that:

(1) The state does not exceed the limit on hardship exemptions as provided in federal law.

(2) Counties are not penalized for circumstances beyond their control and that statewide flexibility for allocation of the percentages is assured.

(3) Recipients will have access to the hardship exemption, regardless of their county of origin.

SEC. 35. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

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

(3) (A) The department shall determine, consistent with the requirements of this chapter and other relevant requirements under law, the rate classification level (RCL) for each group home program on a biennial basis. Submission of the biennial rate application shall be made according to a schedule determined by the department.

(B) The department shall adopt regulations to implement this paragraph. The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement to describe specific facts showing the need for immediate action.

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

(c) The rate for each RCL has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal

year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

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

(e) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) (A) For new and existing providers requesting the establishment of an RCL, and for existing group home programs requesting an RCL increase, the department shall determine the RCL no later than 13 months after the effective date of the provisional rate. The determination of the RCL shall be based on a program audit of documentation and other information that verifies the level of care and supervision provided by the group home program during a period of the two full calendar months or 60 consecutive days, whichever is longer, preceding the date of the program audit, unless the group home program requests a lower RCL. The program audit shall not cover the first six months of operation under the provisional rate. Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

(B) A group home program may apply for an increase in its RCL no earlier than two years from the date the department has determined the group home program's rate, unless the host county, the primary placing county, or a regional consortium of counties submits to the department in writing that the program is needed in that county, that the provider is capable of effectively and efficiently operating the proposed program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(C) To ensure efficient administration of the department's audit responsibilities, and to avoid the fraudulent creation of records, group home programs shall make records that are relevant to the RCL determination available to the department in a timely manner. Except as

provided in this section, the department may refuse to consider, for purposes of determining the rate, any documents that are relevant to the determination of the RCL that are not made available by the group home provider by the date the group home provider requests a hearing on the department's RCL determination. The department may refuse to consider, for purposes of determining the rate, the following records, unless the group home provider makes the records available to the department during the fieldwork portion of the department's program audit:

(i) Records of each employee's full name, home address, occupation, and social security number.

(ii) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals, and total daily hours worked.

(iii) Total wages paid each payroll period.

(iv) Records required to be maintained by licensed group home providers under Title 22 of the California Code of Regulations that are relevant to the RCL determination.

(D) To minimize financial abuse in the startup of group home programs, when the department's RCL determination is more than three levels lower than the RCL level proposed by the group home provider, and the group home provider does not appeal the department's RCL determination, the department shall terminate the rate of a group home program 45 days after issuance of its program audit report. When the group home provider requests a hearing on the department's RCL determination, and the RCL determined by the director under subparagraph (E) is more than three levels lower than the RCL level proposed by the group home provider, the department shall terminate the rate of a group home program within 30 days of issuance of the director's decision. Notwithstanding the reapplication provisions in subparagraph (B), the department shall deny any request for a new or increased RCL from a group home provider whose RCL is terminated pursuant to this subparagraph, for a period of no greater than two years from the effective date of the RCL termination.

(E) A group home provider may request a hearing of the department's RCL determination under subparagraph (A) no later than 30 days after the date the department issues its RCL determination. The department's RCL determination shall be final if the group home provider does not request a hearing within the prescribed time. Within 60 days of receipt of the request for hearing, the department shall conduct a hearing on the RCL determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the

close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

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

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

(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) (1) The standardized schedule of rates for the 2002–03, 2003–04, and 2004–05 fiscal years is:

Rate Classification Level	Point Ranges	FY 2002–03, 2003–04, and 2004–05 Standard Rate
1	Under 60	$1,454
2	60– 89	1,835
3	90–119	2,210
4	120–149	2,589
5	150–179	2,966
6	180–209	3,344
7	210–239	3,723
8	240–269	4,102
9	270–299	4,479
10	300–329	4,858
11	330–359	5,234

12	360–389	5,613
13	390–419	5,994
14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002–03, 2003–04, and 2004–05 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate Classification Level	Adjusted Point Ranges for the 2002–03, 2003–04, and 2004–05 Fiscal Years
1	Under 54
2	54– 81
3	82–110
4	111–138
5	139–167
6	168–195
7	196–224
8	225–253
9	254–281
10	282–310
11	311–338
12	339–367
13	368–395
14	396 & Up

(B) Notwithstanding subparagraph (A), foster care providers operating group homes during the 2002–03, 2003–04, and 2004–05 fiscal years shall remain responsible for ensuring the health and safety of the children placed in their programs in accordance with existing applicable provisions of the Health and Safety Code and community care licensing regulations, as contained in Title 22 of the Code of California Regulations.

(C) Subparagraph (A) shall not apply to program audits of group home programs with provisional rates established pursuant to paragraph (1) of subdivision (e). For those program audits, the RCL point ranges in paragraph (1) shall be used.

(g) (1) (A) For the 1999–2000 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453. The resultant amounts shall constitute the new standardized schedule of rates, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment in subparagraph (A), commencing January 1, 2000, the standardized rate for each RCL shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized schedule of rates.

(2) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts shall constitute the new standardized schedule of rates.

(3) Effective January 1, 2001, the amount included in the standard rate for each Rate Classification Level for the salaries, wages, and benefits for staff providing child care and supervision or performing social work activities, or both, shall be increased by 10 percent. This additional funding shall be used by group home programs solely to supplement staffing, salaries, wages, and benefit levels of staff specified in this paragraph. The standard rate for each RCL shall be recomputed using this adjusted amount and the resultant rates shall constitute the new standardized schedule of rates. The department may require a group home receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

(h) The standardized schedule of rates pursuant to subdivisions (f) and (g) shall be implemented as follows:

(1) Any group home program that received an AFDC-FC rate in the prior fiscal year at or above the standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(2) Any group home program that received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive the RCL rate for the current year.

(i) (1) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(2) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(3) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, ''program change'' means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 2000, and as adjusted pursuant to subparagraph (B) of paragraph (1) of subdivision (g), except as provided in paragraph (3).

(3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the department shall not establish a rate for a new program of a new or existing provider or approve a program change for an existing provider that either increases the program's RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another program with a lower RCL or lower AFDC-FC rate that is operated by that provider, unless both of the following conditions are met.

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if both of the following conditions are met:

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The department determines that the new program or program change will result in a reduction of referrals to state hospitals during the 1998–99 fiscal year.

(*l*) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(m) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

SEC. 36. Section 11462.06 of the Welfare and Institutions Code is amended to read:

11462.06. (a) For purposes of the administration of this article, including the setting of group home rates, the department shall deem the reasonable costs of leases for shelter care for foster children to be allowable costs. Reimbursement of shelter costs shall not exceed 12 percent of the fair market value of owned, leased, or rented buildings, including any structures, improvements, edifices, land, grounds, and other similar property that is owned, leased, or rented by the group home and that is used for group home programs and activities, exclusive of idle capacity and capacity used for nongroup home programs and activities. Shelter costs shall be considered reasonable in relation to the fair market value limit as described in subdivision (b).

(b) For purposes of this section, fair market value of leased property shall be determined by either of the following methods, as chosen by the provider:

(1) The market value shown on the last tax bill for the cost reporting period.

(2) The market value determined by an independent appraisal. The appraisal shall be performed by a qualified, professional appraiser who, at a minimum, meets standards for appraisers as specified in Chapter 6.5 (commencing with Section 3500) of Title 10 of the California Code of Regulations. The appraisal shall not be deemed independent if performed under a less-than-arms-length agreement, or if performed by a person or persons employed by, or under contract with, the group home for purposes other than performing appraisals, or by a person having a

material interest in any group home which receives foster care payments. If the department believes an appraisal does not meet these standards, the department shall give its reasons in writing to the provider and provide an opportunity for appeal.

(c) (1) The department may adopt emergency regulations in order to implement this section, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The adoption of emergency regulations pursuant to this section shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(3) Emergency regulations adopted pursuant to this section shall be exempt from the review and approval of the Office of Administrative Law.

(4) The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(d) (1) Commencing July 1, 2003, any group home provider with a self-dealing lease transaction for shelter costs, as defined in Section 5233 of the Corporations Code, shall not be eligible for an AFDC-FC rate.

(2) Notwithstanding paragraph (1), providers that received an approval letter for a self-dealing lease transaction for shelter costs during the 2002–03 fiscal year from the Charitable Trust Section of the Department of Justice shall be eligible to continue to receive an AFDC-FC rate until the date that the lease expires, or is modified, extended, or terminated, whichever occurs first. These providers shall be ineligible to receive an AFDC-FC rate after that date if they have entered into any self-dealing lease transactions for group home shelter costs.

SEC. 37. Section 11466.21 of the Welfare and Institutions Code is amended to read:

11466.21. (a) In accordance with subdivision (b), as a condition to receive an AFDC-FC rate for a group home program or a foster family agency program that provides treatment services, the following shall apply:

(1) Any provider who receives three hundred thousand dollars ($300,000) or more in combined federal funds shall arrange to have a financial audit conducted on an annual basis, and shall submit the annual financial audit to the department in accordance with regulations adopted by the department.

(2) Any provider who receives less than three hundred thousand dollars ($300,000) in combined federal funds shall submit to the

department a financial audit on its most recent fiscal period at least once every three years. The department shall provide timely notice to the providers of the date that submission of the financial audit is required. That date of submission of the financial audit shall be no later than six months from the close of the provider's most recent fiscal period.

(3) The scope of the financial audit shall include all of the programs and activities operated by the provider and shall not be limited to those funded in whole or in part by the AFDC-FC program. The financial audits shall include, but not be limited to, an evaluation of the accounting and control systems of the provider.

(4) The provider shall have its financial audit conducted by certified public accountants or by state-licensed public accountants who have no direct or indirect relationship with the functions or activities being audited, or with the provider, its board of directors, officers, or staff.

(5) The provider shall have its financial audits conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States and in compliance with generally accepted accounting principles applicable to private entities organized and operated on a nonprofit basis.

(6) (A) Each provider shall have the flexibility to define the calendar months included in its fiscal year.

(B) A provider may change the definition of its fiscal year. However, the financial audit conducted following the change shall cover all of the months since the last audit, even though this may cover a period that exceeds 12 months.

(b) (1) In accordance with subdivision (a), as a condition to receive an AFDC-FC rate that becomes effective on or after July 1, 2000, a provider shall submit a copy of its most recent financial audit report, except as provided in paragraph (3).

(2) The department shall terminate the rate of a provider who fails to submit a copy of its most recent financial audit pursuant to subdivision (a). A terminated rate shall only be reinstated upon the provider's submission of an acceptable financial audit.

(3) Effective July 1, 2000, a new provider that has been incorporated for fewer than 12 calendar months shall not be required to submit a copy of a financial audit to receive an AFDC-FC rate for a new program. The financial audit shall be conducted on the provider's next full fiscal year of operation. The provider shall submit the financial audit to the department in accordance with subdivision (a).

(c) The department shall implement this section through the adoption of emergency regulations.

SEC. 38. Section 11486.3 is added to the Welfare and Institutions Code, to read:

11486.3. (a) The department, in consultation with system stakeholders, including county welfare departments, shall examine the CalWORKs sanction policy, its implementation, and effect on work participation, including but not limited to all of the following:

(1) The characteristics of the persons being sanctioned.

(2) The reason participants are being sanctioned.

(3) The length of time in sanctioned status.

(4) Positive and negative sanction outcomes.

(5) County variances in sanction policies, rates, and outcomes.

(6) The relationship between sanction rates and work participation.

(7) The impact of sanctions on families and their ability to become self-sufficient.

(8) Adequacy of procedures to resolve noncompliance prior to the implementation of sanctions.

(b) The department shall develop recommendations to improve the effectiveness of sanctions in achieving participant compliance, assisting families in becoming self-sufficient, and other desired program outcomes.

(c) The department shall report its findings and recommendations to the appropriate fiscal and policy committees of the Legislature by April 1, 2005.

SEC. 39. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. Except as provided in subdivision (e), these adjustments shall become effective January 1 of each year. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends 12 months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and

shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2004 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the cost of living was suspended pursuant to paragraph (1).

(e) For the 2003 calendar year, the adjustment required by this section shall become effective June 1, 2003.

(f) For the 2005 calendar year, the adjustment required by this section shall become effective April 1, 2005.

SEC. 40. Section 12300 of the Welfare and Institutions Code is amended to read:

12300. (a) The purpose of this article is to provide in every county in a manner consistent with this chapter and the annual Budget Act those supportive services identified in this section to aged, blind, or disabled persons, as defined under this chapter, who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided.

(b) Supportive services shall include domestic services and services related to domestic services, heavy cleaning, personal care services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, and paramedical services which make it possible for the recipient to establish and maintain an independent living arrangement.

(c) Personal care services shall mean all of the following:

(1) Assistance with ambulation.

(2) Bathing, oral hygiene, and grooming.

(3) Dressing.

(4) Care and assistance with prosthetic devices.

(5) Bowel, bladder, and menstrual care.
(6) Repositioning, skin care, range of motion exercises, and transfers.
(7) Feeding and assurance of adequate fluid intake.
(8) Respiration.
(9) Assistance with self-administration of medications.

(d) Personal care services are available if these services are provided in the beneficiary's home and other locations as may be authorized by the director. Among the locations that may be authorized by the director under this paragraph is the recipient's place of employment if all of the following conditions are met:

(1) The personal care services are limited to those that are currently authorized for a recipient in the recipient's home and those services are to be utilized by the recipient at the recipient's place of employment to enable the recipient to obtain, retain, or return to work. Authorized services utilized by the recipient at the recipient's place of employment shall be services that are relevant and necessary in supporting and maintaining employment. However, workplace services shall not be used to supplant any reasonable accommodations required of an employer by the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.; ADA) or other legal entitlements or third-party obligations.

(2) The provision of personal care services at the recipient's place of employment shall be authorized only to the extent that the total hours utilized at the workplace are within the total personal care services hours authorized for the recipient in the home. Additional personal care services hours may not be authorized in connection with a recipient's employment.

(e) Where supportive services are provided by a person having the legal duty pursuant to the Family Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

These providers shall be paid only for the following:

(1) Services related to domestic services.
(2) Personal care services.
(3) Accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites.
(4) Protective supervision only as needed because of the functional limitations of the child.
(5) Paramedical services.

(f) To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided. Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.

(g) A person who is eligible to receive a service or services under an approved federal waiver authorized pursuant to Section 14132.951, or a person who is eligible to receive a service or services authorized pursuant to Section 14132.95, shall not be eligible to receive the same service or services pursuant to this article. In the event that the waiver authorized pursuant to Section 14132.951, as approved by the federal government, does not extend eligibility to all persons otherwise eligible for services under this article, or does not cover a service or particular services, or does not cover the scope of a service that a person would otherwise be eligible to receive under this article, those persons who are not eligible for services, or for a particular service under the waiver or Section 14132.95 shall be eligible for services under this article.

(h) (1) All services provided pursuant to this article shall be equal in amount, scope, and duration to the same services provided pursuant to Section 14132.95, including any adjustments that may be made to those services pursuant to subdivision (e) of Section 14132.95.

(2) Notwithstanding any other provision of this article, the rate of reimbursement for in-home supportive services provided through any mode of service shall not exceed the rate of reimbursement established under subdivision (j) of Section 14132.95 for the same mode of service unless otherwise provided in the annual Budget Act.

(3) The maximum number of hours available under Section 14132.95, Section 14132.951, and this section, combined, shall be 283 hours per month. Any recipient of services under this article shall receive no more than the applicable maximum specified in Section 12303.4.

SEC. 41. 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) The county welfare department shall assess each recipient's continuing need for supportive services at varying intervals as necessary, but at least once every 12 months.

(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. 42. Section 12301.2 of the Welfare and Institutions Code is repealed.

SEC. 43. Section 12301.2 is added to the Welfare and Institutions Code, to read:

12301.2. (a) (1) The department, in consultation and coordination with county welfare departments and in accordance with Section 12305.72, shall establish and implement statewide hourly task guidelines and instructions to provide counties with a standard tool for consistently and accurately assessing service needs and authorizing service hours to meet those needs.

(2) The guidelines shall specify a range of time normally required for each supportive service task necessary to ensure the health, safety, and independence of the recipient. The guidelines shall also provide criteria to assist county workers to determine when an individual’s service need falls outside the range of time provided in the guidelines.

(3) In establishing the guidelines the department shall consider, among other factors, adherence to universal precautions, existing utilization patterns and outcomes associated with different levels of utilization, and the need to avoid cost shifting to other government program services. During the development of the guidelines the department may seek advice from health professionals such as public health nurses or physical or occupational therapists.

(b) A county shall use the statewide hourly task guidelines when conducting an individual assessment or reassessment of an individual's need for supportive services.

(c) Subject to the limits imposed by Section 12303.4, counties shall approve an amount of time different from the guideline amount whenever the individual assessment indicates that the recipient's needs require an amount of time that is outside the range provided for in the guidelines. Whenever task times outside the range provided in the guidelines are authorized the county shall document the need for the authorized service level.

(d) The department shall adopt regulations to implement this section by June 30, 2006. The department shall seek input from the entities listed in Section 12305.72 when developing the regulations.

SEC. 44. Section 12301.21 is added to the Welfare and Institutions Code, immediately following Section 12301.2, to read:

12301.21. (a) The department shall, in consultation and coordination with the county welfare departments and in accordance with Section 12305.72, develop for statewide use a standard form on which to obtain certification by a physician or other appropriate medical professional as determined by the department of a person's need for protective supervision.

(b) At the time of an initial assessment at which a recipient's potential need for protective supervision has been identified, the county shall request that a person requesting protective supervision submit the certification to the county. The county shall use the certification in conjunction with other pertinent information to assess the person's need for protective supervision. The certification submitted by the person shall be considered as one indicator of the need for protective supervision, but shall not be determinative. In the event that the person fails to submit the certification, the county shall make its determination of need based upon other available evidence.

(c) At the time of reassessment of a person receiving authorized protective supervision, the county shall determine the need to obtain a new certification. The county may request another certification from a recipient if determined necessary. The county shall document the basis for its determination in the recipient's case file.

(d) (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 chapter 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 promulgated. 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. 45. Section 12305.7 is added to the Welfare and Institutions Code, to read:

12305.7. The department shall perform all of the following activities:

(a) Beginning in the 2004–05 fiscal year, and in each subsequent fiscal year, the department in consultation with the State Department of Health Services and the county welfare departments shall design and conduct an error rate study to estimate the extent of payment and service authorization errors and fraud in the provision of supportive services. The error rate study findings shall be used to prioritize and direct state and county fraud detection and quality improvement efforts. The State Department of Health Services shall provide technical assistance and guidance for the error rate studies as requested by the department.

(b) (1) The department and the State Department of Health Services shall conduct automated data matches to compare Medi-Cal paid claims and third-party liability data with supportive services paid service hours data to identify potential overpayments, duplicate payments, alternative payment sources for supportive services, and other potential supportive services delivery discrepancies, including but not limited to, receipt of supportive services by a recipient on the same day that other potentially duplicative Medi-Cal services are received. Relevant data match findings shall be transmitted to the counties, or to the appropriate state entity, for action.

(2) The department, in consultation with the county welfare departments and the State Department of Health Services, shall determine, define, and issue instructions to the counties describing the roles and responsibilities of the department, the State Department of Health Services, and counties for resolving data match discrepancies requiring followup, defining the necessary actions that will be taken to resolve them, and the process for exchange of information pertaining to the findings and disposition of data match discrepancies.

(c) The department shall develop methods for verifying the receipt of supportive services by program recipients. In developing the specified methods the department shall obtain input from program stakeholders as provided in Section 12305.72. The department shall, in consultation with the county welfare departments, also determine, define, and issue instructions describing the roles and responsibilities of the department and the county welfare departments for evaluating and responding to identified problems and discrepancies.

(d) The department shall make available on its Internet Web site the regulations, all-county letters, approved forms, and training curricula developed and officially issued by the department to implement the items described in Section 12305.72. The department shall inform supportive services providers, recipients, and the general public about the availability of these items and of the Medi-Cal toll free fraud hotline and Web site for reporting suspected fraud or abuse in the provision or receipt of supportive services.

(e) The department shall, in consultation with counties and in accordance with Section 12305.72, develop a standardized curriculum, training materials, and work aids, and operate an ongoing, statewide training program on the supportive services uniformity system for county workers, managers, quality assurance staff, state hearing officers, and public authority or nonprofit consortium staff, to the extent a county operates a public authority or nonprofit consortium. The training shall be expanded to include variable assessment intervals, statewide hourly task guidelines, and use of the protective supervision medical certification form as the development of each of these components is completed. Training shall be scheduled and provided at sites throughout the state. The department may obtain a qualified vendor to assist in the development of the training and to conduct the training program. The design of the training program shall provide reasonable flexibility to allow counties to use their preferred training modalities to educate their supportive services staff in this subject matter.

(f) The department shall, in conjunction with the counties, develop protocols and procedures for monitoring county quality assurance programs. The monitoring may include onsite reviews of county quality

assurance activities. The focus of the established monitoring protocols and procedures shall include determining the extent to which counties are fulfilling their quality assurance responsibilities and county quality assurance staff are correctly applying the uniformity system in reviewing supportive services cases for consistent, appropriate, and accurate service need assessments. The department and the county welfare departments shall also develop the protocols and procedures under which the department will report its monitoring findings to a county, disagreements over the findings are resolved, to the extent possible, and the county, the State Department of Health Services, and the department will follow up on the findings.

(g) The department shall conduct a review of program regulations in effect on the date of enactment of this section and shall revise the regulations as necessary to conform to the statutory changes that have occurred since the regulations were initially promulgated and to conform to federally authorized program changes.

SEC. 46. Section 12305.71 is added to the Welfare and Institutions Code, immediately following Section 12305.7, to read:

12305.71. Counties shall perform the following quality assurance activities:

(a) Establish a dedicated, specialized unit or function to ensure quality assurance and program integrity, including fraud detection and prevention, in the provision of supportive services.

(b) Perform routine, scheduled reviews of supportive services cases, to ensure that caseworkers appropriately apply the supportive services uniformity system and other supportive services rules and policies for assessing recipients' need for services to the end that there are accurate assessments of needs and hours. Counties may consult with state quality assurance staff for technical assistance and shall cooperate with state monitoring of the county's quality assurance activities and findings.

(c) The department and the county welfare departments shall develop policies, procedures, implementation timelines, and instructions under which county quality assurance programs will perform the following activities:

(1) Receiving, resolving, and responding appropriately to claims data match discrepancies or other state level quality assurance and program integrity information that indicates potential overpayments to providers or recipients or third-party liability for supportive services.

(2) Implementing procedures to identify potential sources of third-party liability for supportive services.

(3) Monitoring the delivery of supportive services in the county to detect and prevent potential fraud by providers, recipients, and others

and maximize the recovery of overpayments from providers or recipients.

(4) Informing supportive services providers and recipients, and the public that suspected fraud in the provision or receipt of supportive services can be reported by using the toll-free Medi-Cal fraud telephone hotline and Internet Web site.

(d) Develop a schedule, beginning July 1, 2005, under which county quality assurance staff shall periodically perform targeted quality assurance studies.

(e) In accordance with protocols developed by the department and county welfare departments, conduct joint case review activities with state quality assurance staff, including random postpayment paid claim reviews to ensure that payments to providers were valid and were associated with existing program recipients; identify, refer to, and work with appropriate agencies in investigation, administrative action, or prosecution of instances of fraud in the provision of supportive services. The protocols shall consider the relative priorities of the activities required pursuant to this section and available resources.

SEC. 47. Section 12305.72 is added to the Welfare and Institutions Code, to read:

12305.72. The department shall convene periodic meetings in which supportive services recipients, providers, advocates, IHSS provider representatives, organizations representing recipients, counties, public authorities, nonprofit consortia, and other interested stakeholders may receive information and have the opportunity to provide input to the department regarding the quality assurance, program integrity, and program consistency efforts required by Sections 12305.7 and 12305.71. The program development activities that shall be covered in these meetings shall include, but are not limited to:

(a) Implementation of variable assessment intervals as provided in Section 12301.1.

(b) Development and implementation of statewide hourly supportive services task guidelines as provided in Section 12301.2.

(c) Development and implementation of a standardized medical certification form for protective supervision, as provided for in Section 12301.21.

(d) The development and implementation of statewide training for county staff, as specified in subdivision (e) of Section 12305.7, on various subjects relating to the provision of supportive services including, but not limited to, the uniformity system, variable assessment intervals, statewide hourly task guidelines, and the standardized medical certification form for protective supervision services.

(e) The development and implementation of approaches to verifying receipt of program services by program recipients.

(f) Alternatives to requiring that a full reassessment be completed in order to authorize a temporary increase in supportive services hours following the discharge of a recipient from a medical facility.

SEC. 48. Section 12305.8 is added to the Welfare and Institutions Code, to read:

12305.8. The following definitions apply for purposes of this article:

(a) ''Fraud'' means the intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. Fraud also includes any act that constitutes fraud under applicable federal or state law.

(b) ''Overpayment'' means the amount paid by the department or the State Department of Health Services to a provider or recipient, which is in excess of the amount for services authorized or furnished pursuant to this article.

(c) Notwithstanding any other provision of law, ''health care benefits'' includes supportive services, for purposes of subdivision (a) of Section 550 of the Penal Code.

SEC. 49. Section 12305.81 is added to the Welfare and Institutions Code, immediately following Section 12305.8, to read:

12305.81. (a) Notwithstanding any other provision of law, a person shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act or a violation of subdivision (a) of Section 273a of the Penal Code, or Section 368 of the Penal Code, or similar violations in another jurisdiction. The department and the State Department of Health Services shall develop a provider enrollment form that each person seeking to provide supportive services shall complete, sign under penalty of perjury, and submit to the county. The form shall contain statements to the following effect:

(1) A person who, in the last 10 years, has been convicted for, or incarcerated following conviction for, fraud against a government health care or supportive services program is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

(2) An individual who, in the last 10 years, has been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the Penal Code or Section 368 of the Penal Code, or

similar violations in another jurisdiction, is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

(3) A statement declaring that the person has not, in the last 10 years, been convicted or incarcerated following conviction for a crime involving fraud against a government health care or supportive services program.

(4) A statement declaring that he or she has not, in the last 10 years, been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the Penal Code or Section 368 of the Penal Code, or similar violations in another jurisdiction.

(5) The person agrees to reimburse the state for any overpayment paid to the person as determined in accordance with Section 12305.83, and that the amount of any overpayment, individually or in the aggregate, may be deducted from any future warrant to that person for services provided to any recipient of supportive services, as authorized in Section 12305.83.

(b) The department shall include the text of subdivision (a) of Section 273a of the Penal Code and Section 368 of the Penal Code on the provider enrollment form.

(c) A public authority or nonprofit consortium that is notified by the department or the State Department of Health Services that a supportive services provider is ineligible to receive payments under this chapter or under Medi-Cal law shall exclude that provider from its registry.

(d) A public authority or nonprofit consortium that determines that a registry provider is not eligible to provide supportive services based on the requirements of subdivision (a) shall report that finding to the department.

SEC. 50. Section 12305.82 is added to the Welfare and Institutions Code, to read:

12305.82. (a) In addition to its existing authority under the Medi-Cal program, the State Department of Health Services shall have the authority to investigate fraud in the provision or receipt of supportive services. Counties shall refer instances of suspected fraud in the provision or receipt of supportive services to the State Department of Health Services, which shall investigate all suspected fraud. The department, the State Department of Health Services, and county quality assurance staff shall work together as appropriate to coordinate activities to detect and prevent fraud by supportive services providers and recipients in accordance with federal and state laws and regulations, including applicable due process requirements, to take appropriate administrative action relating to suspected fraud in the provision or receipt of supportive services, and to refer suspected criminal offenses to appropriate law enforcement agencies for prosecution.

(b) If the State Department of Health Services concludes that there is reliable evidence that a supportive services provider has engaged in fraud in connection with the provision or receipt of supportive services, the State Department of Health Services shall notify the department, the county, and the county's public authority or nonprofit consortium, if any, of that conclusion.

SEC. 51. Section 12305.83 is added to the Welfare and Institutions Code, to read:

12305.83. (a) When it has been determined that a provider of supportive services participating under this chapter has received an overpayment that is a debt due and owing, as defined in subdivision (g) of Section 14043.1, the director or the county may, to the extent permissible under existing labor laws, recover the overpayment by offset against any amount currently due to a provider under the provisions of this chapter, Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) or by means of a repayment agreement executed between the provider and the director or the county, or by filing a civil action.

(b) The department, in consultation with the entities listed in Section 12305.72, shall identify, define, and develop policies, procedures, and applicable due process requirements under which overpayments to supportive services providers will be identified and recovered.

(c) If it is determined that an overpayment to a supportive services provider has occurred the county shall:

(1) Take all appropriate actions to recover the full amount of the overpayment by any combination of the following actions:

(A) Offsetting the overpayment from any future warrants to that provider for services provided to any recipient of services pursuant to subdivision (d).

(B) Entering into a negotiated repayment agreement.

(C) Filing a civil court action.

(2) If the overpayment was determined to have occurred as a result of fraud on the part of the supportive services provider, take all appropriate actions to suspend or exclude the provider as an enrolled provider and to prevent in the future any further payment of state or federal funds to the provider for up to 10 years following the conviction or the term of incarceration following the conviction for fraud.

(d) If the overpayment described in this section was determined to be the result of fraud, the full amount of the overpayment may be offset, in total, from any future warrants, as described in paragraph (1) of subdivision (c). If the overpayment is not determined to be the result of fraud the offset shall be limited to either of the following:

(1) The amounts provided for in a repayment agreement negotiated with the provider.

(2) No more than 5 percent of each warrant, for errors caused by the government and no more than 10 percent of each warrant, for errors resulting for any other reason, until the full or negotiated amount is recovered.

SEC. 52. Section 12317 is added to the Welfare and Institutions Code, to read:

12317. (a) The State Department of Social Services shall be responsible for procuring and implementing a new Case Management Information and Payroll System (CMIPS) for the In-Home Supportive Services Program and Personal Care Services Program (IHSS/PCSP). This section shall not be interpreted to transfer any of the IHSS/PCSP policy responsibilities from the State Department of Social Services or the State Department of Health Services.

(b) At a minimum, the new system shall provide case management, payroll, and management information in order to support the IHSS/PCSP, and shall do all of the following:

(1) Provide current and accurate information in order to manage the IHSS/PCSP caseload.

(2) Calculate accurate wage and benefit deductions.

(3) Provide management information to monitor and evaluate the IHSS/PCSP.

(4) Coordinate benefits information and processing with the California Medicaid Management Information System.

(c) The new system shall be consistent with current state and federal laws, shall incorporate technology that can be readily enhanced and modernized for the expected life of the system, and, to the extent possible, shall employ open architectures and standards.

(d) By August 31, 2004, the State Department of Social Services shall begin a fair and open competitive procurement for the new CMIPS. All state agencies shall cooperate with the State Department of Social Services and the California Health and Human Services Agency Data Center to expedite the procurement, design, development, implementation, and operation of the new CMIPS.

(e) The State Department of Social Services, with any necessary assistance from the State Department of Health Services, shall seek all federal approvals and waivers necessary to secure federal financial participation and system design approval of the new system.

SEC. 53. Section 12317.1 is added to the Welfare and Institutions Code, to read:

12317.1. The department may enter into interagency agreements with the State Department of Health Services to administer approved

federal waivers authorized pursuant to Section 14132.951 or services provided under Section 14132.95, and to deliver waiver services in the same manner as services delivered pursuant to this article, and as authorized by Section 1396a(a)(11)(A) of Title 42 of the United States Code, which provides that California's state plan for medical assistance under the Medicaid program allows the State Department of Health Services, as the single state Medicaid agency, to ''enter into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provision of medical assistance under the plan.'' If an interagency agreement is entered into pursuant to this section, it shall come within the provisions of Section 14000.03.

SEC. 54. Section 12317.2 is added to the Welfare and Institutions Code, to read:

12317.2. (a) Except as set forth in subdivision (b), in the event of a conflict between the terms of the waiver approved pursuant to Section 14132.951 and any provision of this part or any regulation adopted for the purpose of implementing this part, the terms of the waiver shall control to the extent that the services are covered under the waiver. If the department determines that a conflict exists, the department shall issue updated instructions to counties for purposes of implementing necessary program changes. The department shall post a copy of, or a link to, the instructions on its Web site.

(b) The authority to waive or modify provisions of this part pursuant to this section does not include the authority to waive or modify the provisions of Section 12301.2, 12301.6, 12302.25, 12306.1, or 12309.

SEC. 55. Section 14132.95 of the Welfare and Institutions Code is amended to read:

14132.95. (a) Personal care services, when provided to a categorically needy person as defined in Section 14050.1 is a covered benefit to the extent federal financial participation is available if these services are:

(1) Provided in the beneficiary's home and other locations as may be authorized by the director subject to federal approval.

(2) Authorized by county social services staff in accordance with a plan of treatment.

(3) Provided by a qualified person.

(4) Provided to a beneficiary who has a chronic, disabling condition that causes functional impairment that is expected to last at least 12 consecutive months or that is expected to result in death within 12 months and who is unable to remain safely at home without the services described in this section.

(b) The department shall seek federal approval of a state plan amendment necessary to include personal care as a Medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations. For any persons who meet the criteria specified in subdivision (a) or (p), but for whom federal financial participation is not available for a service or services under this section, eligibility for the service or services shall be determined according to the waiver authorized pursuant to Section 14132.951. If federal financial participation for the service or services is not available under this section or Section 14132.951, eligibility for the service or services shall be determined pursuant to Article 7 (commencing with Section 12300) of Chapter 3.

(c) Subdivision (a) shall not be implemented unless the department has obtained federal approval of the state plan amendment described in subdivision (b), and the Department of Finance has determined, and has informed the department in writing, that the implementation of this section will not result in additional costs to the state relative to state appropriation for in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3, in the 1992–93 fiscal year.

(d) (1) For purposes of this section, personal care services shall mean all of the following:

(A) Assistance with ambulation.

(B) Bathing, oral hygiene and grooming.

(C) Dressing.

(D) Care and assistance with prosthetic devices.

(E) Bowel, bladder, and menstrual care.

(F) Skin care.

(G) Repositioning, range of motion exercises, and transfers.

(H) Feeding and assurance of adequate fluid intake.

(I) Respiration.

(J) Paramedical services.

(K) Assistance with self-administration of medications.

(2) Ancillary services including meal preparation and cleanup, routine laundry, shopping for food and other necessities, and domestic services may also be provided as long as these ancillary services are subordinate to personal care services. Ancillary services may not be provided separately from the basic personal care services.

(e) (1) (A) After consulting with the State Department of Social Services, the department shall adopt emergency regulations to establish the amount, scope, and duration of personal care services available to persons described in subdivision (a) in the fiscal year whenever the department determines that General Fund expenditures for personal care

services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, are expected to exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992–93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute. At least 30 days prior to filing these regulations with the Secretary of State, the department shall give notice of the expected content of these regulations to the fiscal committees of both houses of the Legislature.

(B) In establishing the amount, scope, and duration of personal care services, the department shall ensure that General Fund expenditures for personal care services provided for under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, do not exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992–93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute.

(C) For purposes of this subdivision, ''caseload growth'' means an adjustment factor determined by the department based on (1) growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability, (2) the average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1988–89 to 1992–93 fiscal years, inclusive, due to the level of impairment, and (3) any increase in program costs that is required by an increase in the mandatory minimum wage.

(2) In establishing the amount, scope, and duration of personal care services pursuant to this subdivision, the department may define and take into account, among other things:

(A) The extent to which the particular personal care services are essential or nonessential.

(B) Standards establishing the medical necessity of the services to be provided.

(C) Utilization controls.

(D) A minimum number of hours of personal care services that must first be assessed as needed as a condition of receiving personal care services pursuant to this section.

The level of personal care services shall be established so as to avoid, to the extent feasible within budgetary constraints, medical out-of-home placements.

(3) To the extent that General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1992–93 fiscal year, adjusted for caseload growth, exceed General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in any fiscal year, the excess of these funds shall be expended for any purpose as directed in the Budget Act or as otherwise statutorily disbursed by the Legislature.

(f) Services pursuant to this section shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home Supportive Services program. A provider of personal care services shall be qualified to provide the service and shall be a person other than a member of the family. For purposes of this section, a family member means a parent of a minor child or a spouse.

(g) The maximum number of hours available under the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3, Section 14132.951, and this section, combined, shall be 283 hours per month.

(h) Personal care services shall not be provided to residents of facilities licensed by the department, and shall not be provided to residents of a community care facility or a residential care facility for the elderly licensed by the Community Care Licensing Division of the State Department of Social Services.

(i) Subject to any limitations that may be imposed pursuant to subdivision (e), determination of need and authorization for services shall be performed in accordance with Article 7 (commencing with Section 12300) of Chapter 3.

(j) (1) To the extent permitted by federal law, reimbursement rates for personal care services shall be equal to the rates in each county for the same mode of services in the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3, plus any increase provided in the annual Budget Act for personal care services rates or included in a county budget pursuant to paragraph (2).

(2) (A) The department shall establish a provider reimbursement rate methodology to determine payment rates for the individual provider mode of service that does all of the following:

(i) Is consistent with the functions and duties of entities created pursuant to Section 12301.6.

(ii) Makes any additional expenditure of state general funds subject to appropriation in the annual Budget Act.

(iii) Permits county-only funds to draw down federal financial participation consistent with federal law.

(B) This ratesetting method shall be in effect in time for any rate increases to be included in the annual Budget Act.

(C) The department may, in establishing the ratesetting method required by subparagraph (A), do both of the following:

(i) Deem the market rate for like work in each county, as determined by the Employment Development Department, to be the cap for increases in payment rates for individual practitioner services.

(ii) Provide for consideration of county input concerning the rate necessary to ensure access to services in that county.

(D) If an increase in individual practitioner rates is included in the annual Budget Act, the state-county sharing ratio shall be as established in Section 12306. If the annual Budget Act does not include an increase in individual practitioner rates, a county may use county-only funds to meet federal financial participation requirements consistent with federal law.

(3) (A) By November 1, 1993, the department shall submit a state plan amendment to the federal Health Care Financing Administration to implement this subdivision. To the extent that any element or requirement of this subdivision is not approved, the department shall submit a request to the federal Health Care Financing Administration for any waivers as would be necessary to implement this subdivision.

(B) The provider reimbursement ratesetting methodology authorized by the amendments to this subdivision in the 1993–94 Regular Session of the Legislature shall not be operative until all necessary federal approvals have been obtained.

(k) (1) The State Department of Social Services shall, by September 1, 1993, notify the following persons that they are eligible to participate in the personal care services program:

(A) Persons eligible for services pursuant to the Pickle Amendment, as adopted October 28, 1976.

(B) Persons eligible for services pursuant to subsection (c) of Section 1383c of Title 42 of the United States Code.

(2) The State Department of Social Services shall, by September 1, 1993, notify persons to whom paragraph (1) applies and who receive

advance payment for in-home supportive services that they will qualify for services under this section without a share of cost if they elect to accept payment for services on an arrears rather than an advance payment basis.

(*l*) An individual who is eligible for services subject to the maximum amount specified in subdivision (b) of Section 12303.4 shall be given the option of hiring his or her own provider.

(m) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to the services.

(n) It is the intent of the Legislature that this entire section be an inseparable whole and that no part of it be severable. If any portion of this section is found to be invalid, as determined by a final judgment of a court of competent jurisdiction, this section shall become inoperative.

(o) Paragraphs (2) and (3) of subdivision (a) shall be implemented so as to conform to federal law authorizing their implementation.

(p) (1) Personal care services shall be provided as a covered benefit to a medically needy aged, blind, or disabled person, as defined in subdivision (a) of Section 14051, to the same extent and under the same requirements as they are provided under subdivision (a) of this section to a categorically needy, aged, blind, or disabled person, as defined in subdivision (a) of Section 14050.1, and to the extent that federal financial participation is available.

(2) The department shall seek federal approval of a state plan amendment necessary to include personal care services described in paragraph (1) as a Medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations.

(3) In the event that the Department of Finance determines that expenditures of both General Fund moneys for personal care services provided under this subdivision to medically needy aged, blind, or disabled persons together with expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for all aged, blind, and disabled persons receiving in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, in the 2000–01 fiscal year or in any subsequent fiscal year, are expected to exceed the General Fund appropriation and the federal appropriation received under Title XX of the federal Social Security Act for expenditures for all aged, blind, and disabled persons receiving in-home supportive services provided in the 1999–2000 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1998, as adjusted for caseload growth or as changed in the Budget Act or by statute or regulation, then this subdivision shall cease to be operative on the first day of the month that

begins after the expiration of a period of 30 days subsequent to a notification in writing by the Director of the Department of Finance to the chairperson of the committee in each house that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(4) Solely for purposes of paragraph (3), caseload growth means an adjustment factor determined by the department based on:

(A) Growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability.

(B) The average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1994–95 to 1998–99 fiscal years, inclusive, due to the level of impairment.

(C) Any increase in program cost that is required by an increase in hourly costs pursuant to the Budget Act or statute.

(5) In the event of a final judicial determination by any court of appellate jurisdiction or a final determination by the Administrator of the federal Centers for Medicare and Medicaid Services that personal care services must be provided to any medically needy person who is not aged, blind, or disabled, then this subdivision shall cease to be operative on the first day of the first month that begins after the expiration of a period of 30 days subsequent to a notification in writing by the Director of Finance to the chairperson of the committee in each house that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(6) If this subdivision ceases to be operative, all aged, blind, and disabled persons who would have been eligible to receive services under this section shall be immediately eligible for services under the IHSS Plus waiver authorized pursuant to Section 14132.951, if otherwise eligible, upon this section becoming inoperative. If this section becomes inoperative and a person is ineligible for the IHSS Plus waiver, then eligibility shall be determined under the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3.

SEC. 56. Section 14132.951 is added to the Welfare and Institutions Code, to read:

14132.951. (a) It is the intent of the Legislature that the State Department of Health Services seek approval of a Medicaid waiver under the federal Social Security Act in order that the services available under Article 7 (commencing with Section 12300) of Chapter 3, known

as the In-Home Supportive Services program, may be provided as a Medi-Cal benefit under this chapter, to the extent federal financial participation is available. The waiver shall be known as the ''IHSS Plus waiver.''

(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section. The director shall have discretion to modify eligibility requirements, benefits, and operational requirements as needed to secure approval of the Medicaid waiver.

(c) Upon implementation of the IHSS Plus waiver, and to the extent federal financial participation is available, the services available through the In-Home Supportive Services program shall be furnished as benefits of the Medi-Cal program through the IHSS Plus waiver to persons who meet the eligibility requirements of the IHSS Plus waiver. The benefits shall be limited by the terms and conditions of the IHSS Plus waiver and by the availability of federal financial participation.

(d) Upon implementation of the IHSS Plus waiver:

(1) A person who is eligible for the IHSS Plus waiver shall no longer be eligible to receive services under the In-Home Supportive Services program to the extent those services are available through the IHSS Plus waiver.

(2) A person shall not be eligible to receive services pursuant to the IHSS Plus waiver to the extent those services are available pursuant to Section 14132.95.

(e) Services provided pursuant to this section shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home Supportive Services program.

(f) Services shall not be provided to residents of facilities licensed by the department, and shall not be provided to residents of a community care facility or a residential care facility for the elderly licensed by the State Department of Social Services.

(g) To the extent permitted by federal law, reimbursement rates for services shall be equal to the rates in each county for the same mode of services in the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3.

(h) (1) Notwithstanding 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 the provisions of this section through all-county welfare director letters or similar publications. Actions taken to implement, interpret, or make specific

this section shall not be subject to the Administrative Procedure Act or to the review and approval of the Office of Administrative Law. Upon request of the department, the Office of Administrative Law shall publish the regulations in the California Code of Regulations. All county welfare director letters or similar publications authorized pursuant to this section shall remain in effect for no more than 18 months.

(2) The department may also adopt emergency regulations implementing the provisions of this section. 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. Any 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 18 months by which time final regulations shall be adopted. The department shall seek input from the entities listed in Section 12305.72 when developing the regulations, all county welfare director letters, or similar publications.

(i) In the event of a conflict between the terms of the IHSS Plus waiver and any provision of this part or any regulation, all-county welfare directors letters or similar publications adopted for the purpose of implementing this part, the terms of the waiver shall control to the extent that the services are covered by the waiver. If the department determines that a conflict exists, the department shall issue updated instructions to counties for the purposes of implementing necessary program changes. The department shall post a copy of, or a link to, the instructions on its Web site.

(j) (1) Notwithstanding subdivision (b) or any other provision of this section, the department shall not waive or modify the provisions of Section 12301.2, 12301.6, 12302.25, 12306.1, or 12309.

(2) Upon receipt of the IHSS Plus waiver, the director shall report to the Legislature on any modifications in benefits or eligibility and operational requirements of the In-Home Supportive Services program required for receipt of the waiver.

SEC. 57. Section 15204.2 of the Welfare and Institutions Code is amended to read:

15204.2. (a) It is the intent of the Legislature that the annual Budget Act appropriate state and federal funds in a single allocation to counties for the support of administrative activities undertaken by the counties to provide benefit payments to recipients of aid under Chapter 2 (commencing with Section 11200) of Part 3 and to provide required work activities and supportive services in order to efficiently and effectively carry out the purposes of that chapter.

(b) (1) No later than 30 days after the enactment of the Budget Act of 2004, the State Department of Social Services, in consultation with the County Welfare Directors Association, shall estimate the amount of unspent funds appropriated in the 2003–04 fiscal year single allocation described in this section.

(2) Unspent funds appropriated in the 2003–04 fiscal year single allocation, not to exceed forty million dollars ($40,000,000), shall be reappropriated to, and in augmentation of, Item 5180-101-0890 of Section 2.00 of the Budget Act of 2004. The State Department of Social Services, in consultation with the County Welfare Directors Association, shall develop an allocation methodology for these funds. A planning allocation, based on the estimated amount of unspent funds and the agreed upon allocation methodology, shall be provided to the counties no later than 30 days after the enactment of the Budget Act of 2004.

SEC. 58. Chapter 2.4 (commencing with Section 16145) of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 58.5. Section 16521.3 is added to the Welfare and Institutions Code, to read:

16521.3. (a) The Department of General Services and all other affected state agencies shall cooperate with the State Department of Social Services and the California Health and Human Services Agency Data Center to expedite and achieve timely completion and review of the Technical Architecture Alternatives Analysis Plan and all procurements related to child welfare services.

(b) Notwithstanding Section 11040 of the Government Code, the State Department of Social Services may obtain outside legal counsel to assist in negotiations for automation contracts related to child welfare services.

(c) The State Department of Social Services shall consult with stakeholders, including the County Welfare Directors Association, during the development of procurement and automation strategies related to child welfare services.

SEC. 59. Section 17021 of the Welfare and Institutions Code is amended to read:

17021. (a) Any individual who is not eligible for aid under Chapter 2 (commencing with Section 11200) of Part 3 as a result of the 60-month limitation specified in subdivision (a) of Section 11454 shall not be eligible for aid or assistance under this part until all of the children of the individual on whose behalf aid was received, whether or not currently living in the home with the individual, are 18 years of age or older.

(b) Any individual who is receiving aid under Chapter 2 (commencing with Section 11200) of Part 3 on behalf of an eligible

child, but who is either ineligible for aid or whose needs are not otherwise taken into account in determining the amount of aid to the family pursuant to Section 11450 due to the imposition of a sanction or penalty, shall not be eligible for aid or assistance under this part.

(c) This section shall not apply to health care benefits provided under this part.

SEC. 60. Section 18939 of the Welfare and Institutions Code is amended to read:

18939. (a) Any person who is found to be eligible for federally funded SSI by the department shall be required to apply for SSI benefits. An individual may continue to receive benefits under this article if he or she fully cooperates in the application and administrative appeal process of the Social Security Administration. An individual shall continue to be eligible to receive benefits under this article if he or she receives an unfavorable decision from the Social Security Administration.

(b) (1) The State Department of Social Services shall require counties with a base caseload of recipients of aid under this chapter of 70 or more to establish an advocacy program to assist applicants and recipients of aid under this chapter in the application process for the SSI program. The department shall encourage counties with a base caseload of recipients of aid under this chapter of 69 or less to establish a similar advocacy program. Counties may, at their option, contract to provide any or all of the required advocacy services.

(2) The department shall provide assistance to counties in their efforts to implement an SSI advocacy program (SSIAP) for applicants and recipients of aid under this chapter.

(c) The State Department of Social Services shall ensure that its Disability Evaluation Division (DED) expedites the disability evaluations for applicants and recipients of aid under this chapter by utilizing its existing case records sharing procedures to ensure that information from previous DED evaluations for the Medi-Cal program are shared expeditiously with the federal component of the division that is adjudicating the SSI disability application.

(d) The State Department of Social Services shall reimburse counties for legal fees incurred by attorneys or other authorized representatives during the appeals phase of the SSI application process only when the county demonstrates that the legal representative successfully secures approval of SSI benefits. The legal fees for each case shall not exceed twice the difference between the maximum monthly individual payment under this chapter and the maximum monthly SSP payment.

(e) The department shall report to the Legislature, by July 1, 2007, on the outcomes of county SSI advocacy programs, including the numbers

of cases that transitioned to SSI and the amount of savings realized through the transfers.

(f) Subdivisions (b) to (e), inclusive, of this section shall become inoperative on July 1, 2009.

SEC. 61. Section 19806 of the Welfare and Institutions Code is amended to read:

19806. (a) An independent living center shall not be required to provide any matching funds through private contributions as a condition of receiving state funds except to acquire state incentive funds.

(b) Each independent living center, except those centers which have been both established and maintained using federal funding under Title VII(c) of the federal Rehabilitation Act of 1973 as amended as their primary base grant, as determined by the department, shall receive to the extent funds are appropriated by the Legislature, at least two hundred thirty-five thousand dollars ($235,000) in base grant funds allocated by the department. The department shall allocate to those centers with Title VII(c) base grant funds of less than two hundred thirty-five thousand dollars ($235,000) an amount that, when combined with the Title VII(c) grant, equals two hundred thirty-five thousand dollars ($235,000).

(c) State funds described in subdivision (b) may be replaced by reimbursements under the Supplemental Security Disability Insurance and the Supplemental Security Income programs provided for under Titles II and XVII of the Federal Social Security Act, Subchapter II (commencing with Section 401) and Subchapter XVII (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code to the extent appropriated by the Legislature and allocated by the department to independent living centers under this chapter. Beginning with the 1998–99 fiscal year, and each year thereafter, to the extent these funds from the Social Security Act are not appropriated by the Legislature as were appropriated in the 1997–98 fiscal year, an amount equal to the combined state and federal fund allocation to independent living centers in the Budget Act of 1997 shall be appropriated to, and allocated by, the department to independent living centers under this chapter.

(d) (1) Available state incentive funds shall be allocated at the beginning of each fiscal year based upon the average amount of private contributions received by the independent living center in the second and third preceding fiscal years.

(2) The maximum amount of incentive funds that may be allocated to any independent living center in any single fiscal year shall be computed as follows:

(A) ‘‘Pool One’’ is defined as 60 percent of all state incentive funds. ‘‘Pool Two’’ is defined as 40 percent of all state incentive funds. Each

independent living center shall be entitled to an equal portion of Pool One, not to exceed the amounts raised pursuant to paragraph (1).

(B) Incentive funds from Pool One not used after the initial allocation pursuant to subparagraph (A) shall be added to Pool Two for allocation among all centers that had unmatched private contributions after distribution of Pool One funds. Pool Two funds shall be awarded in direct proportion to each center's percentage of the total remaining unmatched private contributions raised by those independent living centers.

(3) For the purpose of determining eligibility for state incentive funds, any independent living center that uses a fiscal year other than the state fiscal year may elect to use a different fiscal year so long as the closing date of the fiscal year so elected does not precede the closing date of the equivalent state fiscal year by more than 11 months.

(4) The amount of private contributions claimed by an independent living center for each fiscal year shall be verified by the department by utilizing appropriate financial records including, but not limited to, independent audits. Audits may be performed by the department up to three years from the close of the fiscal year during which state incentive funds were received by the independent living center being audited.

(5) State incentive funds that are not distributed to independent living centers shall not be allocated or retained by the department for distribution as state incentive funds in later fiscal years.

(e) For purposes of this section:

(1) ''Private funds'' does not include any funds originating from any entity of the federal, state, city, or county government or any political subdivision thereof. Notwithstanding the provisions of this section, fees from any source for services provided may be included as private contributions by an independent living center for purposes of determining its allocation of incentive funds.

(2) ''State incentive funds'' means state funds appropriated by the Legislature for purposes of this chapter, except those funds allocated by the department pursuant to subdivisions (b) and (g) of this section.

(f) Any funds allocated under this chapter to any independent living center, other than as part of the initial allocation for each fiscal year, shall be made by contract amendment. Any contract amendment shall require the provision of services in addition to those required by the contract being amended. All those services required by contract amendment shall not be performed prior to the date the contract amendment is approved by the state.

(g) To the extent funds are appropriated by the Legislature for the purpose of providing assistive technology services described in subdivision (d) of Section 19801, two hundred ten thousand dollars

($210,000) of those funds shall be allocated to the nonprofit contractor selected by the Department of Rehabilitation to coordinate delivery of assistive technology services and the remainder shall be allocated equally among independent living centers. The nonprofit contractor shall provide statewide assistive technology information and referral and serve as a resource to the independent living centers' assistive technology service programs.

(h) To the extent funds are appropriated by the Legislature, after allocation of base grant and incentive funds and assistive technology funds, remaining funds shall be allocated by the department among independent living centers on the basis of the ratio of the total of the general population in an independent living center's geographic service areas as compared to the total of the general population in all independent living centers geographic services area statewide. The department shall adopt regulations for the distribution of population funds by June 30, 1999.

SEC. 62. (a) To the extent feasible, the California Health and Human Services Agency shall examine the criminal background check requirements for all programs within its purview and the processes to administer and enforce these requirements, and shall report its findings to the Legislature at budget hearings. The agency's report shall include all of the following:

(1) The health and human services programs that require the state to conduct criminal background checks.

(2) The standards, including evidentiary standards, that govern the background checks.

(3) The major activities necessary to complete investigations.

(4) The departments or contracting agencies that perform these activities.

(5) The costs associated with providing criminal background checks.

(b) The agency shall report on strategies to streamline and standardize criminal background check requirements and their processing, to create administrative efficiency. The agency's analysis shall include a review of programmatic and safety issues associated with streamlining the background check process.

SEC. 63. To the extent feasible, the California Health and Human Services Agency, in consultation with the California Department of Aging, the State Department of Social Services, and appropriate stakeholders, shall consider strategies to coordinate state and federally funded services, including In-Home Supportive Services, programs under the federal Older Americans Act, and the California Department of Aging's Community-based Services programs, in order to maximize cost-effectiveness and programmatic efficiency in the delivery of

services to program consumers. The agency shall report during budget hearings for the 2005–06 fiscal year, regarding these strategies and the resulting programmatic effect.

SEC. 64. It is the intent of the Legislature to address the issue of child care in and out of market rate differentiation in the statutory process. Therefore, Sections 18074.3 and 18074.4 of Title 5 of the California Code of Regulations, as filed with the Office of Administrative Law by the State Department of Education, shall not become effective until July 1, 2005.

SEC. 64.6. (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, until emergency regulations are filed with the Secretary of State, the department may implement those sections of this act specified in subdivision (d) through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement the specified provisions of this act, no later than July 1, 2005, unless notification of a delay is made to the Chair of the Joint Legislative Budget Committee prior to that date. Under no circumstances shall the adoption of emergency regulations be delayed, or the use of all-county letters or similar instructions be extended, beyond July 1, 2006.

(b) The adoption of regulations implementing the applicable provisions of this act shall be deemed to be 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 the final regulations shall be adopted.

(c) The department shall seek input from county welfare departments and other system stakeholders when developing all-county letters or similar instructions and regulations for purposes of this section.

(d) Subdivisions (a), (b), and (c) shall apply to Sections 17, 18, 20, 21, 22, 23, 24, 25, 27, 32, 33, 34, and 59 of this act.

SEC. 65. Sections 17, 18, 20, 21, 22, 23, 24, 25, 27, 32, 33, 34, and 59 of this act shall become operative October 1, 2004, or the first of the month following 90 days after the effective date of this act, whichever is later.

SEC. 66. 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, notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 67. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement budget reductions relating to public social services during the 2003–04 and 2004–05 fiscal years, it is necessary for this act to take effect immediately.

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