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SB-213 Placement of children: criminal records check. (2017-2018)

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Senate Bill No. 213

CHAPTER 733

An act to amend Section 8712 of the Family Code, to amend Section 1522 of the Health and Safety Code, and to amend Section 16519.5 of, and to repeal and add Section 361.4 of, the Welfare and Institutions Code, relating to child placement.

[Approved by Governor October 12, 2017. Filed with Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 213, Mitchell. Placement of children: criminal records check.

Existing law prohibits the State Department of Social Services, a county adoption agency, or a licensed adoption agency from giving final approval for an adoptive placement in a home in which the prospective adoptive parent or an adult living in the home has been convicted of certain felonies for which an exemption cannot be granted.

Existing law requires the county welfare department, before placing a child in the home of a relative, nonrelative extended family member, prospective guardian, or another person who is not a licensed or certified foster parent or an approved resource family, to consider the results of a criminal records check, as specified. Existing law prohibits the child's placement in the home if the person has been convicted of certain felonies and prohibits, if the person has been convicted of any other crime, the child from being placed in the home until the county has granted an exemption.

Existing law subjects foster care provider applicants and resource family applicants to a criminal records check and prohibits licensure or approval of an applicant who has been convicted of certain felonies, but authorizes the department or county, as applicable, to grant an exemption from disqualification for the conviction of any other crime.

This bill would also (1) prohibit the final approval for an adoptive placement, (2) prohibit the placement of a child in the home of a relative, nonrelative extended family member, prospective guardian, or another person who is not a licensed or certified foster parent or an approved resource family, and (3) prohibit licensure of a foster care provider applicant and approval of a resource family applicant, if the person or any individual subject to the background check requirements, as specified, has a felony conviction for any of certain specified crimes. The bill would specify that a child may be placed in the home of the above-described persons, that a foster care provider applicant may be licensed, and that a resource family applicant may be approved, if the person has been convicted of one of certain specified crimes and has been granted an exemption based on all reasonably available information and if the department or other approving entity has substantial and convincing evidence to support a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character, as specified. The bill would require the department or other approving entity to grant an exemption for a person convicted of any other crime, if the person's state and federal criminal history information, as specified, independently supports a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption, or under other specified criteria that the department or other approving entity may use as necessary

to protect the health and safety of a child. The bill would also make conforming changes and technical changes to related provisions.

This bill would incorporate certain additional changes to Section 1522 of the Health and Safety Code, and Sections 361.4 and 16519.5 of the Welfare and Institutions Code, proposed by AB 404, to be operative only if this bill and AB 404 are enacted and this bill is enacted last.

By imposing a higher level of service on county employees, this bill would impose a state-mandated local program.

This bill would require the department to convene a stakeholder group to develop and implement, to the extent permissible under existing law, recommendations for streamlining the criminal exemption process for certain prospective employees in children's residential settings.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8712 of the Family Code is amended to read:

8712. (a) (1) The department, county adoption agency, or licensed adoption agency shall require each person who files an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department, county adoption agency, or licensed adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to Section 1203.49 of the Penal Code. A federal-level criminal offender record request to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department, county adoption agency, or licensed adoption agency.

(2) The department, county adoption agency, or licensed adoption agency may obtain arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties, as provided in this section.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) The department, county adoption agency, or licensed adoption agency shall not give final approval for an adoptive placement in any home in which the prospective adoptive parent or any adult living in the prospective adoptive home has been convicted of an offense for which an exemption cannot be granted pursuant to subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department, county adoption agency, or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 2. Section 1522 of the Health and Safety Code, as amended by Section 6 of Chapter 24 of the Statutes of 2017, is amended to read:

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

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

(a) (1) Before and, as applicable, subsequent to 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, or for violating Section 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g).

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

(3) Except during the 2003–04 to the 2018–19 fiscal years, inclusive, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

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

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the department 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 criminal record information until the conclusion of the trial.

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

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

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

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

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

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

(b) (1) In addition to the applicant, this section shall be applicable to criminal record clearances and exemptions for the following persons:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Members are not left alone with clients.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (1) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or comply with paragraph (1) of subdivision (h). These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A

licensee's failure to prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption from disqualification shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in subdivision (b) who are exempt from fingerprinting, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that subsequent to obtaining a criminal record clearance or exemption from disqualification pursuant to subdivision (g), the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption from disqualification pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption from disqualification pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption from disqualification is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day and shall be grounds for disciplining the licensee pursuant to Section 1550.

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

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

(d) (1) Before and, as applicable, subsequent to issuing a license or certificate of approval to any person or persons to operate a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245, 273ab, 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 is prohibited from granting a criminal record exemption

pursuant to subdivision (g). The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

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

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

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

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

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

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

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

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

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

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

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

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

(e) (1) 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.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a, of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g), prior to the department's completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

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

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

(g) (1) Except as otherwise provided in this subdivision with respect to a foster care provider applicant, including a relative caregiver, nonrelative extended family member, or resource family, after review of the record, the department may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the department has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for either 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 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the department may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct

required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause shall not apply to foster care providers, including relative caregivers, nonrelative extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of subdivision (c) of Section 667.5 of the Penal Code.

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

(2) (A) For a foster care provider applicant or a resource family applicant, an exemption shall not be granted if that applicant, or any individual subject to the background check requirements of this section pursuant to foster care provider applicant and resource family approval standards, has a conviction for any of the following offenses:

(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 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) 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.

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

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

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

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

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

(B) The department or other approving entity may grant an exemption from disqualification to a foster care provider, resource family applicant, or any individual subject to the background check requirements of this section pursuant to foster care provider applicant and resource family approval standards, if the department or other approving entity has substantial and convincing evidence to support a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption and the conviction is for one of the following offenses:

(i) Any misdemeanor conviction within the last five years that is not otherwise prohibited by subparagraph (A). Notwithstanding subparagraph (A), a misdemeanor conviction for statutory rape, as defined in Section 261.5 of the Penal Code, a misdemeanor conviction for indecent exposure, as defined in Section 314 of the Penal Code, or a misdemeanor conviction for financial abuse against an elder, as defined in Section 368 of the Penal Code, shall be eligible for the consideration of an exemption as set forth in subparagraph (C).

(ii) Any felony conviction within the last seven years that is not otherwise prohibited by subparagraph (A).

(C) When granting an exemption for a crime listed in subparagraph (B), the department or other approving entity shall consider all reasonably available information, including, but not limited to, the following:

(i) The nature of the crime or crimes.

(ii) The period of time since the crime was committed.

(iii) The number of offenses.

(iv) Circumstances surrounding the commission of the crime indicating the likelihood of future criminal activity.

(v) Activities since conviction, including employment, participation in therapy, education, or treatment.

(vi) Whether the person convicted has successfully completed probation or parole, obtained a certificate of rehabilitation, or been granted a pardon by the Governor.

(vii) Any character references or other evidence submitted by the applicant.

(viii) Whether the person convicted demonstrated honesty and truthfulness concerning the crime or crimes during the application and approval process and made reasonable efforts to assist the department in obtaining records and documents concerning the crime or crimes.

(D) (i) The department or other approving entity shall grant an exemption from disqualification to a foster care provider applicant, resource family applicant, or any person subject to the background check requirements of this section pursuant to foster care provider applicant and resource family approval standards, who has been convicted of an offense not listed in subparagraph (A) or (B), if the individual's state and federal criminal history information received from the Department of Justice independently supports a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption.

(ii) Notwithstanding the fact that an individual meets the criteria described in clause (i), the department or other approving entity, at its discretion, as necessary to protect the health and safety of a child, may evaluate a person described in clause (i), for purposes of making an exemption decision, pursuant to the criteria described in subparagraphs (B) and (C).

(E) This paragraph shall not apply to licenses or approvals for which a caregiver was granted an exemption for a criminal conviction prior to the effective date of the act that added this subparagraph.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility, certified family home, or resource family home on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558 of this code or subdivision (g) of Section 16519.6 of the Welfare and Institutions Code, as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2.5. Section 1522 of the Health and Safety Code, as amended by Section 6 of Chapter 24 of the Statutes of 2017, 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 or resource family of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility or certified family home.

(a) (1) Before and, as applicable, subsequent to 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, or for violating Section 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g).

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

(3) Except during the 2003–04 to the 2018–19 fiscal years, inclusive, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

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

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the department 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 criminal record information until the conclusion of the trial.

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

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

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

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

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

(b) (1) In addition to the applicant, this section shall be applicable to criminal record clearances and exemptions for the following persons:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Members are not left alone with clients.

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

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

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

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

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

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

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

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

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

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

(B) This subdivision does not prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

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

(c) (1) Subsequent to initial licensure, a person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State Department of Social Services prior to employment, residence, or initial presence in the facility. A person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or comply with paragraph (1) of subdivision (h). These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to prohibit the employment, residence, or initial presence of a person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds

for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption from disqualification shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in subdivision (b) who are exempt from fingerprinting, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that subsequent to obtaining a criminal record clearance or exemption from disqualification pursuant to subdivision (g), the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption from disqualification pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption from disqualification pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption from disqualification is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day and shall be grounds for disciplining the licensee pursuant to Section 1550.

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

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

(d) (1) Before and, as applicable, subsequent to issuing a license or certificate of approval to any person or persons to operate a foster family home, certified family home as described in Section 1506, or resource family pursuant to Section 1517 of this code or Section 16519.5 of the Welfare and Institutions Code, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245, 273ab, 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 is prohibited from granting a criminal record exemption pursuant to subdivision (g). The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home, certified family home, or resource family applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

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

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

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

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

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

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

(D) To the same extent required for federal funding, a person specified in subdivision (b) who is not exempt from fingerprinting shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the criminal records search required by subdivision (a).

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

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

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

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

(8) If the State Department of Social Services or other approving authority finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, resource family, or any other person specified in subdivision (b) who is not

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

(e) (1) The State Department of Social Services shall not use a record of arrest to deny, revoke, rescind, or terminate any application, license, certificate of approval, 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.

(2) The department shall not issue a criminal record clearance to a person who has been arrested for any crime specified in Section 290 of the Penal Code, or for violating Section 245, 273ab, or 273.5, or subdivision (b) of Section 273a, of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department is prohibited from granting a criminal record exemption pursuant to subdivision (g), prior to the completion of an investigation pursuant to paragraph (1).

(3) The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

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

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

(g) (1) Except as otherwise provided in this subdivision with respect to a foster care provider applicant, including a relative caregiver, nonrelative extended family member, or resource family, after review of the record, the department may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the department has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for either 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 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

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

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

(2) (A) For a foster care provider applicant or a resource family applicant, an exemption shall not be granted if that applicant, or any individual subject to the background check requirements of this section pursuant to foster care provider applicant and resource family approval standards, has a conviction for any of the following offenses:

(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 273ab, 273d, 288, or 289, subdivision (c) of Section 290, or Section 368, of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) 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.

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

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

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

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

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

(B) The department or other approving entity may grant an exemption from disqualification to a foster care provider, resource family applicant, or any individual subject to the background check requirements of this section pursuant to foster care provider applicant and resource family approval standards, if the department or other approving entity has substantial and convincing evidence to support a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption and the conviction is for one of the following offenses:

(i) Any misdemeanor conviction within the last five years that is not otherwise prohibited by subparagraph (A). Notwithstanding subparagraph (A), a misdemeanor conviction for statutory rape, as defined in Section 261.5 of the Penal Code, a misdemeanor conviction for indecent exposure, as defined in Section 314 of the Penal Code, or a misdemeanor conviction for financial abuse against an elder, as defined in Section 368 of the Penal Code, shall be eligible for the consideration of an exemption as set forth in subparagraph (C).

(ii) Any felony conviction within the last seven years that is not otherwise prohibited by subparagraph (A).

(C) When granting an exemption for a crime listed in subparagraph (B), the department or other approving entity shall consider all reasonably available information, including, but not limited to, the following:

(i) The nature of the crime or crimes.

(ii) The period of time since the crime was committed.

(iii) The number of offenses.

(iv) Circumstances surrounding the commission of the crime indicating the likelihood of future criminal activity.

(v) Activities since conviction, including employment, participation in therapy, education, or treatment.

(vi) Whether the person convicted has successfully completed probation or parole, obtained a certificate of rehabilitation, or been granted a pardon by the Governor.

(vii) Any character references or other evidence submitted by the applicant.

(viii) Whether the person convicted demonstrated honesty and truthfulness concerning the crime or crimes during the application and approval process and made reasonable efforts to assist the department in obtaining records and documents concerning the crime or crimes.

(D) (i) The department or other approving entity shall grant an exemption from disqualification to a foster care provider applicant, resource family applicant, or any person subject to the background check requirements of this section pursuant to foster care provider applicant and resource family approval standards, who has been convicted of an offense not listed in subparagraph (A) or (B), if the individual's state and federal criminal history information received from the Department of Justice independently supports a reasonable belief that the applicant or the person convicted of the crime, if other than the applicant, is of present good character necessary to justify the granting of an exemption.

(ii) Notwithstanding the fact that an individual meets the criteria described in clause (i), the department or other approving entity, at its discretion, as necessary to protect the health and safety of a child, may evaluate a person described in clause (i), for purposes of making an exemption decision, pursuant to the criteria described in subparagraphs (B) and (C).

(E) This paragraph shall not apply to licenses or approvals for which a caregiver was granted an exemption for a criminal conviction prior to the effective date of the act that added this subparagraph.

(3) The department shall not prohibit a person from being employed or having contact with clients in a facility, certified family home, or resource family home on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558 of this code or Section 16519.6 of the Welfare and Institutions Code, as applicable.

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

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

(3) A criminal record clearance or exemption processed by the department, a county office with clearance and exemption authority pursuant to Section 16519.5 of the Welfare and Institutions Code, or a county office with department-delegated licensing authority shall be accepted by the department or county upon notification of transfer.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code and Section 1522.1 concerning an individual whose criminal record clearance was originally processed by the department, a county office with clearance and exemption authority pursuant to Section 16519.5 of the Welfare and Institutions Code, or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county to receive the notice only if all of the following conditions are met:

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

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

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

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

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

(C) The Department of Justice shall charge the department, a county office with department-delegated licensing authority, or a county child welfare agency with criminal record clearance and exemption authority, a fee for each time a request to

substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

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

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

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

SEC. 3. Section 361.4 of the Welfare and Institutions Code is repealed.

SEC. 3.1. Section 361.4 is added to the Welfare and Institutions Code, to read:

361.4. (a) Prior to placing a child in the home of a relative, or the home of any prospective guardian or another person who is not a licensed or certified foster parent or an approved resource family, the county social worker shall visit the home to ascertain the appropriateness of the placement.

(b) (1) Whenever a child may be placed in the home of a relative, a prospective guardian, or another person who is not a licensed or certified foster parent or an approved resource family, the court or county social worker placing the child shall cause a state-level criminal records check to be conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5. The criminal records check shall be conducted with regard to all persons over 18 years of age living in the home, and on any other person over 18 years of age, other than professionals providing professional services to the child, known to the placing entity who may have significant contact with the child, including any person who has a familial or intimate relationship with any person living in the home. A criminal records check may be conducted pursuant to this section on any person over 14 years of age living in the home who the county social worker believes may have a criminal record. Within 10 calendar days following the criminal records check conducted through CLETS, the social worker shall ensure that a fingerprint clearance check of the relative and any other person whose criminal record was obtained pursuant to this subdivision is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through CLETS and shall review the results of any criminal records check to assess the safety of the home. The Department of Justice shall forward fingerprint requests for federal-level criminal history information to the Federal Bureau of Investigation pursuant to this section.

(2) An identification card from a foreign consulate or foreign passport shall be considered a valid form of identification for conducting a criminal records check and fingerprint clearance check under this subdivision and under subdivision (c).

(c) Whenever a child may be placed in the home of a relative, a prospective guardian, or another person who is not a licensed or certified foster parent or an approved resource family, the county social worker shall cause a check of the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 of the Penal Code to be requested from the Department of Justice. The Child Abuse Central Index check shall be conducted on all persons over 18 years of age living in the home. For any application received on or after January 1, 2008, if any person in the household is 18 years of age or older and has lived in another state in the preceding five years, the county social worker shall check the other state's child abuse and neglect registry to the extent required by federal law.

(d) (1) If the results of the California and federal criminal records check indicate that the person has no criminal record, the county social worker and court may consider the home of the relative, prospective guardian, or other person who is not a licensed or certified foster parent or approved resource family for placement of a child.

(2) (A) If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home.

(B) (i) If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal records exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(ii) Notwithstanding clause (i), a child may be placed on an emergency basis with a relative or nonrelative extended family member who has been convicted of an offense not described in clause (i) of subparagraph (B) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal records exemption decision, if the

deputy director or director of the county welfare department, or his or her designee, determines that the placement is in the best interests of the child and a party to the case does not object.

(C) If the criminal records check indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the deputy director or director of the county welfare department, or his or her designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.

(3) (A) A county may issue a criminal records exemption only if that county has been granted permission by the department to issue criminal records exemptions. The county may file a request with the department seeking permission for the county to establish a procedure to evaluate and grant appropriate individual criminal records exemptions for persons described in subdivision (b). The department shall grant or deny the county's request within 14 days of receipt. The county shall evaluate individual criminal records in accordance with the standards and limitations set forth in subdivision (g) of Section 1522 of the Health and Safety Code, and in no event shall the county place a child in the home of a person who is ineligible for an exemption under that subdivision.

(B) The department shall monitor county implementation of the authority to grant an exemption under this paragraph to ensure that the county evaluates individual criminal records and allows or disallows placements according to the standards set forth in subdivision (g) of Section 1522 of the Health and Safety Code.

(4) The department shall conduct an evaluation of the implementation of paragraph (3) through random sampling of county exemption decisions.

(5) The State Department of Social Services shall not evaluate or grant criminal records exemption requests for persons described in subdivision (b), unless the exemption request is made by an Indian tribe pursuant to subdivision (e).

(6) If a county has not requested, or has not been granted, permission by the State Department of Social Services to establish a procedure to evaluate and grant criminal records exemptions, the county shall not place a child into the home of a person described in subdivision (b) if any person residing in the home has been convicted of a crime other than a minor traffic violation, except as provided in subdivision (e).

(e) The State Department of Social Services shall evaluate a request from an Indian tribe to exempt a crime that is eligible for exemption under Section 1522 of the Health and Safety Code, if needed, to allow placement into an Indian home that the tribe has designated for placement under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.). However, if the county with jurisdiction over the child that is the subject of the tribe's request has established an approved procedure pursuant to paragraph (3) of subdivision (d), the tribe may request that the county evaluate the exemption request. Once a tribe has elected to have the exemption request reviewed by either the State Department of Social Services or the county, the exemption decision may only be made by that entity. Nothing in this subdivision limits the duty of a county social worker to evaluate the home for placement or to gather information needed to evaluate an exemption request.

SEC. 3.2. Section 361.4 is added to the Welfare and Institutions Code, to read:

361.4. (a) Prior to making the emergency placement of a child pursuant to subdivision (d) of Section 309 or Section 361.45, the county welfare department shall do all of the following:

(1) Conduct an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs.

(2) Cause a state-level criminal records check to be conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5 for all of the following:

(A) All persons over 18 years of age living in the home of the relative or nonrelative extended family member seeking emergency placement of the child, excluding any person who is a nonminor dependent, as defined in subdivision (v) of Section 11400.

(B) At the discretion of the county welfare department, any other person over 18 years of age known to the department to be regularly present in the home, other than professionals providing professional services to the child.

(C) At the discretion of the county welfare department, any person over 14 years of age living in the home who the department believes may have a criminal record. This subparagraph shall not apply to a child under the jurisdiction of the juvenile court.

(3) Conduct a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home.

(b) (1) If CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has no criminal record, the child may be placed in the home on an emergency basis.

(2) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense described in subparagraph (B) or (D) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal records exemption has been granted using the exemption criteria specified in paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(3) Notwithstanding paragraph (2), a child may be placed on an emergency basis who has been convicted of an offense not described in clause (i) of subparagraph (B) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, pending a criminal records exemption decision, if the deputy director or director of the county welfare department, or his or her designee, determines that the placement is in the best interests of the child and a party to the case does not object.

(4) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been arrested for any offense described in paragraph (2) of subdivision (e) of Section 1522 of the Health and Safety Code, the child shall not be placed on an emergency basis in the home until the investigation required by paragraph (1) of subdivision (e) of Section 1522 of the Health and Safety Code has been completed and the deputy director or director of the county welfare department, or his or her designee, and the court have considered the investigation results when determining whether the placement is in the best interests of the child.

(5) If the CLETS information obtained pursuant to paragraph (2) of subdivision (a) indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the child shall not be placed in the home on an emergency basis.

(c) Within 10 calendar days following the criminal records check conducted through the CLETS or five business days of making the emergency placement, whichever is sooner, the social worker shall ensure that a fingerprint clearance check of the relative or nonrelative extended family member and any other person whose criminal record was obtained pursuant to this section is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the CLETS and ensure criminal record clearance of the relative or nonrelative extended family member and all adults in the home pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 16519.5 and any associated written directives or regulations.

(d) An identification card from a foreign consulate or foreign passport shall be considered a valid form of identification for conducting a criminal records check pursuant to this section.

SEC. 4. Section 16519.5 of the Welfare and Institutions Code, as amended by Section 50 of Chapter 24 of the Statutes of 2017, is amended to read:

16519.5. (a) The State Department of Social Services, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, certifying foster homes by licensed foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families.

(b) (1) Counties shall be selected to participate on a voluntary basis as early implementation counties for the purpose of participating in the initial development of the approval process. Early implementation counties shall be selected according to criteria developed by the department in consultation with the County Welfare Directors Association. In selecting the five early implementation counties, the department shall promote diversity among the participating counties in terms of size and geographic location.

(2) Additional counties may participate in the early implementation of the program upon authorization by the department.

(3) The State Department of Social Services shall be responsible for all of the following:

(A) Selecting early implementation counties, based on criteria established by the department in consultation with the County Welfare Directors Association.

(B) Establishing timeframes for participating counties to submit an implementation plan, enter into terms and conditions for early implementation participation in the program, train appropriate staff, and accept applications from resource families.

(C) Entering into terms and conditions for early implementation participation in the program by counties.

(4) Counties participating in the early implementation of the program shall be responsible for all of the following:

(A) Submitting an implementation plan.

(B) Entering into terms and conditions for early implementation participation in the program.

(C) Consulting with the county probation department in the development of the implementation plan.

(D) Training appropriate staff.

(E) Accepting applications from resource families within the timeframes established by the department.

(5) (A) Approved relatives and nonrelative extended family members, licensed foster family homes, or approved adoptive homes that have completed the license or approval process prior to statewide implementation of the program shall not be considered part of the program. The otherwise applicable assessment and oversight processes shall continue to be administered for families and facilities not included in the program.

(B) Upon implementation of the program in a county, that county shall not accept new applications for the licensure of foster family homes, the approval of relative and nonrelative extended family members, or the approval of prospective guardians and adoptive homes.

(6) The department may waive regulations that pose a barrier to the early implementation and operation of this program. The waiver of any regulations by the department pursuant to this section shall apply to only those counties or foster family agencies participating in the early implementation of the program and only for the duration of the program.

(7) This subdivision shall become inoperative on January 1, 2017.

(c) (1) For the purposes of this article, "resource family" means an individual or family that has successfully met both the home environment assessment standards and the permanency assessment criteria adopted pursuant to subdivision (d) necessary for providing care for a related or unrelated child who is under the jurisdiction of the juvenile court, or otherwise in the care of a county child welfare agency or probation department. A resource family shall demonstrate all of the following:

(A) An understanding of the safety, permanence, and well-being needs of children who have been victims of child abuse and neglect, and the capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, or a support structure in place, or both.

(B) An understanding of children's needs and development, effective parenting skills or knowledge about parenting, and the capacity to act as a reasonable, prudent parent in day-to-day decisionmaking.

(C) An understanding of his or her role as a resource family and the capacity to work cooperatively with the agency and other service providers in implementing the child's case plan.

(D) The financial ability within the household to ensure the stability and financial security of the family. An applicant who will rely on the funding described in subdivision (l) to meet additional household expenses incurred due to the placement of a child shall not, for this reason, be denied approval as a resource family.

(E) An ability and willingness to provide a family setting that promotes normal childhood experiences that serves the needs of the child.

(2) For purposes of this article, and unless otherwise specified, references to a "child" shall include a "nonminor dependent" and "nonminor former dependent or ward" as defined in subdivision (v) and paragraph (1) of subdivision (aa) of Section 11400.

(3) There is no fundamental right to approval as a resource family.

(4) Subsequent to meeting the criteria set forth in this subdivision and designation as a resource family, a resource family shall be considered eligible to provide foster care for related and unrelated children in out-of-home placement and shall be considered approved for adoption or guardianship.

(5) For purposes of this article, "resource family approval" means that the applicant or resource family successfully meets the home environment assessment and permanency assessment standards. This approval is in lieu of a foster family home license issued pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, a certificate of approval issued by a licensed foster family agency, as described in subdivision (b) of Section 1506 of the Health and Safety Code, relative or nonrelative extended family member approval, guardianship approval, and the adoption home study approval.

(6) Approval of a resource family does not guarantee an initial, continued, or adoptive placement of a child with a resource family or with a relative or nonrelative extended family member pursuant to subdivision (e). Approval of a resource family does not guarantee the establishment of a legal guardianship of a child with a resource family.

(7) (A) Notwithstanding paragraphs (1) to (6), inclusive, the department or county shall cease any further review of an application if the applicant has had a previous application denial within the preceding year, or if the applicant has had a previous rescission, revocation, or exemption denial or exemption rescission by the department or county within the preceding two years.

(B) Notwithstanding subparagraph (A), the department or county may continue to review an application if it has determined that the reasons for the previous denial, rescission, or revocation were due to circumstances and conditions that either have been corrected or are no longer in existence. If an individual was excluded from a resource family home or facility licensed by the department, the department or county shall cease review of the individual's application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code and subdivision (h) of Section 1558 of the Health and Safety Code. The cessation of review shall not constitute a denial of the application for purposes of this section or any other law.

(8) A resource family shall meet the approval standards set forth in this section, comply with the written directives or regulations adopted pursuant to this section, and comply with other applicable laws in order to maintain approval.

(9) A resource family may be approved by the department or a county pursuant to this section or by a foster family agency pursuant to Section 1517 of the Health and Safety Code.

(10) A resource family shall not be licensed as a residential facility, as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(d) (1) The department shall adopt standards pertaining to the home environment and permanency assessments of a resource family.

(2) Resource family home environment assessment standards shall include, but not be limited to, all of the following:

(A) (i) (I) Criminal records clearance of each applicant and all adults residing in, or regularly present in, the home, and not exempted from fingerprinting, as set forth in subdivision (b) of Section 1522 of the Health and Safety Code, pursuant to Section 8712 of the Family Code, utilizing a check of the Child Abuse Central Index (CACI), and receipt of a fingerprint-based state and federal criminal offender record information search response. The criminal history information shall include subsequent notifications pursuant to Section 11105.2 of the Penal Code.

(II) If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, home approval shall be denied.

(III) If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (C) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal records exemption has been granted under subclause (IV).

(IV) Exemptions from the criminal records clearance requirements set forth in this section may be granted by the department or the county, if that county has been granted permission by the department to issue criminal records exemptions pursuant to Section 361.4, using the exemption criteria currently used for foster care licensing as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(ii) For public foster family agencies approving resource families, the criminal records clearance process set forth in clause (i) shall be utilized.

(iii) For private foster family agencies approving resource families, the criminal records clearance process set forth in clause (i) shall be utilized, but the Department of Justice shall disseminate a fitness determination resulting from the federal criminal offender record information search.

(B) Buildings and grounds and storage requirements that ensure the health and safety of children.

(C) In addition to the foregoing requirements, the resource family home environment assessment standards shall also require the following:

(i) That the applicant demonstrates an understanding about the rights of children in care and his or her responsibility to safeguard those rights.

(ii) That the total number of children residing in the home of a resource family shall be no more than the total number of children the resource family can properly care for, regardless of status, and shall not exceed six children, unless

exceptional circumstances that are documented in the foster child's case file exist to permit a resource family to care for more children, including, but not limited to, the need to place siblings together.

(iii) That the applicant understands his or her responsibilities with respect to acting as a reasonable and prudent parent, and maintaining the least restrictive environment that serves the needs of the child.

(3) The resource family permanency assessment standards shall include, but not be limited to, all of the following:

(A) Caregiver training, as described in subdivisions (g) and (h).

(B) A psychosocial assessment of an applicant, which shall include the results of a risk assessment.

(i) When the applicant is a relative or nonrelative extended family member to an identified child, the psychosocial assessment shall consider the nature of the relationship between the relative or nonrelative extended family member and the child. The relative or nonrelative extended family member's expressed desire to only care for a specific child or children shall not be a reason to deny the approval.

(ii) A caregiver risk assessment shall include, but not be limited to, physical and mental health, alcohol and other substance use and abuse, family and domestic violence, and the factors listed in paragraph (1) of subdivision (c).

(C) Completion of any other activities that relate to the ability of an applicant or a resource family to achieve permanency with a child.

(e) (1) A county may place a child with a resource family applicant who has successfully completed the home environment assessment prior to completion of a permanency assessment only if a compelling reason for the placement exists based on the needs of the child.

(A) The permanency assessment shall be completed within 90 days of the child's placement in the home, unless good cause exists based upon the needs of the child.

(B) If additional time is needed to complete the permanency assessment, the county shall document the extenuating circumstances for the delay and generate a timeframe for the completion of the permanency assessment.

(C) The county shall report to the department on a quarterly basis the number of families with a child in an approved home whose permanency assessment goes beyond 90 days and summarize the reasons for these delays.

(2) (A) Upon an assessment completed pursuant to Section 309 or 361.45, a county may place a child with a relative, as defined in Section 319, or nonrelative extended family member, as defined in Section 362.7.

(B) For any emergency placement made pursuant to this paragraph, the county shall initiate the home environment assessment no later than five business days after the placement, which shall include a face-to-face interview with the resource family applicant and child.

(C) Nothing in this paragraph shall be construed to limit the obligation under existing law to assess and give placement consideration to relatives and nonrelative extended family members.

(3) For any placement made pursuant to this subdivision, AFDC-FC funding shall not be available until approval of the resource family has been completed.

(4) Any child placed under this section shall be afforded all the rights set forth in Section 16001.9 and in the written directions or regulations adopted pursuant to this section.

(5) Nothing in this section shall limit the county's authority to inspect the home of a resource family applicant or a relative or nonrelative extended family member as often as necessary to ensure the quality of care provided.

(f) The State Department of Social Services shall be responsible for all of the following:

(1) (A) Until regulations are adopted, administering the program through the issuance of written directives that shall have the same force and effect as regulations. Any directive affecting Article 1 (commencing with Section 700) of Chapter 7 of Division 1 of Title 11 of the California Code of Regulations shall be approved by the Department of Justice. The directives shall be exempt from 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.

(B) Adopting, amending, or repealing, in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, any reasonable rules, regulations, and standards that may be necessary or

proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this section, consistent with the laws of this state.

(2) Approving and requiring the use of a single standard for resource family approval.

(3) Adopting and requiring the use of standardized documentation for the home environment and permanency assessments of resource families.

(4) Adopting core competencies for county staff to participate in the assessment and evaluation of an applicant or resource family.

(5) Requiring counties to monitor county-approved resource families, including, but not limited to, both of the following:

(A) Investigating complaints of resource families.

(B) Developing and monitoring resource family corrective action plans to correct identified deficiencies and to rescind resource family approval if compliance with corrective action plans is not achieved.

(6) Ongoing oversight and monitoring of county systems and operations including all of the following:

(A) Reviewing the county's implementation plan and implementation of the program.

(B) Reviewing an adequate number of county-approved resource families in each county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that a county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving approved resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against counties.

(E) Requiring corrective action of counties that are not in full compliance with this section.

(7) Updating the Legislature on the early implementation phase of the program, including the status of implementation, successes, and challenges during the early implementation phase, and relevant available data, including resource family satisfaction.

(8) Implementing due process procedures, including, but not limited to, all of the following:

(A) Providing a statewide fair hearing process for application denials, rescissions of approval, exclusion actions, or criminal record exemption denials or rescissions by a county or the department.

(B) Providing an excluded individual with due process pursuant to Section 16519.6.

(C) Amending the department's applicable state hearing procedures and regulations or using the Administrative Procedure Act, when applicable, as necessary for the administration of the program.

(g) Counties shall be responsible for all of the following:

(1) Submitting an implementation plan and consulting with the county probation department in the development of the implementation plan.

(2) Complying with the written directives or regulations adopted pursuant to this section.

(3) Implementing the requirements for resource family approval and utilizing standardized documentation established by the department.

(4) Training appropriate staff, including ensuring staff have the education and experience or core competencies necessary to participate in the assessment and evaluation of an applicant or resource family.

(5) (A) Taking the following actions, as applicable:

(i) (I) Approving or denying resource family applications, including preparing a written evaluation of an applicant's capacity to foster, adopt, or provide legal guardianship of a child based on all of the information gathered through the resource family application and assessment processes.

(II) Considering the applicant's preference to provide a specific level of permanency, including adoption, guardianship, or, in the case of a relative, placement with a fit and willing relative, shall not be a basis to deny an application.

(ii) Rescinding approvals of resource families.

(iii) When applicable, referring a case to the department for an action to exclude a resource family parent or other individual from presence in a resource family home, consistent with the established standard.

(iv) Issuing a temporary suspension order that suspends the resource family approval prior to a hearing when urgent action is needed to protect a child from physical or mental abuse, abandonment, or any other substantial threat to health or safety, consistent with the established standard.

(v) Granting, denying, or rescinding criminal record exemptions.

(B) Providing a resource family parent, applicant, or individual who is the subject of a criminal record exemption decision with due process pursuant to Section 16519.6.

(C) Notifying the department of any decisions denying an application for resource family approval, rescinding the approval of a resource family, or denying or rescinding a criminal record exemption and, if applicable, notifying the department of the results of an administrative action.

(6) (A) Updating resource family approval annually and as necessary to address any changes that have occurred in the resource family's circumstances, including, but not limited to, moving to a new home location or commencing operation of a family day care home, as defined in Section 1596.78 of the Health and Safety Code.

(B) A county shall conduct an announced inspection of a resource family home during the annual update, and as necessary to address any changes specified in subparagraph (A), in order to ensure that the resource family is conforming to all applicable laws and the written directives or regulations adopted pursuant to this section.

(7) Monitoring resource families through all of the following:

(A) Ensuring that social workers who identify a condition in the home that may not meet the approval standards set forth in subdivision (d) while in the course of a routine visit to children placed with a resource family take appropriate action as needed.

(B) Requiring resource families to meet the approval standards set forth in this section and to comply with the written directives or regulations adopted pursuant to this section, other applicable laws, and corrective action plans as necessary to correct identified deficiencies. If corrective action is not completed as specified in the plan, the county may rescind the resource family approval.

(C) Requiring resource families to report to the county child welfare agency any incidents consistent with the reporting requirements for licensed foster family homes.

(D) Inspecting resource family homes as often as necessary to ensure the quality of care provided.

(8) (A) Investigating all complaints against a resource family and taking action as necessary, including, but not limited to, investigating any incidents reported about a resource family indicating that the approval standard is not being maintained and inspecting the resource family home.

(B) The child's social worker shall not conduct the formal investigation into the complaint received concerning a family providing services under the standards required by subdivision (d). To the extent that adequate resources are available, complaints shall be investigated by a worker who did not initially conduct the home environment or psychosocial assessments.

(C) Upon conclusion of the complaint investigation, the final disposition shall be reviewed and approved by a supervising staff member.

(D) The department shall be notified of any serious incidents or serious complaints or any incident that falls within the definition of Section 11165.5 of the Penal Code. If those incidents or complaints result in an investigation, the department shall also be notified as to the status and disposition of that investigation.

(9) Performing corrective action as required by the department.

(10) Assessing county performance in related areas of the California Child and Family Services Review System, and remedying problems identified.

(11) Submitting information and data that the department determines is necessary to study, monitor, and prepare the report specified in paragraph (6) of subdivision (f).

(12) Ensuring resource family applicants and resource families have the necessary knowledge, skills, and abilities to support children in foster care by completing caregiver training. The training should include a curriculum that supports the role of a resource family in parenting vulnerable children and should be ongoing in order to provide resource families with information on trauma-informed practices and requirements and other topics within the foster care system.

(13) Ensuring that a resource family applicant completes a minimum of 12 hours of preapproval caregiver training. The training shall include, but not be limited to, all of the following courses:

(A) An overview of the child protective and probation systems.

(B) The effects of trauma, including grief and loss, and child abuse and neglect, on child development and behavior, and methods to behaviorally support children impacted by that trauma or child abuse and neglect.

(C) Positive discipline and the importance of self-esteem.

(D) Health issues in foster care.

(E) Accessing services and supports to address education needs, physical, mental, and behavioral health, and substance use disorders, including culturally relevant services.

(F) The rights of a child in foster care, and the resource family's responsibility to safeguard those rights, including the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(G) Cultural needs of children, including instruction on cultural competency and sensitivity, and related best practices for providing adequate care for children or youth across diverse ethnic and racial backgrounds, as well as children or youth identifying as lesbian, gay, bisexual, or transgender.

(H) Basic instruction on existing laws and procedures regarding the safety of foster youth at school.

(I) Permanence, well-being, and education needs of children.

(J) Child and adolescent development, including sexual orientation, gender identity, and expression.

(K) The role of resource families, including working cooperatively with the child welfare or probation agency, the child's family, and other service providers implementing the case plan.

(L) The role of a resource family on the child and family team as defined in paragraph (4) of subdivision (a) of Section 16501.

(M) A resource family's responsibility to act as a reasonable and prudent parent, as described in subdivision (c) of Section 1522.44 of the Health and Safety Code, and to provide a family setting that promotes normal childhood experiences and that serves the needs of the child.

(N) An overview of the specialized training identified in subdivision (h).

(O) The information described in subdivision (i) of Section 16521.5. The program may use the curriculum created pursuant to subdivision (h), and described in subdivision (i), of Section 16521.5.

(14) Ensuring approved resource families complete a minimum of eight hours of caregiver training annually, a portion of which shall be from subparagraph (M) of paragraph (13) and from one or more of the other topics listed in paragraph (13).

(h) In addition to any training required by this section, a county may require a resource family or applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care. This training may include, but is not limited to, the following:

(1) Understanding how to use best practices for providing care and supervision to commercially sexually exploited children.

(2) Understanding how to use best practices for providing care and supervision to lesbian, gay, bisexual, and transgender children.

(3) Understanding the requirements and best practices regarding psychotropic medications, including, but not limited to, court authorization, benefits, uses, side effects, interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications.

(4) Understanding the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of children covered by the act, and the best interests of Indian children, including the role of the caregiver in supporting culturally appropriate, child-centered practices that respect Native American history, culture, retention of tribal membership, and connection to the tribal community and traditions.

(5) Understanding how to use best practices for providing care and supervision to nonminor dependents.

(6) Understanding how to use best practices for providing care and supervision to children with special health care needs.

(7) Understanding the different permanency options and the services and benefits associated with the options.

(i) Nothing in this section shall preclude a county from requiring training in excess of the requirements in this section.

(j) (1) Resource families who move home locations shall retain their resource family status pending the outcome of the update conducted pursuant to paragraph (6) of subdivision (g).

(2) (A) If a resource family moves from one county to another county, the department, or the county to which a resource family has moved, shall submit a written request to the Department of Justice to transfer the individual's subsequent arrest notification, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

(B) A request to transfer a subsequent arrest notification shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(3) Subject to the requirements in paragraph (1), the resource family shall continue to be approved for guardianship and adoption. Nothing in this subdivision shall limit a county, foster family agency, or adoption agency from determining that the family is not approved for guardianship or adoption based on changes in the family's circumstances or psychosocial assessment.

(k) Implementation of the program shall be contingent upon the continued availability of federal Social Security Act Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with placement of children with resource families assessed and approved under the program.

(l) A child placed with a resource family is eligible for the resource family basic rate, pursuant to Sections 11253.45, 11460, 11461, and 11463, and subdivision (l) of Section 11461.3, at the child's assessed level of care.

(m) Sharing ratios for nonfederal expenditures for all costs associated with activities related to the approval of relatives and nonrelative extended family members shall be in accordance with Section 10101.

(n) The Department of Justice shall charge fees sufficient to cover the cost of initial or subsequent criminal offender record information and Child Abuse Central Index searches, processing, or responses, as specified in this section.

(o) Except as provided, approved resource families shall be exempt from both of the following:

(1) Licensure requirements set forth under the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) and all regulations promulgated thereto.

(2) Relative and nonrelative extended family member approval requirements set forth under Sections 309, 361.4, and 362.7, and all regulations promulgated thereto.

(p) (1) Early implementation counties shall be authorized to continue through December 31, 2016. The program shall be implemented by each county on or before January 1, 2017.

(2) (A) (i) On and after January 1, 2017, a county to which the department has delegated its licensing authority pursuant to Section 1511 of the Health and Safety Code shall approve resource families in lieu of licensing foster family homes.

(ii) Notwithstanding clause (i), the existing licensure and oversight processes shall continue to be administered for foster family homes licensed prior to January 1, 2017, or as specified in subparagraph (C), until the license is revoked or forfeited by operation of law pursuant to Section 1517.1 of the Health and Safety Code.

(B) (i) On and after January 1, 2017, a county shall approve resource families in lieu of approving relative and nonrelative extended family members.

(ii) Notwithstanding clause (i), the existing approval and oversight processes shall continue to be administered for relatives and nonrelative extended family members approved prior to January 1, 2017, or as specified in subparagraph (C), until the approval is revoked or forfeited by operation of law pursuant to this section.

(C) Notwithstanding subparagraph (D), a county shall approve or deny all applications for foster family home licenses and requests for relative or nonrelative extended family member approvals received on or before December 31, 2016, in accordance with Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code or provisions providing for the approval of relatives or nonrelative extended family members, as applicable.

(D) On and after January 1, 2017, a county shall not accept applications for foster family home licenses or requests to approve relatives or nonrelative extended family members.

(3) No later than July 1, 2017, each county shall provide the following information to all licensed foster family homes and approved relatives and nonrelative extended family members licensed or approved by the county:

(A) A detailed description of the resource family approval program.

(B) Notification that, in order to care for a foster child, resource family approval is required by December 31, 2019.

(C) Notification that a foster family home license and an approval of a relative or nonrelative extended family member shall be forfeited by operation of law as specified in paragraph (5).

(4) By no later than January 1, 2018, the following shall apply to all licensed foster family homes and approved relative and nonrelative extended family members:

(A) A licensed foster family home or an approved relative or nonrelative extended family member with an approved adoptive home study completed prior to January 1, 2018, shall be deemed to be an approved resource family.

(B) A licensed foster family home or an approved relative or nonrelative extended family member who had a child in placement at any time between January 1, 2017, and December 31, 2017, inclusive, may be approved as a resource family on the date of successful completion of a psychosocial assessment pursuant to subparagraph (B) of paragraph (3) of subdivision (d).

(C) A county may provide supportive services to all licensed foster family homes, relatives, and nonrelative extended family members with a child in placement to assist with the resource family transition and to minimize placement disruptions.

(5) All foster family licenses and approvals of relatives and nonrelative extended family members shall be forfeited by operation of law on December 31, 2019, except as provided in this paragraph or Section 1524 of the Health and Safety Code:

(A) All licensed foster family homes that did not have a child in placement at any time between January 1, 2017, and December 31, 2017, inclusive, shall forfeit the license by operation of law on January 1, 2018.

(B) For foster family home licensees and approved relatives or nonrelative extended family members who have a pending resource family application on December 31, 2019, the foster family home license or relative and nonrelative extended family member approval shall be forfeited by operation of law upon approval as a resource family. If approval is denied, forfeiture by operation of law shall occur on the date of completion of any proceedings required by law to ensure due process.

(C) A foster family home license shall be forfeited by operation of law, pursuant to subdivision (b) of Section 1524 of the Health and Safety Code, upon approval as a resource family.

(D) Approval as a relative or nonrelative extended family member shall be forfeited by operation of law upon approval as a resource family.

(q) On and after January 1, 2017, all licensed foster family agencies shall approve resource families in lieu of certifying foster homes, as set forth in Section 1517 of the Health and Safety Code.

(r) The department may establish participation conditions, and select and authorize foster family agencies that voluntarily submit implementation plans and revised plans of operation in accordance with requirements established by the department, to approve resource families in lieu of certifying foster homes.

(1) Notwithstanding any other law, a participating foster family agency shall require resource families to meet and maintain the resource family approval standards and requirements set forth in this chapter and in the written directives adopted hereto prior to approval and in order to maintain approval.

(2) A participating foster family agency shall implement the resource family approval program pursuant to Section 1517 of the Health and Safety Code.

(3) Nothing in this section shall be construed to limit the authority of the department to inspect, evaluate, or investigate a complaint or incident, or initiate a disciplinary action against a foster family agency pursuant to Article 5 (commencing with Section 1550) of Chapter 3 of Division 2 of the Health and Safety Code, or to take any action it may deem necessary for the health and safety of children placed with the foster family agency.

(4) The department may adjust the foster family agency AFDC-FC rate pursuant to Section 11463 for implementation of this subdivision.

(5) This subdivision shall become inoperative on January 1, 2017.

(s) A county is authorized to obtain any arrest or conviction records or reports from any court or law enforcement agency as necessary to the performance of its duties, as provided in this section or subdivision (e) of Section 1522 of the Health and Safety Code.

(t) A resource family approved pursuant to this section shall forfeit its approval concurrent with resource family approval by a foster family agency.

SEC. 4.5. Section 16519.5 of the Welfare and Institutions Code, as amended by Section 50 of Chapter 24 of the Statutes of 2017, is amended to read:

16519.5. (a) The State Department of Social Services, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, certifying foster homes by licensed foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families.

(b) (1) Counties shall be selected to participate on a voluntary basis as early implementation counties for the purpose of participating in the initial development of the approval process. Early implementation counties shall be selected according to criteria developed by the department in consultation with the County Welfare Directors Association. In selecting the five early implementation counties, the department shall promote diversity among the participating counties in terms of size and geographic location.

(2) Additional counties may participate in the early implementation of the program upon authorization by the department.

(3) The State Department of Social Services shall be responsible for all of the following:

(A) Selecting early implementation counties, based on criteria established by the department in consultation with the County Welfare Directors Association.

(B) Establishing timeframes for participating counties to submit an implementation plan, enter into terms and conditions for early implementation participation in the program, train appropriate staff, and accept applications from resource families.

(C) Entering into terms and conditions for early implementation participation in the program by counties.

(4) Counties participating in the early implementation of the program shall be responsible for all of the following:

(A) Submitting an implementation plan.

(B) Entering into terms and conditions for early implementation participation in the program.

(C) Consulting with the county probation department in the development of the implementation plan.

(D) Training appropriate staff.

(E) Accepting applications from resource families within the timeframes established by the department.

(5) (A) Approved relatives and nonrelative extended family members, licensed foster family homes, or approved adoptive homes that have completed the license or approval process prior to statewide implementation of the program shall not be

considered part of the program. The otherwise applicable assessment and oversight processes shall continue to be administered for families and facilities not included in the program.

(B) Upon implementation of the program in a county, that county shall not accept new applications for the licensure of foster family homes, the approval of relative and nonrelative extended family members, or the approval of prospective guardians and adoptive homes.

(6) The department may waive regulations that pose a barrier to the early implementation and operation of this program. The waiver of any regulations by the department pursuant to this section shall apply to only those counties or foster family agencies participating in the early implementation of the program and only for the duration of the program.

(7) This subdivision shall become inoperative on January 1, 2017.

(c) (1) For the purposes of this article, "resource family" means an individual or family that has successfully met both the home environment assessment standards and the permanency assessment criteria adopted pursuant to subdivision (d) necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. A resource family shall demonstrate all of the following:

(A) An understanding of the safety, permanence, and well-being needs of children who have been victims of child abuse and neglect, and the capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, or a support structure in place, or both.

(B) An understanding of children's needs and development, effective parenting skills or knowledge about parenting, and the capacity to act as a reasonable, prudent parent in day-to-day decisionmaking.

(C) An understanding of his or her role as a resource family and the capacity to work cooperatively with the agency and other service providers in implementing the child's case plan.

(D) The financial ability within the household to ensure the stability and financial security of the family. An applicant who will rely on the funding described in subdivision (l) to meet additional household expenses incurred due to the placement of a child shall not, for this reason, be denied approval as a resource family.

(E) An ability and willingness to provide a family setting that promotes normal childhood experiences that serves the needs of the child.

(2) For purposes of this article, and unless otherwise specified, references to a "child" shall include a "nonminor dependent" and "nonminor former dependent or ward" as defined in subdivision (v) and paragraph (1) of subdivision (aa) of Section 11400.

(3) There is no fundamental right to approval as a resource family. Emergency placement of a child pursuant to Section 309 or 361.45, or placement with a resource family applicant pursuant to subdivision (e), does not entitle an applicant approval as a resource family.

(4) (A) A resource family shall be considered eligible to provide foster care for children in out-of-home placement and shall be considered approved for adoption and guardianship.

(B) Notwithstanding subparagraph (A), a county may approve a resource family to care for a specific child as specified in the written directives or regulations adopted pursuant to this section.

(5) For purposes of this article, "resource family approval" means that the applicant or resource family successfully meets the home environment assessment and permanency assessment standards. This approval is in lieu of a foster family home license issued pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, a certificate of approval issued by a licensed foster family agency, as described in subdivision (b) of Section 1506 of the Health and Safety Code, relative or nonrelative extended family member approval, guardianship approval, and the adoption home study approval.

(6) Approval of a resource family does not guarantee an initial, continued, or adoptive placement of a child with a resource family or with a relative or nonrelative extended family member. Approval of a resource family does not guarantee the establishment of a legal guardianship of a child with a resource family.

(7) (A) Notwithstanding paragraphs (1) to (6), inclusive, the county shall, consistent with Sections 1520.3 and 1558.1 of the Health and Safety Code, cease any further review of an application if the applicant has had a previous application denial by the department or a county within the preceding year, or if the applicant has had a previous rescission, revocation, or exemption denial or exemption rescission by the department or a county within the preceding two years.

(B) Notwithstanding subparagraph (A), the county may continue to review an application if it has determined that the reasons for the previous denial, rescission, or revocation were due to circumstances and conditions that either have been

corrected or are no longer in existence. If an individual was excluded from a resource family home or facility licensed by the department, the county shall cease review of the individual's application unless the excluded individual has been reinstated pursuant to subdivision (g) of Section 16519.6 of this code or pursuant to Section 1569.53, subdivision (h) of Section 1558, subdivision (h) of Section 1569.58, or subdivision (h) of Section 1596.8897, of the Health and Safety Code. The cessation of review shall not constitute a denial of the application for purposes of this section or any other law.

(C) For purposes of this section, the date of a previous denial, rescission, revocation, exemption denial or exemption rescission, or exclusion shall be either of the following:

(i) The effective date of a final decision or order upholding a notice of action or exclusion order.

(ii) The date on the notice of the decision to deny, rescind, revoke, or exclude if the notice was not appealed or otherwise constitutes a final decision.

(8) A resource family shall meet the approval standards set forth in this section, comply with the written directives or regulations adopted pursuant to this section, and comply with other applicable laws in order to maintain approval.

(9) A resource family may be approved by a county child welfare department or a probation department pursuant to this section or by a foster family agency pursuant to Section 1517 of the Health and Safety Code.

(10) A resource family shall not be licensed to operate a residential facility, as defined in Section 1502 of the Health and Safety Code, a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or a residential care facility for persons with chronic life-threatening illnesses, as defined in Section 1568.01 of the Health and Safety Code, on the same premises used as the residence of the resource family.

(d) (1) The department shall adopt standards pertaining to the home environment and permanency assessments of a resource family.

(2) Resource family home environment assessment standards shall include, but not be limited to, all of the following:

(A) (i) (I) A criminal record clearance of each applicant and all adults residing in, or regularly present in, the home, and not exempted from fingerprinting, as set forth in subdivision (b) of Section 1522 of the Health and Safety Code, pursuant to Section 8712 of the Family Code, utilizing a check of the Child Abuse Central Index pursuant to Section 1522.1 of the Health and Safety Code, and receipt of a fingerprint-based state and federal criminal offender record information search response. The criminal history information shall include subsequent notifications pursuant to Section 11105.2 of the Penal Code.

(II) Consideration of any substantiated allegations of child abuse or neglect against the applicant and any other adult residing in, or regularly present in, the home pursuant to Section 1522.1 of the Health and Safety Code.

(III) If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, home approval shall be denied. If the criminal records check indicates that the person has been convicted of an offense described in subparagraph (B) or (C) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code, the home shall not be approved unless a criminal records exemption has been granted under subclause (IV).

(IV) If the resource family parent, applicant, or any other person specified in subclause (I) has been convicted of a crime other than a minor traffic violation or arrested for an offense specified in subdivision (e) of Section 1522 of the Health and Safety Code, except for the civil penalty language, the criminal background check provisions specified in subdivisions (d) through (f) of Section 1522 of the Health and Safety Code shall apply. Exemptions from the criminal records clearance requirements set forth in this section may be granted by the department or the county, if that county has been granted permission by the department to issue criminal records exemptions pursuant to Section 361.4, using the exemption criteria currently used for foster care licensing as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(ii) For public foster family agencies approving resource families, the criminal records clearance process set forth in clause (i) shall be utilized.

(iii) For private foster family agencies approving resource families, the criminal records clearance process set forth in clause (i) shall be utilized, but the Department of Justice shall disseminate a fitness determination resulting from the federal criminal offender record information search.

(B) A home and grounds evaluation to ensure the health and safety of children.

(C) In addition to the foregoing requirements, the resource family home environment assessment standards shall also require the following:

(i) That the applicant demonstrates an understanding about the rights of children in care and his or her responsibility to safeguard those rights.

(ii) That the total number of children residing in the home of a resource family shall be no more than the total number of children the resource family can properly care for, regardless of status, and shall not exceed six children, unless exceptional circumstances that are documented in the foster child's case file exist to permit a resource family to care for more children, including, but not limited to, the need to place siblings together.

(iii) That the applicant understands his or her responsibilities with respect to acting as a reasonable and prudent parent, and maintaining the least restrictive environment that serves the needs of the child.

(3) The resource family permanency assessment standards shall include, but not be limited to, all of the following:

(A) Caregiver training, as described in subdivisions (g) and (h).

(B) A psychosocial assessment of an applicant, which shall include the results of a risk assessment.

(i) When the applicant is a relative or nonrelative extended family member to an identified child, the psychosocial assessment shall consider the nature of the relationship between the relative or nonrelative extended family member and the child. The relative or nonrelative extended family member's expressed desire to only care for a specific child or children shall not be a reason to deny the approval.

(ii) A caregiver risk assessment shall include, but not be limited to, physical and mental health, alcohol and other substance use and abuse, family and domestic violence, and the factors listed in paragraph (1) of subdivision (c).

(iii) A county may review and discuss data contained in the statewide child welfare database with an applicant for purposes of conducting a psychosocial assessment as specified in the written directives or regulations adopted pursuant to this section.

(C) Completion of any other activities that relate to the ability of an applicant or a resource family to achieve permanency with a child.

(e) (1) A county may place a child with a resource family applicant who has successfully completed the home environment assessment prior to completion of a permanency assessment only if a compelling reason for the placement exists based on the needs of the child.

(A) The permanency assessment shall be completed within 90 days of the child's placement in the home, unless good cause exists based upon the needs of the child.

(B) If additional time is needed to complete the permanency assessment, the county shall document the extenuating circumstances for the delay and generate a timeframe for the completion of the permanency assessment.

(C) The county shall report to the department on a quarterly basis the number of families with a child in an approved home whose permanency assessment goes beyond 90 days and summarize the reasons for these delays.

(2) For any placement made pursuant to this subdivision, AFDC-FC funding shall not be available until approval of the resource family has been completed.

(3) Any child placed under this subdivision shall be afforded all the rights set forth in Section 16001.9 and in the written directives or regulations adopted pursuant to this section.

(4) Nothing in this section shall limit the county's authority to inspect the home of a resource family applicant as often as necessary to ensure the quality of care provided.

(5) This subdivision does not limit the county's obligation under law to assess and give placement consideration to relatives and nonrelative extended family members and to place a child pursuant to Section 309, 361.3, or 361.45.

(f) The State Department of Social Services shall be responsible for all of the following:

(1) (A) Until regulations are adopted, administering the program through the issuance of written directives that shall have the same force and effect as regulations. Any directive affecting Article 1 (commencing with Section 700) of Chapter 7 of Division 1 of Title 11 of the California Code of Regulations shall be approved by the Department of Justice. The directives shall be exempt

from 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.

(B) Adopting, amending, or repealing, in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, any reasonable rules, regulations, and standards that may be necessary or proper to carry out the purposes and intent of this article and to enable the department to exercise the powers and perform the duties conferred upon it by this section, consistent with the laws of this state.

(2) Approving and requiring the use of a single standard for resource family approval.

(3) Adopting and requiring the use of standardized documentation for the home environment and permanency assessments of resource families.

(4) Adopting core competencies for county staff to participate in the assessment and evaluation of an applicant or resource family.

(5) Requiring counties to monitor county-approved resource families, including, but not limited to, both of the following:

(A) Investigating complaints regarding resource families.

(B) Developing and monitoring resource family corrective action plans to correct identified deficiencies and to rescind resource family approval if compliance with corrective action plans is not achieved.

(6) Ongoing oversight and monitoring of county systems and operations including all of the following:

(A) Reviewing the county's implementation plan and implementation of the program.

(B) Reviewing an adequate number of county-approved resource families in each county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that a county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against counties.

(E) Requiring corrective action of counties that are not in full compliance with this section.

(7) Updating the Legislature on the early implementation phase of the program, including the status of implementation, successes, and challenges during the early implementation phase, and relevant available data, including resource family satisfaction.

(8) Excluding a resource family parent, applicant, or other individual from presence in any resource family home, consistent with the established standard for any of the reasons specified in Section 16519.61.

(9) Implementing due process procedures, including, but not limited to, all of the following:

(A) Providing a statewide fair hearing process for application denials, rescissions of approval, exclusion actions, or criminal record exemption denials or rescissions by a county or the department.

(B) Providing an excluded individual with due process pursuant to Section 16519.6.

(C) Amending the department's applicable state hearing procedures and regulations or using the Administrative Procedure Act, when applicable, as necessary for the administration of the program.

(g) Counties shall be responsible for all of the following:

(1) Submitting an implementation plan and consulting with the county probation department in the development of the implementation plan.

(2) Complying with the written directives or regulations adopted pursuant to this section.

(3) Implementing the requirements for resource family approval and utilizing standardized documentation established by the department.

(4) Training appropriate staff, including ensuring staff have the education and experience or core competencies necessary to participate in the assessment and evaluation of an applicant or resource family.

(5) (A) Taking the following actions, as applicable, for any of the reasons specified in Section 16519.61:

(i) (I) Approving or denying resource family applications, including preparing a written evaluation of an applicant's capacity to foster, adopt, and provide legal guardianship of a child based on all of the information gathered through the resource family application and assessment processes.

(II) The applicant's preference to provide a specific level of permanency, including adoption, guardianship, or, in the case of a relative, placement with a fit and willing relative, shall not be a basis to deny an application.

(ii) Rescinding approvals of resource families.

(iii) When applicable, referring a case to the department for an action to exclude a resource family parent, applicant, or other individual from presence in any resource family home, consistent with the established standard.

(iv) Issuing a temporary suspension order that suspends the resource family approval prior to a hearing when, in the opinion of the court, urgent action is needed to protect a child from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The county shall serve the resource family with the temporary suspension order and a copy of available discovery in the possession of the county, including, but not limited to, affidavits, declarations, names of witnesses, and other evidence upon which the county relied in issuing the temporary suspension order. The temporary suspension order shall be served upon the resource family with a notice of action, and if the matter is to be heard before the Office of Administrative Hearings, an accusation. The temporary suspension order shall list the effective date on the order.

(v) Granting, denying, or rescinding criminal record exemptions.

(B) Providing a resource family parent, applicant, or individual who is the subject of a criminal record exemption decision with due process pursuant to Section 16519.6.

(C) Notifying the department of any decisions denying an application for resource family approval, rescinding the approval of a resource family, or denying or rescinding a criminal record exemption and, if applicable, notifying the department of the results of an administrative action.

(6) (A) Updating resource family approval annually and as necessary to address any changes that have occurred in the resource family's circumstances, including, but not limited to, moving to a new home location or commencing operation of a family day care home, as defined in Section 1596.78 of the Health and Safety Code.

(B) A county shall conduct an announced inspection of a resource family home during the annual update, and as necessary to address any changes specified in subparagraph (A), in order to ensure that the resource family is conforming to all applicable laws and the written directives or regulations adopted pursuant to this section.

(7) Monitoring resource families through all of the following:

(A) Ensuring that social workers who identify a condition in the home that may not meet the approval standards set forth in subdivision (d) while in the course of a routine visit to children placed with a resource family take appropriate action as needed.

(B) Requiring resource families to meet the approval standards set forth in this section and to comply with the written directives or regulations adopted pursuant to this section, other applicable laws, and corrective action plans as necessary to correct identified deficiencies. If corrective action is not completed as specified in the plan, the county may rescind the resource family approval.

(C) Requiring resource families to report to the county child welfare agency any incidents consistent with the reporting requirements for licensed foster family homes.

(D) Inspecting resource family homes as often as necessary to ensure the quality of care provided.

(8) (A) Investigating all complaints against a resource family and taking action as necessary, including, but not limited to, investigating any incidents reported about a resource family indicating that the approval standard is not being maintained and inspecting the resource family home.

(B) The child's social worker shall not conduct the investigation into the complaint received concerning a family providing services under the standards required by subdivision (d). To the extent that adequate resources are available, complaints

shall be investigated by a worker who did not conduct the home environment or psychosocial assessment or prepare the written report determining approval of the resource family.

(C) Upon conclusion of the complaint investigation, the final disposition shall be reviewed and approved by a supervising staff member.

(D) The department shall be notified of any serious incidents or serious complaints or any incident that falls within the definition of Section 11165.5 of the Penal Code. If those incidents or complaints result in an investigation, the department shall also be notified as to the status and disposition of that investigation.

(9) Performing corrective action as required by the department.

(10) Assessing county performance in related areas of the California Child and Family Services Review System, and remedying problems identified.

(11) Submitting information and data that the department determines is necessary to study, monitor, and prepare the report specified in paragraph (6) of subdivision (f).

(12) Ensuring resource family applicants and resource families have the necessary knowledge, skills, and abilities to support children in foster care by completing caregiver training. The training should include a curriculum that supports the role of a resource family in parenting vulnerable children and should be ongoing in order to provide resource families with information on trauma-informed practices and requirements and other topics within the foster care system.

(13) Ensuring that a resource family applicant completes a minimum of 12 hours of preapproval caregiver training. The training shall include, but not be limited to, all of the following courses:

(A) An overview of the child protective and probation systems.

(B) The effects of trauma, including grief and loss, and child abuse and neglect, on child development and behavior, and methods to behaviorally support children impacted by that trauma or child abuse and neglect.

(C) Positive discipline and the importance of self-esteem.

(D) Health issues in foster care.

(E) Accessing services and supports to address education needs, physical, mental, and behavioral health, and substance use disorders, including culturally relevant services.

(F) The rights of a child in foster care, and the resource family's responsibility to safeguard those rights, including the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(G) Cultural needs of children, including instruction on cultural competency and sensitivity, and related best practices for providing adequate care for children or youth across diverse ethnic and racial backgrounds, as well as children or youth identifying as lesbian, gay, bisexual, or transgender.

(H) Basic instruction on existing laws and procedures regarding the safety of foster youth at school.

(I) Permanence, well-being, and education needs of children.

(J) Child and adolescent development, including sexual orientation, gender identity, and expression.

(K) The role of resource families, including working cooperatively with the child welfare or probation agency, the child's family, and other service providers implementing the case plan.

(L) The role of a resource family on the child and family team as defined in paragraph (4) of subdivision (a) of Section 16501.

(M) A resource family's responsibility to act as a reasonable and prudent parent, as described in subdivision (c) of Section 1522.44 of the Health and Safety Code, and to provide a family setting that promotes normal childhood experiences and that serves the needs of the child.

(N) An overview of the specialized training identified in subdivision (h).

(O) The information described in subdivision (i) of Section 16521.5. The program may use the curriculum created pursuant to subdivision (h), and described in subdivision (i), of Section 16521.5.

(14) Ensuring resource families complete a minimum of eight hours of caregiver training annually, a portion of which shall be from subparagraph (M) of paragraph (13) and from one or more of the other topics listed in paragraph (13).

(h) In addition to any training required by this section, a county may require a resource family or applicant to receive relevant specialized training for the purpose of preparing the resource family to meet the needs of a particular child in care. This training may include, but is not limited to, the following:

(1) Understanding how to use best practices for providing care and supervision to commercially sexually exploited children.

(2) Understanding how to use best practices for providing care and supervision to lesbian, gay, bisexual, and transgender children.

(3) Understanding the requirements and best practices regarding psychotropic medications, including, but not limited to, court authorization, benefits, uses, side effects, interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications.

(4) Understanding the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of children covered by the act, and the best interests of Indian children, including the role of the caregiver in supporting culturally appropriate, child-centered practices that respect Native American history, culture, retention of tribal membership, and connection to the tribal community and traditions.

(5) Understanding how to use best practices for providing care and supervision to nonminor dependents.

(6) Understanding how to use best practices for providing care and supervision to children with special health care needs.

(7) Understanding the different permanency options and the services and benefits associated with the options.

(i) Nothing in this section shall preclude a county from requiring training in excess of the requirements in this section.

(j) (1) Resource families who move home locations shall retain their resource family status pending the outcome of the update conducted pursuant to paragraph (6) of subdivision (g).

(2) (A) If a resource family moves from one county to another county, the department, or the county to which a resource family has moved, shall submit a written request to the Department of Justice to transfer the individual's subsequent arrest notification, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

(B) A request to transfer a subsequent arrest notification shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(3) Subject to the requirements in paragraph (1), the resource family shall continue to be approved for guardianship and adoption. Nothing in this subdivision shall limit a county, foster family agency, or adoption agency from determining that the family is not approved for guardianship or adoption based on changes in the family's circumstances or psychosocial assessment.

(k) Implementation of the program shall be contingent upon the continued availability of federal Social Security Act Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with placement of children with resource families assessed and approved under the program.

(l) A child placed with a resource family is eligible for the resource family basic rate, pursuant to Sections 11253.45, 11460, 11461, and 11463, and subdivision (l) of Section 11461.3, at the child's assessed level of care.

(m) Sharing ratios for nonfederal expenditures for all costs associated with activities related to the approval of relatives and nonrelative extended family members shall be in accordance with Section 10101.

(n) The Department of Justice shall charge fees sufficient to cover the cost of initial or subsequent criminal offender record information and Child Abuse Central Index searches, processing, or responses, as specified in this section.

(o) Except as provided, resource families shall be exempt from both of the following:

(1) Licensure requirements set forth under the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), and all regulations promulgated thereto.

(2) Relative and nonrelative extended family member approval requirements as those approval requirements existed prior to January 1, 2017.

(p) (1) Early implementation counties shall be authorized to continue through December 31, 2016. The program shall be implemented by each county on or before January 1, 2017.

(2) (A) (i) On and after January 1, 2017, a county to which the department has delegated its licensing authority pursuant to Section 1511 of the Health and Safety Code shall approve resource families in lieu of licensing foster family homes.

(ii) Notwithstanding clause (i), the existing licensure and oversight processes shall continue to be administered for foster family homes licensed prior to January 1, 2017, or as specified in subparagraph (C), until the license is revoked or forfeited by operation of law pursuant to Section 1517.1 of the Health and Safety Code.

(B) (i) On and after January 1, 2017, a county shall approve resource families in lieu of approving relative and nonrelative extended family members.

(ii) Notwithstanding clause (i), the existing approval and oversight processes shall continue to be administered for relatives and nonrelative extended family members approved prior to January 1, 2017, or as specified in subparagraph (C), until the approval is revoked or forfeited by operation of law pursuant to this section.

(C) Notwithstanding subparagraph (D), a county shall approve or deny all applications for foster family home licenses and requests for relative or nonrelative extended family member approvals received on or before December 31, 2016, in accordance with Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code or provisions providing for the approval of relatives or nonrelative extended family members, as applicable.

(D) On and after January 1, 2017, a county shall not accept applications for foster family home licenses or requests to approve relatives or nonrelative extended family members.

(3) No later than July 1, 2017, each county shall provide the following information to all licensed foster family homes and approved relatives and nonrelative extended family members licensed or approved by the county:

(A) A detailed description of the resource family approval program.

(B) Notification that, in order to care for a foster child, resource family approval is required by December 31, 2019.

(C) Notification that a foster family home license and an approval of a relative or nonrelative extended family member shall be forfeited by operation of law as specified in paragraph (8).

(4) The following shall apply to all licensed foster family homes and approved relative and nonrelative extended family members:

(A) A licensed foster family home or an approved relative or nonrelative extended family member with an approved adoptive home study completed prior to January 1, 2018, shall be deemed to be a resource family.

(B) A licensed foster family home or an approved relative or nonrelative extended family member who had a child in placement at any time between January 1, 2017, and December 31, 2017, inclusive, may be approved as a resource family on the date of successful completion of a psychosocial assessment.

(C) A licensed foster family home that provided county-authorized respite services at any time between January 1, 2017, and December 31, 2017, inclusive, may be approved as a resource family on the date of successful completion of a psychosocial assessment.

(5) A county may provide supportive services to all licensed foster family homes, relatives, and nonrelative extended family members with a child in placement to assist with the resource family transition and to minimize placement disruptions.

(6) (A) In order to approve a licensed foster family home or approved relative or nonrelative extended family member as a resource family pursuant to paragraph (4), a county shall submit a written request to the Department of Justice to transfer any subsequent arrest and Child Abuse Central Index notifications, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

(B) A request to transfer a subsequent arrest notification shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(7) An individual who is a member of a resource family approved pursuant to subparagraph (B) or (C) of paragraph (4) shall be fingerprinted pursuant to Section 8712 of the Family Code upon filing an application for adoption.

(8) All foster family licenses and approvals of relatives and nonrelative extended family members shall be forfeited by operation of law on December 31, 2019, except as provided in this paragraph or Section 1524 of the Health and Safety Code:

(A) All licensed foster family homes that did not have a child in placement or did not provide county-authorized respite services at any time between January 1, 2017, and December 31, 2017, inclusive, shall forfeit the license by operation of law on January 1, 2018.

(B) For foster family home licensees and approved relatives or nonrelative extended family members who have a pending resource family application on December 31, 2019, the foster family home license or relative and nonrelative extended family member approval shall be forfeited by operation of law upon approval as a resource family. If approval is denied, forfeiture by operation of law shall occur on the date of completion of any proceedings required by law to ensure due process.

(C) A foster family home license shall be forfeited by operation of law, pursuant to Section 1517.1 of the Health and Safety Code, upon approval as a resource family.

(D) Approval as a relative or nonrelative extended family member shall be forfeited by operation of law upon approval as a resource family.

(q) On and after January 1, 2017, all licensed foster family agencies shall approve resource families in lieu of certifying foster homes, as set forth in Section 1517 of the Health and Safety Code.

(r) The department may establish participation conditions, and select and authorize foster family agencies that voluntarily submit implementation plans and revised plans of operation in accordance with requirements established by the department, to approve resource families in lieu of certifying foster homes.

(1) Notwithstanding any other law, a participating foster family agency shall require resource families to meet and maintain the resource family approval standards and requirements set forth in this chapter and in the written directives adopted hereto prior to approval and in order to maintain approval.

(2) A participating foster family agency shall implement the resource family approval program pursuant to Section 1517 of the Health and Safety Code.

(3) Nothing in this section shall be construed to limit the authority of the department to inspect, evaluate, or investigate a complaint or incident, or initiate a disciplinary action against a foster family agency pursuant to Article 5 (commencing with Section 1550) of Chapter 3 of Division 2 of the Health and Safety Code, or to take any action it may deem necessary for the health and safety of children placed with the foster family agency.

(4) The department may adjust the foster family agency AFDC-FC rate pursuant to Section 11463 for implementation of this subdivision.

(5) This subdivision shall become inoperative on January 1, 2017.

(s) The department or a county is authorized to obtain any arrest or conviction records or reports from any court or law enforcement agency as necessary to the performance of its duties, as provided in this section or subdivision (e) of Section 1522 of the Health and Safety Code.

(t) A resource family approved pursuant to this section shall forfeit its approval concurrent with resource family approval by a foster family agency.

SEC. 5. (a) Section 2.5 of this bill incorporates amendments to Section 1522 of the Health and Safety Code proposed by both this bill and Assembly Bill 404. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 1522 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 404, in which case Section 2 of this bill shall not become operative.

(b) Section 3.2 of this bill adds Section 361.4 to the Welfare and Institutions Code. That section shall only become operative if (1) both this bill and Assembly Bill 404 are enacted and become effective on or before January 1, 2018, and (2) this bill is enacted after Assembly Bill 404, in which case Section 3.1 of this bill shall not become operative.

(c) Section 4.5 of this bill incorporates amendments to Section 16519.5 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill 404. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 16519.5 of the Welfare and Institutions Code, and (3) this bill is enacted after Assembly Bill 404, in which case Section 4 of this bill shall not become operative.

SEC. 6. The State Department of Social Services shall convene a stakeholder group to develop and implement, to the extent permissible under existing law, recommendations for streamlining the criminal exemption process for prospective employees in children's residential settings who have lived experiences that may benefit foster youth in care.

SEC. 7. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.