

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

### DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. These emergency regulations implement and make specific the legislative intent with regard to preventing harm to children in licensed child care facilities. If an individual, required to be fingerprinted under state law in order to operate, work in, or be present in a child care facility, is arrested for a crime for which, if convicted, an individual is not eligible by law to receive an exemption, the continued presence of that individual in a child care facility constitutes a possible risk to the children in those facilities. These emergency regulations specify the procedures the Department will follow to require a licensee to cease operation or remove an individual from the facility for up to 30 days pending the Department's investigation into the facts underlying the arrest. During the 30-day period, the Department will conduct an investigation and make a final determination regarding whether or not administrative action will be taken against the licensee or individual.
2. These emergency regulations would protect the health and safety of children in licensed child care by requiring that the licensee cease operation or that the individual not be present in the facility for up to 30 days pending the investigation into the facts of an arrest for any one of approximately 50 crimes such as murder/attempted murder, kidnapping, sexual battery, rape, aggravated assault of a child, willful cruelty to a child, and sexual abuse.
3. These emergency regulations are necessary because of a significant increase in the number of arrest reports submitted to the Department by the Department of Justice. Without procedures for the immediate, temporary removal of the arrestee, the individual will continue operating, working or living in the facility during the Department's investigation, thus presenting a risk to the health and safety of children in care.
4. The non-emergency rulemaking process set forth in the Administrative Procedure Act is sufficiently lengthy that it is not possible to implement regulation changes on an immediate basis.
5. Therefore, in order to protect the health and safety of children in child care facilities, regulations are adopted on an emergency basis.

### INFORMATIVE DIGEST

These proposed emergency regulations amend specific provisions and adopt new language in Title 22, Division 12, Chapter 1 (Child Care Center (CCC), Section 101170, Criminal Record Clearance) and Chapter 3 (Family Child Care Homes (FCCH), Section 102370, Criminal Record Clearance). These amendments are necessary to implement the Department of Social Services' policy that an individual arrested for a crime for which, if convicted, an individual is not eligible,

by law, to receive an exemption, constitutes a possible risk to the children in licensed child care facilities.

These emergency regulations specify the Department's procedures for requiring a licensee to cease operation or remove an individual from the facility for up to 30 days. During the 30-day period, the Department will conduct an investigation and make a final determination regarding whether or not administrative action will be taken against the licensee or individual.

Amending the aforementioned sections increases the Department's ability to protect children in licensed child care facilities.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The estimated ongoing cost will be \$306,000 to perform all of the necessary activities in a time sensitive manner.
2. Costs to Local Agencies or School Districts: There would be a negligible fiscal impact on local agencies and no fiscal impact on school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded state agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 1596.81 of the Health and Safety Code. Subject regulations implement and make specific Sections 1596.871, 1597.59. of the Health and Safety Code.