S271265

IN THE SUPREME COURT OF CALIFORNIA

GUARDIANSHIP OF S.H.R.

S.H.R.,
Petitioner and Appellant,

v.

JESUS RIVAS ET AL.,
Real Parties in Interest.

AFTER A DECISION BY THE COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION ONE
CASE NO. B308440

EXHIBITS TO REQUEST FOR JUDICIAL NOTICE

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CALIFORNIA APPELLATE LAW GROUP LLP
Rex S. Heinke* (No. 66163) | rex.heinke@calapplaw.com
Jessica Weisel (No. 174809) | jessica.weisel@calapplaw.com
811 Wilshire Blvd., 17th Floor, Los Angeles, CA 90017
(213) 878-0404 • Fax: (415) 726-2527

ATTORNEYS FOR AMICUS CURIAE
PUBLIC COUNSEL

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Exhibit 1

SB-873 Human services. (2013-2014)

Senate Bill No. 873

CHAPTER 685

An act to add Chapter 7 (commencing with Section 155) to Title 1 of Part 1 of the Code of Civil Procedure, to add Section 757 to the Evidence Code, to amend Sections 1546.1, 1546.2, 1569.481, 1569.482, and 1569.682 of the Health and Safety Code, to amend Sections 11461.3, 11462.04, 11477, and 12300.4 of, and to add Chapter 5.6 (commencing with Section 13300) to Part 3 of Division 9 of, the Welfare and Institutions Code, and to amend Section 88 of Chapter 29 of the Statutes of 2014, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 27, 2014. Filed with Secretary of State September 27, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 873, Committee on Budget and Fiscal Review. Human services.

(1) Existing federal law, the Immigration and Nationality Act, establishes a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court, and authorizes those aliens who have been granted special immigrant juvenile status to apply for an adjustment of status to that of a lawful permanent resident within the United States. Under federal regulations, state juvenile courts are charged with making a preliminary determination of the child's dependency, as specified. Existing federal regulations define juvenile court to mean a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a minor to be a dependent or ward of the court. Existing law also establishes the jurisdiction of the probate court. Existing law regulates the establishment and termination of guardianships in probate court, and specifies that a guardian has the care, custody, and control of a ward. Existing law establishes the jurisdiction of the family court, which may make determinations about the custody of children.

This bill would provide that the superior court, including the juvenile, probate, or family court division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. The bill would require the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings. The bill would require records of these proceedings that are not otherwise protected by state confidentiality laws to remain confidential, and would also authorize the sealing of these records. The bill would require the Judicial Council to adopt any rules and forms needed to implement these provisions.

(2) Existing federal law, Title VI of the federal Civil Rights Act of 1964 and the Safe Streets Act of 1968, prohibit national origin discrimination by recipients of federal assistance.

The California Constitution provides that a person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings. Existing law requires that court interpreters' fees or other compensation be paid by the court in criminal cases, and by the litigants in civil cases, as specified. Existing law requires, in any action or proceeding under specified provisions of the Family Code relating to domestic violence, an interpreter to be provided by the court for a party who does not proficiently speak or understand the English language to interpret the proceedings in a language that the party understands and to assist communication between the party and his or her attorney.

This bill would state that existing law and authority to provide interpreters in civil court includes providing an interpreter for a child in a proceeding in which a petitioner requests an order from the superior court to make the findings regarding special immigrant juvenile status.

(3) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities and residential care facilities for the elderly.

Existing law authorizes the department to appoint a temporary manager to assume the operation of a community care facility or residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist. To the extent department funds are used for the costs of the temporary manager or related expenses, existing law requires the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, requires that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility.

Existing law also authorizes the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3 months, subject to extension by the department, when certain circumstances exist. To the extent that state funds are used to pay for the salary of the receiver or other related expenses, existing law requires the state be reimbursed from the revenues accruing to the facility or to the licensee or the entity related to the license, and to the extent that those revenues are insufficient, requires that the unreimbursed amount constitute a lien on the assets of the facility or the proceeds from the sale of the facility.

This bill would instead provide that if the revenues are insufficient to reimburse the department for the costs of the temporary manager, the salary of the receiver, or related expenses, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and subsequent lien upon the assets of the facility or the proceeds from the sale thereof. The bill would make other related changes to these provisions. The bill would provide that liens placed against the personal and real property of a licensee for reimbursement of funds relating to the receivership be given judgment creditor priority.

(4) Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law specifies the amounts of cash aid to be paid each month to CalWORKs recipients. Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Under existing law, a child is eligible for AFDC-FC if he or she is placed in the approved home of a relative and is otherwise eligible for federal financial participation in the AFDC-FC payment, as specified. Existing law, beginning January 1, 2015, establishes the Approved Relative Caregiver Funding Option Program in counties choosing to participate, for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments.

Existing law requires that the related child placed in the home meet certain requirements in order to be eligible under the Approved Relative Caregiver Funding Option Program and requires that specified funding be used for the program.

This bill would require, for purposes of this program, that the care and placement of the child be the responsibility of the county welfare department or the county probation department. The bill would also, for purposes of funding the program, delete the requirement that the funding of the applicable per-child CalWORKs grant be limited to the federal funds received.

(5) Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates. Existing law prohibits the establishment of a new group home rate or change to an existing rate under the AFDC-FC program, except for exemptions granted by the department on a case-by-case basis. Existing law also limits, for the 2012–13 and 2013–14 fiscal years, exceptions for any program with a rate classification level below 10 to exceptions associated with a program change.

This bill would extend that limitation to the 2014–15 fiscal year.

(6) Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained. Existing law exempts from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court for a felony drug conviction, as specified, after December 31, 1997.

This bill would provide that if the income for an assistance unit that excludes any adults as described above includes reasonably anticipated income derived from child support, the amount established in specified provisions of law of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

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

Existing law requires that in-home supportive services and waiver personal care services be performed by providers within a workweek that does not exceed 66 hours per week, as reduced by a specified net percentage.

This bill would, if certain conditions are met, deem a provider authorized to work a recipient's county-approved adjusted hours for the week if the recipient's weekly authorized hours are adjusted and, at the time of adjustment, the recipient currently receives all authorized hours of services from that provider.

Existing law also requires the State Department of Health Care Services, if the provider of authorized waiver personal care services cannot provide authorized in-home supportive services to a recipient as a result of the above-described workweek limitation, to work with the recipient to engage additional providers, as necessary.

This bill would delete that provision and instead require the State Department of Health Care Services to work with and assist recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver who are at or near their individual cost cap to avoid a reduction in the recipient's services that may result because of increased overtime pay for providers. The bill would require the department, as a part of this effort, to consider allowing the recipient to exceed the individual cost cap. The bill would require the department to provide timely information to waiver recipients regarding the steps that will be taken to implement this provision.

(8) Existing federal law, the Homeland Security Act of 2002, empowers the Director of the Office of Refugee Resettlement of the federal Department of Health and Human Services with functions under the immigration laws of the United States with respect to the care of unaccompanied alien children, as defined, including, but not limited to, coordinating and implementing the care and placement of unaccompanied alien children who are in federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each child, as provided. Existing law designates the State Department of Social Services as the single agency with full power to supervise every phase of the administration of public social services, except health care services and medical assistance.

This bill would require the State Department of Social Services, subject to the availability of funding, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented

minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state. The bill would require that the contracts awarded meet certain conditions.

(9) Existing law authorizes the State Department of Social Services to implement specified provisions of Chapter 29 of the Statutes of 2014 through all-county letters or similar instructions and requires the department to adopt emergency regulations implementing these provisions no later than January 1, 2016.

This bill would extend that authorization for all-county letters and similar instructions to additional provisions of Chapter 29 of the Statutes of 2014 that relate to the CalFresh program.

(10) This bill would provide that its provisions are severable.

(11) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(12) This bill would incorporate additional changes to Section 1569.682 of the Health and Safety Code made by this bill and AB 1899, to take effect if both bills are chaptered and this bill is chaptered last.

(13) Item 5180-151-0001 of Section 2.00 of the Budget Act of 2014 appropriated $1,435,400,000 to the State Department of Social Services for local assistance for children and adult services, which includes, among other things, increased costs associated with cases of child abuse and neglect and revised federal requirements for child welfare case reviews, and funds for the Commercially Sexually Exploited Children Program. Item 5180-153-0001 of Section 2.00 of the Budget Act of 2014 also appropriated $1,901,000 to the State Department of Social Services for local assistance for increased costs associated with revised county collection and reporting activities for cases of child abuse and neglect and revised federal requirements for child welfare case reviews.

This bill would revise these items by increasing the appropriation in Item 5180-151-0001 by $1,686,000 for the Commercially Sexually Exploited Children Program, and by reducing the appropriation in Item 5180-153-0001 by $1,686,000.

(14) This bill would provide that the continuous appropriation applicable to CalWORKs is not made for purposes of implementing the bill.

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

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

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

SECTION 1. Chapter 7 (commencing with Section 155) is added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 7. Special Immigrant Juvenile Findings

155. (a) A superior court has jurisdiction under California law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11), which includes, but is not limited to, the juvenile, probate, and family court divisions of the superior court. These courts may make the findings necessary to enable a child to petition the United States Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

(b) (1) If an order is requested from the superior court making the necessary findings regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code, and there is evidence to support those findings, which may consist of, but is not limited to, a declaration by the child who is the subject of the petition, the court shall issue the order, which shall include all of the following findings:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to, or placed under the custody of, a state agency or department, or an individual or entity

appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to California law. The court shall indicate the date on which reunification was determined not to be viable.

(C) That it is not in the best interest of the child to be returned to the child's, or his or her parent's, previous country of nationality or country of last habitual residence.

(2) If requested by a party, the court may make additional findings that are supported by evidence.

(c) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by state confidentiality laws shall remain confidential and shall be available for inspection only by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, records of the proceedings that are not otherwise protected by state confidentiality laws may be sealed using the procedure set forth in California Rules of Court 2.550 and 2.551.

(e) The Judicial Council shall adopt any rules and forms needed to implement this section.

SEC. 2. Section 757 is added to the Evidence Code, to read:

757. Pursuant to this chapter, other applicable law, and existing Judicial Council policy, including the policy adopted on January 23, 2014, existing authority to provide interpreters in civil court includes the authority to provide an interpreter in a proceeding in which a petitioner requests an order from the superior court to make the findings regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

SEC. 3. Section 1546.1 of the Health and Safety Code, as added by Section 11 of Chapter 29 of the Statutes of 2014, is amended to read:

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

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

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

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

circumstances exist:

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

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

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

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

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

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

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

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

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

Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

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

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

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

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

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

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

SEC. 4. Section 1546.2 of the Health and Safety Code, as added by Section 12 of Chapter 29 of the Statutes of 2014, is amended to read:

1546.2. (a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of community care facilities and to minimize the effects of transfer trauma that accompany the abrupt transfer of clients through a system whereby the department may apply for a court order appointing a receiver to temporarily operate a community care facility. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the clients' health and safety. The receivership is intended to protect the clients in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or ensure the orderly transfer of clients should the facility be required to close.

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

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

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

(2) At the time of the hearing, the department shall advise the licensee of the name of the proposed receiver. The

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

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

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

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

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

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

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

(f) A receiver appointed pursuant to this section:

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

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

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

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

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the

following purposes in descending order of priority:

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest that the receiver is permitted to avoid pursuant to paragraph (1), and if the real estate or goods are necessary for the continued operation of the facility, the receiver may apply to the court to set a reasonable rent, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on this

application within 15 days. The receiver shall send notice of the application to any known owner of the property involved at least 10 days prior to the hearing.

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

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

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

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

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

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

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

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

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

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

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

(E) The recommendations and reports of the receiver.

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

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

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

pursuant to Section 1546.1.

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

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

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

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

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

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

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

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

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

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

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

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

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

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

SEC. 5. Section 1569.481 of the Health and Safety Code, as added by Section 24 of Chapter 29 of the Statutes of 2014, is amended to read:

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

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

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

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

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

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

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

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

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

(e) (1) The appointment of a temporary manager shall be immediately effective and shall continue for a period

not to exceed 60 days unless otherwise extended in accordance with paragraph (2) of subdivision (h) at the discretion of the department or as permitted by paragraph (2) of subdivision (d) of Section 1569.525, or unless otherwise terminated earlier by any of the following events:

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

(B) The department approves a new temporary manager.

(C) A new operator is licensed.

(D) The department closes the facility.

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

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

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

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

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

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

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

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

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

(h) (1) If the licensee petitions the Office of Administrative Hearings pursuant to subdivision (f), the appointment of the temporary manager by the director pursuant to this section shall continue until it is terminated by the

administrative law judge or by the superior court, or it shall continue until the conditions of subdivision (e) are satisfied, whichever is earlier.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of a purchase agreement, come due during the period of the temporary management.

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

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

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

(l) (1) To the extent department funds are advanced for the costs of the temporary manager or for other expenses in connection with the temporary management, the department shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the department shall be redeposited in the account from which the department funds were advanced. If the revenues are insufficient to reimburse the department, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

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

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of residents under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of residents handled by the department if the licensee fails to comply with the relocation requirements of Section 1569.525 or 1569.682 when required by the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

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

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

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

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

(r) A licensee shall not be liable for any occurrences during the temporary management under this section except

to the extent that the occurrences are the result of the licensee's conduct.

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

SEC. 6. Section 1569.482 of the Health and Safety Code, as added by Section 25 of Chapter 29 of the Statutes of 2014, is amended to read:

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

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

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

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

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

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

of the receiver to act in a reasonable manner. The bond requirement may be waived by the licensee.

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

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

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

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

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

(f) A receiver appointed pursuant to this section:

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

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

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

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

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

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

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

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

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

during the period of receivership, or which, in the case of a purchase agreement, come due during the period of receivership.

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

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

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

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

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

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

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

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

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

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

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

(j) (1) The receiver shall be appointed for an initial period of not more than three months. The initial three-month period may be extended for additional periods not exceeding three months, as determined by the court pursuant

to this section. At the end of one month, the receiver shall report to the court on its assessment of the probability that the residential care facility for the elderly will meet state standards for operation by the end of the initial three-month period and will continue to maintain compliance with those standards after termination of the receiver's management. If it appears that the facility cannot be brought into compliance with state standards within the initial three-month period, the court shall take appropriate action as follows:

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

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

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

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

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

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

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

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

(E) The recommendations and reports of the receiver.

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

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

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

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

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

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

(k) (1) The salary of the receiver shall be set by the court commensurate with community care facility industry standards, giving due consideration to the difficulty of the duties undertaken, and shall be paid from the revenue coming to the facility. If the revenue is insufficient to pay the salary in addition to other expenses of operating the facility, the receiver's salary shall be paid from the emergency resident contingency account as provided in Section 1569.48. State advances of funds in excess of five thousand dollars ($5,000) shall be approved by the

director. Total advances for encumbrances and expenditures shall not exceed the sum of forty-nine thousand nine hundred ninety-nine dollars ($49,999) unless approved by the director in writing.

(2) To the extent state funds are advanced for the salary of the receiver or for other expenses in connection with the receivership, as limited by subdivision (g), the state shall be reimbursed from the revenues accruing to the facility or to the licensee or an entity related to the licensee. Any reimbursement received by the state shall be redeposited in the account from which the state funds were advanced. If the revenues are insufficient to reimburse the state, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and a subsequent lien upon the assets of the facility or the proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

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

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

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

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

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

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

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

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

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

SEC. 7. Section 1569.682 of the Health and Safety Code is amended to read:

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

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

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

service plan.

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

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

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

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

(C) The relocation evaluation.

(D) A list of referral agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If seven or more residents of a residential care facility for the elderly will be transferred as a result of the forfeiture of a license or change in the use of the facility pursuant to subdivision (a), the licensee shall submit a proposed closure plan to the department for approval. The department shall approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:

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

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

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

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

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

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

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

(c) (1) If a licensee fails to comply with the requirements of this section, or if the director determines that it is necessary to protect the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482 when the director determines the immediate relocation of the residents is not feasible based on transfer trauma or other considerations such as the unavailability of alternative placements. The department shall contact any local agency that may have assessment placement, protective, or advocacy responsibility for the residents, and shall work together with those agencies to locate alternative placement sites, contact relatives or other persons responsible for the care of these residents, provide onsite evaluation of the residents, and assist in the transfer of residents.

(2) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing the relocation services or the costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482. If the licensee fails to provide the relocation services required in this section, then the department may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, including restitution to the department of any costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482.

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

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

(f) This section shall not apply to a licensee that has obtained a certificate of authority to offer continuing care

contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

SEC. 7.5. Section 1569.682 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

(C) The relocation evaluation.

(D) A list of referral agencies.

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

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

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

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

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

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

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

(ii) A 75-percent refund if preadmission fees were paid more than 6 months but not more than 12 months before notice of eviction.

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

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

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

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

(7) If the resident gives notice five days before leaving the facility, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident

leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

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

(b) If seven or more residents of a residential care facility for the elderly will be transferred as a result of the forfeiture of a license or change in the use of the facility pursuant to subdivision (a), the licensee shall submit a proposed closure plan to the department for approval. The department shall approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:

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

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

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

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

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

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

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

(c) (1) If a licensee fails to comply with the requirements of this section, or if the director determines that it is necessary to protect the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482 when the director determines the immediate relocation of the residents is not feasible based on transfer trauma or other considerations such as the unavailability of alternative placements. The department shall contact any local agency that may have assessment placement, protective, or advocacy responsibility for the residents, and shall work together with those agencies to locate alternative placement sites, contact relatives or other persons responsible for the care of these residents, provide onsite evaluation of the residents, and assist in the transfer of residents.

(2) The participation of the department and local agencies in the relocation of residents from a residential care facility for the elderly shall not relieve the licensee of any responsibility under this section. A licensee that fails to comply with the requirements of this section shall be required to reimburse the department and local agencies for the cost of providing the relocation services or the costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482. If the licensee fails to provide the relocation services required in this section, then the department may request that the Attorney General's office, the city attorney's office, or the local district attorney's office seek injunctive relief and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, including restitution to the department of any costs incurred in caring for the residents through the use of a temporary manager or receiver as provided for in Sections 1569.481 and 1569.482.

(d) A licensee who fails to comply with requirements of this section shall be liable for the imposition of civil penalties in the amount of one hundred dollars ($100) per violation per day for each day that the licensee is in violation of this section, until such time that the violation has been corrected. The civil penalties shall be issued immediately following the written notice of violation. However, if the violation does not present an immediate or

substantial threat to the health or safety of residents and the licensee corrects the violation within three days after receiving the notice of violation, the licensee shall not be liable for payment of any civil penalties pursuant to this subdivision related to the corrected violation.

(e) A licensee, on and after January 1, 2015, who fails to comply with this section and abandons the facility and the residents in care resulting in an immediate and substantial threat to the health and safety of the abandoned residents, in addition to forfeiture of the license pursuant to Section 1569.19, shall be excluded from licensure in facilities licensed by the department without the right to petition for reinstatement.

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

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

SEC. 8. Section 11461.3 of the Welfare and Institutions Code, as added by Section 74 of Chapter 29 of the Statutes of 2014, is amended to read:

11461.3. (a) The Approved Relative Caregiver Funding Option Program is hereby established for the purpose of making the amount paid to approved relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments. This is an optional program for counties choosing to participate, and in so doing, participating counties agree to the terms of this section as a condition of their participation. It is the intent of the Legislature that the funding described in paragraph (1) of subdivision (e) for the Approved Relative Caregiver Funding Option Program be appropriated, and available for use from January through December of each year, unless otherwise specified.

(b) Subject to subdivision (c), effective January 1, 2015, counties shall pay an approved relative caregiver a per child per month rate in return for the care and supervision, as defined in subdivision (b) of Section 11460, of a child that is placed with the relative caregiver that is equal to the basic rate paid to foster care providers pursuant to subdivision (g) of Section 11461, if both of the following conditions are met:

(1) The county with payment responsibility has notified the department in writing by October 1 of the year before participation begins of its decision to participate in the Approved Relative Caregiver Funding Option Program.

(2) The related child placed in the home meets all of the following requirements:

(A) The child resides in the State of California.

(B) The child is described by subdivision (b), (c), or (e) of Section 11401 and the county welfare department or the county probation department is responsible for the placement and care of the child.

(C) The child is not eligible for AFDC-FC while placed with the approved relative caregiver because the child is not eligible for federal financial participation in the AFDC-FC payment.

(c) A county's election to participate in the Approved Relative Caregiver Funding Option Program shall affirmatively indicate that the county understands and agrees to all of the following conditions:

(1) Commencing October 1, 2014, the county shall notify the department in writing of its decision to participate in the Approved Relative Caregiver Funding Option Program. Failure to make timely notification, without good cause as determined by the department, shall preclude the county from participating in the program for the upcoming year. Annually thereafter, any county not presently participating who elects to do so shall notify the department in writing no later than October 1 of its decision to participate for the upcoming calendar year.

(2) The county shall confirm that it will make per child per month payments to all approved relative caregivers on behalf of eligible children in the amount specified in subdivision (b) for the duration of the participation of the county in this program.

(3) The county shall confirm that it will be solely responsible to pay any additional costs needed to make all

payments pursuant to subdivision (b) if the state and federal funds allocated to the Approved Relative Caregiver Funding Option Program pursuant to paragraph (1) of subdivision (e) are insufficient to make all eligible payments.

(d) (1) A county deciding to opt out of the Approved Relative Caregiver Funding Option Program shall provide at least 120 days' prior written notice of that decision to the department. Additionally, the county shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced and the date that the reduction will occur.

(2) The department shall presume all counties have opted out of the Approved Relative Caregiver Funding Option Program if the funding appropriated in subclause (II) of clause (i) of subparagraph (B) of paragraph (1) of subdivision (e), including any additional funds appropriated pursuant to clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e), is reduced, unless a county notifies the department in writing of its intent to opt in within 60 days of enactment of the State Budget. The counties shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

(3) Any reduction in payments received by an approved relative caregiver on behalf of a child under this section that results from a decision by a county, including the presumed opt-out pursuant to paragraph (2), to not participate in the Approved Relative Caregiver Funding Option Program shall be exempt from state hearing jurisdiction under Section 10950.

(e) (1) The following funding shall be used for the Approved Relative Caregiver Funding Option Program:

(A) The applicable regional per-child CalWORKs grant.

(B) (i) General Fund resources that do not count toward the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code. For this purpose, the following money is hereby appropriated:

(I) The sum of thirty million dollars ($30,000,000) from the General Fund for the period January 1, 2015, through December 31, 2015.

(II) The sum of thirty million dollars ($30,000,000) from the General Fund in each calendar year thereafter, as cumulatively adjusted annually by the California Necessities Index used for each May Revision of the Governor's Budget, to be used in each respective calendar year.

(ii) To the extent that the appropriation made in subclause (I) is insufficient to fully fund the base caseload of approved relative caregivers as of July 1, 2014, for the period of time described in subclause (I), as jointly determined by the department and the County Welfare Directors' Association and approved by the Department of Finance on or before October 1, 2015, the amounts specified in subclauses (I) and (II) shall be increased in the respective amounts necessary to fully fund that base caseload. Thereafter, the adjusted amount of subclause (II), and the other terms of that provision, including an annual California Necessities Index adjustment to its amount, shall apply.

(C) County funds only to the extent required under paragraph (3) of subdivision (c).

(D) This section is intended to appropriate the funding necessary to fully fund the base caseload of approved relative caregivers, defined as the number of approved relative caregivers caring for a child who is not eligible to receive AFDC-FC payments, as of July 1, 2014.

(2) Funds available pursuant to subparagraphs (A) and (B) of paragraph (1) shall be allocated to participating counties proportionate to the number of their approved relative caregiver placements, using a methodology and timing developed by the department, following consultation with county human services agencies and their representatives.

(3) Notwithstanding subdivision (c), if in any calendar year the entire amount of funding appropriated by the state for the Approved Relative Caregiver Funding Option Program has not been fully allocated to or utilized by counties, a county that has paid any funds pursuant to subparagraph (C) of paragraph (1) of subdivision (e) may request reimbursement for those funds from the department. The authority of the department to approve the requests shall be limited by the amount of available unallocated funds.

(f) An approved relative caregiver receiving payments on behalf of a child pursuant to this section shall not be eligible to receive additional CalWORKs payments on behalf of the same child under Section 11450.

(g) To the extent permitted by federal law, payments received by the approved relative caregiver from the Approved Relative Caregiver Funding Option Program shall not be considered income for the purpose of determining other public benefits.

(h) Prior to referral of any individual or recipient, or that person's case, to the local child support agency for child support services pursuant to Section 17415 of the Family Code, the county human services agency shall determine if an applicant or recipient has good cause for noncooperation, as set forth in Section 11477.04. If the applicant or recipient claims good cause exception at any subsequent time to the county human services agency or the local child support agency, the local child support agency shall suspend child support services until the county social services agency determines the good cause claim, as set forth in Section 11477.04. If good cause is determined to exist, the local child support agency shall suspend child support services until the applicant or recipient requests their resumption, and shall take other measures that are necessary to protect the applicant or recipient and the children. If the applicant or recipient is the parent of the child for whom aid is sought and the parent is found to have not cooperated without good cause as provided in Section 11477.04, the applicant's or recipient's family grant shall be reduced by 25 percent for the time the failure to cooperate lasts.

(i) Consistent with Section 17552 of the Family Code, if aid is paid under this chapter on behalf of a child who is under the jurisdiction of the juvenile court and whose parent or guardian is receiving reunification services, the county human services agency shall determine, prior to referral of the case to the local child support agency for child support services, whether the referral is in the best interest of the child, taking into account both of the following:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

SEC. 9. Section 11462.04 of the Welfare and Institutions Code is amended to read:

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

(1) A new program.

(2) A new provider.

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

(4) A program capacity increase.

(5) A program reinstatement.

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

(c) For the 2012–13, 2013–14, and 2014–15 fiscal years, notwithstanding subdivision (b), for any program below RCL 10, the only exception that may be sought and granted pursuant to this section is for an application requesting a program change, such as an RCL increase. The authority to grant other exceptions does not apply to programs below RCL 10 during these fiscal years.

SEC. 10. Section 11477 of the Welfare and Institutions Code, as amended by Section 75 of Chapter 29 of the Statutes of 2014, is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall do all of the following:

(a) (1) Do either of the following:

(i) For applications received before October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of cash assistance

provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(ii) For applications received on or after October 1, 2009, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. The assignment shall apply only to support that accrues during the period of time that the applicant is receiving assistance under this chapter, and shall not exceed the total amount of cash assistance provided to the family under this chapter. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(2) Support that has been assigned pursuant to paragraph (1) and that accrues while the family is receiving aid under this chapter shall be permanently assigned until the entire amount of aid paid has been reimbursed.

(3) If the federal government does not permit states to adopt the same order of distribution for preassistance and postassistance child support arrears that are assigned on or after October 1, 1998, support arrears that accrue before the family receives aid under this chapter that are assigned pursuant to this subdivision shall be assigned as follows:

(A) Child support assigned prior to January 1, 1998, shall be permanently assigned until aid is no longer received and the entire amount of aid has been reimbursed.

(B) Child support assigned on or after January 1, 1998, but prior to October 1, 2000, shall be temporarily assigned until aid under this chapter is no longer received and the entire amount of aid paid has been reimbursed or until October 1, 2000, whichever comes first.

(C) On or after October 1, 2000, support assigned pursuant to this subdivision that was not otherwise permanently assigned shall be temporarily assigned to the county until aid is no longer received.

(D) On or after October 1, 2000, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(4) If the federal government permits states to adopt the same order of distribution for preassistance and postassistance child support arrears, child support arrears shall be assigned, as follows:

(A) Child support assigned pursuant to this subdivision prior to October 1, 1998, shall be assigned until aid under this chapter is no longer received and the entire amount has been reimbursed.

(B) On or after October 1, 1998, child support assigned pursuant to this subdivision that accrued before the family receives aid under this chapter and that was not otherwise permanently assigned, shall be temporarily assigned until aid under this chapter is no longer received.

(C) On or after October 1, 1998, support that was temporarily assigned pursuant to this subdivision shall, when a payment is received from the federal tax intercept program, be temporarily assigned until the entire amount of aid paid has been reimbursed.

(b) (1) Cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception pursuant to Section 11477.04. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the local child support agency in securing support and determining paternity, if applicable. The local child support agency shall have staff available, in person or by telephone, at all county welfare offices and shall conduct an interview with each applicant to obtain information necessary to establish paternity and establish, modify, or enforce a support order at the time of the initial

interview with the welfare office. The local child support agency shall make the determination of cooperation. If the applicant or recipient attests under penalty of perjury that he or she cannot provide the information required by this subdivision, the local child support agency shall make a finding regarding whether the individual could reasonably be expected to provide the information before the local child support agency determines whether the individual is cooperating. In making the finding, the local child support agency shall consider all of the following:

(A) The age of the child for whom support is sought.

(B) The circumstances surrounding the conception of the child.

(C) The age or mental capacity of the parent or caretaker of the child for whom aid is being sought.

(D) The time that has elapsed since the parent or caretaker last had contact with the alleged father or obligor.

(2) Cooperation includes all of the following:

(A) Providing the name of the alleged parent or obligor and other information about that person if known to the applicant or recipient, such as address, social security number, telephone number, place of employment or school, and the names and addresses of relatives or associates.

(B) Appearing at interviews, hearings, and legal proceedings provided the applicant or recipient is provided with reasonable advance notice of the interview, hearing, or legal proceeding and does not have good cause not to appear.

(C) If paternity is at issue, submitting to genetic tests, including genetic testing of the child, if necessary.

(D) Providing any additional information known to or reasonably obtainable by the applicant or recipient necessary to establish paternity or to establish, modify, or enforce a child support order.

(3) A recipient or applicant shall not be required to sign a voluntary declaration of paternity, as set forth in Chapter 3 (commencing with Section 7570) of Part 2 of Division 12 of the Family Code, as a condition of cooperation.

(c) (1) This section shall not apply if all of the adults are excluded from the assistance unit pursuant to Section 11251.3, 11454, or 11486.5.

(2) It is the intent of the Legislature that the regular receipt of child support in the preceding reporting period be considered in determining reasonably anticipated income for the following reporting period.

(3) In accordance with Sections 11265.2 and 11265.46, if the income of an assistance unit described in paragraph (1) includes reasonably anticipated income derived from child support, the amount established in Section 17504 of the Family Code and Section 11475.3 of the Welfare and Institutions Code of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

SEC. 11. Section 12300.4 of the Welfare and Institutions Code, as added by Section 76 of Chapter 29 of the Statutes of 2014, is amended to read:

12300.4. (a) Notwithstanding any other law, including, but not limited to, Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and Title 23 (commencing with Section 110000) of the Government Code, a recipient who is authorized to receive in-home supportive services pursuant to this article, or Section 14132.95, 14132.952, or 14132.956, administered by the State Department of Social Services, or waiver personal care services pursuant to Section 14132.97, administered by the State Department of Health Care Services, or any combination of these services, shall direct these authorized services, and the authorized services shall be performed by a provider or providers within a workweek and in a manner that complies with the requirements of this section.

(b) (1) A workweek is defined as beginning at 12:00 a.m. on Sunday and includes the next consecutive 168 hours, terminating at 11:59 p.m. the following Saturday.

(2) A provider of services specified in subdivision (a) shall not work a total number of hours within a workweek that exceeds 66, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, and in accordance with subdivision (d). The total number of hours worked within a workweek by a provider is defined as the sum of the following:

(A) All hours worked providing authorized services specified in subdivision (a).

(B) Travel time as defined in subdivision (f), only if federal financial participation is not available to compensate for that travel time. If federal financial participation is available for travel time as defined in subdivision (f), the travel time shall not be included in the calculation of the total weekly hours worked within a workweek.

(3) (A) If the authorized in-home supportive services of a recipient cannot be provided by a single provider as a result of the limitation specified in paragraph (2), it is the responsibility of the recipient to employ an additional provider or providers, as needed, to ensure his or her authorized services are provided within his or her total weekly authorized hours of services established pursuant to subdivision (b) of Section 12301.1.

(B) (i) It is the intent of the Legislature that this section shall not result in reduced services authorized to recipients of waiver personal care services defined in subdivision (a).

(ii) The State Department of Health Care Services shall work with and assist recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver who are at or near their individual cost cap, as that term is used in the waiver, to avoid a reduction in the recipient's services that may result because of increased overtime pay for providers. As part of this effort, the department shall consider allowing the recipient to exceed the individual cost cap, if appropriate. The department shall provide timely information to waiver recipients as to the steps that will be taken to implement this clause.

(4) (A) A provider shall inform each of his or her recipients of the number of hours that the provider is available to work for that recipient, in accordance with this section.

(B) A recipient, his or her authorized representative, or any other entity, including any person or entity providing services pursuant to Section 14186.35, shall not authorize any provider to work hours that exceed the applicable limitation or limitations of this section.

(C) A recipient may authorize a provider to work hours in excess of the recipient's weekly authorized hours established pursuant to Section 12301.1 without notification of the county welfare department, in accordance with both of the following:

(i) The authorization does not result in more than 40 hours of authorized services per week being provided.

(ii) The authorization does not exceed the recipient's authorized hours of monthly services pursuant to paragraph (1) of subdivision (b) of Section 12301.1.

(5) For providers of in-home supportive services, the State Department of Social Services or a county may terminate the provider from providing services under the IHSS program if a provider continues to violate the limitations of this section on multiple occasions.

(c) Notwithstanding any other law, only federal law and regulations regarding overtime compensation apply to providers of services defined in subdivision (a).

(d) A provider of services defined in subdivision (a) is subject to all of the following, as applicable to his or her situation:

(1) (A) A provider who works for one individual recipient of those services shall not work a total number of hours within a workweek that exceeds 66 hours, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable. In no circumstance shall the provision of these services by that provider to the individual recipient exceed the total weekly hours of the services authorized to that recipient, except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b). If multiple providers serve the same recipient, it shall continue to be the responsibility of that recipient or his or her authorized representative to schedule the work of his or her providers to ensure the authorized services of the recipient are provided in accordance with this section.

(B) When a recipient's weekly authorized hours are adjusted pursuant to subparagraph (C) of paragraph (1) of subdivision (b) of Section 12301.1 and exceed 66 hours, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, and at the time of adjustment the recipient currently receives all authorized hours of service from one provider, that provider shall be deemed authorized to work the recipient's county-approved adjusted hours for that week, but only if the additional hours of work, based on the adjustment, do not exceed the total number of hours worked that are compensable at an overtime pay rate that the provider would have been authorized to work in that month if the weekly hours had not been adjusted.

(2) A provider of in-home supportive services described in subdivision (a) who serves multiple recipients is not

authorized to, and shall not, work more than 66 total hours in a workweek, as reduced by the net percentage defined by Sections 12301.02 and 12301.03, as applicable, regardless of the number of recipients for whom the provider provides services authorized by subdivision (a). Providers are subject to the limits of each recipient's total authorized weekly hours of in-home supportive services described in subdivision (a), except as additionally authorized pursuant to subparagraph (C) of paragraph (4) of subdivision (b).

(e) Recipients and providers shall be informed of the limitations and requirements contained in this section, through notices at intervals and on forms as determined by the State Department of Social Services or the State Department of Health Care Services, as applicable, following consultation with stakeholders.

(f) (1) A provider of services described in subdivision (a) shall not engage in travel time in excess of seven hours per week. For the purposes of this subdivision, "travel time" means time spent traveling directly from a location where authorized services specified in subdivision (a) are provided to one recipient, to another location where authorized services are to be provided to another recipient. A provider shall coordinate hours of work with his or her recipients to comply with this section.

(2) The hourly wage to compensate a provider for travel time described in this subdivision when the travel is between two counties shall be the hourly wage of the destination county.

(3) Travel time, and compensation for that travel time, between a recipient of authorized in-home supportive services specified in subdivision (a) and a recipient of authorized waiver personal care services specified in subdivision (a), shall be attributed to the program authorizing services for the recipient to whom the provider is traveling.

(4) Hours spent by a provider while engaged in travel time shall not be deducted from the authorized hours of service of any recipient of services specified in subdivision (a).

(5) The State Department of Social Services and the State Department of Health Care Services shall issue guidance and processes for travel time between recipients that will assist the provider and recipient to comply with this subdivision. Each county shall provide technical assistance to providers and recipients, as necessary, to implement this subdivision.

(g) A provider of authorized in-home supportive services specified in subdivision (a) shall timely submit, deliver, or mail, verified by postmark or request for delivery, a signed payroll timesheet within two weeks after the end of each bimonthly payroll period. Notwithstanding any other law, a provider who submits an untimely payroll timesheet for providing authorized in-home supportive services specified in subdivision (a) shall be paid by the state within 30 days of the receipt of the signed payroll timesheet.

(h) This section does not apply to a contract entered into pursuant to Section 12302 or 12302.6 for authorized in-home supportive services. Contract rates negotiated pursuant to Section 12302 or 12302.6 shall be based on costs consistent with a 40-hour workweek.

(i) The state and counties are immune from any liability resulting from implementation of this section.

(j) Any action authorized under this section that is implemented in a program authorized pursuant to Section 14132.95, 14132.97, 14132.952, or 14132.956 shall be compliant with federal Medicaid requirements, as determined by the State Department of Health Care Services.

(k) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services and the State Department of Health Care Services may implement, interpret, or make specific this section by means of all-county letters or similar instructions, without taking any regulatory action.

(l) (1) This section shall become operative only when the regulatory amendments made by RIN 1235-AA05 to Part 552 of Title 29 of the Code of Federal Regulations are deemed effective, either on the date specified in RIN 1235-AA05 or at a later date specified by the Federal Department of Labor, whichever is later.

(2) If the regulatory amendments described in paragraph (1) become only partially effective by the date specified in paragraph (1), this section shall become operative only for those persons for whom federal financial participation is available as of that date.

SEC. 12. The Legislature finds and declares that the number of unaccompanied, undocumented minors in California has surged in recent months, often overwhelming the agencies and organizations that care for these minors and help to determine their immigration status. Legal representation for unaccompanied undocumented

minors in California is important to assist these minors in navigating through federal immigration proceedings as well as related state court actions.

SEC. 13. Chapter 5.6 (commencing with Section 13300) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.6. Legal Counsel for Unaccompanied Undocumented Minors

13300. (a) Subject to the availability of funding in the act that added this chapter or the annual Budget Act, the department shall contract, as described in Section 13301, with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state.

(b) Legal services provided in accordance with subdivision (a) shall be for the sole purpose of providing legal representation to unaccompanied undocumented minors who are in the physical custody of the federal Office of Refugee Resettlement or who are residing with a family member or other sponsor.

(c) For purposes of this chapter, the term "unaccompanied undocumented minors" means unaccompanied alien children as defined in Section 279(g)(2) of Title 6 of the United States Code.

(d) For purposes of this chapter, the term "legal services" includes culturally and linguistically appropriate services provided by attorneys, paralegals, interpreters and other support staff for state court proceedings, federal immigration proceedings, and any appeals arising from those proceedings.

13301. Contracts awarded pursuant to Section 13300 shall fulfill all of the following:

(a) Be executed only with nonprofit legal services organizations that meet all of the following requirements:

(1) Have at least three years of experience handling asylum, T-Visa, U-Visa, or special immigrant juvenile status cases and have represented at least 25 individuals in these matters.

(2) Have experience in representing individuals in removal proceedings and asylum applications.

(3) Have conducted trainings on these issues for practitioners beyond their staff.

(4) Have experience guiding and supervising the work of attorneys whom themselves do not regularly participate in this area of the law but nevertheless work pro bono on the types of cases described in paragraph (1).

(5) Are accredited by the Board of Immigration Appeals under the United States Department of Justice's Executive Office for Immigration Review or meet the requirements to receive funding from the Trust Fund Program administered by the State Bar of California.

(b) Provide for legal services to unaccompanied undocumented minors on a fee-per-case basis, as determined by the department, which shall include all administrative and supervisory costs and court fees.

(c) Require reporting, monitoring, or audits of services provided, as determined by the department.

(d) Require contractors to coordinate efforts with the federal Office of Refugee Resettlement Legal Access Project in order to respond to and assist or represent unaccompanied undocumented minors who could benefit from the services provided under this chapter.

(e) Require contractors to maintain adequate legal malpractice insurance and to indemnify and hold the state harmless from any claims that arise from the legal services provided pursuant to this chapter.

13302. Notwithstanding any other law:

(a) Contracts awarded pursuant to this chapter shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(b) Contracts awarded pursuant to this chapter shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services.

(c) The client information and records of legal services provided pursuant to this chapter shall be subject to the requirements of Section 10850 and shall be exempt from inspection under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Part 1 of the Government Code).

(d) The state shall be immune from any liability resulting from the implementation of this chapter.

SEC. 14. Section 88 of Chapter 29 of the Statutes of 2014 is amended to read:

Sec. 88. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80, 81, 82, and 83 of Chapter 29 of the Statutes of 2014 through all-county letters or similar instructions until regulations are adopted.

(b) The department shall adopt emergency regulations implementing these provisions no later than January 1, 2016. The department may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, any emergency regulation previously adopted pursuant to this section. The initial adoption of regulations pursuant to this section and one readoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

SEC. 15. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 16. The Legislature finds and declares that Section 1 of this act, which adds Chapter 7 (commencing with Section 155) to Part 1 of Title 1 to the Code of Civil Procedure, and Section 13 of this act, which adds Chapter 5.6 (commencing with Section 13300) to Part 3 of Division 9 of the Welfare and Institutions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) In order to protect the privacy interests of those minors who are seeking special immigrant juvenile status, it is essential to maintain the confidentiality of the records described in Section 1 of this act.

(b) In order to protect the privacy interests of unaccompanied undocumented minors and to protect records covered by the attorney client privilege, it is essential to maintain the confidentiality of the records described in Section 13 of this act.

SEC. 17. Section 7.5 of this bill incorporates amendments to Section 1569.682 of the Health and Safety Code proposed by both this bill and Assembly Bill 1899. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, but this bill becomes operative first, (2) each bill amends Section 1569.682 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1899, in which case Section 1569.682 of the Health and Safety Code, as amended by Section 7 of this bill, shall remain operative only until the operative date of Assembly Bill 1899, at which time Section 7.5 of this bill shall become operative.

SEC. 18. The amount of one million six hundred eighty-six thousand dollars ($1,686,000) is hereby appropriated to the State Department of Social Services in augmentation of Item 5180-151-0001 of Section 2.00 of the Budget Act of 2014, for Program 25.30 for the Commercially Sexually Exploited Children Program, and the total amount appropriated in Item 5180-153-0001 of Section 2.00 of the Budget Act of 2014 is hereby reduced by the amount of one million six hundred eighty-six thousand dollars ($1,686,000) to offset that appropriation.

SEC. 19. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code is made for purposes of this act.

SEC. 20. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Exhibit 2

SENATE RULES COMMITTEE SB 873
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 873
Author: Senate Budget and Fiscal Review Committee
Amended: 8/27/14
Vote: 21

SENATE FLOOR: Not Relevant

ASSEMBLY FLOOR: Not available

SUBJECT: Human services

SOURCE: Author

DIGEST: This bill is the Human Services Clean-Up Trailer Bill for the 2014-15 Budget. It contains necessary clean-up changes and technical corrections related to the Budget Act of 2014. This bill makes various statutory changes to implement the 2014-15 Budget.

Assembly Amendments delete the Senate version of the bill, which expressed legislative intent to enact statutory changes related to the Budget Act of 2014, and instead add the current language.

ANALYSIS:

This bill:

1. Makes various technical changes regarding temporary managers and receiverships for facilities licensed by the Community Care Licensing Division at the Department of Social Services (DSS), amending law that was codified in SB 855 (Budget and Fiscal Review Committee, Chapter 29, Statutes of 2014), hereafter referred to as Chapter 29. Among related changes, provides that if the

CONTINUED

revenues are insufficient to reimburse DSS for the costs of the temporary manager, the salary of the receiver, or related expenses, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and subsequent lien upon the assets of the facility or the proceeds from the sale thereof.

2. Refines, for purposes of the Approved Relative Caregiver Funding Option Program that was created in Chapter 29, the definition of the children affected to remove an erroneous reference and deletes the requirement that the funding of the applicable per-child California Work Opportunity and Responsibility to Kids (CalWORKs) grant be limited to the federal funds received, which was unintentional in the original drafting.

3. Extends a specified exception to the group home moratorium in existing law for rate classification level changes below 10 to the 2014-15 fiscal year.

4. Provides that if the income for a CalWORKs program assistance unit that excludes specified adults includes reasonably anticipated income derived from child support, the amount specified to be disregarded of child support received each month, as specified in the Family Code and Welfare and Institutions Code, shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible. This clarifies language previously adopted in Chapter 29.

5. Deems an In-Home Supportive Services (IHSS) provider, if certain conditions are met, authorized to work a recipient's county-approved adjusted hours for the week when a recipient's weekly authorized hours are adjusted and at the time of adjustment the recipient currently receives all authorized hours of services from one provider. This conforms to the agreement between parties resulting in the IHSS overtime management statutory changes in Chapter 29.

6. States that the Department of Health Care Services (DHCS) will work with and assist recipients on the Nursing Facility/Acute Hospital Waiver who are at or near the individual cost cap to avoid a reduction in an individual's services that could result because of increased overtime pay for providers. States that DHCS will provide timely information to waiver recipients as to the steps that will be taken.

7. Extends authorization for all-county letters and similar instructions to additional provisions of Chapter 29 that relate to the CalFresh program. These were inadvertently excluded in the prior legislation.

8. Provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act.

9. Requires the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings.

10. Requires records of these proceedings that are not otherwise protected by state confidentiality laws to remain confidential, and would also authorize the sealing of these records. States that this is necessary in order to protect the privacy interests of those minors who are seeking special immigrant juvenile status. Requires the Judicial Council to adopt any necessary rules and forms to implement these provisions.

11. Requires DSS, subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state.

12. Requires that the contracts awarded meet certain specified conditions.

13. States that client information and records of legal services are confidential and shall not be subject to the California Public Records Act and that this is necessary in order to protect the privacy interests of unaccompanied undocumented minors and to protect records covered by the attorney client privilege.

14. States that existing authority to provide interpreters in civil court includes the authority to provide an interpreter in a proceeding in which a petitioner person requests an order from the superior court to make the findings regarding special immigrant juvenile status.

15. Include technical, double-jointing amendments to avoid a chaptering-out issue for a section related to temporary managers and receiverships that is also being amended in AB 1899 (Brown) of the current legislative session.

16. Includes Budget Bill changes to effectuate the transfer of $1.7 million appropriated in Item 5180-153-0001 to Item 5180-151-0001, Program 25.30, which is a Budget-neutral change to consolidate the $5 million appropriation in the budget for the newly-created Commercially Sexually Exploited Children (CSEC) program. The CSEC program was created in Chapter 29.

17. Provides that the continuous appropriation applicable to CalWORKs is not made for purposes of implementing this bill.

18. Declares that this bill is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Comments

This bill is a Budget Trailer Bill within the overall 2014-15 Budget package to implement actions taken affecting the DSS, Child Support Services, Health Care Services, and the Office of the Secretary of State.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/29/14)

California Immigrant Policy Center
Catholic Charities of California United
Friends Committee on Legislation of California
League of United Latin American Citizens
Latino Coalition for a Healthy California
National Council of Jewish Women - California
United Farm Workers

JA:e 8/29/14 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

****** END ******

Exhibit 3

SENATE THIRD READING
SB 873 (Budget and Fiscal Review Committee)
As Amended August 27, 2014
Majority vote

SENATE VOTE: Vote not relevant

BUDGET 16-9

Ayes: Skinner, Bloom, Campos, Chávez, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mullin, Muratsuchi, Rodriguez, Stone, Ting, Weber, Dababneh

Nays: Gorell, Grove, Harkey, Mansoor, Melendez, Allen, Nestande, Patterson, Wagner

SUMMARY: This is the Human Services Clean-Up Trailer Bill for the 2014-15 Budget. It contains necessary clean-up changes and technical corrections related to the Budget Act of 2014. This bill makes various statutory changes to implement the 2014-15 budget. Specifically, this bill:

1) Makes various technical changes regarding temporary managers and receiverships for facilities licensed by the Community Care Licensing (CCL) Division at the State Department of Social Services (DSS), amending law that was codified in SB 855 (Budget and Fiscal Review Committee), Chapter 29, Statutes of 2014, hereafter referred to as Chapter 29. Among related changes, provides that if the revenues are insufficient to reimburse the department for the costs of the temporary manager, the salary of the receiver, or related expenses, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and subsequent lien upon the assets of the facility or the proceeds from the sale thereof.

2) Refines, for purposes of the Approved Relative Caregiver Funding Option Program that was created in Chapter 29, the definition of the children affected to remove an erroneous reference and deletes the requirement that the funding of the applicable per-child California Work Opportunity and Responsibility to Kids (CalWORKs) grant be limited to the federal funds received, which was unintentional in the original drafting.

3) Extends a specified exception to the group home moratorium in current law for rate classification level changes below 10 to the 2014-15 fiscal year.

4) Provides that if the income for a CalWORKs program assistance unit that excludes specified adults includes reasonably anticipated income derived from child support, the amount specified to be disregarded of child support received each month, as specified in the Family Code and Welfare and Institutions Code, shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible. This clarifies language previously adopted in Chapter 29.

5) Deems an In-Home Supportive Services (IHSS) provider, if certain conditions are met, authorized to work a recipient's county-approved adjusted hours for the week when a recipient's weekly authorized hours are adjusted and at the time of adjustment the recipient currently receives all authorized hours of services from one provider. This conforms to the agreement between parties resulting in the IHSS overtime management statutory changes in Chapter 29.

6) States that the State Department of Health Care Services (DHCS) will work with and assist recipients on the Nursing Facility/Acute Hospital Waiver who are at or near the individual cost cap to avoid a reduction in an individual's services that could result because of increased overtime pay for providers. States that DHCS will provide timely information to waiver recipients as to the steps that will be taken.

7) Extends authorization for all-county letters and similar instructions to additional provisions of Chapter 29 that relate to the CalFresh program. These were inadvertently excluded in the prior legislation.

8) Provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act.

9) Requires the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings.

10) Requires records of these proceedings that are not otherwise protected by state confidentiality laws to remain confidential, and would also authorize the sealing of these records. States that this is necessary in order to protect the privacy interests of those minors who are seeking special immigrant juvenile status. Requires the Judicial Council to adopt any necessary rules and forms to implement these provisions.

11) Requires the California Department of Social Services (DSS), subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state.

12) Requires that the contracts awarded meet certain specified conditions.

13) States that client information and records of legal services are confidential and shall not be subject to the California Public Records Act and that this is necessary in order to protect the privacy interests of unaccompanied undocumented minors and to protect records covered by the attorney client privilege.

14) States that existing authority to provide interpreters in civil court includes the authority to provide an interpreter in a proceeding in which a petitioner person requests an order from the superior court to make the findings regarding special immigrant juvenile status.

15) Include technical, double-jointing amendments to avoid a chaptering-out issue for a section related to temporary managers and receiverships that is also being amended in AB 1899 (Brown) of the current legislative session.

16) Includes Budget Bill changes to effectuate the transfer of $1.7 million appropriated in Item 5180-153-0001 to Item 5180-151-0001, Program 25.30, which is a budget-neutral change to consolidate the $5 million appropriation in the budget for the newly-created Commercially Sexually Exploited Children (CSEC) program. The CSEC program was created in Chapter 29.

17) Provides that the continuous appropriation applicable to CalWORKs is not made for purposes of implementing this bill.

18) Declares that this bill is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

COMMENT: This bill is a budget trailer bill within the overall 2014-15 budget package to implement actions taken affecting the DSS, Child Support Services, Health Care Services, and Office of the Secretary of State.

Analysis prepared by: Nicole Vazquez / BUDGET / (916) 319-2099

FN: 0005568

Exhibit 4

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 900
Author: Levine (D)
Amended: 6/24/15 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 5-1, 7/14/15
AYES: Jackson, Hertzberg, Leno, Monning, Wieckowski
NOES: Anderson
NO VOTE RECORDED: Moorlach

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/27/15
AYES: Lara, Beall, Hill, Leyva, Mendoza
NOES: Bates, Nielsen

ASSEMBLY FLOOR: 56-23, 6/2/15 - See last page for vote

SUBJECT: Juveniles: special immigrant juvenile status

SOURCE: Bet Tzedek
Immigrant Legal Resource Center

DIGEST: This bill authorizes a court to appoint a guardian, or extend a guardianship, for an unmarried individual who is between 18 and 21 years of age in connection with a petition to make the necessary findings regarding special immigrant juvenile status, as specified, with the consent of the proposed ward.

ANALYSIS:

Existing law:

1) Defines, under federal law, a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or

both of his or her parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to his or her country of nationality or last habitual residence is not in his or her best interest. (8 U.S.C. Sec. 1101(a)(27)(J).)

2) Allows, under federal law, such person to obtain Special Immigrant Juvenile Status (SIJS) and, based on that, apply for a visa for lawful permanent residency. (8 U.S.C. Sec. 1153(b)(4).)

3) Allows the court to appoint a guardian of the person, the estate, or both for a child under 18 years of age, taking into consideration the best interest of the proposed ward. (Prob. Code Sec. 1501 et seq.)

4) Provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, and requires the superior court to make an order containing the necessary findings regarding SIJS pursuant to federal law, if there is evidence to support those findings. (Code Civ. Proc. Sec. 155.)

This bill:

1) Authorizes, with the consent of the proposed ward, a probate court to establish or extend a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings regarding SIJS or complete the SIJS application process, as specified.

2) Allows the petition for guardianship, or to extend a guardianship, to be filed by a relative, the proposed ward, or any other person.

3) Provides that a guardianship may not extend beyond the ward reaching 21 years of age.

4) Provides that nothing in the provisions above abrogates any other rights that a ward who is 18 or older may have as an adult under California law, including, but not limited to, decisions regarding the ward's medical treatment, education, or residence, without the ward's express consent.

5) Requires the court to terminate a guardianship upon the petition of a ward who is 18 years of age or older.

6) Defines, for the purposes of the provisions above, the terms "child," "minor," and "ward" to include an unmarried individual who is younger than 21 years of age and who, pursuant to this section, consents to the appointment of a guardian or extension of a guardianship after he or she attains 18 years of age.

7) Requires the Judicial Council to adopt necessary rules and forms by July 1, 2016.

Background

Special Immigrant Juvenile Status (SIJS), found in the Federal Immigration and Nationality Act, is a statutory tool enacted over two decades ago to benefit immigrant children consistent with accepted child welfare principles and international norms. SIJS involves both federal and state law. The federal statute and regulations provide the framework, and the state courts provide the details for each individual situation. The Los Angeles County Bar Association describes the interplay between state and federal law in a 2012 article as follows:

> First, a juvenile court must establish the child's eligibility for immigration relief. Without the court's findings, the child cannot apply for SIJS. A "juvenile court," for SIJS purposes, is "a court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles." This broad definition encompasses many California courts--those that handle dependency and delinquency proceedings as well as those that hear guardianships, adoptions, and even family law cases. What matters is the jurisdiction of California courts, not the labels they use for themselves.
>
> Second, the juvenile court must have either 1) declared the child dependent on the court, 2) legally committed the child to, or placed the child under the custody of, an agency or department of a state, or 3) legally committed the child to, or placed the child under the custody of, an individual or entity appointed by the court. Juvenile court dependents … meet this requirement. So too do … wards when the court vests their "care, custody and control" in the probation department. A child whose custody is placed with a guardian, including an institutional guardian, or with a prospective adoptive parent also meets this requirement. (Jackson, *Special Status*

Seekers: Through the underused SIJS process, immigrant juveniles may obtain legal status, 34 (Feb. 2014) Los Angeles Lawyer 20, 22.)

The court must additionally determine that reunification with one or more of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law. "Under California law, children have met this requirement when, for example, their parents are deceased; their parents' identities are unknown; their parents have sexually, physically, or emotionally harmed them; or their parents have not provided appropriate care, support, or protection. By definition, SIJS-eligible children have suffered the lack of a stable and safe two-parent household." (*Id.)* Additionally, the court must find that it is not in the child's best interest, as determined by state law, to return to the child's or his or her parent's country of nationality.

Last year, in AB 873 (Budget and Fiscal Review, Chapter 685, Statutes of 2014), the Legislature specifically provided that superior courts can make the findings necessary for a child to be eligible for SIJS. That new law states that the superior court (including a juvenile, probate, or family court) has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, and requires the court to make an order containing the necessary findings for SIJS, if there is evidence to support them. (Code Civ. Proc. Sec. 155.) Thus, a child in California today, who is under 18, may have the necessary SIJS findings made in a juvenile court as part of a dependency or delinquency proceeding, in family court as part of a custody proceeding, or in probate court as part of a guardianship proceeding. Nonminor dependents, or youths between the ages of 18 and 21 under the jurisdiction of the dependency court, may also qualify for SIJS status if a court makes the appropriate findings. However, for youths over 18 who are not dependents of the juvenile court, there is currently no state court proceeding under which the requisite findings can be made.

This bill, seeking to ensure that the courts have the ability to make the findings required for all eligible youths to qualify for SIJS, allows a court to extend or approve a guardianship for a youth between 18 and 21 years of age.

Comments

As stated by the author:

The purpose of this bill is two-fold. First, this bill will provide immigrant youth a better opportunity to adjust to life in California by allowing them to have an adult guardian present in their lives. Second, this bill will increase access to immigration relief through Special Immigrant Juvenile Status (SIJS). Under federal immigration law, children who cannot be reunified with one or both parents because of abuse, neglect or abandonment and who are unmarried and under the age of 21 may obtain immigration relief through SIJS.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- *Guardianship hearings*: Potentially significant increase in trial court costs in the hundreds of thousands of dollars (General Fund*) for new guardianship hearings. For every 500 to 1,000 hearings conducted, costs would range from $500,000 to $1 million.
- *Forms/rules*: One-time minor costs (General Fund*) for the Judicial Council to establish rules and necessary forms.
- *Medi-Cal benefits*: Potentially significant ongoing increase in Medi-Cal program costs (Federal Fund/General Fund) for guardianships established for individuals aged 19 and 20, who would otherwise not be eligible for benefits (the 2015 Budget Act provides for full scope Medi-Cal for undocumented immigrant youth up to age 19). According to the federal Office of Refugee Resettlement, youth with pending applications for SIJS as well as those approved for SIJS, are considered lawfully present and eligible for medical benefits.
- *CFAP benefits*: Potentially significant increase in California Food Assistance Program (CFAP) benefits. For every 500 to 1,000 individuals, costs are estimated at $0.9 million to $1.8 million (General Fund) annually for food benefits and administrative workload.
- *CalWORKs eligibility*: Potential eligibility for the CalWORKs program, if all other eligibility criteria are met. While federal means-tested public benefits are not available for a period of five years beginning with the date of entry with status as a qualified non-citizen, CalWORKs continues to allow immigrants meeting the eligibility criteria to receive benefits through a state-only funded program.
- *Federal benefits*: Potential eligibility for Section 8 housing and federal financial aid for college for SIJS guardianships established pursuant to this measure.

*Trial Court Trust Fund

SUPPORT: (Verified 8/28/15)

Bet Tzedek (co-source)
Immigrant Legal Resource Center (co-source)
American Immigration Lawyers Association
Asian Americans Advancing Justice – Asian Law Caucus
Asian Pacific Islander Legal Outreach
Association of Pro Bono Counsel
Bay Area Industrial Areas Foundation
California Immigrant Policy Center
California Rural Legal Assistance Foundation
Catholic Charities of the East Bay
Catholic Legal Immigration Network
Canal Alliance
Central American Resource Center
Centro Legal de la Raza
Dolores Street Community Services
Immigrant Rights Clinic
University of California, Irvine School of Law
Immigration Center for Women and Children
Kids in Need of Defense
Larkin Street Legal Services
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Advocates for Children and Youth
Legal Aid Society of San Mateo County
Legal Services for Children
Legal Services for Prisoners with Children
Los Angeles Center for Law and Justice
Loyola Immigrant Justice Clinic, Loyola Law School
National Center for Youth Law
Pangea Legal Services
Public Counsel's Children's Rights Project
San Diego Volunteer Lawyer Program
San Francisco International High School
Social Justice Collaborative
Youth Law Center

OPPOSITION: (Verified 8/28/15)

None received

ASSEMBLY FLOOR: 56-23, 6/2/15
AYES: Alejo, Baker, Bloom, Bonilla, Bonta, Brown, Burke, Calderon, Campos, Chang, Chau, Chiu, Chu, Cooley, Cooper, Dababneh, Daly, Dodd, Eggman, Frazier, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Hadley, Roger Hernández, Holden, Irwin, Jones-Sawyer, Lackey, Levine, Lopez, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Mark Stone, Thurmond, Ting, Weber, Williams, Wood, Atkins
NOES: Achadjian, Travis Allen, Bigelow, Brough, Dahle, Beth Gaines, Gallagher, Grove, Harper, Jones, Kim, Linder, Maienschein, Mathis, Mayes, Melendez, Obernolte, Olsen, Patterson, Steinorth, Wagner, Waldron, Wilk
NO VOTE RECORDED: Chávez

Prepared by: Nichole Rapier / JUD. / (916) 651-4113
8/30/15 19:10:43

****** END ******

Exhibit 5

CONCURRENCE IN SENATE AMENDMENTS
AB 900 (Levine)
As Amended June 24, 2015
Majority vote

ASSEMBLY: 56-23 (June 2, 2015) SENATE: 29-11 (September 2, 2015)

Original Committee Reference: **JUD.**

SUMMARY: Allows for guardianships for youth from ages 18 until 21 who may qualify for federal Special Immigrant Juvenile Status (SIJS). Specifically, **this bill**:

1) Allows, with the consent of the proposed ward, a probate court to establish a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings regarding SIJS, as specified. Allows the petition for guardianship to be filed by a relative, the proposed ward or any other person.

2) Allows, with the consent, or at the request, of the ward, a court to extend a guardianship of the person beyond 18 years of age in order to allow the ward to complete the application process with United States Citizenship and Immigration Services for classification as a special immigrant juvenile, as specified. Provides that the petition for guardianship may be filed by a relative, the ward or any other person. Prevents the guardianship from extending beyond the ward reaching 21 years of age.

3) Provides that nothing in 1) or 2), above, authorizes a guardian to abrogate any other rights that a ward who is 18 or older may have as an adult under California law, including, but not limited to, the right to make decisions regarding the ward's medical treatment, education or residence, without the ward's express consent.

4) Requires that a court terminate the guardianship of a ward who is 18 or older if the ward requests termination.

5) Requires Judicial Council to adopt necessary rules and forms by July 1, 2016.

The Senate amendments require that a court terminate a guardianship if requested by a ward who is 18 or older and clarify that wards 18 and older retain their rights as adults.

EXISTING LAW:

1) Allows a the court to appoint a guardian of the person, the estate, or both for a child under 18, taking into consideration the best interest of the proposed ward.

2) Under federal law, defines a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both of his or her parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to his or her country of nationality or last habitual residence is not in his or her best interest. Allows such person to obtain SIJS and, based on that, apply for a visa for lawful permanent residency.

3) Provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. Requires the superior court to make an order containing the necessary findings regarding SIJS pursuant to federal law, if there is evidence to support those findings.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) Guardianship hearings: Potentially significant increase in trial court costs in the hundreds of thousands of dollars (General Fund*) for new guardianship hearings. For every 500 to 1,000 hearings conducted, costs would range from $500,000 to $1 million.

2) Forms/rules: One-time minor costs (General Fund*) for the Judicial Council to establish rules and necessary forms.

3) Medi-Cal benefits: Potentially significant ongoing increase in Medi-Cal program costs (Federal Fund/General Fund) for guardianships established for individuals aged 19 and 20, who would otherwise not be eligible for benefits (the 2015 Budget Act provides for full scope Medi-Cal for undocumented immigrant youth up to age 19). According to the federal Office of Refugee Resettlement, youth with pending applications for SIJS as well as those approved for SIJS, are considered lawfully present and eligible for medical benefits.

4) CFAP benefits: Potentially significant increase in California Food Assistance Program (CFAP) benefits. For every 500 to 1,000 individuals, costs are estimated at $0.9 million to $1.8 million (General Fund) annually for food benefits and administrative workload.

5) CalWORKs eligibility: Potential eligibility for the CalWORKs program, if all other eligibility criteria are met. While federal means-tested public benefits are not available for a period of five years beginning with the date of entry with status as a qualified non-citizen, CalWORKs continues to allow immigrants meeting the eligibility criteria to receive benefits through a state-only funded program.

6) Federal benefits: Potential eligibility for Section 8 housing and federal financial aid for college for SIJS guardianships established pursuant to this measure.

*Trial Court Trust Fund

COMMENTS: This bill is designed to better align state and federal law in order to protect vulnerable, unaccompanied immigrant youth ages 18 to 21. Federal law allows youth up to 21 years of age to qualify for SIJS and, thus, be eligible to remain lawfully in the United States. To qualify, a state juvenile court must first make certain findings. However, California law today only has a process to make those findings for youth up to 18 years of age, unless the youth is a non-minor dependent in the foster care system. This bill creates that missing process, and allows for custodial assistance from a caring adult, for youth 18 to 21 by allowing for the establishment and extension of guardianships until 21 for immigrant youth seeking SIJS.

Special Immigrant Juvenile Status. "Special Immigrant Juvenile Status" is a federal immigration classification that may help undocumented, vulnerable children and youth remain in the United States. Under the Trafficking Victims Protection Reauthorization Act of 2008, Public Law No. 110-457, any unmarried person under age 21 who has been abused, neglected or abandoned by a

parent may seek classification as a Special Immigrant Juvenile and then immediately apply for lawful permanent resident status. To be eligible for SIJS, a state juvenile court must first make specified findings.

This Bill Extends Guardianship Proceedings Until 21 for Youth in Need of the Special Immigrant Juvenile Status Finding. This bill allows probate courts to establish guardianships for youth who are at least 18, but less than 21, and to extend existing guardianships up to 21, if done in connection with a petition to make the necessary SIJS findings. Thus, this bill allows for the necessary state court finding to help these youth become legal residents of California. However, this bill does much more for this very vulnerable population. As this bill's legislative findings make clear, these guardianships connect immigrant youth who have been abused, neglected or abandoned with a caring adult "as they adjust to a new cultural context, language, and education system, and recover from the trauma of abuse, neglect or abandonment. These custodial arrangements promote permanency and the long-term well-being of immigrant children present in the United States who have experienced abuse, neglect, or abandonment."

Bill Makes Clear That These 18 to 21 Year Old Youth Retain Their Legal Rights as Adults Under California Law. All of the regular guardianship rules and statutes apply to these new over 18 guardianships, with several key exceptions, all recognizing that the youth subject to them are now adults, with distinct legal rights. Like guardianships for children, guardianships for those over 18 begin with notice to specified relatives and, unless waived by the court, an investigation of the proposed guardianship by a court investigator, probation officer, or domestic relations investigator, along with recommendations of the appropriateness of the guardianship. The court may appoint a guardian if it appears to the court to be "necessary or convenient," the same standard that applies to those under 18.

However, because youth 18 and older are legally adults, this bill rightly proposes to treat non-minor wards different than minor wards. First, the guardianship can only be established for a youth 18 or over, or extended for a youth who has reached 18, with the youth's consent. No non-minor will be forced into a guardianship, just like no non-minor can be forced to remain in dependency after age 18. Second, the court must terminate a guardianship if a ward 18 and over requests termination. This ensures that the non-minor ward remains in a guardianship only if he or she so desires. Finally, this bill states that wards 18 and over retain their legal rights as adults under California law.

Analysis Prepared by: Leora Gershenzon / JUD. / (916) 319-2334 FN: 0001755

Exhibit 6

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2015-2016 Regular Session

AB 900 (Levine)
Version: June 24, 2015
Hearing Date: July 14, 2015
Fiscal: Yes
Urgency: No
NR

SUBJECT

Juveniles: special immigrant juvenile status

DESCRIPTION

This bill would authorize a court to appoint a guardian, or extend a guardianship, for an unmarried individual who is between 18 and 21 years of age in connection with a petition to make the necessary findings regarding special immigrant juvenile status, as specified, with the consent of the proposed ward.

BACKGROUND

Special Immigrant Juvenile Status (SIJS), found in the Federal Immigration and Nationality Act, is a statutory tool enacted over two decades ago to benefit immigrant children consistent with accepted child welfare principles and international norms. SIJS involves both federal and state law. The federal statute and regulations provide the framework, and the state courts provide the details for each individual situation. The Los Angeles County Bar Association describes the interplay between state and federal law in a 2012 article as follows:

> First, a juvenile court must establish the child's eligibility for immigration relief. Without the court's findings, the child cannot apply for SIJS. A "juvenile court," for SIJS purposes, is "a court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles." This broad definition encompasses many California courts--those that handle dependency and delinquency proceedings as well as those that hear guardianships, adoptions, and even family law cases. What matters is the jurisdiction of California courts, not the labels they use for themselves.
>
> Second, the juvenile court must have either 1) declared the child dependent on the court, 2) legally committed the child to, or placed the child under the custody of, an agency or department of a state, or 3) legally committed the child to, or placed the

> child under the custody of, an individual or entity appointed by the court. Juvenile court dependents … meet this requirement. So too do … wards when the court vests their "care, custody and control" in the probation department. A child whose custody is placed with a guardian, including an institutional guardian, or with a prospective adoptive parent also meets this requirement. (Jackson, *Special Status Seekers: Through the underused SIJS process, immigrant juveniles may obtain legal status*, 34 (Feb. 2014) Los Angeles Lawyer 20, 22.)

The court must additionally determine that reunification with one or more of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law. "Under California law, children have met this requirement when, for example, their parents are deceased; their parents' identities are unknown; their parents have sexually, physically, or emotionally harmed them; or their parents have not provided appropriate care, support, or protection. By definition, SIJS-eligible children have suffered the lack of a stable and safe two-parent household." (*Id.*) Additionally, the court must find that it is not in the child's best interest, as determined by state law, to return to the child's or his or her parent's country of nationality.

Last year, in AB 873 (Budget and Fiscal Review, Ch. 685, Stats. of 2014), the Legislature specifically provided that superior courts can make the findings necessary for a child to be eligible for SIJS. That new law states that the superior court (including a juvenile, probate, or family court) has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, and requires the court to make an order containing the necessary findings for SIJS, if there is evidence to support them. (Code Civ. Proc. Sec. 155.) Thus, a child in California today, who is under 18, may have the necessary SIJS findings made in a juvenile court as part of a dependency or delinquency proceeding, in family court as part of a custody proceeding, or in probate court as part of a guardianship proceeding. Nonminor dependents, or youths between the ages of 18 and 21 under the jurisdiction of the dependency court, may also qualify for SIJS status if a court makes the appropriate findings. However, for youths over 18 who are not dependents of the juvenile court, there is currently no state court proceeding under which the requisite findings can be made. This bill, seeking to ensure that the courts have the ability to make the findings required for all eligible youths to qualify for SIJS, would allow a court to extend or approve a guardianship for a youth between 18 and 21 years of age.

CHANGES TO EXISTING LAW

Existing federal law defines a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both of his or her parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to his or her country of nationality or last habitual residence is not in his or her best interest. (8 U.S.C. Sec. 1101(a)(27)(J).)

Existing federal law allows such person to obtain Special Immigrant Juvenile Status (SIJS) and, based on that, apply for a visa for lawful permanent residency. (8 U.S.C. Sec. 1153(b)(4).)

Existing law allows a the court to appoint a guardian of the person, the estate, or both for a child under 18 years of age, taking into consideration the best interest of the proposed ward. (Prob. Code Sec. 1501 et seq.)

Existing law provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, and requires the superior court to make an order containing the necessary findings regarding SIJS pursuant to federal law, if there is evidence to support those findings. (Code Civ. Proc. Sec. 155.)

This bill would authorize, with the consent of the proposed ward, a probate court to establish or extend a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings regarding SIJS or complete the SIJS application process, as specified.

This bill would allow the petition for guardianship, or to extend a guardianship, to be filed by a relative, the proposed ward, or any other person.

This bill would provide that a guardianship may not extend beyond the ward reaching 21 years of age.

This bill would provide that nothing in the provisions above abrogates any other rights that a ward who is 18 or older may have as an adult under California law, including, but not limited to, decisions regarding the ward's medical treatment, education, or residence, without the ward's express consent.

This bill would require the court to terminate a guardianship upon the petition of a ward who is 18 years of age or older.

This bill would define, for the purposes of the provisions above, the terms "child," "minor," and "ward" to include an unmarried individual who is younger than 21 years of age and who, pursuant to this section, consents to the appointment of a guardian or extension of a guardianship after he or she attains 18 years of age.

This bill would require the Judicial Council to adopt necessary rules and forms by July 1, 2016.

COMMENT

1. Stated need for the bill

According to the author:

> The purpose of this bill is two-fold. First, this bill will provide immigrant youth a better opportunity to adjust to life in California by allowing them to have an adult guardian present in their lives. Second, this bill will increase access to immigration relief through Special Immigrant Juvenile Status (SIJS). Under federal immigration law, children who cannot be reunified with one or both parents because of abuse, neglect or abandonment and who are unmarried and under the age of 21 may obtain immigration relief through SIJS.

2. Guardianship

A probate guardianship is a court proceeding in which a guardian is appointed by the probate court to protect the person or estate of a minor. Historically, guardianships were established for the protection of orphans, and guardianship of the minor person (care, custody, and control) was combined with guardianship of the minor's estate. Guardianships today are most often used to protect minors whose parents are still living and are usually established by relatives or other caring adults to provide stability and needed care for minors whose parents fail to provide these essentials to them. A guardian of the person, appointed to have custody over the ward, is responsible for determining: where the ward lives; ensuring that the ward is properly fed, clothed, and sheltered; and supervising the ward's conduct, education, and medical care. (*See* Prob. Code Secs. 2351-2353.) Guardianships expire upon a ward's 18th birthday, unless terminated earlier by a court order.

This bill would additionally authorize a court to establish or extend a guardianship for immigrant youth, between 18 and 21 years of age, in connection with a petition for Special Immigrant Juvenile Status (SJIS). Co-sponsor, Immigrant Legal Resource Center describes the urgent need for this legislation, "particularly in light of the recent influx of unaccompanied children arriving to the United States, including 5,831 of whom were released to family members or other adults in the state of California in 2014 alone, this bill is crucial to protecting vulnerable unaccompanied immigrant children in the state of California." However, the California Association of Superior Court Investigators (CASCI) has expressed concern regarding whether a guardianship is appropriate for these youth. CASCI writes:

> The proposed law would allow the "child" or "minor" to retain ***all*** of the rights an adult under California law. If the young adult retains all the rights of adulthood, the person appointed legal guardian would have *no clear* duties to perform as outlined in the Duties of Guardian (please see Judicial Council form GC-248), rendering a

guardianship of the person unnecessary. Further if AB 900 were to be enacted, CASCI is concerned that there would be no guidelines or metrics that Court Investigators could use to effectively monitor these guardianships or determine whether the guardian is carrying out his or her fiduciary duties since, as noted above, the "ward" retains all rights of adulthood and the guardian appears to lack clear duties or responsibilities.

Bet Tzedek, co-sponsor, responds: "We are particularly concerned about the incredibly vulnerable population of undocumented, unaccompanied youth in our state, who arrive to the United States so close to the age of 18 that they are not able to access the protections provided for children through state systems, nor are they able to access the federal immigration relief that was designed specifically for them, simply because no courts can take jurisdiction over such youth past the age of 18. Accordingly, AB 900 provides protection and support that is in line with current science on child development, in keeping with California's established legal mechanisms for nonparental care and custody, and in agreement with federal law, which already recognizes that youth who have been abandoned, abused, or neglected by a parent may need special protection up until the age of 21." The co-sponsor further notes that even though a youth would retain all the rights of an adult, guardianships provide other benefits including allowing a ward to access health insurance while still remaining independent for the purposes of federal student financial aid, and ensuring that the youth have an adult who can make specified medical and educational decisions for wards.

3. Tradition of extending certain services/protections beyond age of majority

Increasingly, government has come to recognize that 18 is not an appropriate age to end all services for youth. For example, the Affordable Care Act requires health insurance plans that offer dependent coverage to make that coverage available until the adult child reaches the age of 26. In October 2008, the federal government enacted the Fostering Connections to Success and Increasing Adoptions Act (Public Law 110-351) which offers states funding if they choose to provide foster care to 18 to 21-year-old youth. Subsequently, AB 12 (Beall and Bass, Ch. 559, Stats. of 2010), the California Fostering Connections to Success Act, authorized this state's juvenile courts to exercise jurisdiction over and extend foster care benefits to nonminor dependents between the ages of 18 to 21 if they meet specified criteria.

AB 12's extended foster care provides a workable example for how adult wards may maintain the rights of an adult, but still benefit from a protective relationship. Accordingly, this bill's language is modeled after Welfare & Institutions Code Section 303(d), which provides that nonminor dependents retain all of their legal decision-making authority as adults even if they have elected to receive extended foster care assistance.

4. Protecting wards from abuse

This bill would provide that any person on behalf of the ward, or the ward, may file a petition to establish or extend a guardianship under this bill. The population that this bill seeks to protect is particularly vulnerable, as described by the California Immigrant Policy Center who writes in support that "many unaccompanied minors arriving to the United States have experienced high levels of trauma. In fact, a 2013 UNHCR survey of unaccompanied children from Mexico, El Salvador, Honduras, and Guatemala, found that 58 percent were forcibly displaced because of harm they suffered or would face and which would indicate a need for international protection."

The California Association of Superior Court Investigators, expressing concern that some bad actors may volunteer to establish a guardianship with the intent to exploit a youth assert that "court investigators see first-hand the conditions that many of these children and young adults live in, and we are very concerned about the unintended possible effects of their being subjected to sex and/or labor trafficking, physical and sexual abuse, domestic violence and extortion. Through our investigations we have found instances of proposed guardians being suspected and/or having been found guilty of many of the abuses that happened in the country of origin complained of in the petitions."

The author responds, "AB 900 contemplates that courts will look to the same standard for appointment of a guardian that they employ for minor wards: in uncontested cases when it is 'necessary or convenient,' and guided by the 'best interests' of the ward; in contested cases, the petitioner has the additional burden of proving that parental custody would be detrimental. Given that AB 900 guardians will play a very similar role to a guardian of a minor, courts can rely on their decades of experience in determining whether a guardian is suitable, and intuiting whether there are any indicators that something is awry in the situation. Further, the court can also rely on its ability to order a guardianship investigation to inquire into the suitableness of the proposed guardian and make recommendations to the court about whether guardianship would be appropriate. Pursuant to section 1513, unless waived by the court, 'a court investigator shall make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person.' There is no reason that the determination about whether a guardian is appropriate should become more difficult the day the child turns 18."

Staff further notes that this bill would only authorize a court to establish a guardianship with the ward's consent, and that the court would not be required to approve a petition if the guardianship was inappropriate. In support, Asian Americans Advancing Justice writes, "this bill will align state law with federal law by providing our probate courts with jurisdiction over youth also petitioning for SIJS findings up until the age of 21. Not only will extending jurisdiction allow these children to apply for legal status, it will also help meet the ultimate goals of SIJS, which are not merely to enable vulnerable

children to remain here legally, but to stabilize their legal immigration situation so that they can overcome the abuse, abandonment, or neglect they have suffered through the support of the state court and a legal guardian."

Support: Asian Americans Advancing Justice – Asian Law Caucus; Asian Pacific Islander Legal Outreach; Association of Pro Bono Counsel; Bay Area Industrial Areas Foundation; California Immigrant Policy Center; California Rural Legal Assistance Foundation; Catholic Charities of the East Bay; Catholic Legal Immigration Network Canal Alliance; Central American Resource Center; Centro Legal de la Raza Dolores Street Community Services; Immigrant Rights Clinic; University of California, Irvine School of Law; Immigration Center for Women and Children; Larkin Street Legal Services; Lawyers' Committee for Civil Rights of the San Francisco Bay Area; Legal Advocates for Children and Youth; Legal Aid Society of San Mateo County; Legal Services for Children; Legal Services for Prisoners with Children; Los Angeles Center for Law and Justice; Loyola Immigrant Justice Clinic, Loyola Law School; National Center for Youth Law; Pangea Legal Services; Public Counsel's Children's Rights Project; San Diego Volunteer Lawyer Program; San Francisco International High School; Social Justice Collaborative; Youth Law Center

Opposition: None Known

HISTORY

Source: Bet Tzedek; Immigrant Legal Resource Center

Related Pending Legislation: None Known

Prior Legislation: AB 873 (Budget and Fiscal Review, Chapter 685, Statutes of 2014) *See* Background.

Prior Vote:

Assembly Floor (Ayes 56, Noes 23)
Assembly Appropriations Committee (Ayes 12, Noes 4)
Assembly Judiciary Committee (Ayes 7, Noes 3)

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Exhibit 7

Date of Hearing: April 28, 2015

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 900 Levine – As Amended April 23, 2015

SUBJECT: EXTENDED GUARDIANSHIPS: SPECIAL IMMIGRANT JUVENILE STATUS

KEY ISSUE: IN ORDER TO BETTER PROTECT VULNERABLE IMMIGRANT YOUTH, SHOULD CALIFORNIA LAW ALIGN WITH FEDERAL LAW AND ALLOW A GUARDIANSHIP TO LAST UNTIL AGE 21 FOR THOSE YOUTH WHO MAY BE ELIGIBLE FOR SPECIAL IMMIGRANT JUVENILE STATUS?

SYNOPSIS

This bill, sponsored by Bet Tzedek and the Immigrant Legal Resource Center, is designed to better align state and federal law in order to protect vulnerable, unaccompanied immigrant youth up to 21 years old. Federal law allows youth up to 21 years of age to qualify for special immigrant juvenile status and, thus, be eligible to remain in the United States lawfully. To qualify, a state juvenile court must make certain initial findings. However, California law today only has a process to make those findings for youth up to 18 years of age, unless the youth is a nonminor dependent in the foster care system. This bill creates that missing process, and allows for custodial assistance from a caring adult, for youth 18 to 21 by allowing for the establishment and extension of guardianships until 21 for immigrant youth seeking Special Immigrant Juvenile Status. Given that these 18 and over youth are legally adults, this bill rightly ensures that they have the legal decisionmaking authority of adults, similar to the authority that nonminor dependents in the juvenile court have. The author believes that this bill is necessary not only to allow these youth to apply for legal status, "but to stabilize their legal immigration situation so that they can overcome the abuse, abandonment, or neglect they have suffered through the support of the state court and legal guardian." This bill is supported by numerous children's advocates and immigrant rights organizations. It has no known opposition.

SUMMARY: Allows for guardianships for youth from ages 18 until 21 who may qualify for federal Special Immigrant Juvenile Status (SIJS). Specifically, **this bill**:

1) Allows, with the consent of the proposed ward, a probate court to establish a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings regarding SIJS, as specified. Allows the petition for guardianship to be filed by a relative, the proposed ward or any other person.

2) Allows, with the consent, or at the request, of the ward, a court to extend a guardianship of the person beyond 18 years of age in order to allow the ward to complete the application process with U.S. Citizenship and Immigration Services for classification as a special immigrant juvenile, as specified. Provides that the petition for guardianship may be filed by a relative, the ward or any other person. Prevents the guardianship from extending beyond the ward reaching 21 years of age.

3) Provides that nothing in #s 1) or 2), above, abrogates any other rights a ward who is 18 or older may have as an adult under California law. Notwithstanding statutes allowing a guardian to fix the residence of a ward or consent to medical treatment on behalf of a ward,

provides that a ward who is 18 years or older retains all legal decisionmaking authority as an adult.

4) Provides that a court may terminate the guardianship of a ward who is 18 or older if the ward requests termination.

5) Requires Judicial Council to adopt necessary rules and forms by July 1, 2016.

6) States the legislation findings that, among other things:

   a) SIJS offers interim relief from deportation for children under 21, where a state juvenile court has made specified findings, including that reunification with one or both parents is not viable due to abuse, neglect, or abandonment, and a finding that it is not in the child's best interest to be returned to his or her country of origin.

   b) Federal law allows a person under 21 to seek relief from deportation as a special immigrant juvenile, but youth 18-21 in California have largely been unable to obtain the necessary state court findings because probate courts cannot take jurisdiction, for purposes of establishing a guardianship, of youth over 18, even though unaccompanied immigrant youth between 18 and 21 face identical circumstances to those faced by their younger counterparts.

   c) It is necessary to allow unaccompanied immigrant youth, many of whom have experienced parental abuse, neglect or abandonment, the opportunity to have a custodial relationship with a responsible adult as they adjust to a new cultural context, language and education system, and recover from the trauma of abuse, neglect and abandonment, in order to promote permanency and long-term well-being of these youth.

   d) Guardianship of the person may be necessary and convenient for these youth, although any such youth appointed a guardian still retains the rights of an adult under California law.

EXISTING LAW:

1) Allows a the court to appoint a guardian of the person, the estate, or both for a child under 18, taking into consideration the best interest of the proposed ward. (Probate Code Section 1501 *et seq.*)

2) Under federal law, defines a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both of his or her parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to his or her country of nationality or last habitual residence is not in his or her best interest. Allows such person to obtain SIJS and, based on that, apply for a visa for lawful permanent residency. (8 U.S.C. Sections 1101(a)(27)(J), 1153(b)(4).)

3) Provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. Requires the superior court to make an order containing the necessary findings

regarding SIJS pursuant to federal law, if there is evidence to support those findings. (Code of Civil Procedure Section 155.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill is designed to better align state and federal law in order to protect vulnerable, unaccompanied immigrant youth ages 18-21. Federal law allows youth up to 21 years of age to qualify for SIJS and, thus, be eligible to remain lawfully in the United States. To qualify, a state juvenile court must first make certain findings. However, California law today only has a process to make those findings for youth up to 18 years of age, unless the youth is a nonminor dependent in the foster care system. This bill creates that missing process, and allows for custodial assistance from a caring adult, for youth 18 to 21 by allowing for the establishment and extension of guardianships until 21 for immigrant youth seeking SIJS.

In support, the author writes:

> Not only will extending jurisdiction allow these children to apply for legal status, it will also help meet the ultimate goals of SIJS, which are not merely to enable vulnerable children to remain here legally, but to stabilize their legal immigration situation so that they can overcome the abuse, abandonment, or neglect they have suffered through the support of the state court and legal guardian.

Special Immigrant Juvenile Status. "Special Immigrant Juvenile Status" is a federal immigration classification that may help undocumented, vulnerable children and youth remain in the United States. Under the Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, any unmarried person under age 21 who has been abused, neglected or abandoned by a parent may seek classification as a Special Immigrant Juvenile and then immediately apply for lawful permanent resident status. To be eligible for SIJS, a state juvenile court must first find that:

1. The child is a dependent of a juvenile court or committed to the custody of a state agency or a court-appointed individual;

2. Reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law; and

3. Return to the child's country of nationality or last habitual residence is not in his or her best interest. (8 U.S.C. Section 1101(a)(27)(J).)

The first finding originally only applied to children under the direct jurisdiction of the juvenile court, thus limiting eligibility for SIJS. This was expanded in 2008 to include children with a court-appointed custodian, thus allowing the required findings to be made on behalf of children with guardianships established by a probate court and custodial arrangements established by a family court. This significantly expanded the number of immigrant children eligible for SIJS. Once a state court makes the requisite findings, the child may apply to the U.S. Citizenship and Immigration Services for SIJS. (8 U.S.C. Section 1153(b)(4).)

Last Year's Legislation Allowed California Courts to Make the Necessary Findings, Although Not All Youth Covered by the Federal Law Are Covered by State Statute. Last year, in AB 873 (Budget and Fiscal Review), Chap. 685, Stats. 2014, the Legislature specifically provided that

superior courts can make the findings necessary for a child to be eligible for SIJS. In particular, that new law states that the superior court, including a juvenile, probate, or family court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, and requires the court to make an order containing the necessary findings for SIJS, if there is evidence to support them. (Code of Civil Procedure Section 155.)

Thus, a child in California today, who is under 18, can have the necessary findings made in a juvenile court as part of a dependency or delinquency proceeding, in family court as part of a custody proceeding or in probate court as part of a guardianship proceeding, since all those proceedings would satisfy the first required finding – the child is either declared a dependent by the juvenile court or is legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by the court. For youths over 18, but still eligible for federal SIJS because they are under 21, a juvenile court in a dependency proceeding has jurisdiction over nonminor dependents and could, for those youth, make the requisite findings necessary to secure legal immigration status until 21. This expansion of dependency support and oversight for nonminor youth dates back only a few years when, pursuant to federal legislation providing for foster care financial assistance up to age 21, California established the California Fostering Connections to Success Act of 2010 which, among other provisions, extended transitional foster care to eligible youth up to age 21 as a voluntary program for youth who meet specified work and education participation criteria. (AB 12 (Beall), Chap. 559, Stats. 2010.)

However, for youths over 18 who are not dependents of the juvenile court, there is currently no state court proceeding under which the requisite state court findings can be made. As a result, there is a gap between who the federal government will assist under SIJS – youth under 21 who meet the necessary findings – and those who can get the necessary findings in California – all youth under 18, but only those over 18 who are nonminor dependents of the juvenile court. This gap significantly limits the options for those otherwise eligible immigrant youth in California who, because of state law limitations alone, cannot qualify for SIJS.

This Bill Extends Guardianship Proceedings Until 21 for Youth in Need of the Special Immigrant Juvenile Status Finding. This bill seeks to close that gap by allowing probate courts to establish guardianships for youth who are at least 18, but less than 21, and to extend existing guardianships up to 21, if done in connection with a petition to make the necessary SIJS findings. Thus, this bill fills the gap and allows for the necessary state court finding to help these youth become legal residents of California. However, this bill does much more for this very vulnerable population. As the bill's legislative findings make clear, these guardianships connect immigrant youth who have been abused, neglected or abandoned with a caring adult "as they adjust to a new cultural context, language, and education system, and recover from the trauma of abuse, neglect or abandonment. These custodial arrangements promote permanency and the long-term well being of immigrant children present in the United States who have experienced abuse, neglect, or abandonment."

California is not alone in extending guardianships to 21. New York and Maryland are among the states that offer extended guardianships until 21 years of age.

Bill Makes Clear That These 18-21 Year Old Youth Retain Their Legal Rights as Adults Under California Law. All of the regular guardianship rules and statutes apply to these new

over 18 guardianships, with several key exceptions, all recognizing that the youth subject to them are now adults, with distinct legal rights. Like guardianships for children, guardianships for those over 18 begin with notice to specified relatives and, unless waived by the court, an investigation of the proposed guardianship by a court investigator, probation officer, or domestic relations investigator, along with recommendations of the appropriateness of the guardianship. The court may appoint a guardian if it appears to the court to be "necessary or convenient," the same standard that applies to those under 18. (Probate Code Section 1514.)

However, because youth 18 and older are legally adults, this bill rightly proposes to treat nonminor wards different than minor wards. First, the guardianship can only be established for a youth 18 or over, or extended for a youth who has reached 18, with the youth's consent. No non-minor will be forced into a guardianship, just like no nonminor can be forced to remain in dependency after age 18. Second, the court may terminate a guardianship if a ward 18 and over requests termination. This ensures that the nonminor ward remains in a guardianship only if he or she so desires.

Finally, this bill specifically states that wards 18 and over retain their legal rights as adults under California law. The language in the bill is modeled after Welfare & Institutions Code Section 303(d), which provides that nonminor dependents retain all of their legal decisionmaking authority as adults even if they have elected to receive extended foster care assistance. In particular, the bill rightly specifies that these nonminor wards are entitled to make their own legal decisions notwithstanding statutory authority for guardians to establish their wards' residences and consent to medical treatment for them. Again, these provisions are analogous to how the law today treats nonminor dependents.

ARGUMENTS IN SUPPORT: This bill is supported by a wide range of children's and immigrant rights advocates. They write:

> Particularly in light of the recent influx of unaccompanied children arriving in the United States, including 5,831 of whom were released to family members or other adults in the state of California in Fiscal Year 2014 alone, this bill is crucial to protecting vulnerable unaccompanied immigrant children in the state of California. Further, it will facilitate their successful integration into and ultimate contribution to our larger community in cases where such youth are eligible for legal status through Special Immigrant Juvenile Status. This bill will ultimately lead to safety and stability for immigrant children in California, principles that are highly valued by our state.

REGISTERED SUPPORT / OPPOSITION:

Support

Bet Tzedek (co-sponsor)
Immigrant Legal Resource Center (co-sponsor)
Asian Americans Advancing Justice – Asian Law Caucus
Asian Pacific Islander Legal Outreach
Association of Pro Bono Counsel
Bay Area Industrial Areas Foundation
California Immigrant Policy Center
California Rural Legal Assistance Foundation
Catholic Charities of the East Bay

Catholic Legal Immigration Network
Canal Alliance
Central American Resource Center
Centro Legal de la Raza
Dolores Street Community Services
Immigrant Rights Clinic, University of California, Irvine School of Law
Immigration Center for Women and Children
Larkin Street Legal Services
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Advocates for Children and Youth
Legal Aid Society of San Mateo County
Legal Services for Children
Legal Services for Prisoners with Children
Los Angeles Center for Law and Justice
Loyola Immigrant Justice Clinic, Loyola Law School
Pangea Legal Services
Public Counsel's Children's Rights Project
San Diego Volunteer Lawyer Program
San Francisco International High School
Social Justice Collaborative
Youth Law Center

Opposition

None on file

Analysis Prepared by: Leora Gershenzon / JUD. / (916) 319-2334

Exhibit 8

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 204, 205, and 245

[CIS No. 2474–09; DHS Docket No. USCIS–2009–0004]

RIN 1615–AB81

Special Immigrant Juvenile Petitions

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is amending its regulations governing the requirements and procedures for juveniles seeking classification as a Special Immigrant Juvenile (SIJ) and related adjustment of status to lawful permanent resident (LPR). This rule codifies statutorily mandated changes and clarifies the following: the definitions of key terms, such as ''juvenile court'' and ''judicial determination''; what constitutes a qualifying juvenile court order for SIJ purposes; what constitutes a qualifying parental reunification determination; DHS's consent function; and applicable bars to adjustment, inadmissibility grounds, and waivers for SIJ-based adjustment to LPR status. This rule also removes bases for automatic revocation that are inconsistent with the statutory requirements of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008) and makes other technical and procedural changes. DHS is issuing this rule to update the regulations as required by law, further align SIJ classification with the statutory purpose of providing humanitarian protection to eligible child survivors of parental abuse, abandonment, or neglect, and clarify the SIJ regulations.

DATES: This final rule is effective April 7, 2022.

FOR FURTHER INFORMATION CONTACT: Rená Cutlip-Mason, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Dr., Camp Springs, MD 20529–2140; or by phone at 240–721–3000. (This is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

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unmarried at time of filing the SIJ petition and at time of adjudication. New 8 CFR 204.11(b)(2).

3. Physical Presence in the United States

Comment: One commenter recommended that DHS interpret the requirement for a petitioner's physical presence in the United States as either physical or constructive presence. The commenter stated that using the word ''physically'' to modify the word ''present'' impermissibly narrows the statute and the rule should instead mirror the text of the statute, which provides that an SIJ petitioner is one who is ''present in the United States.''

Response: DHS disagrees with this interpretation. The statutory language at INA section 101(a)(27)(J)(i) requires that petitioners be subject to determinations from a juvenile court located in the United States, indicating that Congress intended that the petitioner be physically present to be eligible for a grant of SIJ classification. It has therefore been DHS's longstanding interpretation that physical presence in the United States is required for USCIS to approve the petition for SIJ classification, and no facts or circumstances have come to our attention that would justify changing that interpretation.

4. Juvenile Court Order Determinations

(a) Dependency or Custody

Comment: Fourteen commenters thought that the proposed rule was not inclusive enough of the various types of placements by a juvenile court that could lead to eligibility for SIJ classification. These commenters want DHS to clarify that commitment to or placement under the custody of an individual could include, but is not limited to, adoption and guardianship. Another commenter requested that DHS clarify that guardianship or adoption standing alone is sufficient for SIJ classification, without being preceded by a dependency, commitment, or custody order. Several of these commenters asked DHS to clarify that a court-ordered placement with a non-offending parent or a foster home could qualify. One commenter requested that DHS clarify the types of State court proceedings that may qualify, including divorce, custody, guardianship, dependency, adoption, child support, protection orders, parentage, paternity, termination of parental rights, declaratory judgments, domestication of a foreign order, or delinquency. Another commenter said that they were concerned that USCIS is interpreting dependency to exclude children who are in the care and custody of the U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR).

Response: The plain language of INA section 101(a)(27)(J)(i) is disjunctive, requiring a petitioner to establish that they have either ''been declared dependent on a juvenile court . . . *or* . . . such a court has legally committed [them] to, or placed [them] under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court''. INA section 101(a)(27)(J)(i), 8 U.S.C. 1101(a)(27)(J)(i). The final rule clarifies that SIJ classification is available to petitioners for whom the juvenile court provides or recognizes relief from parental abuse, neglect, abandonment, or a similar basis under State law, which may include the court-ordered custodial placement, or the court-ordered dependency on the court for the provision of child welfare services and/or other court-ordered or court-recognized protective remedial relief. New 8 CFR 204.11(d)(5)(ii)(A) and (B). DHS will not include a full list of examples of qualifying placements in this rule to avoid confusion that qualifying placements are limited to those listed. However, in response to commenters' request that USCIS clarify whether adoption or guardianship standing alone may qualify, USCIS notes that a judicial determination from a juvenile court of adoption or guardianship would generally be a sufficient custodial and/or dependency determination for SIJ eligibility. In addition, juvenile court-ordered placement with a non-offending relative or foster home would also generally qualify as a judicial determination related to the petitioner's custody and/or dependency for SIJ eligibility.

In response to a commenter's concern that USCIS is interpreting dependency to exclude children who are in the care and custody of ORR, USCIS recognizes that placement in federal custody with ORR also affords protection as an unaccompanied child pursuant to Federal law and obviates a State juvenile court's need to provide a petitioner with additional relief from parental maltreatment under State law. *See generally* Homeland Security Act of 2002, Public Law 107–296, 462(b)(1), 116 Stat. 2135, 2203 (2002) (providing that ORR shall be responsible for ''coordinating and implementing the placement and care of unaccompanied alien children in Federal custody by reason of their immigration status. . . .''). Such relief qualifies as relief in connection with a juvenile court's dependency determination. In this final rule, USCIS is clarifying that the relief qualifies so long as the record shows that the juvenile court was aware that the petitioner was residing in ORR custody at the time the order was issued. *See* new 8 CFR 204.11(d)(5)(ii)(B). For example, if the order states that the petitioner is in ORR custody, or the underlying documents submitted to the juvenile court establish the juvenile's placement in ORR custody, that would generally be sufficient evidence to demonstrate that the court was aware that the petitioner was residing in ORR custody. USCIS is making this clarification to ensure that those in ORR custody are not inadvertently excluded from SIJ classification because of the requirement that the juvenile court recognize or grant the relief.

Comment: Several commenters requested further clarification on the definition of dependency. One commenter requested that DHS explain whether dependency includes temporary custody orders. Another commenter stated that the regulations should retain the definition of dependency contained in the previous 8 CFR 204.11(c)(3), which states that a petitioner should establish that they have been ''declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency.'' This commenter noted that whether a juvenile is dependent on the juvenile court is within the purview of the juvenile court and not USCIS.

Response: DHS recognizes that there is no uniform definition for ''dependency,'' and the final rule continues to give deference to State courts on their determinations of custody or dependency under State law. DHS agrees with the commenter that the dependency determination is within the jurisdiction of the juvenile court. Thus, the final rule requires the juvenile court to have made a judicial determination ''related to the petitioner's custodial placement or dependency in accordance with State law governing such determinations.'' New 8 CFR 204.11(c)(1).

(b) Parental Reunification Determination

DHS received twenty-two comments on various aspects of the parental reunification determination. DHS reaffirms that the juvenile court must make this determination based on applicable State laws. Nothing in this rule should be construed as changing the standards that State courts use for making family reunification determinations, such as evidentiary

standards, notice to parents, family integrity, parental rights, and due process. DHS further notes that definitions of concepts such as abuse, neglect, or abandonment may vary from State to State. For example, it is a matter of State law to determine if a parent's actions or omissions are so severe that even with services or intervention, the child cannot be reunified with that parent.

Comment: Several commenters requested that the final rule formally abandon USCIS' requirement that in order to make a qualifying parental reunification determination, the juvenile court must have jurisdiction to place the juvenile in the custody of the unfit parent(s). Another commenter requested that DHS explain what constitutes a qualifying reunification determination when a juvenile court does not make an explicit finding and grants the offending parent noncustodial rights. Seven commenters requested clarification that termination of parental rights is not a prerequisite for SIJ classification. One commenter requested that DHS remove from the proposed rule any discussion of the requirement that a juvenile court order contain a determination that the petitioner is eligible for long-term foster care due to abuse, neglect, or abandonment.

Response: Consistent with longstanding practice and policy, DHS agrees that termination of parental rights is not required for SIJ eligibility and has incorporated this clarification in the final rule. New 8 CFR 204.11(c)(1)(ii). The idea that children should not grow up in the foster care system has led to changes in Federal law, such as the Adoption and Safe Families Act. Adoption and Safe Families Act of 1997, Public Law 105–89 (Nov. 19, 1997). The SIJ program has evolved along with child welfare law to include children for whom reunification with one or both parents is not viable because of abuse, neglect, abandonment, or a similar basis under State law. INA section 101(a)(27)(J)(i) previously required a State court determination of eligibility for long-term foster care due to abuse, neglect, or abandonment; however, the statute was modified by TVPRA 2008 to reflect this shift away from long-term foster care as a permanent option for children in need of protection from parental maltreatment. Accordingly, references to ''foster care'' were removed from the NPRM and have been removed from the final rule.

While there is no longer a requirement that petitioners be found eligible for long-term foster care, nonviability of parental reunification is still required. However, DHS no longer requires [7] that the juvenile court had jurisdiction to place the juvenile in the custody of the unfit parent(s) in order to make a qualifying determination regarding the viability of parental reunification; therefore, this final rule does not include such a requirement. *See, e.g., R.F.M.* v. *Nielsen,* 365 F. Supp. 3d 350 (S.D.N.Y. 2019); *J.L., et al.* v. *Cissna,* 341 F. Supp. 3d 1048 (N.D. Cal. 2018); *Moreno Galvez* v. *Cuccinelli,* 387 F. Supp. 3d 1208 (W.D. Wash. 2019); *W.A.O.* v. *Cuccinelli,* Civil Action No. 2:19–cv–11696, 2019 U.S. Dist. LEXIS 136045 (D.N.J. July 3, 2019). DHS further acknowledges that even while it was in effect, the reunification authority requirement should never have applied to petitioners who had juvenile-court orders entered pursuant to Section 300 of the California Welfare and Institutions Code, because California courts generally have continuing jurisdiction over juveniles even after they turn 18. *See,* Cal. Welf. & Inst. Code § 303 (which provides that juvenile courts ''may retain jurisdiction over any person who is found to be a ward or a dependent child of the juvenile court until the ward or dependent child attains 21 years of age''). These juvenile courts have jurisdiction to issue findings regarding abuse, neglect, or abandonment, and based on these findings, ''adjudge that person to be a dependent child of the court.'' *See* Cal. Welf. & Inst. Code § 300.

Where a juvenile court has intervened through, for example, the removal of a child from a home because of parental maltreatment, such intervention may establish that the juvenile court determined that parental reunification is not viable, even if the court order does not explicitly reference that determination. However, the petitioner must establish that the juvenile court's actions resulted from the court's determination under State law that reunification with their parent(s) was not viable due to parental maltreatment. *See* new 8 CFR 204.11(c)(1)(ii).

Comment: Several commenters requested that DHS clarify that petitioners are eligible for SIJ classification when the juvenile court determines that parental reunification with only one parent is not viable. Two commenters further asked DHS to include language that the viability of reunification applies equally whether the parent is a birth parent or an adoptive parent.

Response: The ability of a State court to make a ''one parent'' parental reunification determination is a matter of State law and depends on the individual circumstances of the case. Nothing in this rule should be construed as changing how juvenile courts determine under State law the viability of parental reunification. In the event that a juvenile court determines that it needs to intervene to protect a child from one parent's abuse, neglect, abandonment, or a similar basis under State law, that court's determination may fulfill the parental reunification requirement. Similarly, the ability of a court to exercise its authority to place a child in the custody of a non-offending parent is also a matter of State law. Therefore, if reunification with only one of the petitioner's parents is not viable, the petitioner may be eligible for SIJ classification. DHS, however, declines to incorporate the request that the reunification determination applies to both birth parents and adoptive parents because the parental reunification determination must be made under State law, and it is ultimately a matter of State law who constitutes a legal parent. In other words, the nonviability of parental reunification determination must be based upon a parent who the State court considers the child's legal parent under State law.

Comment: DHS also received several comments regarding the definitions of abuse, neglect, and abandonment as they relate to the parental reunification determination. One commenter stated that the viability of parental reunification with one or both of the petitioner's parents due to abuse, neglect, abandonment, or a similar basis under State law must be determined by a juvenile court based on applicable State law. Another commenter requested that DHS incorporate language from the SIJ section of the USCIS Policy Manual stating that ''USCIS generally defers to the court on matters of [S]tate law and does not go behind the juvenile court order to reweigh evidence and make independent determinations about . . . abuse, neglect, abandonment, or a similar basis under [S]tate law.'' [8]

Other commenters recommended that DHS define or categorize the terms ''abuse,'' ''neglect,'' and ''abandonment.'' One commenter recommended that DHS define the terms ''abuse,'' ''neglect,'' and ''abandonment,'' to allow for a

[7] *See also* USCIS, ''Policy Alert: Special Immigrant Juvenile Classification,'' Nov. 19, 2019, available at *https://www.uscis.gov/sites/default/files/policymanual/updates/20191119-SIJ.pdf.*

[8] USCIS Policy Manual, Volume 6, Immigrants, Part J, Special Immigrant Juveniles, Chapter 2, Eligibility Requirements [6 USCIS–PM J.2], available at *https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-2.*

Exhibit 9

DECLARATION OF MARC LEVINE, KEVIN DE LEÓN, TONI ATKINS, RICARDO LARA

We, Marc Levine, Kevin de León, Toni Atkins, and Ricardo Lara, hereby declare and state as follows:

1. I, Marc Levine, am a California Assemblymember and author of Assembly Bill 900 (Chapter 694, Statutes of 2015). I have personal knowledge of the matters set forth below, unless otherwise noted, and could competently testify to them if called to do so.

2. I, Kevin de León, am President pro Tempore of the California State Senate. I have personal knowledge of the matters set forth below, unless otherwise noted, and could competently testify to them if called upon.

3. I, Toni Atkins, am a California Assembly Speaker Emeritus. I have personal knowledge of the matters set forth below, unless otherwise noted, and could competently testify to them if called to do so.

4. I, Ricardo Lara, am a California State Senator and Latino Legislative Caucus Chair (2013-2014) and current Latino Legislative Caucus Member. I have personal knowledge of the matters set forth below, unless otherwise noted, and could competently testify to them if called to do so.

5. We write to support the Petition for Writ of Mandate filed by Petitioner Marlon V. and to express how critically important this

petition is to protecting the health, safety, and welfare of both the Petitioner and other similarly situated youth residing within the State of California. The issues presented by this petition are important to us as the author of 2015 California Assembly Bill 900 ("AB 900"), as the leaders of the California State Senate and California State Assembly during the passage of AB 900 and as architects of the "Immigrants Shape California" package of Immigrant Rights bills of which AB 900 was included, and as the current Chair of the Latino Legislative Caucus and former Chair of the Latino Legislative Caucus. We are vitally interested in the outcome of this petition because we want to ensure that the clear legislative intent behind AB 900, along with the clear language of the bill, is respected.

6. The Respondent Court's order undermines our intention to ensure that immigrant youth, including those aged 18 to 20, who have endured abuse, abandonment, and neglect are able to access California probate courts and the positive benefits that flow from the appointment of a legal guardian and Special Immigrant Juvenile Status ("SIJS") protection.

7. AB 900 was enacted in response to the vulnerability and particular challenges faced by immigrant youth. It allows immigrant youth ages 18 to 20 to obtain guardianship orders under the California

Probate Code and to then seek SIJS factual findings pursuant to Section 155 of the California Code of Civil Procedure.

8. AB 900 builds on the protections created in 2014 when the California Legislature enacted Senate Bill 873 ("SB 873"). SB 873 strengthened protections for immigrant youth by making clear California juvenile courts, including probate courts, have jurisdiction to make SIJS findings. The California Latino Legislative Caucus was instrumental in drafting and shepherding this bill through the legislative process. SB 873 mandates that these juvenile courts make SIJS predicate findings when sufficient evidence has been presented. SB 873 was a response to the humanitarian crisis of thousands of unaccompanied minors arriving in California and needing our support and protection. The Legislature's intent in enacting SB 873 was to ensure these children have access to our courts and to SIJS predicate findings so they can petition the federal government for SIJS classification.

9. With AB 900, the Legislature intended to further protect these uniquely vulnerable members of our State by ensuring that immigrant youth ages 18 to 20 can receive the same protections available to youth who are under the age of 18. Under federal law, a youth under the age of 21, who otherwise meets the requirements for SIJS classification, can petition the government for relief. However,

prior to passage of AB 900, state law did not permit youth aged 18 to 20 to seek the appointment of a guardian and SIJS findings, even if they had suffered abuse, abandonment, and neglect and would benefit from a legal custodial relationship with their caretaker. While SB 873 confirmed the jurisdiction of California courts to make SIJS findings, it did not correct this misalignment between state and federal law, nor did it provide the additional support and guidance that immigrant youth aged 18 to 20 require to recover from the trauma they have endured and to adjust to life in the United States. AB 900 was designed to eliminate this substantial gap in the state-federal framework.

10. AB 900 also provides an avenue for these youth to obtain guardianship orders and SIJS findings in their best interest. The Legislature extended the jurisdiction of the probate courts to appoint a legal guardian for youth ages 18 to 20 in connection with a petition for SIJS findings, in recognition that guardianship orders are often necessary and convenient in light of this population's special need for custodial relationships that foster stability, recovery, and long-term well-being. We recognize that many of these youth have suffered severe trauma, and the appointment of a legal guardian formally charged with making important decision in the youths' best

interest promotes greater resiliency and integration into our society and results in better educational and emotional outcomes.

11. In appointing a guardian for SIJS-eligible youth aged 18 to 20, AB 900 directs the courts to apply the same standards for appointment of a guardian as they do for wards under the age of 18. Additionally, AB 900 makes clear that all of the rights, responsibilities, and duties of a traditional guardian attach to a guardian for a youth aged 18 to 20.

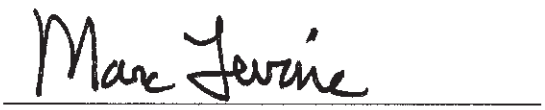
12. AB 900's requirement that the request for guardianship be made in connection with a SIJS petition was not intended to limit the guardianship to serving only SIJS purposes. Rather it simply recognizes that immigrant youth who have been abused, abandoned, and neglected are particularly vulnerable and would benefit from a custodial relationship in the form of a legal guardianship under the California Probate Code. The Legislature did not intend that guardianships for SIJS-eligible youth aged 18 to 20 be treated differently than those for wards under the age of 18.

13. In this case, the Respondent Court undermined the purpose of AB 900 by conditioning the guardianship orders and indicating on the face of the letters and orders that the guardian was appointed for SIJS authority only. We drafted AB 900 to create a legal guardianship with meaningful duties and protective powers. The

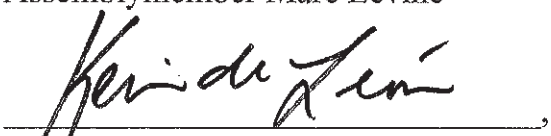
guardianship created by the Respondent Court fails to provide Petitioner with the custodial relationship AB 900 intended and will deny him the support and care he needs from a legal guardian.

14. We thus urge you to grant the Petitioner's request and order the Respondent Court to issue new guardianship and SIJS orders to Petitioner that do not restrict the guardianship to be used for SIJS only and that will comply with the plain language of AB 900 and the Legislature's intent.

Executed on April 20, 2017 in Sacramento, California.

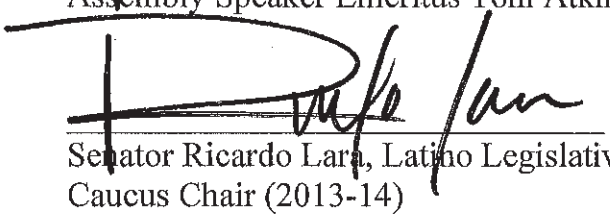


Assemblymember Marc Levine



Senate President pro Tempore Kevin de León

Assembly Speaker Emeritus Toni Atkins



Senator Ricardo Lara, Latino Legislative Caucus Chair (2013-14)

Exhibit 10

I, BETH TSOULOS, declare:

1. I submit this declaration in support of Plaintiffs' Motion for a Preliminary Injunction. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify competently to the following.

2. I am a Senior Social Worker with the Children's Rights Project of Public Counsel, which is where I have worked for the past nineteen years.

3. My office address at Public Counsel is 610 S. Ardmore Avenue, Los Angeles, CA 90005. My phone number is (213) 385-2977 x156; my fax is (213) 201-4723; and I may be e-mailed at btsoulos@publiccounsel.org.

4. Attached hereto as Exhibit A and incorporated by this reference is my resume, summarizing my education and professional training and experience. I have worked in the field of social work for over twenty-six years. In my professional career, I have focused on working with and on behalf of immigrants, children, and youth. I have published a chapter of the *Guide to Future Care and Custody Planning for Children with Recommendations for State Legislation* entitled *Joint Guardianship and Joint Custody*. I served as principal researcher on an upcoming project entitled *Probate Kinship Guardianship: An important permanency option for children* with the University of California at Berkeley School of Social Welfare. I am a supervisor to staff social workers at Public Counsel and serve as Leader of the Public Counsel Social Work Team.

5. In my nineteen years of work with Public Counsel I have walked alongside and supported hundreds of children and youth as they navigated the process toward immigration relief called Special Immigrant Juvenile Status (SIJS). The majority of these children and youth have begun their legal process with a Probate Legal Guardianship and have then seen their cases proceed through the Citizenship and Immigration Services.

6. A percentage of the children I have supported in this process have been eligible for SIJS relief under California's law entitled AB 900. This law protects children ages eighteen to twenty-one and affords them eligibility for both a legal guardian and immigration relief.

7. By definition, AB 900 children have suffered abuse, abandonment, neglect, traumatic loss, and suffer the consequences of complex trauma. They are victims of emotional and physical abuse, sexual abuse and assault, have witnessed the murder of family members and caregivers, some have been abandoned by caregivers during the most vulnerable periods of childhood.

8. Research known to me shows that children who have suffered these types of trauma struggle to develop safe and secure attachments with caregivers and other important adults. They suffer shame and lack a sense of worth and value. Transitioning to adulthood and independence is stunted and children are prevented from forming trusting and attached relationships, which in turn influences their ability to succeed and make positive life decisions.

9. An AB 900 child over age eighteen who has been awarded a legal guardian is on a very important trajectory toward healing after a childhood full of harm and trauma. A permanent relationship filled with unconditional commitment to an AB 900 child is proven by research to be a treatment for complex trauma. A young person learns the important value of trust and learns that despite their earlier trauma, they are worthy and can heal. Oftentimes, for the first time in their lives, they have a sense of safety in the world with a secure and certain relationship to fall back on. These relationships are the sounding boards from where a child enters a successful adulthood. A legal guardian often provides a space in which a child can consider attending college, applying for a new job or medical insurance, and seek mental health care for the first time.

10. As AB 900 youth apply to the Citizenship and Immigration Services for immigration relief, they continue on this path toward healing from a childhood full of detachment, neglect, and isolation. The orders from the state court that grant them legal guardians and eligibility for SIJS are vital aspects of their healing. The green card that results from their SIJS applications to the U.S. CIS are equally important in their healing.

11. It is my professional opinion that denying eligible AB 900 children immigration status under SIJS causes immediate harm and damage to these individuals. They are on a brand

new track toward healing and success. That path is suddenly sidetracked as the children experience yet another trauma and message that they are unworthy and now must face being deported to a country where they have no caregiver, no safe relationships, and often face exposure to continued violence, abuse, and trauma.

12. The denial of a SIJS application affects AB 900 children in many domains of life. These children are often on the path toward college or perhaps are already in college and without AB 900 relief, they are ineligible for financial aid and many scholarships, putting college out of reach. Children may have to drop out of school and terminate their studies.

13. AB 900 children, when denied immigration relief, are denied work authorization. This prevents them from meeting their basic needs, and they are left in a precarious position facing the inability to support themselves. Additionally, they are subject to discrimination without the legal protections provided by legal permanent residency.

14. Once denied SIJS, children lose access to important mental health treatment and services that have often just begun and are vital to their trauma healing process.

15. Children denied SIJS will lose their invaluable relationship with their guardian. These relationships are the most important aspect of their trauma healing, and being ripped from their guardians places them at great risk of suffering depression, anxiety, suicidality and other pain.

16. When denied immigration relief, AB 900 children are thwarted from continuing their lives, their educational, professional, and mental health goals. They also face the grave and likely prospect of being returned to their country of origin where they face certain exposure to continued abuse, violence, harm, and potential loss of life.

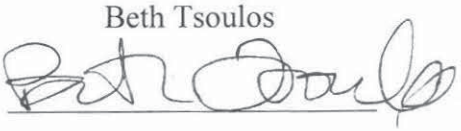
17. AB 900 children are clearly eligible for relief under Special Immigrant Juvenile Status, they are under the jurisdiction of a juvenile court, they are unable to return to their countries of origin, and are victims of abuse, abandonment, and neglect by the very people who were to protect them, their parents. The re-telling of their stories of trauma, as the process of a SIJS application requires, exposes children to additional trauma and increases their suffering.

Needlessly and wrongfully denying these children relief when they are undeniably eligible for protection is reckless and places children in harm's way.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 2nd day of July in Los Angeles, California

Beth Tsoulos



STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **S.H.R., GUARDIANSHIP OF**
Case Number: **S271265**
Lower Court Case Number: **B308440**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **rex.heinke@calapplaw.com**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
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REQUEST FOR JUDICIAL NOTICE	Request for Judicial Notice
ADDITIONAL DOCUMENTS	Exhibits to Request for Judicial Notice

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Matt Kintz California Appellate Law Group LLP	matt.kintz@calapplaw.com	e-Serve	3/21/2022 2:01:05 PM
Jeffrey Raskin Greines, Martin, Stein & Richland LLP 223608	jraskin@gmsr.com	e-Serve	3/21/2022 2:01:05 PM
Christopher Hu Horvitz & Levy LLP 176008	chu@horvitzlevy.com	e-Serve	3/21/2022 2:01:05 PM
Stefan Love Greines, Martin, Stein & Richland LLP 329312	slove@gmsr.com	e-Serve	3/21/2022 2:01:05 PM
Jessica Weisel CALIFORNIA APPELLATE LAW GROUP LLP 174809	jessica.weisel@calapplaw.com	e-Serve	3/21/2022 2:01:05 PM
Chris Yates Latham & Watkins LLP	chris.yates@lw.com	e-Serve	3/21/2022 2:01:05 PM

161273			
Sonia Hernandez Horvitz & Levy LLP	shernandez@horvitzlevy.com	e-Serve	3/21/2022 2:01:05 PM
Elizabeth Deeley Latham & Watkins LLP 230798	elizabeth.deeley@lw.com	e-Serve	3/21/2022 2:01:05 PM
David Ettinger Horvitz & Levy LLP 93800	dettinger@horvitzlevy.com	e-Serve	3/21/2022 2:01:05 PM
Marion Donovan-Kaloust Immigrant Defenders Law Center	mickey@immdef.org	e-Serve	3/21/2022 2:01:05 PM
Kathryn Parker California Appellate Law Group LLP	kathryn.parker@calapplaw.com	e-Serve	3/21/2022 2:01:05 PM
Chris Hsu Greines Martin Stein & Richland LLP	chsu@gmsr.com	e-Serve	3/21/2022 2:01:05 PM
Stephany Arzaga Legal Services for Children 314925	stephany@lsc-sf.org	e-Serve	3/21/2022 2:01:05 PM
Nina Rabin UCLA School of Law, Immigrant Family Legal Clinic 229403	rabin@law.ucla.edu	e-Serve	3/21/2022 2:01:05 PM
Sean Selegue Arnold & Porter LLP 155249	sean.selegue@aporter.com	e-Serve	3/21/2022 2:01:05 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3/21/2022

Date

/s/Matt Kintz

Signature

Heinke, Rex (66163)

Last Name, First Name (PNum)

California Appellate Law Group LLP

Law Firm