

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 80019(b)(6) et.seq.

Specific Purpose:

The specific purpose of this section is to list the persons, specific to certified homes, who are exempt from the requirement to submit finger prints for a background check.

Factual Basis:

This section is necessary to comply with existing statute and recent provisions of SB 358, Chapter 628, Statutes of 2005.

Sections 80019(b)(7) through (10)

Specific Purpose:

The specific purpose of the amendments is to renumber Sections 80019(b)(6) through (9) to (b)(7) through (10), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 80019(g)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days.”

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties.

Section 80019(g) (1)

Specific Purpose:

The specific purpose of this section is to specify what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 80019(g) (2)

The specific purpose of this amendment is to renumber Section 80019 (g)(1) to (g)(2) and to correct a reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code reference is incorrect.

Section 80019(j)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

Repealing this section is necessary for clarity. The information in this section would be more appropriate in the Criminal Record Exemption section. The information in this section will be included in current Section 80019.1(d).

Sections 80019(j) through (l)

Specific Purpose:

The specific purpose of these amendments is to renumber Sections 80019 (k) through (m) to (j) through (l), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 80019.1(d)

Specific Purpose:

The specific purpose of this amendment is to add the language that was previously in Section 80019(j).

Factual Basis:

This amendment is necessary for clarity. It is appropriate to have this information in this section as existing language makes reference to the exemption needed notice.

Section 80019.1(d)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption needed letter to the affected individual must include a list of the individual's convictions.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to "include in the exemption needed notice information specifying the convictions to be addressed in an exemption request."

Section 80019.1(d)(2) and (d)(3)

Specific Purpose:

The specific purpose of these amendments are to make editorial and format changes.

Factual Basis:

These amendments are necessary for clarity.

Sections 80019.1(d)(3)(A) through (C)

Specific Purpose:

The specific purpose of these amendments are to renumber Sections 80019.1(d)(1) through (3) to (d)(3)(A) through (C), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 80019.1(d)(3)(D)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 80019.1 (d)(4) to (d)(3)(D) and to delete the phrase “except for certified foster parents.”

Factual Basis:

This amendment is necessary for consistency of format and to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit certified family home employees to seek exemptions on their own behalf.”

Section 80019.1(d)(3)(D)1.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 80019.1(d)(4)(A) to (d)(3)(D)1.

Factual Basis:

This amendment is necessary for consistency of format

Section 80019.1(d) (3) (D)2.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 80019.1(d)(4)(B) to (d)(3)(D)2. and to add the phrase “Chooses not to employ or”, delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

The addition of the phrase “Chooses not to employ or” is necessary to address situations where the licensee/license applicant offers employment contingent on the results of the background check. Existing language implies all individuals are employed prior to receipt of the background check results.

The amendment to replace “because” with “after receiving notice” is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 80019.1(d)(4)(B) to (d)(3)(D)2. is necessary for consistency of format.

Section 80019.1(d)(3)(D)3.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 80019.1(d)(4)(C) to (d)(3)(D)3. and to delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 80019.1(d)(4)(C) to (d)(3)(D)3. is necessary for consistency of format.

Section 80019.1(h)(1)

Specific Purpose:

The specific purpose of this section is to specify that the exemption denial notices shall include the reason the exemption was denied.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “notify persons denied an exemption of the basis for the denial in terms sufficiently specific to permit a reasonably informed decision on whether to pursue an administrative appeal.”

Section 80054(b)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days” and replace the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering.”

Factual Basis:

The civil penalty amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties. Replacing the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering” is necessary for consistency with other regulatory sections.

Section 80054(b)(1)

Specific Purpose:

The specific purpose of this section is to specify what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 80054(b)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 80054(b)(1) to (b)(2) and to correct a reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code reference is incorrect.

Section 87219(f)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days”.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties.

Section 87219(f)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 87219(f)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87219(f)(1) to (f) (2).

Factual Basis:

This amendment is necessary for consistency of format.

Section 87219.1(d)

Specific Purpose:

The specific purpose of this amendment is to make clarifying editorial changes and to add the phrase “and the affected individual, in concurrent, separate notices that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.”

Factual Basis:

This amendment is necessary for clarity and consistency. Regulations for all other licensing categories contain this language. This regulatory package moves that language to their respective like sections. Adding this language will make this regulatory section consistent with other like sections.

Section 87219.1(d)(1)

Specific Purpose:

The specific purpose of this section is to specify that the exemption needed letter to the affected individual must include a list of the individual's convictions.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to "include in the exemption needed notice information specifying the convictions to be addressed in an exemption request."

Sections 87219.1(d)(2) and (d)(3)

Specific Purpose:

The specific purpose of these amendments is to make editorial and format changes.

Factual Basis:

These amendments are necessary for clarity.

Sections 87219.1(d)(3)(A) through (C)

Specific Purpose:

The specific purpose of this amendment is to renumber Sections 87219.1(d)(1) through (3) to (d)(3)(A) through (C), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 87219.1(d)(3)(D)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87219.1(d)(4) to (d)(3)(D).

Factual Basis:

This amendment is necessary for consistency of format.

Section 87219.1(d)(3)(D)1.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87219.1(d)(4)(A) to (d)(3)(D)1.

Factual Basis:

This amendment is necessary for consistency of format

Section 87219.1(d)(3)(D)2.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87219.1(d)(4)(B) to (d)(3)(D)2. and to add the phrase “Chooses not to employ or”, delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

The addition of the phrase “Chooses not to employ or” is necessary to address situations where the licensee/license applicant offers employment contingent on the results of the background check. Existing language implies all individuals are employed prior to receipt of the background check results.

The amendment to replace “because” with “after receiving notice” is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 87219.1(d)(4)(B) to (d)(3)(D)2. is necessary for consistency of format

Section 87219.1(d)(3)(D)3.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87219.1(d)(4)(C) to (d)(3)(D)3. and to delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 87219.1(d)(4)(C) to (d)(3)(D)3. is necessary for consistency of format

Section 87219.1(h)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption denial notices must include the reason the exemption was denied.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “notify persons denied an exemption of the basis for the denial in terms sufficiently specific to permit a reasonably informed decision on whether to pursue an administrative appeal”.

Section 87454(b)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days” and replace the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering”.

Factual Basis:

The civil penalty amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties. Replacing the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering” is necessary for consistency with other regulatory sections.

Section 87454(b)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 87454(b)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87454(b)(1) to (b)(2) and to correct a cross reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code cross reference is incorrect.

Section 87819(e)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days”.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties.

Section 87819(e)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 87819(e)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87819(e)(1) to (e)(2).

Factual Basis:

This amendment is necessary for consistency of format.

Section 87819(h)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

Repealing this section is necessary for clarity. The information in this section would be more appropriate in the Criminal Record Exemption section. The information in this section will be added to Section 87819.1(d).

Sections 87819(h) through (j)

Specific Purpose:

The specific purpose of these amendments is to renumber Section 87819(i) through (k) to (h) through (j), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 87819.1(d)

Specific Purpose:

The specific purpose of this amendment is to add the language that was previously in Section 87819(h).

Factual Basis:

This amendment is necessary for clarity. It is appropriate to have this information in this section as existing language makes reference to the exemption needed notice.

Section 87819.1(d)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption needed letter to the affected individual shall include a list of the individual's convictions.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to "include in the exemption needed notice information specifying the convictions to be addressed in an exemption request".

Sections 87819.1(d)(2) and (d)(3)

Specific Purpose:

The specific purpose of these amendments is to make editorial and format changes.

Factual Basis:

These amendments are necessary for clarity.

Sections 87819.1(d)(3)(A) through (C)

Specific Purpose:

The specific purpose of these amendments is to renumber Sections 87819.1(d)(1) through (3) to (d)(3)(A) through (C), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 87819.1(d)(3)(D)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87819.1(d)(4) to (d)(3)(D).

Factual Basis:

This amendment is necessary for consistency of format.

Section 87819.1(d)(3)(D)1.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87819.1(d)(4)(A) to (d)(3)(D)1.

Factual Basis:

This amendment is necessary for consistency of format.

Section 87819.1(d)(3)(D)2.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87819.1(d)(4)(B) to (d)(3)(D)2. and to add the phrase “Chooses not to employ or”, delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

The addition of the phrase “Chooses not to employ or” is necessary to address situations where the licensee/license applicant offers employment contingent on the results of the background check. Existing language implies all individuals are employed prior to receipt of the background check results.

The amendment to replace “because” with “after receiving notice” is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 87819.1 (d)(4)(B) to (d)(3)(D)2. is necessary for consistency of format.

Section 87819.1(d)(3)(D)3.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87819.1 (d)(4)(C) to (d)(3)(D)3. and to delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 87819.1(d)(4)(C) to (d)(3)(D)3. is necessary for consistency of format

Section 87819.1(h)(1)

Specific Purpose:

The specific purpose of this section is to specify that the exemption denial notices shall include the reason the exemption was denied.

Factual Basis:

This amendment is necessary to comply with the Gresher v. Anderson decision, disposition (5), “notify persons denied an exemption of the basis for the denial in terms sufficiently specific to permit a reasonably informed decision on whether to pursue an administrative appeal.”

Section 87854(b)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days” and replace the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering.”

Factual Basis:

The civil penalty amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004. Replacing the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering” is necessary for consistency with other regulatory sections.

Section 87854(b)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004.

Section 87854(b)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 87854 (b)(1) to (b)(2) and to correct a cross reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code cross reference is incorrect.

Section 88019(a)(1)

Specific Purpose:

The specific purpose of this amendment is to make editorial changes and to add criminal record exemption as an acceptable background check status for certification.

Factual Basis:

This amendment is necessary for clarity and consistency with other like regulatory sections.

Section 88019(a)(1)(A)

Specific Purpose:

The specific purpose of this amendment is to repeal Section 88019(a)(1)(A).

Factual Basis:

The language in this subsection is duplicative of Sections 80019(d)(2) and 88019.2(a)(1).

Section 88019(a)(2)

Specific Purpose:

The specific purpose of this amendment is to repeal the phrase “The foster family agency shall directly submit to the California Department of Justice fingerprints for” and to add the phrase shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code Section 1522(a)(4)(E) prior to being alone with or having supervisory control of children.

Factual Basis:

This amendment is necessary to comply with current criminal record clearance/exemption requirements. Existing language only requires that finger prints be submitted and does not specify that FFA personnel must be cleared or exempted before they can be allowed to be alone with children.

Section 88019(a)(3)

Specific Purpose:

The specific purpose of this amendment is to repeal duplicative language and to make editorial changes.

Factual Basis:

Foster Family Agencies and certified foster homes must comply with the provisions of Title 22, Division 6, Chapter 1, Articles 1 through 8. This section should only contain requirements above and beyond the requirements of Articles 1 through 8, that are specific to Foster Family Agencies and certified foster homes. The repealed language is unnecessary because it is duplicative of language in Article 3, Section 80019. Additional editorial amendments are made for clarity.

Section 88019(a)(3)(A) et seq.

Specific Purpose:

The specific purpose of this amendment is to repeal Section 88019(a)(3)(A) et seq.

Factual Basis:

Foster Family Agencies and certified foster homes must comply with the provisions of Section 80019. The language is repealed because it is duplicative of language in Section 80019.

Section 101170(h)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days”.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties.

Section 101170(h)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 101170(h)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 101170(h)(1) to (h)(2) and to correct a cross reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code cross reference is incorrect.

Section 101170(l)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

Repealing this section is necessary for clarity. The information in this section would be more appropriate in the Criminal Record Exemption section. The information in this section will be added to Section 101170.1(d).

Sections 101170(l) through (q)

Specific Purpose:

The specific purpose of these amendments is to renumber Sections 101170(m) through (r) to (l) through (q), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 101170.1(d)

Specific Purpose:

The specific purpose of this amendment is to add the language that was previously in Section 101170(l).

Factual Basis:

This amendment is necessary for clarity. It is appropriate to have this information in this section as existing language makes reference to the exemption needed notice.

Section 101170.1(d)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption needed letter to the affected individual shall include a list of the individual's convictions.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “include in the exemption needed notice information specifying the convictions to be addressed in an exemption request”.

Section 101170.1(d)(2)

Specific Purpose:

The specific purpose of this amendment is to make editorial and format changes.

Factual Basis:

This amendment is necessary for clarity.

Section 101170.1(d)(3)

Specific Purpose:

The specific purpose of this amendment is to make format changes.

Factual Basis:

This amendment is necessary for clarity.

Sections 101170.1(d)(3)(A) through (C)

Specific Purpose:

The specific purpose of these amendments is to renumber Sections 101170.1(d)(1) through (3) to (d)(3)(A) through (C), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 101170.1 (d)(3)(D)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 101170.1(d)(4) to (d)(3)(D).

Factual Basis:

This amendment is necessary for consistency of format.

Section 101170.1(d)(3)(D)1.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 101170.1(d)(4)(A) to (d)(3)(D)1.

Factual Basis:

This amendment is necessary for consistency of format

Section 101170.1(d)(3)(D)2.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 101170.1(d)(4)(B) to (d)(3)(D)2. and to add the phrase “Chooses not to employ or”, delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

The addition of the phrase “Chooses not to employ or” is necessary to address situations where the licensee/license applicant offers employment contingent on the results of the background check. Existing language implies all individuals are employed prior to receipt of the background check results.

The amendment to replace “because” with “after receiving notice” is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 101170.1(d)(4)(B) to (d)(3)(D)2. is necessary for consistency of format

Section 101170.1(d)(3)(D)3.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 101170.1(d)(4)(C) to (d)(3)(D)3. and to delete the word “because” and add the phrase “after receiving notice”.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 101170.1(d)(4)(C) to (d)(3)(D)3. is necessary for consistency of format

Section 101170.1 (h)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption denial notices shall include the reason the exemption was denied.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “notify persons denied an exemption of the basis for the denial in terms sufficiently specific to permit a reasonably informed decision on whether to pursue an administrative appeal.”

Section 101195(b)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days” and replace the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering.”

Factual Basis:

The civil penalty amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties. Replacing the phrase “the individual’s employment, residence or initial presence” with “working, residing or volunteering” is necessary for consistency with other regulatory sections.

Section 101195(b)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 101195(b)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 101195(b)(1) to (b)(2) and to correct a cross reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code cross reference is incorrect.

Section 102370(e)

Specific Purpose:

The specific purpose of this amendment is to add the phrase “per day for a maximum of five (5) days.”

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties.

Section 102370(e)(1)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 102370(e)(2)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 102370(e)(1) to (e)(2) and to correct the cross reference.

Factual Basis:

This amendment is necessary for consistency of format.

Section 102370(h)

Specific Purpose:

The specific purpose of this amendment is to repeal this section.

Factual Basis:

Repealing this section is necessary for clarity. The information in this section would be more appropriate in the Criminal Record Exemption section. The information in this section will be added to Section 101170.1(d).

Sections 102370(h) and (i)

Specific Purpose:

The specific purpose of these amendments is to renumber Section 102370 (i) and (j) to (h) and (i), respectively.

Factual Basis:

Sections 102370 (i) and (j) are renumbered for consistency of format.

Section 102370(j) et seq.

Specific Purpose:

This specific purpose of this section is to list what must be submitted for a licensed applicant/caregiver to request a transfer of a criminal record clearance between county and state licensed facilities.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004.

Section 102370.1(d)

Specific Purpose:

The specific purpose of this amendment is to add the language that was previously in Section 102370(h).

Factual Basis:

This amendment is necessary for clarity. It is appropriate to have this information in this section as existing language makes reference to the exemption needed notice.

Section 102370.1(d)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption needed letter to the affected individual must include a list of the individual's convictions.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to "include in the exemption needed notice information specifying the convictions to be addressed in an exemption request."

Section 102370.1(d)(2)

Specific Purpose:

The specific purpose of this amendment is to make editorial and format changes.

Factual Basis:

This amendment is necessary for clarity.

Section 102370.1(d)(3)

Specific Purpose:

The specific purpose of this amendment is to make format changes.

Factual Basis:

This amendment is necessary for clarity.

Sections 102370.1(d)(3)(A) through (C)

Specific Purpose:

The specific purpose of these amendments is to renumber Sections 102370.1 (d)(1) through (3) to (d)(3)(A) through (C), respectively.

Factual Basis:

These amendments are necessary for consistency of format.

Section 102370.1(d)(3)(D)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 102370.1(d)(4) to (d)(3)(D).

Factual Basis:

This amendment is necessary for consistency of format.

Section 102370.1(d)(3)(D)1.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 102370.1(d)(4)(A) to (d)(3)(D)1.

Factual Basis:

This amendment is necessary for consistency of format.

Section 102370.1(d)(3)(D)2.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 102370.1(d)(4)(B) to (d)(3)(D)2. and to add the phrase “Chooses not to employ or”, delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

The addition of the phrase “Chooses not to employ or” is necessary to address situations where the licensee/license applicant offers employment contingent on the results of the background check. Existing language implies all individuals are employed prior to receipt of the background check results.

The amendment to replace “because” with “after receiving notice” is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after

their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 102370.1(d)(4)(B) to (d)(3)(D)2. is necessary for consistency of format.

Section 102370.1(d)(3)(D)3.

Specific Purpose:

The specific purpose of this amendment is to renumber Section 102370.1(d)(4)(C) to (d)(3)(D)3. and to delete the word “because” and add the phrase “after receiving notice.”

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “permit terminated employees to seek exemptions after their employers receive notice of criminal history, without requiring that the notification caused the termination.”

Renumbering Section 102370.1(d)(4)(C) to (d)(3)(D)3. is necessary for consistency of format

Section 102370.1(h)(1)

Specific Purpose:

The specific purpose of this section is to state that the exemption denial notices shall include the reason the exemption was denied.

Factual Basis:

This amendment is necessary to comply with the court order in Gresher v. Anderson (2005) 127 Cal. App. 4th 88 requiring the Department, among other things, to “notify persons denied an exemption of the basis for the denial in terms sufficiently specific to permit a reasonably informed decision on whether to pursue an administrative appeal.”

Section 102370.1(s) et seq.

Specific Purpose:

This specific purpose of this section is to list what must be submitted for a licensed applicant/caregiver to request a transfer of a criminal record exemption between county and state licensed facilities.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004.

Sections 102370.1(t) through (w)

Specific Purpose:

The specific purpose of these amendments is to renumber Sections 102370.1 (s) through (v) to (t) through (w), respectively.

Factual Basis:

Sections 102370.1(s) through (v) are renumbered for consistency of format.

Section 102395(a)

Specific Purpose:

The specific purpose of these amendments is to add the phrase “per day for a maximum of five (5) days.”

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for the immediate assessment of civil penalties.

Section 102395(a)(1)

Specific Purpose:

The specific purpose of this amendment is to replace the phrase “the individual’s employment, residence or initial presence” with “allowing the individual to work reside or volunteer”.

Factual Basis:

This amendment is necessary for consistency with other regulatory sections.

Section 102395(a)(1)(A)

Specific Purpose:

The specific purpose of this section is to state what the civil penalty will be for subsequent violations.

Factual Basis:

This amendment is necessary to comply with the provisions of AB 1240, Chapter 653, Statutes of 2004 that specify the statutory maximum for subsequent penalties within a twelve month period.

Section 102395(a)(1)(B)

Specific Purpose:

The specific purpose of this amendment is to renumber Section 102395(a)(1)(A) to (a) (1)(B) and to correct a cross reference error.

Factual Basis:

This amendment is necessary for consistency of format and because the current Health and Safety Code cross reference is incorrect.

b) Identification of Documents Upon Which Department Is Relying

The Gresher v. Anderson Decision
Assembly Bill 1240, Chapter 653, Statute of 2004
Senate Bill 358, Chapter 628, Statute of 2005

c) Local Mandate Statement

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

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.