

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 2 Foster Family Homes Emergency Regulations

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at public hearings to be held August 12, 13, and 14, 2002, as follows:

<u>August 12, 2002</u>	<u>August 13, 2002</u>	<u>August 14, 2002</u>
Community Care Licensing 1000 Corporate Center, Suite 505 Monterey Park, California	1515 Clay Street 2 nd Floor, Room #9 Oakland, California	Office Building # 9 744 P St. Auditorium Sacramento, California

The public hearings will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facilities are accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on August 14, 2002.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

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CHAPTERS

California Code of Regulations, Title 22, Division 6, Chapter 7.5, Foster Family Homes

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed Foster Family Homes emergency regulations implement the provisions of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). This legislation ensures that California is in continuing compliance with the federal Adoptions and Safe Families Act (ASFA) of 1997, Public Law 105-89. The legislation clarifies the ongoing and compliance requirements of the Department with regards to ASFA, to employ the same standards to all foster family homes. Incidental to this, modifications of Personal Rights are being made pursuant to AB 899, (Chapter 683, Statutes of 2001).

The Department's Community Care Licensing Division (CCLD) has re-organized and clarified language of the Title 22 Foster Family Homes regulations in conjunction with a workgroup of stakeholders. The workgroup included representatives from County Welfare Directors Associations (CWDA), California Youth Connection (CYC), the Department's Children and Family Services Division, and the Department's Legal Division. The emergency regulations are equally protective, less restrictive and more user friendly than current regulations.

It is California's position that licensing and approval of homes have required the same core health and safety standards prior to issuance of a license or approval of a foster family home since 1998. The legislative bases are found in AB 1544 (Chapter 793, Statutes of 1997), Senate Bill (SB) 645 (Chapter 949, Statutes of 1998), and AB 2773 (Chapter 1056, Statutes of 1998). Since that time, California law has required compliance with the same core health and safety standards for all foster family homes.

California core licensing/approval standards consist of four major areas: criminal records clearance, caregiver qualifications, safety of the physical environment and personal rights. These core health and safety requirements have not changed; however, they have undergone non-substantive modification to more clearly show the consistency with ASFA.

- A criminal record check, which includes a child abuse records check, is required for applicants and adults living in the home.
- Caregiver qualification standards focus on the caregiver's ability to provide supervision for the child, their ability to meet the needs of the child, and their ability to meet the child's needs based on others living in the home.
- Physical environment provides for the storage of weapons, poisons, medications, water safety, and a clean safe environment.
- Personal rights standards provide for safe, healthy, and comfortable accommodations, freedom from corporal punishment, ownership and use of own personal possessions, and a full statement of personal rights given to the child and foster parent at the time of placement.

To ensure continuous compliance with ASFA, the Title 22 Foster Family Homes regulations have been rewritten and renumbered. Further, throughout these proposed regulations the terms "licensee" is replaced with "caregiver" and "facility" with "home." Cross references are updated where

necessary. The change in language supports the Departments position of modification to user friendly language. The language is more generic in nature and has been used to address licensees, and apply to relatives and the non-related extended family members using Title 22 as a cross reference. In addition the language was clarified so that it would be consistent with ASFA terminology.

These regulations also clarify that relative and non-related extended family member's homes approved for placements must meet the same standards as licensed homes. This is consistent with ASFA and ongoing practice. ASFA also requires a state authority to be responsible for establishing and maintaining standards for foster family homes and applying these standards to any home that receives the Title IV-E funds whether licensed or approved.

COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

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

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.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

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.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 1524, 1525, 1526, 1530, 1530.5, 1531, 1547, and 115926, Health and Safety Code; Sections 16001.9 and 17730, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Subject regulations implement and make specific Sections 1500, 1501, 1501.1, 1503, 1503.5, 1505(l), 1505.2, 1507, 1507.2, 1507.5, 1508, 1515.15, 1520, 1520.3, 1521.5, 1522, 1522.01, 1522.1, 1522.04, 1522.2, 1523.1, 1524, 1524.7, 1525.25, 1525.3, 1525.5, 1526.5, 1526.75, 1529.1, 1529.2, 1529.3, 1530, 1530.6, 1530.91, 1531, 1531.2, 1531.4, 1531.5, 1533, 1534, 1536.1, 1538, 1540, 1540.1, 1541, 1541.1, 1547, 1550, 1550.5, 1551, 1553, 1557.5, 1558, 1558.1, 1559.110, 1560, 1562, 1569 et seq., 1569.9 et. seq., 13131, 13143, 14564, 115921, and 115923, Health and Safety Code; Sections 62.7, 903.7, 11400, 11403, 16001.9, 16507.5, 16522, 17710(h) and (i), 17731, 17732, 17736, and 17736(b), Welfare and Institutions Code; Sections 136.1, 186.22, 187, 190 through 190.4, 192(a), 203, 206, 207, 208, 209, 209.5, 210, 211, 212, 212.5, 213, 214, 215, 220, 243.4, 261(a), (a)(1), (2), (3), (4), or (6), 262(a)(1) or (4), 264.1, 266, 266c, 266h(b), 266i(b), 266j, 267, 269, 272, 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994], 273d, 285, 286, 288, 288a, 288.2, 288.5(a), 289, 290(a), 311.2(b), (c), or (d), 311.3, 311.10, 311.11, 314(1) or (2), 347(a), 368(b) or (c) if after January 1, 1999, 417(b), 451(a) or (b), 460(a), 518, 647.6 or prior to 1987 former Section 647a, 653f(c), 664/187, 667.5(c)(7), (c)(8), (c)(13), (c)(14), (c)(22), 11165, 11165.1, 11165.2, 11165.3, 11165.4, 11165.6, 11170, 12022.53, 12308, 12309, and 12310, Penal Code; Section 8712, Family Code; Sections 11500 et seq., 11506, 11522, and 15376, Government Code; Section 729, Business and Professions Code; and 42 USC Section 677 of the Social Security Act.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez (916) 657-2586
Backup: Everardo Vaca (916) 657-2586

CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Sharon Whitted (916) 327-4104
Backup: Stephanie Davis (916) 322-4887

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

AGENDA ITEM(S) FOR THESE PUBLIC HEARINGS - August 12, 13, and 14, 2002

ITEM #1 ORD #0102-03 Implementation of Assembly Bill 1695

ITEM #2 ORD #0302-08 Foster Family Homes Emergency Regulations