

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

ITEM #1 Children's Residential Exceptions to Age 18

The 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 a public hearing to be held as follows:

September 14, 2011  
Office Building # 8, Room 105  
744 P St.  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is 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 facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 14, 2011.

Following the public hearing, CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of non-substantive, 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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California Department of Social Services  
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## CHAPTERS

Title 22, Division 6, Chapter 1 (General Licensing Requirements), Section 80001 (Definitions); Chapter 4 (Small Family Homes), Sections 83000 (General) and 83001 (Definitions); Chapter 5 (Group Homes), Section 84001 (Definitions); Chapter 7 (Transitional Housing Placement Program), Section 86001 (Definitions); and, Chapter 8.8 (Foster Family Agencies), Section 88001 (Definitions).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Community Care Facilities Act provides for the licensure and regulation of children's residential community care facilities which include Foster Family Agencies, Foster Family homes, Group Homes, Small Family Homes, and Transitional Housing Placement Programs. Unless otherwise provided in statute, these facilities are authorized to provide care and supervision to a child in foster care who is under age 18.

Recent research evidence cites that a foster youth who emancipates at age 18 can face problems in a variety of areas that include health, substance abuse, incarceration, housing, and future family formation.<sup>1</sup> The Midwest Evaluation of the Adult Functioning of Former Foster Youth found that a youth remaining in care for an additional year was more likely to continue education, have stable housing, stay out of the juvenile justice system, receive independent living services, and have access to health and mental health services.<sup>2</sup>

Current regulations, with the exception of Foster Family Homes, define a "child" as being under 18 and vary in their clarity with regard to provisions for a child to remain in foster care past that age. As a result, some licensed Children's Residential facilities have sought exceptions to and waivers from licensing requirements to provide care and supervision to older youth who are permitted to remain in foster care as specified in statute. Provisions of the Health and Safety code and Welfare and Institutions Code permit a child to remain in foster care past age 18 under certain conditions. These are:

- A youth who, prior to turning 18, is in foster care and attending high school or the equivalent level of vocations or technical training on a full-time basis or pursuing a high school equivalency certificate may continue to remain in foster care and receive Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits until age 19 if he or she is expected to complete full-time education or training or receive a high school equivalency certificate by that age (W&I Code, section 11403).
- A youth with special health care needs or a developmental disability may remain in foster care after he or she turns 18 if he or she resides in a licensed foster family home, small family home, group home, or certified family home, is completing a publicly funded education program, and expected to complete the program by age 22, and there is agreement by all parties involved that foster care continue (H&S Code, section 1507.2; W&I Code, sections 17710 and 17732.1).

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<sup>1</sup> Courtney, M.E., *The Difficult Transition to Adulthood for Foster Youth in the US: Implications for the State as Corporate Parent*, in Social Policy Report, Society for Research in Child Development, Vol. XXIII, No. 1, 2009.

<sup>2</sup> Courtney, M.E., et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth*, Chapin Hall at the University of Chicago, 2007.

At the discretion to the California Department of Social Services, proposed changes will be made to the regulations to clarify the definition for "child" consistent with the authority, clarity, consistency, necessity, nonduplicaiton, and reference standards of the Administrative Procedure Act, section 11349 of the Government Code.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: No Impact
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: No Impact
4. Federal Funding to State Agencies: No Impact

#### LOCAL MANDATE STATEMENT

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

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

Although the proposed action may affect Foster Family Agencies and Group Homes, 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

The 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

Although the proposed action may affect Foster Family Agencies and Group Homes, CDSS has made an initial determination that there is no adverse economic impact on small businesses as a result of filing these regulations. Children's Residential program regulations will be amended to implement statutes that permit a child to remain in foster care past age 18, pursuant to section 1507.2 of the Health and Safety Code and sections 11402, 17710, and 17732.1 of the Welfare and Institutions Code.

#### 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**

The 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 as and less burdensome to affected private persons than the proposed action.

**AUTHORITY AND REFERENCE CITATIONS**

The CDSS adopts these regulations under the authority granted in Sections 1502, 1522(j), 1524(e), 1530, 1530.8, 1530.9, 1531, and 1559.110, Health and Safety Code; and, Section 17730, Welfare and Institutions Code. Subject regulations implement and make specific Section 1507.2, Health and Safety Code; and, Sections 11402, 17710, and 17732.1, Welfare and Institutions Code.

**CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION**

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