

FINAL STATEMENT OF REASONS

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

Section 31-001.2

Specific Purpose:

This section is being amended to repeal the words “whose board and care is funded through the AFDC-FC program” to require that probation departments meet specified requirements, without regard to the funds, when placing children in out-of-home care.

Factual Basis:

This amendment is necessary to implement the provisions of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001) that modified Welfare and Institution Code Section 727(a)(1). The requirement helps to ensure that both dependents and wards in out-of-home care receive equal protections under state regulations.

Section 31-002(a)(6)

Specific Purpose:

This section is being adopted to describe the term “approval agency.”

Factual Basis:

The section is necessary to adopt this definition to identify the existing entity, child welfare department, or probation department that has approval responsibilities for foster family homes. This definition is necessary to maintain consistency with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.

Final Modification

The words “child placing” are deleted as it is known that these agencies are for child placement. It was deleted for redundancy.

Section 31-002(a)(7)

Specific Purpose:

This section is being adopted in order to describe the term “approval document” as a new documentation requirement for approved family homes.

Factual Basis:

This section is necessary, pursuant to the Director’s authority under Welfare and Institutions Code Section 10554 to prescribe forms, for county welfare and probation departments. These forms will document when a relative or nonrelative extended family member home meets specified standards described in Welfare and Institutions Code Sections 309(d), 361.3, 361.4, and the appropriate sections of California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

This section is amended to clarify that the approval document constitutes certification by the approval agency that all the specified approval standards have been met.

Section 31-002(a)(8)

Specific Purpose:

This section is being adopted to define the term “approval standards.” This term describes social worker/probation officer activity with related licensing foster family home regulations for approving a home.

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition for “approval standards” is necessary to maintain consistency with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(a)(9)

Specific Purpose:

This section is being adopted to define the term “approved foster family home.” This term describes the home of a relative or nonrelative extended family member that is exempt from licensure.

Factual Basis:

This definition is necessary to implement the provisions of AB 1695, that modified Health and Safety Code Section 1505 to provide clarification to county welfare and probation departments that relative and nonrelative extended family member homes are approved.

Section 31-002(a)(10)

Specific Purpose/Factual Basis:

This section is being renumbered for clarity as a result of the adoption of Sections 31-002(a)(6) through (a)(9).

Section 31-002(c)(1)

Specific Purpose:

This section is adopted to define the term “California Department of Justice (DOJ) Clearance.”

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition for “California Department of Justice Clearance” is necessary to clarify that existing regulations require that a criminal record clearance includes a California DOJ Clearance. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

This section is amended to clarify that the DOJ Clearance is a fingerprint clearance, not the name clearance obtained from the CLETS records through the California DOJ.

Sections 31-002(c)(2) through (7)

Specific Purpose/Factual Basis:

These sections are renumbered for clarity as a result of the adoption of Section 31-002(c)(1).

Section 31-002(c)(8) formerly (c)(7)

Specific Purpose:

This section is renumbered and amended to further define the term “Child.”

Factual Basis:

This section is amended to clarify that a child may be a person up to 19 years of age who meets the requirements of Section 11403 of the Welfare and Institutions Code.

Section 31-002(c)(9)

Specific Purpose/Factual Basis:

This section is being renumbered for clarity as a result of the renumbering of Section 31-002(c)(8).

Section 31-002(c)(10)

Specific Purpose:

This section is necessary to adopt a definition of the term “Child Abuse Central Index (CACI).”

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition for “Child Abuse Central Index” is necessary to clarify that existing regulations require that all persons associated with an approved home must submit to a search of the Child Abuse Central Index. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(c)(11)

Specific Purpose:

This section is necessary to adopt a definition of the term “Child Abuse Central Index (CACI) Clearance.”

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition for “Child Abuse Central Index Clearance” is necessary to clarify that existing regulations require that all persons associated with an approved home have a Child Abuse Central Index “clearance” issued. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Sections 31-002(c)(12) through (16)

Specific Purpose/Factual Basis:

These sections are being renumbered for clarity as a result of the adoptions of Sections 31-002(c)(1), (10) and (11).

Section 31-002(c)(17)

Specific Purpose:

This section is necessary to adopt a definition of the term “child with special health care needs.”

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition is necessary to clarify existing regulations that specify that a “child with special health care needs” is a child who is under 18 years of age or a person up to 22 years of age, who meets the requirements of Section 17710(a) of the Welfare and Institutions Code. Handbook is added to provide the language of Section 17710(a) of the Welfare and Institutions Code. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(c)(18)

Specific Purpose:

This section is being adopted to define the new term “child’s case plan.”

Factual Basis:

The adoption of the definition for “child’s case plan” is necessary to clarify existing regulations that define that part of the case plan that contains the information pertinent to the child’s needs and services. The definition clarifies that the “child’s case plan” meets the requirements for the Needs and Services Plan identified in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Sections 31-002(c)(19) through (26)

Specific Purpose/Factual Basis:

These sections are being renumbered for clarity as a result of prior adoptions.

Section 31-002(c)(27)

Specific Purpose:

This section is adopted to define the term “conviction.”

Factual Basis:

The adoption of the definition for “conviction” is necessary to clarify existing regulations that describe “conviction of a crime” as it relates to actions that the Department is required to take if the Department learns that an individual associated with an approved home has been “convicted of a crime.” This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Sections 31-002(c)(28) through (32)

Specific Purpose/Factual Basis:

These sections are being renumbered for clarity as a result of prior adoptions.

Section 31-002(c)(33)

Specific Purpose:

This section is necessary to adopt a definition of the term “California Law Enforcement Telecommunications System (CLETS).”

Factual Basis:

The adoption of the definition for “CLETS” is necessary to clarify existing regulations that refer to an authorized search of the CLETS that is conducted for all persons associated with an approved home. The search is conducted using the person’s name and social security number. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(c)(34)

Specific Purpose:

This section is being renumbered and the definition is amended to clarify the term “criminal records check.”

Factual Basis:

The adoption of the definition for “criminal records check” is necessary to clarify that existing regulations require that a “criminal records check” must include an inquiry into the CLETS and the submission of two sets of fingerprints to the Department of Justice. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(c)(35)

Specific Purpose:

This section is being adopted to define the term “criminal records clearance.”

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition clarifies that “criminal records clearance” means both a California Department of Justice and a Federal Bureau of Investigations (FBI) clearance, or a signed and submitted statement that the person has never been convicted of a crime in the United States, as specified in Health and Safety Code Section 1522(d)(1)(D). This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(c)(36)

Specific Purpose/Factual Basis:

This section is being renumbered for clarity as a result of prior adoptions.

Section 31-002(d)(3)

Specific Purpose:

This definition is being repealed because the legislative basis that established the activity has been repealed.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Section 361.3(a)(8) to delete the term “direct assessment.”

Section 31-002(d)(3) (renumbered)

Specific Purpose/Factual Basis:

This section is being renumbered for clarity as a result of the repeal of Section 31-002(d)(3).

Section 31-002(d)(4)

Specific Purpose:

This section is necessary to adopt a definition of the term “documented alternative plan.”

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The adoption of the definition for “documented alternative plan” is necessary to describe activities related to approving a home that may require a specified determination based on the unique needs or circumstances of the child. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(e)(2)

Specific Purpose:

This section is amended to include the nonrelative extended family member as a placement resource for the temporary placement of a child. This section also amends the language from “social worker” to “county welfare department or probation department” to clarify that the county welfare department or probation department is responsible for the assignment and completion of these duties and may delegate these duties as appropriate. This language also recognizes that some children are under the care and custody of the probation department. Also, the word “visit” is being replaced with the word “inspection” to more accurately describe the in-home assessment activity necessary to determine the safety of the home and the ability of the relative to care for the child’s needs.

Factual Basis:

Responsibilities noted in this section include functions that do not have to be carried out by a social worker or probation officer but may be delegated as the county welfare department or probation department deems appropriate. This language has been amended to accurately reflect the agencies’ ability to delegate specified tasks as permitted under existing law. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, the county welfare department or probation department shall determine if a relative or nonrelative extended family member is available and requests temporary placement of the child pursuant to Welfare and Institutions Code

Sections 309(d), 319(f), and 727. This definition clarifies county welfare department or probation department's activity for assessing a relative or nonrelative extended family member home for emergency placement and clarifies that the home is "inspected" rather than just "visited."

Section 31-002(e)(11) (New)

Specific Purpose/Factual Basis:

This section is being adopted to define the term "exemption." Adoption of this term is necessary to clarify the current process for criminal records clearance exemption requirements specified in Welfare and Institutions Code Section 361.4(d)(2).

Final Modification

This section is being amended to clarify the responsibility of the approval agency to ensure that an individual with a criminal record that would otherwise disqualify him or her from approval as a foster caregiver has received a criminal record exemption.

Section 31-002(e)(12)

Specific Purpose/Factual Basis:

This section is renumbered because of the addition of new Section 31-002(e)(12).

Section 31-002(f)(6)

Specific Purpose:

This section is being adopted to define the term "Federal Bureau of Investigation (FBI) Clearance."

Factual Basis:

The adoption of this definition is necessary to clarify the kinds of infractions of the law that are included and those that are not included when a "Federal Bureau of Investigation (FBI) Clearance is issued. The ability to be approved as a caregiver depends upon whether the person has a criminal record clearance. This definition is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-002(f)(7)(D)

Specific Purpose:

This section is being renumbered and amended to replace the words “a foster family home which has been certified pending licensure” with the words “an approved foster family home” as a type of foster home within the definition of “foster care.”

Factual Basis:

This amendment is necessary to repeal the term and definition of “certified pending” from the regulations. This term is repealed because federal and state law since 1998, have required that all core health and safety requirements must be met before a license/approval is issued and therefore prohibits certified license pending Foster Family Homes. AB 1695 amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to delete this obsolete language.

Section 31-002(f)(7)(F)

Specific Purpose/Factual Basis:

This section is amended to repeal the words “of a relative other than the child’s parent/guardian” that describes the home as a type of foster home within the definition of foster care. AB 1695 clarifies that foster care placement with relatives shall be specified as an approved family home as proposed in new Section 31-002(f)(7)(D).

Section 31-002(f)(10)

Specific Purpose:

This section is amended to add the words “or approved” to specify that the definition of a foster parent shall include persons whose home is approved by the child placement agency; adds the words “by a licensed foster family agency” to clarify who certifies a home; deletes the words “a person to whom the responsibility for the provision of foster care is delegated by the licensee” because it is obsolete language; and replaces the words “relative other than the child’s parent/guardian” with the word “person” to repeal the relative description now being described as an approved foster family home.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Sections 309(d), 319(f), 361.2(h), 727 and 11402 to clarify that the approved family home is a type of foster home for foster care placement and as such, persons whose homes are approved meet the definition of foster parent. The additional amendments are not substantive. Changes were made for text clarity purposes only.

Section 31-002(i)(1)(A) (renumbered to Section 31-002(t)(4)

Specific Purpose/Factual Basis:

This section is renumbered and amended for clarity and ease of locating the definition.

Section 31-002 (i)(4)

Specific Purpose/Factual Basis:

This section is adopted to define the term “infant.” The adoption of the term “infant” is necessary to maintain consistency with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Sections 31-002(i)(5) through (7)

Specific Purpose/Factual Basis:

These sections are renumbered for clarity as a result of new Section 31-002(i)(4).

Section 31-002(n)(3)

Specific Purpose:

This section is being adopted to define the term “Nonrelative Extended Family Member.”

Factual Basis:

The adoption of this term is necessary to describe a new category of placement types that include family members that do not meet the relative definition (Welfare and Institutions Code Section 361.3(c)(2)) and persons that have an established familial or mentoring relationship with the child as defined in Welfare and Institutions Code Section 362.7. Persons meeting the criteria of a nonrelative extended family member will be approved by the placing agency pursuant to Welfare and Institutions Code Section 309(d).

Section 31-002(t)(4) (renumbered from Section 31-002(i)(1)(A))

Specific Purpose:

This section is being renumbered to place the definition in a more appropriate location. The language “the portion of the child’s case plan that describes” was added to clarify that the Transitional Independent Living Plan (TILP) is part of the child’s case plan. The words “and savings” is added to emphasize the importance of savings.

Factual Basis:

This section is renumbered and amended for clarity and ease of locating the definition. Because the term “TILP” is used independently of the “Independent Living Program” (ILP) term, it is necessary to place it in the appropriate location. The additional language has been added for clarity.

Section 31-002(t)(5)

Specific Purpose/Factual Basis:

This section is renumbered for clarity as a result of a new Section 31-002(t)(4).

Section 31-075.3(s) and (s)(9)

Specific Purpose:

These sections are being amended to specify that the county child welfare and probation departments are required to maintain in a child’s case record the new documentation requirement for the approved home of a relative or nonrelative extended family member.

Factual Basis:

This section is amended to provide direction to county welfare and probation departments that the approval documentation must be located in the child’s case record to indicate that a relative or nonrelative extended family member home meets specified standards described in MPP Section 31-445. Documentation is required to provide evidence in federal and state audits that the home of approved caregivers meet the same specified standards as licensed caregivers.

Final Modification

Section 31-075.3(s)(9) is amended to clarify that specific documentation of the caregiver being assessed, the home being inspected, and all criminal records clearances being obtained is required.

Section 31-075.3(t)(3)

Specific Purpose:

This section is being repealed to eliminate the obsolete requirement for documenting the reasons that a child is placed in a family home that has been certified pending licensure.

Factual Basis:

This revision is necessary to comply with the provisions of AB 1695 that amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to delete the obsolete language referring to certified license pending. Since 1998 (AB 1544, Statutes of 1997 and SB 645, Statutes of 1998) all foster family homes are required to meet full licensure or approval requirements.

Section 31-075(t)(4)

Specific Purpose/Factual Basis:

This section is renumbered for clarity as a result of the repeal of Section 31-075(t)(3).

Section 31-401.5

Specific Purpose:

This section is amended to add the approved family home as an appropriate in-state or out-of-state placement resource and to change the word “awarded” to “afforded” for clarity. This section is also amended to add applicable authority citations and remove authorities cited that are no longer applicable.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Sections 309(d), 319(f), 361.2(h), 727 and 11402 to clarify that the approved family home is a type of foster home for foster care placements meeting the requirements specified in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Sections 31-405.1(d) and (d)(1)

Specific Purpose:

These sections are being adopted to include the nonrelative extended family member as a placement resource for the social worker/probation officer to consider when arranging for a child’s placement, and provides direction to county placing agencies regarding the policy and procedures for placement.

Factual Basis:

When a social worker/probation officer is arranging for a child’s placement, they must adhere to an established priority order for placement and ensure specified considerations are made about the prospective location and caregiver of the child. AB 1695 revised the list of homes into which a dependent child who is under the care, custody, and control of a social worker, or a ward of the juvenile court who is under the care, custody, and control of a probation officer, may be placed to specifically include the home of a nonrelative extended

family member as defined in Welfare and Institutions Code Section 362.7. Persons meeting the criteria of a nonrelative extended family member will be approved by the placing agency pursuant to Welfare and Institutions Code Section 309(d). This section will ensure that as a part of placement workers activities, the nonrelative extended family member is considered within the appropriate priority order and assessed according to the standards specified in Welfare and Institutions Code Sections 361.3 and 727 and MPP Section 31-445, which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-405.1(e)

Specific Purpose:

This section is adopted to clarify that the social worker/probation officer is responsible for meeting the requirements of specified sections when approving the home of a relative or nonrelative extended family member.

Factual Basis:

AB 1695 (Chapter 653, Statutes of 2001) clarifies that California's relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. This section clarifies that the social worker/probation officer is required to ensure that the relative and nonrelative extended family member meet the standards specified in Welfare and Institutions Code Section 361.3 and MPP Section 31-445, which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

This section is amended to more accurately reflect the social workers' responsibility to ensure that approval requirements have been satisfied prior to the placement of the child whether or not they personally completed the approval assessment of the home and the prospective caregiver.

Sections 31-405.1(f) through (q)

Specific Purpose/Factual Basis:

These sections are being renumbered for clarity as a result of the adoption of Sections 31-405.1(d) and (e).

Section 31-405(r)

Specific Purpose:

This section is being adopted to clarify that the social worker/probation officer is responsible for providing the out-of-home care provider with the child's case plan that identifies the child's needs and services.

Factual Basis:

Current regulations at Section 31-405 delineate various activities that the social worker/probation officer is responsible for when arranging a child's placement. In addition to other requirements, activities include ensuring that the out-of-home care provider understands and supports the child's case plan and is aware of changes, and providing the care provider with the child's background and behavior information. The adoption of this section maintains consistency with related licensing foster family home regulations when meeting the requirements for providing caregivers with the information necessary to provide appropriate services to a child as required in MPP Section 31-445, which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Sections 31-405(s) through (x)

Specific Purpose/Factual Basis:

These sections are renumbered as a result of the adoption of Section 31-405(r).

Section 31-410.42

Specific Purpose:

This section is being amended to add the approved family home as a placement resource for the social worker/probation officer to consider when selecting a temporary placement for the child; and deletes the obsolete language to the certified family home whose license is pending as a placement resource.

Factual Basis:

When selecting a temporary placement for a child the social worker/probation officer is required to adhere to a priority order. This amendment adds the approved family home to the priority list and repeals the certified family home whose license is pending. AB 1695 amended Welfare and Institutions Code Sections 309(d), 319(f), 361.2(h), 727, and 11402 to clarify that the approved family home is a type of foster home for foster care placements meeting the requirements specified in MPP Section 31-445, which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes. AB 1695 amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to repeal as a placement resource the obsolete certified license pending

family home. Since 1998 (AB 1544, Statutes of 1997 and SB 645, Statutes of 1998) all foster family homes are required to meet full licensure or approval requirements. AB 1695 is the vehicle used to repeal obsolete language remaining in statute referring to certified license pending family home.

Section 31-410.421

Specific Purpose/Factual Basis:

This section is being renumbered for consistency.

Section 31-410.5

Specific Purpose:

This section is being amended to add the nonrelative extended family member as a temporary placement resource when initiating an emergency assessment for the placement of a child. This section is also amending language from “social worker” to “county welfare department or probation department” to clarify that the county welfare department or probation department is responsible for the assignment and completion of these duties and may delegate these duties as appropriate. This language also recognizes that some children are under the care and custody of the probation department.

Factual Basis:

AB 1695 revised the list of homes into which a dependent child who is under the care, custody, and control of a social worker, or a ward of the juvenile court who is under the care, custody, and control of a probation officer, may be placed to specifically include the home of a nonrelative extended family member as defined in Welfare and Institutions Code Section 362.7. When initiating an emergency assessment for the placement of a child, persons meeting the criteria of a nonrelative extended family member must meet the requirements pursuant to Welfare and Institutions Code Sections 309(d), 319, and 727. Responsibilities noted include functions that do not have to be carried out by a social worker or probation officer but may be delegated as the county welfare department or probation department deems appropriate. This language did not accurately reflect the agencies’ ability to delegate specified tasks as permitted under existing law.

Final Modification

This section is amended to clarify the responsibility of the social worker to begin an assessment for approval equivalent to licensure at the time a temporary or emergency placement of a child is made into the home of a relative or non-relative extended family member.

Section 31-410.511

Specific Purpose:

This section is amended to replace the word “visit” with the word “inspection.”

Factual Basis:

AB 1695 revised Welfare and Institutions Code Section 309 to more accurately describe the in-home assessment activity necessary to assess the safety of the home and the ability of the relative to care for the child’s needs.

Final Modification

The word “inspection” does not adequately specify what the home safety assessment must include. Therefore, a reference to Welfare and Institutions Code Section 309(d) has been added for clarity and a handbook section containing the full text of Welfare and Institutions Code Section 309(d) has been added to clarify that, provided an emergency assessment has been completed, a child may be temporarily placed in the home of a relative or non-relative extended family member that has not yet been assessed to the standards required for approval equivalent to licensure.

Section 31-410.513

Specific Purpose:

This section is amended to remove obsolete language.

Factual Basis:

This amendment is necessary to delete the reference to Board of Supervisor Approval, since this was deleted as a result of a change in law.

Section 31-410.513 (Handbook)

Specific Purpose/Factual Basis:

This section is amended to replace a repealed statute with an equivalent existing statute. Health and Safety Code Section 1522.06(c) was repealed and the authority for counties to perform CLETS checks of caregivers and others in the home is more accurately supported by the Penal Code Section 16504.5(a). Section 16504(f) is added to replace the prior reference in Health and Safety Code Section 1522.06(c) regarding the individual’s right to dispute CLETS findings.

Sections 31-410.514(a) and (b) (Handbook)

Specific Purpose/Factual Basis:

These sections are amended to more accurately introduce what is summarized in each Penal Code Section for clarity.

Section 31-410.51

Post-Hearing Modification

Specific Purpose/Factual Basis:

This section is amended to clarify that when the emergency placement of a child is made with a relative or non-relative extended family member, in addition to the emergency assessment required by Section 31-405.1, the social worker is to begin an assessment for approval equivalent to licensure.

Section 31-410.52

Post-Hearing Modification

Specific Purpose/Factual Basis:

This section is amended to include non-relative extended family members as individuals subject to its provisions. The word “emergency” is deleted to more accurately reflect that the emergency assessment or the assessment equivalent to licensure or both may be made available to the appropriate adoption agency.

Section 31-420.14

Specific Purpose:

This section is being amended to clarify that a specified foster care placement standard is applicable to both approved and licensed caregivers. All foster care placements are required to meet the needs of the child including the capability, willingness and ability of the caregiver to meet specific needs of the child, facilitate family reunification, and provide the child’s permanency alternative.

Factual Basis:

Assembly Bill 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver standards employ the same standards applicable to licensed caregivers in accordance with the federal Adoption and Safe Families Act of 1997. The amendment of this section maintains consistency with related licensing foster family home regulations when meeting the requirements for providing caregivers with the information necessary to ensure appropriate services to a child as required in MPP Section 31-445 which

incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-420.15

Specific Purpose/Factual Basis:

This section is being repealed. The complete text is moved to new Section 31-420.14 for clarity.

Sections 31-420.16 through .18

Specific Purpose/Factual Basis:

These sections are renumbered for clarity as a result of the repeal of Section 31-420.15.

Section 31-420.213

Specific Purpose/Factual Basis:

This section is amended to add language that clarifies that although the home of a relative or nonrelative extended family member is exempt from licensure pursuant to Health and Safety Code Section 1505, the home must be approved by meeting the requirements of Welfare and Institutions Code Section 309(d) and regulations specified in MPP Section 31-445 which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.

Final Modification

Language is added to clarify that the assessment required in Welfare and Institutions Code Section 309(d)(2) and (3) must be completed prior to a foster care placement. A technical correction adding the phrase “California Code of Regulations” is also made.

Sections 31-420.23, .231 and .231(a)

Specific Purpose:

These sections are being repealed to remove obsolete language.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to repeal as an obsolete placement resource the certified family home for which the license is pending. Since 1998 (AB 1544, Statutes of 1997 and SB 645, Statutes of 1998) all foster family homes are required to meet full licensure or approval requirements. AB 1695 is the vehicle used to repeal obsolete language remaining in statute referring to a family home which has been certified pending licensure.

Sections 31-420.23 through .231 (renumbered from .24 and .241)

Specific Purpose/Factual Basis:

These sections are being renumbered due to the repeal of Sections 31-420.23 through .231(a).

Section 31-440.24

Specific Purpose:

This section is amended to replace the word “certification” with the word “approval” and to correct language grammatically.

Factual Basis:

AB 1695 is the vehicle used to repeal obsolete language remaining in statute referring to a family home which has been certified pending licensure.

Post-Hearing Modification

Section 31-440.4

Specific Purpose/Factual Basis:

This section is adopted to ensure that relatives and nonrelative extended family members who have requested to be assessed and approved as a foster home have due process rights comparable to the due process rights of applicants for foster family home licenses.

Section 31-445

Specific Purpose:

This section’s title is being amended to repeal language describing the social worker/probation officer activities that involve obsolete certification requirements for foster homes pending licensure. The new language is adopted to describe social worker/probation officer activities for approving a family home as defined in MPP Section 31-445 which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to repeal as an obsolete placement resource the certified family home for which the license is pending. Since 1998 (AB 1544, Statutes of 1997 and SB 645, Statutes of 1998) all foster family homes are required to meet full licensure or approval requirements. AB 1695 is the vehicle used to delete obsolete language remaining in statute referring to a family home which has been certified pending licensure. The new language clarifies that although the home of a relative or nonrelative extended family member is exempt from licensure pursuant to Health and Safety Code Section 1505, the home must be approved by meeting the requirements of Welfare and Institutions Code Section 309(d) and MPP Section 31-445 which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-445.1

Specific Purpose:

This section is being amended to repeal language describing the social worker/probation officer activities that involve obsolete certification requirements for foster homes pending licensure. The repealed language is being replaced with language that describes social worker/probation officer activities when considering placement of a child in a relative or nonrelative extended family member home.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to delete as a placement resource the certified family home for which the license is pending. Since 1998 (AB 1544, Statutes of 1997 and SB 645, Statutes of 1998) all foster family homes are required to meet full licensure or approval requirements. The new language being adopted clarifies that when considering placement of a child the social worker/probation officer must assess the home and prospective caregiver to the requirements of Welfare and Institutions Code Section 309(d) and this MPP Section 31-445, which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

Language is amended in order to clarify the statutory requirement that the home of a relative or non-relative extended family member must be assessed and approved by standards equivalent to licensure before a foster care placement may be made.

Section 31-445.11

Specific Purpose/Factual Basis:

This section is amended to delete institutional language and replace with more home-like terminology. The term “on-site” is replaced with “in-home.”

Post-Hearing Modification

Sections 31-445.11 and .111

Specific Purpose/Factual Basis:

Section 31-445.111 has been incorporated into .11 and is amended to delete caregiver qualifications which are not required for approval of the home and the requirement that the caregiver assessment be completed in the home.

Section 31-445.112

Specific Purpose/Factual Basis:

This section is amended to change the word “which” to “that” for clarity.

Final Modification

This section is renumbered to .12 for clarity.

Section 31-445.112(a)

Specific Purpose:

This section is being amended to replace the word “six” with the word “ten” to establish an appropriate age requirement for determining whether an unfenced swimming pool could pose a safety hazard to a child when considering placement of a child in a relative or nonrelative extended family member home. The language “or has a disability for whom special care and supervision is required as a result of his/her condition” is added to make clear that if a child needs special supervision because of a condition, the age does not matter, an unfenced swimming pool is a safety hazard. The language “unless an acceptable alternative method of inaccessibility, noted in Section 31-445.3 at Handbook Sections 89387(d) and (e), is present” is added to recognize that a fence is not the only acceptable method of making a pool inaccessible, and therefore safe. This language is consistent with California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Factual Basis:

Assembly Bill 1695 (Chapter 653, Statutes of 2001) clarifies that when considering placement of a child the social worker/probation must assess the home and prospective caregiver to the requirements of Welfare and Institutions Code Section 309(d). This includes an in-home inspection to ensure the safety of the home. It has been the Department's experience that children at age 10 and older are generally able swimmers and are less likely to be at risk around bodies of water, unless they have a disability or condition that would otherwise require special supervision. Establishment of the new age and capacity criteria will maintain consistency with meeting the requirements of Welfare and Institutions Code Section 309(d) and MPP Section 31-445, which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

As a result of testimony, Sections 31-445.112(a) through (c) are being repealed. These sections list only three safety hazards which are not necessarily the most unsafe conditions that might be found in a home. The safety standards set forth in Title 22, Division 6, Chapter 9.5, Article 3 of the California Code of Regulations are being cross-referenced to more clearly identify each potentially unsafe condition that is to be assessed.

Sections 31-445.113, .12, .121 through .124, and .13 through .15

Specific Purpose:

These sections are being repealed to delete language describing the social worker/probation officer activities that involve certification requirements for foster homes pending licensure.

Factual Basis:

AB 1695 amended Welfare and Institutions Code Sections 319(f), 361.2(h), 727, 11402, and 16507.5(b) to repeal as an obsolete placement resource the certified family home. Since 1998 (AB 1544, Statutes of 1997 and SB 645, Statutes of 1998) all foster family homes are required to meet full licensure or approval requirements of Welfare and Institutions Code Section 309(d) and MPP Section 31-445 which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Section 31-445.12

Specific Purpose:

This section is being adopted to describe the social worker/probation officer activities for verification that the prospective caregiver has no criminal record or child abuse record which would affect his/her ability to care for the child as defined in Health and Safety Code Section 1522.

Factual Basis:

Assembly Bill 1695 (Chapter 653, Statutes of 2001) clarifies that California’s relative caregiver approval process employs the same standards used to license foster care homes in accordance with the federal Adoption and Safe Families Act of 1997. The performance of the criminal record clearance and CACI will maintain consistency with meeting the requirements of Welfare and Institutions Code Section 309(d) and MPP Section 31-445 which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

This section is amended to clarify that the approval standards set forth in California Code of Regulations, Title 22, Division 6, chapter 9.5, Article 3, require that the criminal record clearances for specified adults, in addition to the proposed caregiver, must be received prior to the approval of a relative or non-relative foster family home.

This section is being renumbered to .13 due to previous repeals, and a grammatical correction is made deleting the word “and” from Child Abuse Central Index.

Post-Hearing Modification

Section 31-445.13 (Handbook)

Specific Purpose/Factual Basis:

A handbook section is added to clarify which code sections address criminal record clearance requirements and to more accurately reflect that approval must be denied if appropriate clearances are not received.

Post-Hearing Modification

Section 31-445.142

Specific Purpose/Factual Basis:

This section is added to more accurately reflect the requirement that the described activity is to be completed prior to the approval of the relative or non-relative foster family home.

Sections 31-445.2 and .21

Specific Purpose:

These sections are being adopted to describe the social worker/probation officer activities at the time a child is placed into the home of a relative or nonrelative extended family member.

Factual Basis:

The new language being adopted clarifies that at time of placement certain prescribed activities must occur. The social worker/probation officer must obtain verification that the caregiver and home meet the requirements of Welfare and Institutions Code Section 309(d) and MPP Section 31-445.1 and .2.

Final Modification

These sections are renumbered for clarity and amended to clarify that the California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3 requires the described activities to be completed prior to the approval of the relative or non-relative foster family home.

Section 31-445.3

Specific Purpose:

This section is being adopted to describe the social worker/probation officer activities prior to the issuance of an approval document for a relative or nonrelative extended family member.

Factual Basis:

The home must be approved by completing the activities described in MPP Section 31-445, which incorporated California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Homes.

Final Modification

This section is renumbered for clarity as a result of the renumbering of Section 31-445.2.

b) Identification of Documents Upon Which Department Is Relying

- The Adoptions and Safe Families Act of 1997 (P.L. 105-89)
- Final Rule published on January 25, 2000 in the Federal Register (65 FR 4019 – 4093) (45 CFR 1355 and 1356)
- Assembly Bill 1695 (Chapter 653, Statutes of 2001)
- Assembly Bill 899 (Chapter 683, Statutes of 2001)
- Assembly Bill 1544 (Chapter 793, Statutes of 1997)
- Senate Bill 645 (Chapter 949, Statutes of 1998)

c) 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.

d) Statement of Alternatives Considered

CDSS has determined 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.

f) Testimony and Response:

These regulations were considered as Item #1 at the public hearing held on September 25, 2002 in Sacramento, California. No oral testimony was received. Written testimony was received from the Youth Law Center:

Section 31-020

1. Comment:

“Relatives and NREFMs must have due process rights comparable to the due process rights of licensed foster family home providers. The proposed regulation affords relatives and NEFMs the grievance procedures set forth in § 31-020 for issues concerning the placement or removal of a child in their home by changing the definition of foster parent to include relatives and NEFMs whose homes have been approved.

“However, relatives and NEFMs should be afforded due process if their home is deemed not to meet the approval standards. Relatives should be given notice of why their home does not meet the approval standards and should be given the opportunity to challenge a denial. Section § 31-020 should be amended to include access to the grievance procedure to challenge the agency denials of the relative/NEFM’s home as meeting the approval standards.”

Response:

CDSS agrees with this comment and will incorporate the suggested changes, not by amending Section 31-020, but by adopting Section 31-440.41 which will require notice of disapproval and cross-referencing the grievance procedures in Section 31-020.

Section 31-075

2. Comment:

“In addition to the general requirement that the case record include documentation that a relative caregiver’s home meet approval standards, the regulation should require specific documentation that the relative caregiver has been assessed and that the home has been inspected.”

Response:

CDSS agrees with this comment. This section will be amended for clarification.

Section 31-075.3(s)(9)

3. Comment:

“Documentation that the foster family home of a relative or nonrelative extended family member (NEFM) meets the approval standards.

“The required documentation should include a caregiver assessment and a home inspection indicating that each required area of assessment, health and safety has been assessed and inspected.

Response:

CDSS agrees with this comment and had also planned to amend it after the public hearing. This section will be amended for clarification.

Section 31-405

4. Comment:

“Approvals of a relative’s/NEFM’s home may be completed by someone other than the worker responsible for placement. Welfare & Institutions Code section 361.3 requires relative caregiver’s be assessed in accordance with section 309 which provides that the county welfare department (emphasis added) shall initiate an assessment of the relative’s suitability, which shall include an in-home inspection.”

Response:

CDSS agrees with this statement and this section will be amended.

Section 31-405.1(e)

5. Comment:

“Section 31-405.1(e) should be amended to read that the social worker shall:

“(e) Ensure that the requirements specified in Section 31-445 have been met when approving the home of a relative or nonrelative extended family member.”

Response:

CDSS agrees with this comment and will make the necessary amendment.

Section 31-410.511

6. Comment:

“Welfare & Institutions Code §309(d) requires that the standards used to evaluate and grant or deny the home of a relative be the same standards as set forth in the regulations for licensing foster family homes. Section 31-410.511 in the proposed regulation simply provides that an in-home inspection to assess the safety of the home be completed without reference to WIC§309, or the approval standards.

“Section 31-410.511 should be amended by either including a handbook section which includes the text of Welfare & Institutions Code §309(d) or cross-references the approval standards directly or indirectly through 31-445.”

Response:

CDSS agrees with this comment and will both amend the regulation to reference Welfare and Institutions Code Section 309(d) and add a handbook section containing the text of the statute.

Section 31-445.112

7. Comment:

“Section 31-445.112 provides that the in-home evaluation of the home include a verification that the home has no safety defects that could pose a hazard to the child, including, but not limited to three specific defects (unfenced swimming pool, exposed electrical wiring, and inoperable plumbing. The approval standards contain more than 3 critical safety areas. The 3 chosen areas in the proposed regulation are not necessarily more unsafe than other safety areas not chosen. For example, placement of a 9 year old swimmer in a household with an accessible loaded firearm is potentially more dangerous than placement of in a (this language doesn’t make sense) household with an unfenced swimming pool.

“Section 31-445.122 should be amended to include a more comprehensive safety list (see proposal in chart below) or to delete the 3 specified defects (subparagraphs a, b & c) and cross-reference the approval standards.

“Proposed Amendment to §31-445.112

“.112 Verification that the home has no safety defects that could pose a hazard to the child and that the home meets the approval standards, including, but not limited to the following:

“The home appears to be clean, safe, sanitary and in good repair. [§89387(b)]

“Indoor and outdoor halls, stairs, ramps, and porches are free of obstructions and hazards [89387(c)]

“For children under age 10 or children who are developmentally disabled mentally handicapped or need special care and supervision: [§89387(d)]

“a. All swimming pools and bodies of water are made inaccessible by a pool cover or 5 foot high fence that meets building codes. Gates are self-closing and latch is no more than 6 inches from top of gate.

“b. Above ground pool can be made inaccessible by removing ladder or adding an appropriate enclosure.

“c. If neither (a) nor (b) above is achievable, all doors and windows permitting access from the residence to the pool are equipped with exit alarms.

“d. Pools have operable pump and filtering system if not emptied after each use.

“e. Adult who is competent at swimming shall provide supervision at all times while children use pool/body of water.

“Home contains at least 1 toilet, sink, tub or shower maintained in safe, clean operating condition. [§89387(i)]

“Bunk beds have only two tiers [§89387(j)]

“a. Upper tier has bed rails. [§89387(j)]

“b. Children under 5 or who can't climb unassisted only in lower tier. [§89387(j)]

“Home is maintained at comfortable temperature at all times.

“Child's safety is ensured in homes with fireplaces, open forced heaters and woodstoves. [§89387(l)]

“Lamps and necessary light is provided in all rooms and other areas to ensure comfort and safety of persons in the home. [§89387(m)]

“Home has indoor sprinkling system or functioning smoke detector installed in the hallway(s) of each sleeping area audible in each bedroom or sleeping room. [§89387(p)]

“Hot water from faucets is delivered at a safe temperature. [§89387(n)]

“Medicines, disinfectants, cleaning solutions are appropriately stored.

“Poisons, firearms and other dangerous items are stored where inaccessible to children. [§89387.2]

“Storage areas of firearms and other dangerous weapons are locked or in lieu of locked storage the applicant is utilizing trigger locks or has removed and locked the firing pin/s separately from the firearm/s. Ammunition is stored and locked separately from firearms. [§89387.2]

“Solid waste is stored, located and disposed of in a manner that will not permit the transmission of communicable disease or of odors, create a nuisance, or provide a breeding place or food source for insects or rodents. [§89387(o)]

“Each sleeping room has at least one operable window or door that ensures safe, direct, emergency exit to the outside. If security window bars are used, they are equipped with safety release devices [§89387(q)]

“Yard or outdoor activity space is provided free from hazards to life and health. [§ 89387.1)]”

Response:

CDSS agrees with this comment in regard to the deletion of Section 31-445.112(a), (b), and (c) and the cross-reference to the approval standards and will amend the section for clarification.

g) 15-Day Renotice Statement

A 15-Day Renotice was held from May 31, 2003 to June 16, 2003. No comments were received as a result of this renotice.