

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

ITEM #3 Interim Closure or Removal Pending Arrest Investigation

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 October 15, 2003, as follows:

October 15, 2003
Office Building # 9
744 P St. Auditorium
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 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 October 15, 2003.

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 12, Chapter 1 (Child Care Center), Section 101170 (Criminal Record Clearance); and Chapter 3 (Family Child Care Homes), Section 102370 (Criminal Record Clearance).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed emergency regulations amend specific provisions and adopt new language in Title 22, Division 12, Chapter 1 (Child Care Center (CCC), Section 101170, Criminal Record Clearance) and Chapter 3 (Family Child Care Homes (FCCH), Section 102370, Criminal Record Clearance). These amendments are necessary to implement the Department of Social Services' policy that an individual arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, constitutes a possible risk to the children in licensed child care facilities.

These emergency regulations specify the Department's procedures for requiring a licensee to cease operation or remove an individual from the facility for up to 30 days. During the 30-day period, the Department will conduct an investigation and make a final determination regarding whether or not administrative action will be taken against the licensee or individual.

Amending the aforementioned sections increases the Department's ability to protect children in licensed child care facilities.

COST ESTIMATE

1. Costs or Savings to State Agencies: The estimated ongoing cost will be \$306,000 to perform all of the necessary activities in a time sensitive manner.
2. Costs to Local Agencies or School Districts: There would be a negligible fiscal impact on local agencies and no fiscal impact on school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any federally funded state agency or program.

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

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

These emergency regulations will grant the Department of Social Services authority to require a licensee to cease operation or remove an individual from the facility for up to 30 days. This will occur when the Department receives information that a licensee or individual associated with a licensed child care facility has been arrested for a crime for which, if convicted, the individual would not be eligible, by law, to receive an exemption.

Temporary facility closures and/or not allowing an individual to work will result in lost wages for the individuals associated with the facility. However, temporary closure of a child care center, which has several employees, will be rare. Temporary closure of a family child care home is more likely because the licensee is the primary caregiver and typically only one additional person is employed.

There are approximately 419,305 individuals that have received a caregiver background check and are associated with licensed child care facilities. The Department receives subsequent arrest information indicating a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, for approximately 20 individuals per month. Given there are 60,773 licensed child care facilities serving 1,147,793 children, the impact of these regulations is minimal.

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 lessen any adverse impact on small business.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 1596.81 of the Health and Safety Code. Subject regulations implement and make specific Sections 1596.871, 1597.59 of the Health and Safety Code.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

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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 ITEMS FOR THIS PUBLIC HEARING – October 15, 2003

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| ITEM #1 | ORD #0902-23 | CCL – Criminal Record Exemption Regulations |
| ITEM #2 | ORD #1202-27 | Budgeting of the Food Stamp Program Standard Utility Allowance |
| ITEM #3 | ORD #0403-09 | Interim Closure or Removal Pending Arrest Investigation |
| ITEM #4 | ORD #0703-17 | CalWORKs 180-Day Family Reunification Extension |