

INITIAL STATEMENT OF REASONS

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

Sections 101170(o) et seq.

Specific Purpose:

The specific purpose of these sections is to implement and make specific the Department of Social Services' authority to require a licensee to cease operation or remove an individual, specified in Health and Safety Code Section 1596.871(b), from the facility for up to 30 days when it determines that any licensee or individual has been arrested for a crime for which, if convicted, the individual would not be eligible, by law, to receive an exemption. These regulations also specify how the Department will notify the licensee and the individual.

Factual Basis:

There are approximately 50 crimes for which, if convicted, an individual would not be eligible for an exemption including murder/attempted murder, kidnapping, sexual battery, rape, aggravated assault of a child, willful cruelty to a child, and sexual abuse. These sections are necessary because without these regulations, the Department has no recourse but to allow the licensee to remain operating or the individual to remain working or living in the facility during the investigation, thus presenting a possible risk to the health and safety of children in care.

Sections 101170(p) et seq.

Specific Purpose:

The specific purpose of these sections is to establish a process by which the licensee or individual may appeal the Department's notification to cease operation or remove an individual. These regulations also impose a specific timeframe by which the Department must notify the licensee or individual of its decision.

Factual Basis:

These sections are necessary to ensure the licensee or individual is afforded an opportunity to appeal the facility's temporary closure or the individual's removal from a facility based on any of the following: he or she is not the individual who was arrested; he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption; or he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible for an exemption.

Section 101170(q)

Specific Purpose:

The specific purpose of this section is to require the Department to rescind the notice to cease operation or the notice to remove an individual, if during the 30 days specified in Sections 101170(o)(1) and (o)(2), the Department determines that criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption.

Factual Basis:

This section is necessary to clarify that if during the 30-day investigation period the Department determines that the criminal charges against the licensee or individual have been dropped or reduced to a charge for a crime that by law would be eligible for an exemption, the Department must rescind the notice.

Section 101170(r)

Specific Purpose:

The specific purpose of this regulation is to specify that nothing in this section shall be interpreted to supercede the Department's authority to temporarily suspend the license in accordance with Health and Safety Code Section 1596.886 or immediately exclude an individual in accordance with Health and Safety Code Section 1596.8897.

Factual Basis:

This regulation is necessary to clarify that nothing in this section supercedes the Department's authority to issue a temporary suspension or exclusion order.

Sections 102170(n) et seq.

Specific Purpose:

The specific purpose of these sections is to implement and make specific the Department of Social Services' authority to require a licensee to cease operation or remove an individual, specified in Health and Safety Code Section 1596.871(b), from the facility for up to 30 days when it determines that any licensee or individual has been arrested for a crime for which, if convicted, the individual would not be eligible, by law, to receive an exemption. These regulations also specify how the Department will notify the licensee and the individual.

Factual Basis:

There are approximately 50 crimes for which, if convicted, an individual would not be eligible for an exemption including murder/attempted murder, kidnapping, sexual battery, rape, aggravated assault of a child, willful cruelty to a child, and sexual abuse. These sections are necessary because without these regulations, the Department has no recourse but to allow the licensee to remain operating or the individual to remain working or living in the facility during the investigation, thus presenting a possible risk to the health and safety of children in care.

Sections 102170(o) et seq.

Specific Purpose:

The specific purpose of these sections is to establish a process by which the licensee or individual may appeal the Department's notification to cease operation or remove an individual. These regulations also impose a specific timeframe by which the Department must notify the licensee or individual of its decision.

Factual Basis:

These sections are necessary to ensure the licensee or individual is afforded an opportunity to appeal the facility's temporary closure or the individual's removal from a facility based on any of the following: he or she is not the individual who was arrested; he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption; or he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible for an exemption.

Section 102170(p)

The specific purpose of this section is to require the Department to rescind the notice to cease operation or the notice to remove an individual, if during the 30 days specified in Sections 102370(n)(1), (n)(2) and (n)(3), the Department determines that criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption.

Factual Basis:

This section is necessary to clarify that if during the 30-day investigation period the Department determines that the criminal charges against the licensee or individual have been dropped or reduced to a charge for a crime that by law would be eligible for an exemption, the Department must rescind the notice.

Section 102370(q)

Specific Purpose:

The specific purpose of this regulation is to specify that nothing in this section shall be interpreted to supercede the Department's authority to temporarily suspend the license in accordance with Health and Safety Code Section 1596.886 or immediately exclude an individual in accordance with Health and Safety Code Section 1596.8897.

Factual Basis:

This regulation is necessary to clarify that nothing in this section supercedes the Department's authority to issue a temporary suspension or exclusion order.

b) Identification of Documents Upon Which Department Is Relying

- Health and Safety Code Sections 1596.81 and 1596.871

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 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.

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.