

ASSEMBLY BILL

No. 1122

Introduced by Assembly Member Brown

February 27, 2015

An act to amend Sections 1569.38, 1569.47, 1569.49, 1569.58, and 1569.595 of, and to add Section 1569.356 to, the Health and Safety Code, relating to residential care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1122, as introduced, Brown. Residential care facilities for the elderly: excluded persons.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. A person who violates the act, or who willfully or repeatedly violates any rule or regulation adopted under the act, is guilty of a misdemeanor.

Among other things, the act authorizes the department to prohibit a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has engaged in specified behavior, including violating the act or engaging in conduct inimical to the health or safety of a person in a facility. The act requires that the excluded person, the facility, and the licensee be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The act requires a licensed residential care facility for the elderly to provide written notice to a resident, the resident's responsible party, if any, and the local long-term care ombudsman, within 10 days from the occurrence of specified events, including when the department commences proceedings

to suspend or revoke the license of the facility. The act also requires a placement agency, as defined, to notify the appropriate licensing agency of any known or suspected incidents that would jeopardize the health or safety of residents in a residential care facility for the elderly and describes reportable incidents for that purpose.

The act also authorizes the department to levy a civil penalty for a violation of the act, as specified, and to assess an immediate civil penalty of \$150 per day per violation for certain violations that the act deems to be serious violations.

This bill would require the department, by January 1, 2017, to prominently display on the left side of its main Internet Web site a link to the comprehensive list of all individuals, and associated information, who have been the subject of an administrative action since January 1, 1990, resulting in a license revocation or denial, or probation, or an individual exclusion or probation, as specified. The list would be known as the Excluded Persons Administrative Action List (EPAAL) and would contain specified information, including the name of the individual and of the associated facility, and the status and effective date of each administrative action taken. The bill would require the list to be updated every 30 days.

This bill would require a licensee to provide written notice to a resident, the resident's responsible party, if any, and the local long-term care ombudsman, within 10 days of receiving a served notice from the department identifying an excluded person pursuant to an administrative action, and would make a related change. The bill would provide that the presence of an individual who is listed on the EPAAL is a reportable incident for purposes of the provision requiring a placement agency to notify the appropriate licensing agency of any known or suspected incidents that would jeopardize the health or safety of residents in a residential care facility for the elderly. The bill would require a licensee, within 24 hours after receiving notice of the department's action to exclude a person, to post next to the facility license the department's unredacted letter, and would make a related change. The bill would also provide that the failure of the licensee to check the EPAAL or post the department's served notice of an excluded person would be a serious violation and subject to an immediate civil penalty of \$150 per day per violation.

By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1569.356 is added to the Health and
2 Safety Code, immediately following Section 1569.355, to read:

3 1569.356. (a) By January 1, 2017, the department shall
4 prominently display on the left side of its main Internet Web site
5 a link to the comprehensive list of all individuals, and associated
6 information, who have been the subject of an administrative action
7 since January 1, 1990, resulting in a license revocation or denial,
8 or probation, or an individual exclusion or probation, regardless
9 of whether the license revocation, denial, or probation, or individual
10 exclusion or probation has been appealed and a reinstatement was
11 received. The list shall be known as, and may be referred to as,
12 the Excluded Persons Administrative Action List (EPAAL). The
13 list shall contain the following information for each entry:

14 (1) The name of the individual, including his or her first, middle,
15 and last name.

16 (2) The name and address, including the city and ZIP Code of
17 the associated facility.

18 (3) The legal case tracking system case number, including any
19 suffixes.

20 (4) The type of document, including any attachments, and the
21 date of the document.

22 (5) The status and effective date of each administrative action
23 taken.

24 (6) A violation code, using the protocol established in the legal
25 case tracking system.

26 (7) A comments field, including a notation indicating whether
27 the designation “under appeal,” “denial of appeal,” “reinstatement,”
28 or “denial of reinstatement” applies.

29 (b) The list shall be updated and reposted to the Internet Web
30 site every 30 days.

1 (c) An individual or facility name shall not be removed from
2 the list.

3 (d) The department shall provide detailed instructions in a
4 prominent place on the department’s Internet Web site near or
5 associated with the link to the EPAAL to consumers on how to
6 obtain copies of administrative action documents referred to on
7 the EPAAL.

8 SEC. 2. Section 1569.38 of the Health and Safety Code is
9 amended to read:

10 1569.38. (a) Each residential care facility for the elderly shall
11 place in a conspicuous place copies of all licensing reports issued
12 by the department within the preceding 12 months, and all licensing
13 reports issued by the department resulting from the most recent
14 annual visit of the department to the facility. This subdivision shall
15 not apply to any portion of a licensing report referring to a
16 complaint that was found by the department to be unfounded or
17 unsubstantiated. The facility, during the admission process, shall
18 inform the resident and the resident’s responsible person in writing
19 that licensing reports are available for review at the facility, and
20 that copies of licensing reports and other documents pertaining to
21 the facility are available from the appropriate district office of the
22 department. The facility shall provide the telephone number and
23 address of the appropriate district office.

24 (b) A licensed residential care facility for the elderly shall
25 provide written notice to a resident, the resident’s responsible
26 party, if any, and the local long-term care ombudsman, within 10
27 days from the occurrence of ~~either~~ any of the following events:

28 (1) The department commences proceedings to suspend or
29 revoke the license of the facility pursuant to Section 1569.50.

30 (2) A criminal action that relates to the health or safety of the
31 residents is brought against the licensed residential care facility.

32 (3) *The licensee has received a served notice from the*
33 *department identifying an excluded person pursuant to an*
34 *administrative action.*

35 (c) The notice provided to a resident and the resident’s
36 responsible party, if any, shall include the name and contact
37 information for the local long-term care ombudsman and for the
38 Community Care Licensing Division of the department with a
39 statement that directs the resident or the resident’s responsible

1 party to contact the division for information on the license status
2 of the facility.

3 (d) The notice, described in subdivision (b), provided to a
4 resident and the resident's responsible party, if any, shall include
5 the reason given for the commencement of proceedings to suspend
6 or revoke the license of the facility, or the reason given for criminal
7 action brought against the licensed residential care facility, *or the*
8 *reason given pursuant to subdivision (b) of Section 1569.58 for*
9 *the exclusion of an individual pursuant to any administrative action*
10 *taken by the department.*

11 (e) Upon providing the notice described in subdivision (b), the
12 licensed residential care facility shall also post a written notice, in
13 at least 14-point type, in a conspicuous location in the facility, that
14 may include where the mail boxes are located, where the facility
15 license is posted, or any other easily accessible location in the
16 facility. The posting shall include all of the following information:

17 (1) The date of the notice.

18 (2) The name of the residential care facility for the elderly.

19 (3) A statement that a copy of the most recent licensing report
20 prepared by the department, and any additional reports of facility
21 evaluation visits, within the preceding 12 months, may be obtained
22 at the facility.

23 (4) The name and telephone number of the contact person
24 designated by the Community Care Licensing Division of the
25 department to provide information on the license status of the
26 facility.

27 (f) The notice required to be posted pursuant to subdivision (e)
28 shall remain posted until the deficiencies that gave rise to the notice
29 are resolved.

30 (g) A licensee who fails to comply with the requirements of
31 subdivision (b) or (c) shall be liable for civil penalties in the amount
32 of one hundred dollars (\$100) for each day of the failure to provide
33 notification as required in this section. The total civil penalty for
34 each day shall not exceed one hundred dollars (\$100) regardless
35 of the number of notices that the licensee fails to send that day.
36 The total civil penalty for a continuous violation of subdivision
37 (b) or (c) shall not exceed five thousand dollars (\$5,000).

38 (h) For purposes of this section, "responsible party" means an
39 individual, including the patient's relative, health care surrogate
40 decisionmaker, or a placement agency, who assists the resident in

1 placement or assumes varying degrees of responsibility for the
2 well-being of the resident, as designated by the resident in writing.

3 SEC. 3. Section 1569.47 of the Health and Safety Code is
4 amended to read:

5 1569.47. (a) "Placement agency" means any county welfare
6 department, county social service department, county mental health
7 department, county public guardian, general acute care hospital
8 discharge planner or coordinator, state-funded program or private
9 agency providing placement or referral services, conservator
10 pursuant to Part 3 (commencing with Section 1800) of Division 4
11 of the Probate Code, conservator pursuant to Chapter 3
12 (commencing with Section 5350) of Part 1 of Division 5 of the
13 Welfare and Institutions Code, and regional center for persons
14 with developmental disabilities which is engaged in finding homes
15 or other places for the placement of elderly persons for temporary
16 or permanent care.

17 (b) A placement agency shall not place individuals in licensed
18 residential care facilities for the elderly when the individual,
19 because of his or her health condition, cannot be cared for within
20 the limits of the license or requires inpatient care in a health
21 facility. Violation of this subdivision is a misdemeanor.

22 (c) A placement agency or employee of a placement agency
23 shall not place, refer, or recommend placement of a person in a
24 facility providing care and supervision, or protective supervision,
25 unless the facility is licensed as a residential care facility for the
26 elderly or is exempt from licensing under Section 1569.145.
27 ~~Violation~~ A violation of this subdivision is a misdemeanor.

28 (d) Any employee of a placement agency who knows, or
29 reasonably suspects, that a facility which is not exempt from
30 licensing is operating without a license shall report the name and
31 address of the facility to the department. Failure to report as
32 required by this subdivision is a misdemeanor.

33 (e) The department shall investigate any report filed under
34 subdivision (d). If the department has probable cause to believe
35 that the facility which is the subject of the report is operating
36 without a license, the department shall investigate the facility
37 within 10 days after receipt of the report.

38 (f) A placement agency shall notify the appropriate licensing
39 agency of any known or suspected incidents ~~which~~ that would
40 jeopardize the health or safety of residents in a residential care

1 facility for the elderly. Reportable incidents include, but are not
2 limited to, all of the following:

- 3 (1) Incidents of physical abuse.
- 4 (2) Any violation of personal rights.
- 5 (3) Any situation in which a facility is unclean, unsafe,
6 unsanitary, or in poor condition.
- 7 (4) Any situation in which a facility has insufficient personnel
8 or incompetent personnel on duty.
- 9 (5) Any situation in which residents experience mental or verbal
10 abuse.
- 11 (6) *The presence of an individual who is listed on the Excluded*
12 *Persons Administrative Action List created pursuant to Section*
13 *1569.356.*

14 SEC. 4. Section 1569.49 of the Health and Safety Code, as
15 added by Section 6 of Chapter 813 of the Statutes of 2014, is
16 amended to read:

17 1569.49. (a) In addition to the suspension, temporary
18 suspension, or revocation of a license issued under this chapter,
19 the department may levy a civil penalty.

20 (b) The amount of the civil penalty shall not be less than
21 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
22 for each violation of this chapter except where the nature or
23 seriousness of the violation or the frequency of the violation
24 warrants a higher penalty or an immediate civil penalty assessment,
25 or both, as determined by the department. In no event, shall a civil
26 penalty assessment exceed one hundred fifty dollars (\$150) per
27 day per violation.

28 (c) Notwithstanding Section 1569.33, the department shall assess
29 an immediate civil penalty of one hundred fifty dollars (\$150) per
30 day per violation for any of the following serious violations:

31 (1) (A) Fire clearance violations, including, but not limited to,
32 overcapacity, ambulatory status, inoperable smoke alarms, and
33 inoperable fire alarm systems. The civil penalty shall not be
34 assessed if the licensee has done either of the following:

35 (i) Requested the appropriate fire clearance based on ambulatory,
36 nonambulatory, or bedridden status, and the decision is pending.

37 (ii) Initiated eviction proceedings.

38 (B) A licensee denied a clearance for bedridden residents may
39 appeal to the fire authority, and, if that appeal is denied, may
40 subsequently appeal to the Office of the State Fire Marshal, and

1 shall not be assessed an immediate civil penalty until the final
2 appeal is decided, or after 60 days has passed from the date of the
3 citation, whichever is earlier.

4 (2) Absence of supervision as required by statute or regulation.

5 (3) Accessible bodies of water, when prohibited in this chapter
6 or regulations adopted pursuant to this chapter.

7 (4) Accessible firearms, ammunition, or both.

8 (5) Refused entry to a facility or any part of a facility in violation
9 of Section 1569.32, 1569.33, or 1569.35.

10 (6) The presence of an excluded person on the premises.

11 (7) *The failure of the licensee to check the Excluded Persons*
12 *Administrative Action List created pursuant to Section 1569.356.*

13 (8) *The failure of the licensee to post the department's served*
14 *notice of an excluded person pursuant to subdivision (b) of Section*
15 *1569.58.*

16 (d) For a violation that the department determines resulted in
17 the death of a resident, the civil penalty shall be fifteen thousand
18 dollars (\$15,000).

19 (e) For a violation that the department determines constitutes
20 physical abuse, as defined in Section 15610.63 of the Welfare and
21 Institutions Code, or resulted in serious bodily injury, as defined
22 in Section 15610.67 of the Welfare and Institutions Code, to a
23 resident, the civil penalty shall be ten thousand dollars (\$10,000).

24 (f) Prior to the issuance of a citation imposing a civil penalty
25 pursuant to subdivision (d) or (e), the decision shall be approved
26 by the director.

27 (g) Notwithstanding Section 1569.33, any residential care
28 facility for the elderly that is cited for repeating the same violation
29 of this chapter within 12 months of the first violation is subject to
30 an immediate civil penalty of one hundred fifty dollars (\$150) and
31 fifty dollars (\$50) for each day the violation continues until the
32 deficiency is corrected.

33 (h) Any residential care facility for the elderly that is assessed
34 a civil penalty pursuant to subdivision (g) that repeats the same
35 violation of this chapter within 12 months of the violation subject
36 to subdivision (g) shall be assessed an immediate civil penalty of
37 one thousand dollars (\$1,000) and one hundred dollars (\$100) for
38 each day the violation continues until the deficiency is corrected.

39 (i) (1) The department shall adopt regulations setting forth the
40 appeal procedures for deficiencies.

1 (2) A licensee shall have the right to submit to the department
2 a written request for a formal review of a civil penalty assessed
3 pursuant to subdivisions (d) and (e) within 10 days of receipt of
4 the notice of a civil penalty assessment and shall provide all
5 supporting documentation at that time. The review shall be
6 conducted by a regional manager of the Community Care Licensing
7 Division. If the regional manager determines that the civil penalty
8 was not assessed in accordance with applicable statutes or
9 regulations of the department, he or she may amend or dismiss the
10 civil penalty. The licensee shall be notified in writing of the
11 regional manager's decision within 60 days of the request to review
12 the assessment of the civil penalty.

13 (3) The licensee may further appeal to the program administrator
14 of the Community Care Licensing Division within 10 days of
15 receipt of the notice of the regional manager's decision and shall
16 provide all supporting documentation at that time. If the program
17 administrator determines that the civil penalty was not assessed
18 in accordance with applicable statutes or regulations of the
19 department, he or she may amend or dismiss the civil penalty. The
20 licensee shall be notified in writing of the program administrator's
21 decision within 60 days of the request to review the regional
22 manager's decision.

23 (4) The licensee may further appeal to the deputy director of
24 the Community Care Licensing Division within 10 days of receipt
25 of the notice of the program director's decision and shall provide
26 all supporting documentation at that time. If the deputy director
27 determines that the civil penalty was not assessed in accordance
28 with applicable statutes or regulations of the department, he or she
29 may amend or dismiss the civil penalty. The licensee shall be
30 notified in writing of the deputy director's decision within 60 days
31 of the request to review the program administrator's decision.

32 (5) Upon exhausting the deputy director review, a licensee may
33 appeal a civil penalty assessed pursuant to subdivision (d) or (e)
34 to an administrative law judge. Proceedings shall be conducted in
35 accordance with Chapter 5 (commencing with Section 11500) of
36 Part 1 of Division 3 of Title 2 of the Government Code, and the
37 department shall have all the powers granted by those provisions.
38 In all proceedings conducted in accordance with this section, the
39 standard of proof shall be by a preponderance of the evidence.

1 (6) If, in addition to an assessment of civil penalties, the
2 department elects to file an administrative action to suspend or
3 revoke the facility license that includes violations relating to the
4 assessment of the civil penalties, the department review of the
5 pending appeal shall cease and the assessment of the civil penalties
6 shall be heard as part of the administrative action process.

7 (j) The department shall adopt regulations implementing this
8 section.

9 (k) The department shall, by January 1, 2016, amend its
10 regulations to reflect the changes to this section made by the act
11 that added this subdivision.

12 (l) This section shall become operative on July 1, 2015.

13 SEC. 5. Section 1569.58 of the Health and Safety Code is
14 amended to read:

15 1569.58. (a) The department may prohibit any person from
16 being a member of the board of directors, an executive director, a
17 board member, or an officer of a licensee, or a licensee from
18 employing, or continuing the employment of, or allowing in a
19 licensed facility, or allowing contact with clients of a licensed
20 facility by, any employee, prospective employee, or person who
21 is not a client who has:

22 (1) Violated, or aided or permitted the violation by any other
23 person of, any provisions of this chapter or of any rules or
24 regulations promulgated under this chapter.

25 (2) Engaged in conduct that is inimical to the health, morals,
26 welfare, or safety of either an individual in or receiving services
27 from the facility, or the people of the State of California.

28 (3) Been denied an exemption to work or to be present in a
29 facility, when that person has been convicted of a crime as defined
30 in Section 1569.17.

31 (4) Engaged in any other conduct that would constitute a basis
32 for disciplining a licensee.

33 (5) Engaged in acts of financial malfeasance concerning the
34 operation of a facility, including, but not limited to, improper use
35 or embezzlement of client moneys and property or fraudulent
36 appropriation for personal gain of facility moneys and property,
37 or willful or negligent failure to provide services for the care of
38 clients.

39 (b) The excluded person, the facility, and the licensee shall be
40 given written notice of the basis of the department's action and of

1 the excluded person's right to an appeal. The notice shall be served
2 either by personal service or by registered mail. *Within 24 hours*
3 *after receiving the notice of the department's action to exclude the*
4 *person, the licensee shall post next to the facility license the*
5 *department's unredacted letter. Following the date of service of*
6 *the notice, all new admissions shall be notified in writing of the*
7 *excluded person action.* Within 15 days after the department serves
8 the notice, the excluded person may file with the department a
9 written appeal of the exclusion order. If the excluded person fails
10 to file a written appeal within the prescribed time, the department's
11 action shall be final.

12 (c) (1) The department may require the immediate removal of
13 a member of the board of directors, an executive director, or an
14 officer of a licensee or exclusion of an employee, prospective
15 employee, or person who is not a client from a facility pending a
16 final decision of the matter, when, in the opinion of the director,
17 the action is necessary to protect residents or clients from physical
18 or mental abuse, abandonment, or any other substantial threat to
19 their health or safety.

20 (2) If the department requires the immediate removal of a
21 member of the board of directors, an executive director, or an
22 officer of a licensee or exclusion of an employee, prospective
23 employee, or person who is not a client from a facility the
24 department shall serve an order of immediate exclusion upon the
25 excluded person that shall notify the excluded person of the basis
26 of the department's action and of the excluded person's right to a
27 hearing.

28 (3) Within 15 days after the department serves an order of
29 immediate exclusion, the excluded person may file a written appeal
30 of the exclusion with the department. The department's action
31 shall be final if the excluded person does not appeal the exclusion
32 within the prescribed time. The department shall do the following
33 upon receipt of a written appeal:

34 (A) Within 30 days of receipt of the appeal, serve an accusation
35 upon the excluded person.

36 (B) Within 60 days of receipt of a notice of defense by the
37 excluded person pursuant to Section 11506 of the Government
38 Code, conduct a hearing on the accusation.

39 (4) An order of immediate exclusion of the excluded person
40 from the facility shall remain in effect until the hearing is

1 completed and the director has made a final determination on the
2 merits. However, the order of immediate exclusion shall be deemed
3 vacated if the director fails to make a final determination on the
4 merits within 60 days after the original hearing has been completed.

5 (d) An excluded person who files a written appeal of the
6 exclusion order with the department pursuant to this section shall,
7 as part of the written request, provide his or her current mailing
8 address. The excluded person shall subsequently notify the
9 department in writing of any change in mailing address, until the
10 hearing process has been completed or terminated.

11 (e) Hearings held pursuant to this section shall be conducted in
12 accordance with Chapter 5 (commencing with Section 11500) of
13 Division 3 of Title 2 of the Government Code. The standard of
14 proof shall be the preponderance of the evidence and the burden
15 of proof shall be on the department.

16 (f) The department may institute or continue a disciplinary
17 proceeding against a member of the board of directors, an executive
18 director, or an officer of a licensee or an employee, prospective
19 employee, or person who is not a client upon any ground provided
20 by this section. The department may enter an order prohibiting
21 any person from being a member of the board of directors, an
22 executive director, or an officer of a licensee, or prohibiting the
23 excluded person's employment or presence in the facility, or
24 otherwise take disciplinary action against the excluded person,
25 notwithstanding any resignation, withdrawal of employment
26 application, or change of duties by the excluded person, or any
27 discharge, failure to hire, or reassignment of the excluded person
28 by the licensee or that the excluded person no longer has contact
29 with clients at the facility.

30 (g) A licensee's failure to comply with the department's
31 exclusion order after being notified of the order shall be grounds
32 for disciplining the licensee pursuant to Section 1569.50.

33 (h) (1) (A) ~~In cases where~~ *When* the excluded person appealed
34 the exclusion order and there is a decision and order of the
35 department upholding the exclusion order, the person shall be
36 prohibited from working in any facility or being licensed to operate
37 any facility licensed by the department or from being a certified
38 foster parent for the remainder of the excluded person's life, unless
39 otherwise ordered by the department.

1 (B) The excluded individual may petition for reinstatement one
2 year after the effective date of the decision and order of the
3 department upholding the exclusion order pursuant to Section
4 11522 of the Government Code. The department shall provide the
5 excluded person with a copy of Section 11522 of the Government
6 Code with the decision and order.

7 (2) (A) ~~In cases where~~ *When* the department informed the
8 excluded person of his or her right to appeal the exclusion order
9 and the excluded person did not appeal the exclusion order, the
10 person shall be prohibited from working in any facility or being
11 licensed to operate any facility licensed by the department or a
12 certified foster parent for the remainder of the excluded person's
13 life, unless otherwise ordered by the department.

14 (B) The excluded individual may petition for reinstatement after
15 one year has elapsed from the date of the notification of the
16 exclusion order pursuant to Section 11522 of the Government
17 Code. The department shall provide the excluded person with a
18 copy of Section 11522 of the Government Code with the exclusion
19 order.

20 SEC. 6. Section 1569.595 of the Health and Safety Code is
21 amended to read:

22 1569.595. The department shall conduct an unannounced visit
23 to a facility within 30 days after the department serves an order of
24 immediate exclusion from the facility upon the licensee or a person
25 subject to immediate removal or exclusion from the facility
26 pursuant to paragraph (3) of subdivision (c) of Section ~~1569.17~~
27 ~~and 1569.17, subdivision (b) of section 1569.58, or subdivision~~
28 (c) of Section ~~1569.58~~ in order to ensure that the excluded person
29 is not within the facility, unless the department previously has
30 verified that the excluded person is not within the facility. 1569.58.
31 *On the unannounced visit to the facility, the department shall verify*
32 *that the exclusion notice has been posted pursuant to subdivision*
33 *(b) of Section 1569.58. The failure to post the required notice shall*
34 *subject the licensee to a civil penalty pursuant to paragraph (8)*
35 *of subdivision (c) of Section 1569.49.*

36 SEC. 7. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

O