

ASSEMBLY BILL

No. 1467

Introduced by Assembly Member Bloom

February 27, 2015

An act to amend Sections 1548, 1568.0822, 1569.49, 1596.99, and 1597.58 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1467, as introduced, Bloom. Care facilities: civil penalties.

Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensure and regulation of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, day care centers, and family day care homes. Existing law authorizes the department to impose various civil penalties for a licensing violation under those provisions, as specified, and requires moneys collected from the imposition of those penalties to be expended for certain purposes. Existing law establishes a process for the appeal of a citation under these provisions.

This bill would increase the amount of civil penalties to be imposed for a licensing violation under those provisions, and would impose civil penalties for a repeat violation of those provisions, as specified. The bill would delete the provisions that authorize the department to impose those civil penalties, and instead require the imposition of those civil penalties under those provisions. The bill would also delete a requirement that moneys collected from the imposition of certain penalties be used for assisting families with the identification, transportation, and enrollment of children in another day care or family

day care home upon the revocation or suspension of the license of a day care or family day care home.

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

State-mandated local program: no.

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

1 SECTION 1. Section 1548 of the Health and Safety Code, as
2 added by Section 2 of Chapter 813 of the Statutes of 2014, is
3 amended to read:

4 1548. (a) In addition to the suspension, temporary suspension,
5 or revocation of a license issued under this chapter, the department
6 ~~may~~ shall levy a civil penalty.

7 (b) (1) The amount of the civil penalty shall ~~not be less than~~
8 ~~twenty-five dollars (\$25) or more than fifty dollars (\$50) be one~~
9 ~~hundred seventy-five dollars (\$175)~~ per day for each violation of
10 this chapter except where the nature or seriousness of the violation
11 or the frequency of the violation warrants a higher penalty or an
12 immediate civil penalty assessment, or both, as ~~determined by the~~
13 ~~department. In no event, shall a civil penalty assessment exceed~~
14 ~~one hundred fifty dollars (\$150) per day per violation provided in~~
15 ~~this chapter.~~

16 (2) *Notwithstanding any right to correct a deficiency before*
17 *imposition of a civil penalty, any agency or facility that repeats a*
18 *violation specified in paragraph (1) within 12 months of a prior*
19 *violation shall be subject to an immediate civil penalty of five*
20 *hundred dollars (\$500) per violation and one hundred dollars*
21 *(\$100) for each day the violation continues after citation for*
22 *facilities licensed to care for six or less persons, or an immediate*
23 *civil penalty of one thousand dollars (\$1,000) per violation and*
24 *two hundred dollars (\$200) for each day the violation continues*
25 *after citation for facilities licensed to care for seven or more*
26 *persons or for agencies without a capacity limitation indicated on*
27 *the license.*

28 (c) ~~Notwithstanding Section 1534 any right to correct a~~
29 ~~deficiency before imposition of a civil penalty, the department shall~~
30 ~~assess an immediate civil penalty of one hundred fifty thousand~~
31 ~~dollars (\$150) (\$1,000) per day per violation and two hundred~~
32 ~~dollars (\$200) for each day the violation continues after citation~~
33 ~~for facilities licensed to care for six or less persons, or an~~

1 *immediate civil penalty of two thousand dollars (\$2,000) per*
2 *violation and four hundred dollars (\$400) for each day the*
3 *violation continues after citation for facilities licensed to care for*
4 *seven or more persons or for agencies without a capacity*
5 *limitation, for any of the following serious violations:*

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

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

12 (ii) Initiated eviction proceedings.

13 (B) A licensee denied a clearance for bedridden residents may
14 appeal to the fire authority, and, if that appeal is denied, may
15 subsequently appeal to the Office of the State Fire Marshal, and
16 shall not be assessed an immediate civil penalty until the final
17 appeal is decided, or after 60 days has passed from the date of the
18 citation, whichever is earlier.

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

20 (3) Accessible bodies of water when prohibited in this chapter
21 or regulations adopted pursuant to this chapter.

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

23 (5) Refused entry to a facility or any part of a facility in violation
24 of Section 1533, 1534, or 1538.

25 (6) The presence of ~~an~~ ~~excluded~~ a person *subject to a*
26 *department Order of Exclusion* on the premises.

27 (d) *Notwithstanding any right to correct a deficiency before*
28 *imposition of a civil penalty, any agency or facility that repeats a*
29 *violation specified in subdivision (c) within 12 months of a prior*
30 *violation shall be subject to an immediate civil penalty of two*
31 *thousand dollars (\$2,000) per violation and one thousand five*
32 *hundred dollars (\$1,500) for each day the violation continues after*
33 *citation for facilities licensed to care for six or less persons, or an*
34 *immediate civil penalty of four thousand dollars (\$4,000) per*
35 *violation and three thousand dollars (\$3,000) for each day the*
36 *violation continues after citation for facilities licensed to care for*
37 *seven or more persons or for agencies without a capacity*
38 *limitation.*

39 ~~(d)~~

1 (e) (1) ~~For~~ *In addition to the imposition of a civil penalty for*
 2 *the underlying violation, for a violation that the department*
 3 *determines resulted in the death of a resident at an adult residential*
 4 *facility, social rehabilitation facility, enhanced behavioral supports*
 5 *home licensed as an adult residential facility, adult residential*
 6 *facility for persons with special health care needs, or community*
 7 *crisis home, the a civil penalty shall be fifteen thousand dollars*
 8 *(\$15,000); assessed as follows:*

9 (A) *Five thousand dollars (\$5,000) for facilities licensed to care*
 10 *for six or less persons.*

11 (B) *Fifteen thousand dollars (\$15,000) for facilities licensed to*
 12 *care for seven or more persons.*

13 (2) ~~For~~ *In addition to the imposition of a civil penalty for the*
 14 *underlying violation, for a violation that the department determines*
 15 *resulted in the death of a person receiving care at an adult day*
 16 *program, the a civil penalty shall be assessed as follows:*

17 (A) *Seven thousand five hundred dollars (\$7,500) for a licensee*
 18 *facilities licensed, among all of the licensee’s facilities, to care for*
 19 *50 or less persons.*

20 (B) *Ten thousand dollars (\$10,000) for a licensee facilities*
 21 *licensed, among all of the licensee’s facilities, to care for more*
 22 *than 50 51 or more persons.*

23 (3) ~~For~~ *In addition to the imposition of a civil penalty for the*
 24 *underlying violation, for a violation that the department determines*
 25 *resulted in the death of a person receiving care at a therapeutic day*
 26 *services facility, foster family agency, community treatment*
 27 *facility, full-service adoption agency, noncustodial adoption*
 28 *agency, transitional shelter care facility, transitional housing*
 29 *placement provider, or small family home, crisis nursery, group*
 30 *home, the or an enhanced behavioral supports home licensed as*
 31 *a group home, a civil penalty shall be assessed as follows:*

32 (A) *Seven thousand five hundred dollars (\$7,500) for a licensee*
 33 *facilities licensed, among all of the licensee’s facilities, to care for*
 34 *40 12 or less children.*

35 (B) *Ten thousand dollars (\$10,000) for a licensee licensed,*
 36 *among all of the licensee’s facilities, to care for 41 to 100,*
 37 *inclusive, children.*

38 (C) ~~—~~

1 (B) Fifteen thousand dollars (\$15,000) for ~~a licensee facilities~~
2 licensed, ~~among all of the licensee's facilities,~~ to care for more
3 than ~~100~~ 12 children.

4 (4) ~~For~~ *In addition to the imposition of a civil penalty for the*
5 *underlying violation, for a violation that the department determines*
6 *resulted in the death of a resident youth receiving care at a runaway*
7 *and homeless youth shelter licensed as a group home, the civil*
8 *penalty shall be five thousand dollars (\$5,000).*

9 (5) *In addition to the imposition of a civil penalty for the*
10 *underlying violation, for a violation that the department determines*
11 *resulted in the death of a child receiving care through a foster*
12 *family agency, the civil penalty shall be seven thousand five*
13 *hundred dollars (\$7,500).*

14 (6) *In addition to the imposition of a civil penalty for the*
15 *underlying violation, for a violation that the department determines*
16 *resulted in the death of an individual receiving care or services*
17 *through a full-service or noncustodial adoption agency, the civil*
18 *penalty shall be seven thousand five hundred dollars (\$7,500).*

19 ~~(e)~~

20 (f) (1) (A) ~~For~~ *In addition to the imposition of a civil penalty*
21 *for the underlying violation, for a violation that the department*
22 *determines constitutes physical abuse, as defined in Section*
23 *15610.63 of the Welfare and Institutions Code, or resulted in*
24 *serious bodily injury, as defined in Section 243 of the Penal Code,*
25 *to a resident at an adult residential facility, social rehabilitation*
26 *facility, enhanced behavioral supports home licensed as an adult*
27 *residential facility, adult residential facility for persons with special*
28 *health care needs, or community crisis home, ~~the~~ a civil penalty*
29 *shall be ~~ten thousand dollars (\$10,000).~~ assessed as follows:*

30 (i) *Two thousand five hundred dollars (\$2,500) for facilities*
31 *licensed to care for six or less persons.*

32 (ii) *Ten thousand dollars (\$10,000) for facilities licensed to*
33 *care for seven or more persons.*

34 (B) ~~For~~ *In addition to the imposition of a civil penalty for the*
35 *underlying violation, for a violation that the department determines*
36 *constitutes physical abuse, as defined in Section 15610.63 of the*
37 *Welfare and Institutions Code, or resulted in serious bodily injury,*
38 *as defined in Section 243 of the Penal Code, to a person receiving*
39 *care at an adult day program, ~~the~~ a civil penalty shall be assessed*
40 *as follows:*

1 (i) Two thousand five hundred dollars (\$2,500) for a licensee
2 ~~facilities licensed, among all of the licensee’s facilities,~~ to care for
3 50 or less persons.

4 (ii) Five thousand dollars (\$5,000) for a licensee ~~facilities~~
5 ~~licensed, among all of the licensee’s facilities,~~ to care for more
6 than 50 persons.

7 (C) ~~For~~ *In addition to the imposition of a civil penalty for the*
8 *underlying violation, for a violation that the department determines*
9 *constitutes physical abuse, as defined in paragraph (2), or resulted*
10 *in serious bodily injury, as defined in Section 243 of the Penal*
11 *Code, to a person receiving care at a therapeutic day services*
12 *facility, ~~foster family agency, community treatment facility,~~*
13 *~~full-service adoption agency, nonecustodial adoption agency,~~*
14 *transitional shelter care facility, transitional housing placement*
15 *provider, ~~or small family home, crisis nursery, group home, the or~~*
16 *an enhanced behavioral supports home licensed as a group home,*
17 *a civil penalty shall be assessed as follows:*

18 (i) Two thousand five hundred dollars (\$2,500) for a licensee
19 ~~facilities licensed, among all of the licensee’s facilities,~~ to care for
20 ~~40~~ 12 or less children.

21 (ii) ~~Five thousand dollars (\$5,000) for a licensee licensed, among~~
22 ~~all of the licensee’s facilities, to care for 41 to 100, inclusive,~~
23 ~~children.~~

24 (iii) ~~—~~
25 (ii) Ten thousand dollars (\$10,000) for a licensee ~~facilities~~
26 ~~licensed, among all of the licensee’s facilities,~~ to care for more
27 than ~~100~~ 12 children.

28 (D) ~~For~~ *In addition to the imposition of a civil penalty for the*
29 *underlying violation, for a violation that the department determines*
30 *constitutes physical abuse, as defined in paragraph (2), or resulted*
31 *in serious bodily injury, as defined in Section 243 of the Penal*
32 *Code, to a ~~resident~~ youth receiving care at a runaway and homeless*
33 *youth shelter, the civil penalty shall be one thousand dollars*
34 *(\$1,000).*

35 (E) *In addition to the imposition of a civil penalty for the*
36 *underlying violation, for a violation that the department determines*
37 *constitutes physical abuse, as defined in paragraph (2), or resulted*
38 *in serious bodily injury, as defined in Section 243 of the Penal*
39 *Code, to a child receiving care through a foster family agency,*

1 *the civil penalty shall be two thousand five hundred dollars*
2 *(\$2,500).*

3 *(F) In addition to the imposition of a civil penalty for the*
4 *underlying violation, for a violation that the department determines*
5 *constitutes physical abuse, as defined in paragraph (2), or resulted*
6 *in serious bodily injury, as defined in Section 243 of the Penal*
7 *Code, to an individual receiving care or services through a*
8 *full-service or noncustodial adoption agency, the civil penalty*
9 *shall be two thousand five hundred dollars (\$2,500).*

10 (2) For purposes of subparagraphs ~~(C)~~ and (C), (D), (E), and
11 (F), “physical abuse” includes physical injury inflicted upon a
12 child by another person by other than accidental means, sexual
13 abuse as defined in Section 11165.1 of the Penal Code, neglect as
14 defined in Section 11165.2 of the Penal Code, or unlawful corporal
15 punishment or injury as defined in Section 11165.4 of the Penal
16 Code when the person responsible for the child’s welfare is a
17 licensee, administrator, or employee of any facility licensed to
18 care for children.

19 ~~(f)~~

20 (g) Prior to the issuance of a citation imposing a civil penalty
21 pursuant to subdivision ~~(d)~~ (e) or ~~(e)~~ (f), the decision shall be
22 approved by the director.

23 ~~(g) Notwithstanding Section 1534, any facility that is cited for~~
24 ~~repeating the same violation of this chapter within 12 months of~~
25 ~~the first violation is subject to an immediate civil penalty of one~~
26 ~~hundred fifty dollars (\$150) and fifty dollars (\$50) for each day~~
27 ~~the violation continues until the deficiency is corrected.~~

28 ~~(h) Any facility that is assessed a civil penalty pursuant to~~
29 ~~subdivision (g) that repeats the same violation of this chapter within~~
30 ~~12 months of the violation subject to subdivision (g) is subject to~~
31 ~~an immediate civil penalty of one hundred fifty dollars (\$150) for~~
32 ~~each day the violation continues until the deficiency is corrected.~~

33 ~~(i)~~

34 (h) (1) The department shall adopt regulations setting forth the
35 appeal procedures for deficiencies.

36 (2) *Notwithstanding paragraph (1), the following appeal*
37 *procedures shall apply to deficiencies specified in subdivisions (e)*
38 *and (f):*

39 ~~(2)~~

1 (A) 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)~~ (e) and~~(e)~~ (f) within 10 days of receipt
 4 of 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)~~

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

24 ~~(4)~~

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

35 ~~(5)~~

36 (D) Upon exhausting the deputy director review, a licensee may
 37 appeal a civil penalty assessed pursuant to subdivision~~(d)~~ (e) or
 38 ~~(e)~~ (f) to an administrative law judge. Proceedings shall be
 39 conducted in accordance with Chapter 5 (commencing with Section
 40 11500) of Part 1 of Division 3 of Title 2 of the Government Code,

1 and the department shall have all the powers granted by those
2 provisions. In all proceedings conducted in accordance with this
3 section, the standard of proof shall be by a preponderance of the
4 evidence.

5 ~~(6)~~

6 (E) If, in addition to an assessment of civil penalties, the
7 department elects to file an administrative action to suspend or
8 revoke the facility license that includes violations relating to the
9 assessment of the civil penalties, the ~~department~~ review of the
10 pending appeal shall cease and the assessment of the civil penalties
11 shall be heard as part of the administrative action process.

12 ~~(j)~~

13 (i) The department shall adopt regulations implementing this
14 section.

15 ~~(k)~~

16 (j) The department shall, by January 1, 2016, amend its
17 regulations to reflect the changes to this section made by the act
18 that added this subdivision.

19 ~~(l)~~

20 (k) As provided in Section 11466.31 of the Welfare and
21 Institutions Code, the department may offset civil penalties owed
22 by a group home against moneys to be paid by a county for the
23 care of minors after the group home has exhausted its appeal of
24 the civil penalty assessment. The department shall provide the
25 group home a reasonable opportunity to pay the civil penalty before
26 instituting the offset provision.

27 ~~(m) This section shall become operative on July 1, 2015.~~

28 SEC. 2. Section 1568.0822 of the Health and Safety Code, as
29 added by Section 4 of Chapter 813 of the Statutes of 2014, is
30 amended to read:

31 1568.0822. (a) In addition to the suspension, temporary
32 suspension, or revocation of a license issued under this chapter,
33 the department ~~may~~ shall levy a civil penalty.

34 (b) (1) The amount of the civil penalty shall ~~not be less than~~
35 ~~twenty-five one hundred seventy-five~~ dollars ~~(\$25) or more than~~
36 ~~fifty dollars (\$50) (\$175)~~ per day for each violation of this chapter,
37 except where the nature or seriousness of the violation or the
38 frequency of the violation warrants a higher penalty or an
39 immediate civil penalty assessment, or both, as ~~determined by the~~
40 ~~department. In no event shall a civil penalty assessment exceed~~

1 ~~one hundred fifty dollars (\$150) per day per violation~~ *specified in*
 2 *this chapter.*

3 (2) *Notwithstanding any right to correct a deficiency before*
 4 *imposition of a civil penalty, any facility that repeats a violation*
 5 *specified in paragraph (1) within 12 months of a prior violation*
 6 *shall be subject to an immediate civil penalty of five hundred*
 7 *dollars (\$500) per violation and one hundred dollars (\$100) for*
 8 *each day the violation continues after citation for facilities licensed*
 9 *to care for six or less residents, or an immediate civil penalty of*
 10 *one thousand dollars (\$1,000) per violation and two hundred*
 11 *dollars (\$200) for each day the violation continues after citation*
 12 *for facilities licensed to care for seven or more residents.*

13 (c) ~~Notwithstanding Section 1568.07~~ *any right to correct a*
 14 *deficiency before imposition of a civil penalty, the department shall*
 15 *assess an immediate civil penalty of one hundred fifty thousand*
 16 *dollars ~~(\$150)~~ (\$1,000) per day per violation and two hundred*
 17 *dollars (\$200) for each day the violation continues after citation*
 18 *for facilities licensed to care for six or less residents, or an*
 19 *immediate civil penalty of two thousand dollars (\$2,000) per*
 20 *violation and four hundred dollars (\$400) for each day the*
 21 *violation continues after citation for facilities licensed to care for*
 22 *seven or more residents, for any of the following serious violations:*

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

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

29 (ii) *Initiated eviction proceedings.*

30 (B) *A licensee denied a clearance for bedridden residents may*
 31 *appeal to the fire authority, and, if that appeal is denied, may*
 32 *subsequently appeal to the Office of the State Fire Marshal, and*
 33 *shall not be assessed an immediate civil penalty until the final*
 34 *appeal is decided, or after 60 days has passed from the date of the*
 35 *citation, whichever is earlier.*

36 (2) *Absence of supervision, as required by statute and regulation.*

37 (3) *Accessible bodies of water, when prohibited in this chapter*
 38 *or regulations adopted pursuant to this chapter.*

39 (4) *Accessible firearms, ammunition, or both.*

1 (5) Refused entry to a facility or any part of a facility in violation
2 of Section 1568.07 or 1568.071.

3 (6) The presence of ~~an excluded~~ a person *subject to a*
4 *department Order of Exclusion* on the premises.

5 (d) *Notwithstanding any right to correct a deficiency before*
6 *imposition of a civil penalty, any facility that repeats a violation*
7 *specified in subdivision (c) within 12 months of a prior violation*
8 *shall be subject to an immediate civil penalty of two thousand*
9 *dollars (\$2,000) per violation and one thousand five hundred*
10 *dollars (\$1,500) for each day the violation continues after citation*
11 *for facilities licensed to care for six or less residents, or an*
12 *immediate civil penalty of four thousand dollars (\$4,000) per*
13 *violation and three thousand dollars (\$3,000) for each day the*
14 *violation continues after citation for facilities licensed to care for*
15 *seven or more residents.*

16 ~~(d) For~~

17 (e) *In addition to the imposition of a civil penalty for the*
18 *underlying violation, for a violation that the department determines*
19 *resulted in the death of a resident, the civil penalty shall be five*
20 *thousand dollars (\$5,000) per violation for facilities licensed to*
21 *care for six or less residents, or fifteen thousand dollars (\$15,000)*
22 *per violation for facilities licensed to care for seven or more*
23 *residents.*

24 ~~(e) For~~

25 (f) *In addition to the imposition of a civil penalty for the*
26 *underlying violation, for a violation that the department determines*
27 *constitutes physical abuse, as defined in Section 15610.63 of the*
28 *Welfare and Institutions Code, or resulted in serious bodily injury,*
29 *as defined in Section 243 of the Penal Code, to a resident, the civil*
30 *penalty shall be two thousand five hundred dollars (\$2,500) per*
31 *violation for facilities licensed to care for six or less residents, or*
32 *ten thousand dollars (\$10,000) per violation for facilities licensed*
33 *to care for seven or more residents.*

34 ~~(f) For~~

35 (g) *Prior to the issuance of a citation imposing a civil penalty*
36 *pursuant to subdivision ~~(d)~~ (e) or ~~(e)~~ (f), the decision shall be*
37 *approved by the director.*

38 ~~(g) Notwithstanding Section 1568.07, any residential care~~
39 ~~facility that is cited for repeating the same violation of this chapter~~
40 ~~within 12 months of the first violation is subject to an immediate~~

1 civil penalty of one hundred fifty dollars (\$150) and fifty dollars
2 (\$50) for each day the violation continues until the deficiency is
3 corrected.

4 ~~(h) Any residential care facility that is assessed a civil penalty~~
5 ~~pursuant to subdivision (g) that repeats the same violation of this~~
6 ~~chapter within 12 months of the violation subject to subdivision~~
7 ~~(g) shall be assessed an immediate civil penalty of one thousand~~
8 ~~dollars (\$1,000) and one hundred dollars (\$100) for each day the~~
9 ~~violation continues until the deficiency is corrected, provided that~~
10 ~~the violation is a serious violation.~~

11 ~~(i)~~
12 ~~(h) (1) The department shall adopt regulations setting forth the~~
13 ~~appeal procedures for deficiencies.~~

14 ~~(2) Notwithstanding paragraph (1), the following appeal~~
15 ~~procedures shall apply to deficiencies specified in subdivisions (e)~~
16 ~~and (f):~~

17 ~~(2)~~
18 (A) A licensee shall have the right to submit to the department
19 a written request for a formal review of a civil penalty assessed
20 pursuant to subdivisions ~~(d)~~ (e) and ~~(e)~~ (f) within 10 days of receipt
21 of the notice of a civil penalty assessment and shall provide all
22 supporting documentation at that time. The review shall be
23 conducted by a regional manager of the Community Care Licensing
24 Division. If the regional manager determines that the civil penalty
25 was not assessed in accordance with applicable statutes or
26 regulations of the department, he or she may amend or dismiss the
27 civil penalty. The licensee shall be notified in writing of the
28 regional manager’s decision within 60 days of the request to review
29 the assessment of the civil penalty.

30 ~~(3)~~
31 (B) The licensee may further appeal to the program administrator
32 of the Community Care Licensing Division within 10 days of
33 receipt of the notice of the regional manager’s decision and shall
34 provide all supporting documentation at that time. If the program
35 administrator determines that the civil penalty was not assessed
36 in accordance with applicable statutes or regulations of the
37 department, he or she may amend or dismiss the civil penalty. The
38 licensee shall be notified in writing of the program administrator’s
39 decision within 60 days of the request to review the regional
40 manager’s decision.

1 ~~(4)~~

2 (C) The licensee may further appeal to the deputy director of
3 the Community Care Licensing Division within 10 days of receipt
4 of the notice of the program ~~director's~~ *administrator's* decision
5 and shall provide all supporting documentation at that time. If the
6 deputy director determines that the civil penalty was not assessed
7 in accordance with applicable statutes or regulations of the
8 department, he or she may amend or dismiss the civil penalty. The
9 licensee shall be notified in writing of the deputy director's decision
10 within 60 days of the request to review the program administrator's
11 decision.

12 ~~(5)~~

13 (D) Upon exhausting the deputy director review, a licensee may
14 appeal a civil penalty assessed pursuant to subdivision ~~(d)~~ (e) or
15 ~~(e)~~ (f) to an administrative law judge. Proceedings shall be
16 conducted in accordance with Chapter 5 (commencing with Section
17 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
18 and the department shall have all the powers granted by those
19 provisions. In all proceedings conducted in accordance with this
20 section, the standard of proof shall be by a preponderance of the
21 evidence.

22 ~~(6)~~

23 (E) If, in addition to an assessment of civil penalties, the
24 department elects to file an administrative action to suspend or
25 revoke the facility license that includes violations relating to the
26 assessment of the civil penalties, the ~~department~~ review of the
27 pending appeal shall cease and the assessment of the civil penalties
28 shall be heard as part of the administrative action process.

29 ~~(j)~~

30 (i) The department shall adopt regulations implementing this
31 section.

32 ~~(k)~~

33 (j) The department shall, by January 1, 2016, amend its
34 regulations to reflect the changes to this section made by the act
35 that added this subdivision.

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

37 SEC. 3. Section 1569.49 of the Health and Safety Code, as
38 added by Section 6 of Chapter 813 of the Statutes of 2014, is
39 amended to read:

1 1569.49. (a) In addition to the suspension, temporary
 2 suspension, or revocation of a license issued under this chapter,
 3 the department ~~may~~ shall levy a civil penalty.

4 (b) (1) The amount of the civil penalty shall ~~not be less than~~
 5 ~~twenty-five one hundred seventy-five~~ *one hundred seventy-five* dollars ~~or more than fifty~~
 6 ~~dollars (\$50) (\$175)~~ *(\$175)* per day for each violation of this chapter
 7 except where the nature or seriousness of the violation or the
 8 frequency of the violation warrants a higher penalty or an
 9 immediate civil penalty assessment, or both, as ~~determined by the~~
 10 ~~department. In no event, shall a civil penalty assessment exceed~~
 11 ~~one hundred fifty dollars (\$150) per day per violation provided in~~ *provided in*
 12 *this chapter.*

13 (2) *Notwithstanding any right to correct a deficiency before*
 14 *imposition of a civil penalty, any facility that repeats a violation*
 15 *specified in paragraph (1) within 12 months of a prior violation*
 16 *shall be subject to an immediate civil penalty of five hundred*
 17 *dollars (\$500) per violation and one hundred dollars (\$100) for*
 18 *each day the violation continues after citation for facilities licensed*
 19 *to care for six or less residents, or an immediate civil penalty of*
 20 *one thousand dollars (\$1,000) per violation and two hundred*
 21 *dollars (\$200) for each day the violation continues after citation*
 22 *for facilities licensed to care for seven or more residents.*

23 (c) ~~Notwithstanding Section 1569.33~~ *any right to correct a*
 24 *deficiency before imposition of a civil penalty, the department shall*
 25 *assess an immediate civil penalty of one hundred fifty thousand*
 26 *dollars (\$150) (\$1,000) per day per violation and two hundred*
 27 *dollars (\$200) for each day the violation continues after citation*
 28 *for facilities licensed to care for six or less residents, or an*
 29 *immediate civil penalty of two thousand dollars (\$2,000) per*
 30 *violation and four hundred dollars (\$400) for each day the*
 31 *violation continues after citation for facilities licensed to care for*
 32 *seven or more residents, for any of the following serious violations:*

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

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

39 (ii) Initiated eviction proceedings.

1 (B) A licensee denied a clearance for bedridden residents may
2 appeal to the fire authority, and, if that appeal is denied, may
3 subsequently appeal to the Office of the State Fire Marshal, and
4 shall not be assessed an immediate civil penalty until the final
5 appeal is decided, or after 60 days has passed from the date of the
6 citation, whichever is earlier.

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

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

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

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

13 (6) The presence of ~~an excluded~~ a person *subject to a*
14 *department Order of Exclusion* on the premises.

15 (d) *Notwithstanding any right to correct a deficiency before*
16 *imposition of a civil penalty, any facility that repeats a violation*
17 *specified in subdivision (c) within 12 months of a prior violation*
18 *shall be subject to an immediate civil penalty of two thousand*
19 *dollars (\$2,000) per violation and one thousand five hundred*
20 *dollars (\$1,500) for each day the violation continues after citation*
21 *for facilities licensed to care for six or less residents, or an*
22 *immediate civil penalty of four thousand dollars (\$4,000) per*
23 *violation and three thousand dollars (\$3,000) for each day the*
24 *violation continues after citation for facilities licensed to care for*
25 *seven or more residents.*

26 ~~(d) For~~

27 (e) *In addition to the imposition of a civil penalty for the*
28 *underlying violation, for a violation that the department determines*
29 *resulted in the death of a resident, the civil penalty shall be five*
30 *thousand dollars (\$5,000) per violation for facilities licensed to*
31 *care for six or less residents, or fifteen thousand dollars (\$15,000)*
32 *per violation for facilities licensed to care for seven or more*
33 *residents.*

34 ~~(e) For~~

35 (f) *In addition to the imposition of a civil penalty for the*
36 *underlying violation, for a violation that the department determines*
37 *constitutes physical abuse, as defined in Section 15610.63 of the*
38 *Welfare and Institutions Code, or resulted in serious bodily injury,*
39 *as defined in Section 15610.67 of the Welfare and Institutions*
40 *Code, to a resident, the civil penalty shall be two thousand five*

1 hundred dollars (\$2,500) per violation for facilities licensed to
2 care for six or less residents, or ten thousand dollars (\$10,000)
3 per violation for facilities licensed to care for seven or more
4 residents.

5 (f)

6 (g) Prior to the issuance of a citation imposing a civil penalty
7 pursuant to subdivision ~~(d)~~ (e) or ~~(e)~~ (f), the decision shall be
8 approved by the director.

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

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

21 (i)

22 (h) (1) The department shall adopt regulations setting forth the
23 appeal procedures for deficiencies.

24 (2) *Notwithstanding paragraph (1), the following appeal*
25 *procedures shall apply to deficiencies specified in subdivisions (e)*
26 *and (f):*

27 (2)

28 (A) A licensee shall have the right to submit to the department
29 a written request for a formal review of a civil penalty assessed
30 pursuant to subdivisions ~~(d)~~ (e) and ~~(e)~~ (f) within 10 days of receipt
31 of the notice of a civil penalty assessment and shall provide all
32 supporting documentation at that time. The review shall be
33 conducted by a regional manager of the Community Care Licensing
34 Division. If the regional manager determines that the civil penalty
35 was not assessed in accordance with applicable statutes or
36 regulations of the department, he or she may amend or dismiss the
37 civil penalty. The licensee shall be notified in writing of the
38 regional manager's decision within 60 days of the request to review
39 the assessment of the civil penalty.

40 (3)

1 (B) The licensee may further appeal to the program administrator
2 of the Community Care Licensing Division within 10 days of
3 receipt of the notice of the regional manager's decision and shall
4 provide all supporting documentation at that time. If the program
5 administrator determines that the civil penalty was not assessed
6 in accordance with applicable statutes or regulations of the
7 department, he or she may amend or dismiss the civil penalty. The
8 licensee shall be notified in writing of the program administrator's
9 decision within 60 days of the request to review the regional
10 manager's decision.

11 ~~(4)~~

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

22 ~~(5)~~

23 (D) Upon exhausting the deputy director review, a licensee may
24 appeal a civil penalty assessed pursuant to subdivision ~~(d)~~ (e) or
25 ~~(e)~~ (f) to an administrative law judge. Proceedings shall be
26 conducted in accordance with Chapter 5 (commencing with Section
27 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
28 and the department shall have all the powers granted by those
29 provisions. In all proceedings conducted in accordance with this
30 section, the standard of proof shall be by a preponderance of the
31 evidence.

32 ~~(6)~~

33 (E) If, in addition to an assessment of civil penalties, the
34 department elects to file an administrative action to suspend or
35 revoke the facility license that includes violations relating to the
36 assessment of the civil penalties, the ~~department~~ review of the
37 pending appeal shall cease and the assessment of the civil penalties
38 shall be heard as part of the administrative action process.

39 ~~(j)~~

1 (i) The department shall adopt regulations implementing this
 2 section.

3 ~~(k)~~

4 (j) The department shall, by January 1, 2016, amend its
 5 regulations to reflect the changes to this section made by the act
 6 that added this subdivision.

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

8 SEC. 4. Section 1596.99 of the Health and Safety Code, as
 9 added by Section 8 of Chapter 813 of the Statutes of 2014, is
 10 amended to read:

11 1596.99. (a) In addition to the suspension, temporary
 12 suspension, or revocation of a license issued under this chapter or
 13 Chapter 3.4 (commencing with Section 1596.70), the department
 14 ~~may~~ shall levy a civil penalty.

15 (b) The amount of the civil penalty shall ~~not be less than~~
 16 ~~twenty-five one hundred seventy-five~~ dollars ~~nor more than fifty~~
 17 ~~dollars~~ ~~(\$50)~~ ~~(\$175)~~ per day for each violation of this chapter
 18 except where the nature or seriousness of the violation or the
 19 frequency of the violation warrants a higher penalty or an
 20 immediate civil penalty assessment, or both, as ~~determined by the~~
 21 ~~department. In no event shall a civil penalty assessment exceed~~
 22 ~~one hundred fifty dollars (\$150) per day per violation specified in~~
 23 ~~this chapter.~~

24 *(1) Notwithstanding any right to correct a deficiency before*
 25 *imposition of a civil penalty, any facility that repeats a violation*
 26 *specified in subdivision (b) within 12 months of a prior violation*
 27 *shall be subject to an immediate civil penalty of five hundred*
 28 *dollars (\$500) per violation and one hundred dollars (\$100) for*
 29 *each day the violation continues after citation for facilities licensed*
 30 *to care for 30 or less children, or an immediate civil penalty of*
 31 *one thousand dollars (\$1,000) per violation and two hundred*
 32 *dollars (\$200) for each day the violation continues after citation*
 33 *for facilities licensed to care for 31 or more children.*

34 (c) Notwithstanding ~~Sections 1596.893a, 1596.893b, and~~
 35 ~~1596.98~~ any right to correct a deficiency before imposition of a
 36 civil penalty, the department shall assess an immediate civil penalty
 37 of one ~~hundred fifty (\$150)~~ ~~thousand~~ ~~dollars~~ ~~(\$1,000)~~ per day per
 38 violation and two hundred dollars (\$200) for each day the violation
 39 continues after citation for facilities licensed to care for 30 or less
 40 children, or an immediate civil penalty of two thousand dollars

1 (\$2,000) per violation and four hundred dollars (\$400) for each
2 day the violation continues after citation for facilities licensed to
3 care for 31 or more children, for any of the following serious
4 violations:

5 (1) Fire clearance violations, including, but not limited to,
6 overcapacity, inoperable smoke alarms, and inoperable fire alarm
7 systems.

8 (2) Absence of supervision, including, but not limited to, a child
9 left unattended, supervision of a child by a person under 18 years
10 of age, and lack of supervision resulting in a child wandering away.

11 (3) Accessible bodies of water.

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

13 (5) Refused entry to a facility or any part of a facility in violation
14 of Section 1596.852, 1596.853, or 1597.09.

15 (6) The presence of ~~an excluded~~ a person *subject to a*
16 *department Order of Exclusion* on the premises.

17 (d) *Notwithstanding any right to correct a deficiency before*
18 *imposition of a civil penalty, any facility that repeats a violation*
19 *specified in subdivision (c) within 12 months of a prior violation*
20 *shall be subject to an immediate civil penalty of two thousand*
21 *dollars (\$2,000) per violation and one thousand five hundred*
22 *dollars (\$1,500) for each day the violation continues after citation*
23 *for facilities licensed to care for 30 or less children, or an*
24 *immediate civil penalty of four thousand dollars (\$4,000) per*
25 *violation and three thousand dollars (\$3,000) for each day the*
26 *violation continues after citation for facilities licensed to care for*
27 *31 or more children.*

28 ~~(d)~~

29 (e) For a violation that the department determines resulted in
30 the death of a child, the civil penalty shall be assessed as follows:

31 (1) Seven thousand five hundred dollars (\$7,500) for a ~~licensee~~
32 ~~facility licensed, among all of the licensee's facilities,~~ to care for
33 30 or less children.

34 (2) Ten thousand dollars (\$10,000) for a ~~licensee facility~~
35 ~~licensed, among all of the licensee's facilities,~~ to care for 31 to
36 ~~100~~ 120, inclusive, children.

37 (3) Fifteen thousand dollars (\$15,000) for a ~~licensee facility~~
38 ~~licensed, among all of the licensee's facilities,~~ to care for more
39 than ~~100~~ 120 children.

40 ~~(e)~~

1 (f) (1) For a violation that the department determines constitutes
 2 physical abuse or resulted in serious injury, as defined in Section
 3 1596.8865, to a child, the civil penalty shall be assessed as follows:

4 (A) Two thousand five hundred dollars (\$2,500) for a licensee
 5 *facility* licensed, ~~among all of the licensee’s facilities,~~ to care for
 6 30 or less children.

7 (B) Five thousand dollars (\$5,000) for a ~~licensee facility~~
 8 licensed, ~~among all of the licensee’s facilities,~~ to care for 31 to
 9 ~~100~~ 120, inclusive, children.

10 (C) Ten thousand dollars (\$10,000) for a ~~licensee facility~~
 11 licensed, ~~among all of the licensee’s facilities,~~ to care for more
 12 than ~~100~~ 120 children.

13 (2) For purposes of this subdivision, “physical abuse” includes
 14 physical injury inflicted upon a child by another person by other
 15 than accidental means, sexual abuse as defined in Section 11165.1
 16 of the Penal Code, neglect as defined in Section 11165.2 of the
 17 Penal Code, or unlawful corporal punishment or injury as defined
 18 in Section 11165.4 of the Penal Code when the person responsible
 19 for the child’s welfare is a licensee, administrator, or employee of
 20 any facility licensed to care for children, or an administrator or
 21 employee of a public or private school or other institution or
 22 agency.

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

27 ~~(g) Notwithstanding Sections 1596.893a, 1596.893b, and~~
 28 ~~1596.98, any day care center that is cited for repeating the same~~
 29 ~~violation of this chapter or Chapter 3.4 (commencing with Section~~
 30 ~~1596.70), within 12 months of the first violation is subject to an~~
 31 ~~immediate civil penalty of one hundred fifty dollars (\$150) for~~
 32 ~~each day the violation continues until the deficiency is corrected.~~

33 ~~(h) Any day care center that is assessed a civil penalty under~~
 34 ~~subdivision (g) and that repeats the same violation of this chapter~~
 35 ~~within 12 months of the violation subject to subdivision (g) shall~~
 36 ~~be assessed an immediate civil penalty of one hundred fifty dollars~~
 37 ~~(\$150) for each day the violation continues until the deficiency is~~
 38 ~~corrected.~~

39 (i)

1 (h) Notwithstanding any other law, revenues received by the
2 state from the payment of civil penalties imposed on licensed child
3 care centers pursuant to this chapter or Chapter 3.4 (commencing
4 with Section 1596.70), shall be deposited in the Child Health and
5 Safety Fund, created pursuant to Chapter 4.6 (commencing with
6 Section 18285) of Part 6 of Division 9 of the Welfare and
7 Institutions Code, and shall be expended, upon appropriation by
8 the Legislature, pursuant to subdivision (f) of Section 18285 of
9 the Welfare and Institutions Code exclusively for the technical
10 assistance, orientation, training, and education of licensed day care
11 center providers, ~~and to assist families with the identification,
12 transportation, and enrollment of children to another day care
13 center when a family's day care center's license is revoked or
14 temporarily suspended.~~

15 (j)

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

18 (2) *Notwithstanding paragraph (1), the following appeal
19 procedures shall apply to deficiencies specified in subdivisions (e)
20 and (f):*

21 (2)

22 (A) A licensee shall have the right to submit to the department
23 a written request for a formal review of a civil penalty assessed
24 pursuant to subdivisions ~~(d)~~ (e) and ~~(e)~~ (f) within 10 days of receipt
25 of the notice of a civil penalty assessment and shall provide all
26 supporting documentation at that time. The review shall be
27 conducted by a regional manager of the Community Care Licensing
28 Division. If the regional manager determines that the civil penalty
29 was not assessed in accordance with applicable statutes or
30 regulations of the department, he or she may amend or dismiss the
31 civil penalty. The licensee shall be notified in writing of the
32 regional manager's decision within 60 days of the request to review
33 the assessment of the civil penalty.

34 (3)

35 (B) The licensee may further appeal to the program administrator
36 of the Community Care Licensing Division within 10 days of
37 receipt of the notice of the regional manager's decision and shall
38 provide all supporting documentation at that time. If the program
39 administrator determines that the civil penalty was not assessed
40 in accordance with applicable statutes or regulations of the

1 department, he or she may amend or dismiss the civil penalty. The
2 licensee shall be notified in writing of the program administrator’s
3 decision within 60 days of the request to review the regional
4 manager’s decision.

5 ~~(4)~~

6 (C) The licensee may further appeal to the deputy director of
7 the Community Care Licensing Division within 10 days of receipt
8 of the notice of the program ~~director’s~~ administrator’s decision
9 and shall provide all supporting documentation at that time. If the
10 deputy director determines that the civil penalty was not assessed
11 in accordance with applicable statutes or regulations of the
12 department, he or she may amend or dismiss the civil penalty. The
13 licensee shall be notified in writing of the deputy director’s decision
14 within 60 days of the request to review the program administrator’s
15 decision.

16 ~~(5)~~

17 (D) Upon exhausting the deputy director review, a licensee may
18 appeal a civil penalty assessed pursuant to subdivision ~~(d)~~ (e) or
19 ~~(e)~~ (f) to an administrative law judge. Proceedings shall be
20 conducted in accordance with Chapter 5 (commencing with Section
21 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
22 and the department shall have all the powers granted by those
23 provisions. In all proceedings conducted in accordance with this
24 section, the standard of proof shall be by a preponderance of the
25 evidence.

26 ~~(6)~~

27 (E) If, in addition to an assessment of civil penalties, the
28 department elects to file an administrative action to suspend or
29 revoke the facility license that includes violations relating to the
30 assessment of the civil penalties, the ~~department~~ review of the
31 pending appeal shall cease and the assessment of the civil penalties
32 shall be heard as part of the administrative action process.

33 ~~(k)~~

34 (j) The department shall, by January 1, 2016, amend its
35 regulations to reflect the changes to this section made by the act
36 that added this subdivision.

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

38 SEC. 5. Section 1597.58 of the Health and Safety Code, as
39 added by Section 10 of Chapter 813 of the Statutes of 2014, is
40 amended to read:

1 1597.58. (a) In addition to the suspension, temporary
2 suspension, or revocation of a license issued under this chapter,
3 the department ~~may~~ shall levy a civil penalty.

4 (b) (1) The amount of the civil penalty shall ~~not be less than~~
5 ~~twenty-five one hundred seventy-five~~ dollars ~~(\$25) nor more than~~
6 ~~fifty dollars (\$50) (\$175)~~ per day for each violation of this chapter
7 except where the nature or seriousness of the violation or the
8 frequency of the violation warrants a higher penalty or an
9 immediate civil penalty assessment or both, as ~~determined by the~~
10 ~~department. In no event shall a civil penalty assessment exceed~~
11 ~~one hundred fifty dollars (\$150) per day per violation specified in~~
12 ~~this chapter.~~

13 (2) *Notwithstanding any right to correct a deficiency before*
14 *imposition of a civil penalty, any facility that repeats a violation*
15 *specified in paragraph (1) within 12 months of a prior violation*
16 *shall be subject to an immediate civil penalty of five hundred*
17 *dollars (\$500) per violation and one hundred dollars (\$100) for*
18 *each day the violation continues after citation for facilities licensed*
19 *as small family day care homes, or an immediate civil penalty of*
20 *one thousand dollars (\$1,000) per violation and two hundred*
21 *dollars (\$200) for each day the violation continues after citation*
22 *for facilities licensed as large family day care homes.*

23 (c) ~~Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,~~
24 ~~and 1597.62 any right to correct a deficiency before imposition of~~
25 ~~a civil penalty, the department shall assess an immediate civil~~
26 ~~penalty of one hundred fifty thousand dollars (\$150) per day~~
27 ~~(\$1,000) per violation and two hundred dollars (\$200) for each~~
28 ~~day the violation continues after citation for facilities licensed as~~
29 ~~small family day care homes, or an immediate civil penalty of two~~
30 ~~thousand dollars (\$2,000) per violation and four hundred dollars~~
31 ~~(\$400) for each day the violation continues after citation for~~
32 ~~facilities licensed as large family day care homes, for any of the~~
33 ~~following serious violations:~~

34 (1) Any violation that results in the injury, illness, or death of
35 a child.

36 (2) Absence of supervision, including, but not limited to, a child
37 left unattended, a child left alone with a person under 18 years of
38 age, and lack of supervision resulting in a child wandering away.

39 (3) Accessible bodies of water.

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

1 (5) Refused entry to a facility or any part of a facility in violation
2 of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.

3 (6) The presence of ~~an excluded~~ a person *subject to a*
4 *department Order of Exclusion* on the premises.

5 (d) *Notwithstanding any right to correct a deficiency before*
6 *imposition of a civil penalty, any facility that repeats a violation*
7 *specified in subdivision (c) within 12 months of a prior violation*
8 *shall be subject to an immediate civil penalty of two thousand*
9 *dollars (\$2,000) per violation and one thousand five hundred*
10 *dollars (\$1,500) for each day the violation continues after citation*
11 *for facilities licensed as small family day care homes, or an*
12 *immediate civil penalty of four thousand dollars (\$4,000) per*
13 *violation and three thousand dollars (\$3,000) for each day the*
14 *violation continues after citation for facilities licensed as large*
15 *family day care homes.*

16 ~~(d)~~

17 (e) For a violation that the department determines resulted in
18 the death of a child, the civil penalty shall be assessed as follows:

19 (1) Five thousand dollars (\$5,000) for a small family day care
20 home, as described in Section 1597.44.

21 (2) Seven thousand five hundred dollars (\$7,500) for a large
22 family day care home, as described in Section 1597.465.

23 ~~(e)~~

24 (f) (1) For a violation that the department determines constitutes
25 physical abuse or resulted in serious injury, as defined in Section
26 1596.8865, to a child, the civil penalty shall be assessed as follows:

27 (A) One thousand dollars (\$1,000) for a small family day care
28 home, as described in Section 1597.44.

29 (B) Two thousand dollars (\$2,000) for a large family day care
30 home, as described in Section 1597.465.

31 (2) For purposes of this subdivision, “physical abuse” includes
32 physical injury inflicted upon a child by another person by other
33 than accidental means, sexual abuse as defined in Section 11165.1
34 of the Penal Code, neglect as defined in Section 11165.2 of the
35 Penal Code, or unlawful corporal punishment or injury as defined
36 in Section 11165.4 of the Penal Code when the person responsible
37 for the child’s welfare is a licensee, administrator, or employee of
38 any facility licensed to care for children, or an administrator or
39 employee of a public or private school or other institution or
40 agency.

1 (f)

2 (g) Prior to the issuance of a citation imposing a civil penalty
3 pursuant to subdivision ~~(d)~~ (e) or ~~(e)~~ (f), the decision shall be
4 approved by the director.

5 ~~(g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,~~
6 ~~and 1597.62, any family day care home that is cited for repeating~~
7 ~~the same violation of this chapter or Chapter 3.4 (commencing~~
8 ~~with Section 1596.70), within 12 months of the first violation is~~
9 ~~subject to an immediate civil penalty assessment of up to one~~
10 ~~hundred fifty dollars (\$150) and may be assessed up to fifty dollars~~
11 ~~(\$50) for each day the violation continues until the deficiency is~~
12 ~~corrected.~~

13 ~~(h) Any family day care home that is assessed a civil penalty~~
14 ~~under subdivision (g) that repeats the same violation of this chapter~~
15 ~~within 12 months of the violation subject to subdivision (g) shall~~
16 ~~be assessed an immediate assessment of up to one hundred fifty~~
17 ~~dollars (\$150) and may be assessed up to one hundred fifty dollars~~
18 ~~(\$150) for each day the violation continues until the deficiency is~~
19 ~~corrected.~~

20 (i)

21 (h) Notwithstanding any other law, revenues received by the
22 state from the payment of civil penalties imposed on licensed
23 family day care homes pursuant to this chapter or Chapter 3.4
24 (commencing with Section 1596.70), shall be deposited in the
25 Child Health and Safety Fund, created pursuant to Chapter 4.6
26 (commencing with Section 18285) of Part 6 of Division 9 of the
27 Welfare and Institutions Code, and shall be expended, upon
28 appropriation by the Legislature, pursuant to subdivision (f) of
29 Section 18285 of the Welfare and Institutions Code exclusively
30 for the technical assistance, orientation, training, and education of
31 licensed family day care home providers, ~~and to assist families~~
32 ~~with the identification, transportation, and enrollment of children~~
33 ~~to another family day care home when a family's family day care~~
34 ~~home's license is revoked or temporarily suspended.~~

35 (j)

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

38 (2) *Notwithstanding paragraph (1), the following appeal*
39 *procedures shall apply to deficiencies specified in subdivisions (e)*
40 *and (f):*

1 ~~(2)~~

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

14 ~~(3)~~

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

25 ~~(4)~~

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

36 ~~(5)~~

37 (D) Upon exhausting the deputy director review, a licensee may
 38 appeal a civil penalty assessed pursuant to subdivision ~~(d)~~ (e) or
 39 ~~(e)~~ (f) to an administrative law judge. Proceedings shall be
 40 conducted in accordance with Chapter 5 (commencing with Section

1 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
2 and the department shall have all the powers granted by those
3 provisions. In all proceedings conducted in accordance with this
4 section, the standard of proof shall be by a preponderance of the
5 evidence.

6 ~~(6)~~

7 (E) If, in addition to an assessment of civil penalties, the
8 department elects to file an administrative action to suspend or
9 revoke the facility license that includes violations relating to the
10 assessment of the civil penalties, the ~~department~~ review of the
11 pending appeal shall cease and the assessment of the civil penalties
12 shall be heard as part of the administrative action process.

13 ~~(k)~~

14 (j) The department shall, by January 1, 2016, amend its
15 regulations to reflect the changes to this section made by the act
16 that added this subdivision.

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