

**STATE OF CALIFORNIA  
DEPARTMENT OF DEVELOPMENTAL SERVICES**

**NOTICE OF PROPOSED RULEMAKING AND PUBLIC COMMENT PERIOD FOR  
PROPOSED AMENDMENTS TO THE  
Children's Community Crisis Homes and  
Enhanced Behavior Supports Homes**

The Department of Developmental Services (Department) proposes to amend the Children's Community Crisis Homes (CCH) and Enhanced Behavior Supports Homes (EBSH) regulations as described below after considering all comments, objections, and recommendations regarding the proposed action.

**WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

The public comment period for this regulatory action will begin on **June 3, 2022**, and closes on **July 18, 2022**. To ensure the Department will consider your comment it must be received by the Department **no later than July 18, 2022**. When commenting, please indicate the proposed rulemaking action to which your comment refers.

Any interested person or his or her representative may submit comments relevant to the proposed regulatory action to the Department by personal delivery, postal mail service, or electronic submittal as described in detail below. Comments sent to persons and/or addresses other than that specified, or received after the date and time specified above, may be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.

For consideration, written comments shall be submitted as follows:

Postal Mail or Hand Delivery: Department of Developmental Services  
Legislation, Regulations & Public Affairs  
**RE: CCH and EBSH**  
1215 O Street M.S.9-10  
Sacramento, CA 95814; or

[Electronic Submittal:](https://www.dds.ca.gov/transparency/lawsregulations/emergency-and-proposed-regulations/) <https://www.dds.ca.gov/transparency/lawsregulations/emergency-and-proposed-regulations/>

**“Please note: Public comments should not include any personal or medical information, as your written and oral comments, and attachments become part of the public record and can be released to the public upon request under the California Public Records Act (Gov. Code, § 6250 et seq.).”**

## **PUBLIC HEARING**

A public hearing is not currently scheduled; however, any interested person may request the Department to conduct a public hearing. A public hearing will be held if any interested person, or their duly authorized representative, requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice fifteen (15) days prior to the close of the 45-day comment period. If a request for public hearing is received, the time, date, and location of the public hearing will be provided by separate notice. The Department shall consider all comments received regarding the proposal equally, whether submitted in writing or through oral testimony at a public hearing

## **AUTHORITY AND REFERENCE**

Welfare and Institutions Code (WIC), Sections 4698, 4698.1, 4684.81, and 4684.86 and Health and Safety Code (HSC), Section 1180.2 authorize the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 4648, 4695.2, 4698, 4698.1, 4684.81, and 4684.86 of the WIC, and Sections 1180.1, 1180.4, and 1567.81 of the HSC.

## **INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

**Sections Affected:** Proposed amendments to Sections 59000, 59001, 59002, 59006, 59007, 59008, 59009, 59010, 59011, 59012, 59022, 59050, 59051, 59052, 59054, 59055, 59056, 59057, 59058, 59059, 59060, 59061, 59062, 59063, 59064, 59065, 59066, 59067, 59068, 59069, 59070, 59071 and 59072. Title 17, California Code of Regulations (CCR).

Proposed adoption of new Articles 5.5 and 6.5 and new Sections 59009.5, 59010.1, 59010.2, 59010.3, 59010.4, and 59010.5, Subchapter 23, Title 17, CCR, for CCH.

Proposed adoption of new Articles 5.5 and 6.5 and new Sections 59060.1, 59060.2, 59060.3, 59060.4, and 59060.5, Subchapter 24, Title 17, CCR, for EBSH.

The Department has reorganized the EBSH regulations to mirror the arrangement of the CCH regulations. The Department proposes to renumber Sections 59054 to 59060, 59055 to 59063, 59056 to 59059, 59057 to 59064, 59058 to 59065, 59059 to 59066, 59060 to 59054, 59061 to 59055, 59062 to 59056, 59063 to 59057, 59064 to 59058, 59065 to 59067, 59066 to 59068, 59067 to 59069, 59068 to 59070, 59069 to 59071, 59070 to 59061, 59071 to 59062. Furthermore, the Department proposes to renumber Articles 4 to 6, 5 to 8, 6 to 5, 7 to 9, 8 to 4, 9 to 10, and 10 to 7. The Initial Statement of Reasons includes a crosswalk on page 4, which identifies the proposed rearrangement and allows for a side-by-side comparison of the regulations.

## **Documents Incorporated by Reference**

- Department Form DS 6024 (Revised 9/2021) entitled “Rate Development - Individual Costs Associated with Residency”
- Department Form DS 6023 (Revised 9/2021) entitled Rate Development – Facility Costs
- Repealed Department Form DS 6024 (Revised 10/2016) entitled “Rate Development - Individual Costs Associated with Residency”
- Repealed Department Form DS 6023 (Revised 10/2016) entitled Rate Development – Facility Costs

## **Summary of Existing Laws and Effect of the Proposed Regulatory Action:**

The Department is responsible for administering the Lanterman Act. The Lanterman Act, WIC, Section 4500 et seq., was enacted to reduce institutionalization of people with developmental disabilities and prevent their dislocation from their home communities. Under the Lanterman Act, people with developmental disabilities have a right to services and supports in the least restrictive environment. With the reduced reliance on restrictive institutional and out-of-state placements, there is a need to increase community capacity and develop new alternatives, particularly for the most difficult-to-serve consumers. Furthermore, pursuant to the Lanterman Act, WIC, Section 4500 et seq., people with developmental disabilities, as defined in WIC, Section 4512(a), receive, as an entitlement, services and supports based on their individual needs and choices.

2012 Budget Trailer Bill language Assembly Bill (AB) 1472 imposed a moratorium on admissions into state developmental centers and closure plans for the remaining state developmental centers arose from 2015 Budget Trailer Bill language Senate Bill (SB) 82. With the reduced reliance on costly and restrictive institutional and out-of-state placements, there is a need to increase community capacity and develop new alternatives, particularly for the most difficult-to-serve consumers, including those with challenging behaviors.

To continue the development of alternative living arrangements, SB 856, (Committee on Budget and Fiscal Review, Chapter 30, Statutes of 2014), required the Department to develop the residential option of Community Crisis Homes, as well as Enhanced Behavioral Supports Homes.

As part of the 2019-20 State Budget package, SB 81 amended and added numerous sections of law pertaining to Human Services, including amendments which require the Department to develop guidelines around the use of restraint

or containment in community crisis homes. The Department is now undertaking the regular rulemaking process to make the Children's Community Crisis Homes emergency regulations permanent and to align the Enhanced Behavioral Supports Homes with the same regulations.

The proposed adoption of these regulations on a permanent basis is necessary to permit the continued availability of the residential options and to establish program standards, consumers' rights protections, and other requirements for these homes, including the guidelines around the use of restraint or containment in Community Crisis Homes and Enhanced Behavioral Supports Homes.

The proposed regulations clarify and interpret WIC Section 4684.86. The authorizing statutes permit but do not require the establishment of Community Crisis Homes and Enhanced Behavioral Supports Homes, as well as the program standards for their development. The amendments proposed in this rulemaking action would add specificity and greater detail regarding the program standards which include program plan requirements, staffing structure, staff qualifications and training, requirements and timelines for the completion and updating of consumers' individual behavior supports plans, admission and continued stay requirements, requirements for ensuring appropriate services and supports are provided at the time of admission, the rate methodology, and assurances of consumer rights and protections.

**Comparable Federal Regulations:**

None.

**Anticipated Objectives and Benefits of the Proposed Regulations:**

The broad objective of the proposed regulatory action is to ensure that the guidelines around the use of restraint or containment in EBSH and CCH are clear and precise. The benefit of these regulations is in furthering the intent of SB 856 and the Lanterman Act: to minimize institutionalization by establishing community living options to meet the needs of individuals with challenging behaviors and who would otherwise be at risk of admission to or continued placement in more restrictive, locked institutional settings, or placement out of state. Further benefits anticipated from the proposed regulations are to protect the rights of consumers admitted to EBSH and CCH, including periodic reassessments of the continued appropriateness of the placement for each consumer by providing clear standards and requirements for EBSH and CCH program plans and staff. The proposed adoption of these regulations on a permanent basis is necessary to permit the continued availability of the residential options authorized by SB 856 and to establish program standards, consumers' rights protections, and other requirements for these homes.

Evaluation of Inconsistency /Incompatibility with Existing State Regulations  
(Gov. Code, § 11346.5(a)(3)(D)):

During the process of developing the proposed regulatory action, the Department conducted a search of any similar regulations on this topic and determined that these proposed regulations are not inconsistent or incompatible with existing regulations.

**MANDATED BY FEDERAL LAW OR REGULATIONS  
(Gov. Code §§11346.2(c) and 11346.9)**

The proposed regulatory action is not mandated by federal law or regulations.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Department has made the following initial determinations:

*Mandate on Local Agencies or School Districts:*

None.

*Cost or Savings to any State Agency:*

The Department anticipates no additional costs, apart from the costs associated with the implementation and operation of the CCH and EBSH programs, which are included in the annual Budget. The Department estimates a savings of state government in the current State Fiscal Year of \$395,000 to \$900,000.

*Cost or Savings to Any Local Agency or School District which must be Reimbursed in Accordance with Government Code, Sections 17500 through 17630:*

None.

*Other Non-Discretionary Costs or Savings Imposed on Local Agencies:*

None.

*Cost or Savings in Federal Funding to the State:*

The Department has determined that the proposed regulations would not create costs in federal funding to the State. The Department estimates a savings on federal funding of state programs in the current State Fiscal Year of approximately \$197,500 to \$450,000.

*Significant, Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:*

None.

*Significant Effect on Housing Costs:*

None.

*Cost Impacts on Representative Private Persons or Businesses:*

In developing this regulatory proposal, the Department evaluated the potential economic impacts on representative private persons or business. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Results of the Economic Impact Analysis/Assessment**

In accordance with Government Code, Section 11346.3(b), the Department has made the following assessments regarding the proposed regulations:

**The Creation or Elimination of Jobs within the State of California**

Developing regulations for Community Crisis Homes and Enhanced Behavioral Supports Homes, will not significantly affect the creation or elimination of jobs within the state of California.

**The Creation of New or Elimination of Businesses within the State of California**

The proposed regulations establish procedures, consumer safeguards, and program standards related to development of Community Crisis Homes and Enhanced Behavioral Supports Homes. No new businesses in California will be created or existing businesses eliminated.

**The Expansion of Businesses currently doing Business within the State of California.**

The proposed regulations establish procedures, consumer safeguards, and program standards related to development of Community Crisis Homes and Enhanced Behavioral Supports Homes. There will be no expansion of businesses currently doing business within the state as a result of the proposed regulations.

**Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

The proposed regulations are expected to improve the health and welfare of California residents with developmental disabilities by filling an unmet need and enabling the development of previously unavailable community living alternatives for individuals who require intensive services and supports due to challenging behaviors. The proposed regulations benefit the general welfare of people with developmental disabilities by furthering the intent of the Lanterman Act, as well as the federal Americans with Disabilities Act, to support their integration into the community. The proposed regulations will not affect the health and welfare of California residents in general and will not affect worker safety or impact the state's environment.

### **Small Business Determination (Cal. Code Regs., Tit. 1, §4(A) and (B))**

DDS has determined under California Code of Regulations, Title 1, Section 4, that the proposed regulatory action would not affect small businesses as a result of these regulations because the proposed regulations only affect certain individual consumers who reside in an EBSH or CCH.

### **Business Report (Gov. Code, §11346.5(a)(11) and 11346.3(d))**

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the department finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

### **CONSIDERATION OF ALTERNATIVES (Gov. Code, §11346.5(a)(13))**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

### **CONTACT PERSONS (Gov. Code, §11346.5(a)(14))**

Inquiries concerning the substance of the proposed regulatory action may be directed to the Department's representative, Catherine Knight, Assistant Deputy Director, at (916) 952-5475 or her backup, Tiffani Andrade, Assistant Deputy Director, at (916) 654-3016.

### **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE (Gov. Code, §11346.5(a)(16))**

The Department has compiled a record for this rulemaking action which includes all the information upon which the proposal is based, including an Initial Statement of Reasons (ISOR) for the proposed regulatory action, the proposed text (the "express terms") of the regulation and the Economic and Fiscal Impact Statement (STD. 399). Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with existing regulations, may be accessed on the Department's Web site listed below. Please direct requests for physical hard copies of the documents to Sunday Balalis, Legislative and Regulations Analyst at (916) 653-0732 or [Sunday.Balalis@dds.ca.gov](mailto:Sunday.Balalis@dds.ca.gov). Due to COVID-19 restrictions please contact Sunday Balalis to make an appointment to review the rulemaking file in person.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. Please send requests for copies of any modified regulations to the contact person(s) listed above. If substantive modifications are made, the Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, Final Statement of Reasons (FSOR) will be available on the Department's Internet Web Site for this rulemaking listed below. Copies may also be requested from the Department contact persons listed above.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

This notice, the Initial Statement of Reasons, the proposed regulation text, and all subsequent regulatory documents, including the FSOR, when completed, will be made available on the [Department's Internet Web site](https://www.dds.ca.gov/transparency/laws-regulations/emergency-and-proposed-regulations/) for this rulemaking at <https://www.dds.ca.gov/transparency/laws-regulations/emergency-and-proposed-regulations/>.