

# ACTION REQUIRED

## AB 1240 (Mullin), CHAPTER 653, STATUTES OF 2004

**Affects:** All state and county licensed facilities

**Subject:** Civil Penalty Increase for Background Check Violations

### **Summary:**

Amendments to Health and Safety Code Sections 1522, 1568.09, 1569.17, and 1596.871 increase an existing civil penalty for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in a licensed facility. The existing, immediate \$100 per individual civil penalty has been increased to an immediate \$100 per day civil penalty, for a maximum of 5 days for the first violation and a maximum of 30 days for subsequent violations.

### **Implementation:**

These statute changes are effective immediately and licensing staff shall implement as follows:

- Prior to each licensing visit, review the facility file for any citations for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in the facility and, as is current practice, query the LIS for a list of all persons currently associated to the facility.
- At the licensing visit, if there is a person(s) (who is subject to a background check) working or residing in the facility who does not have a clearance or a criminal record exemption:
  1. Determine how long the individual has been working or residing at the facility.
  2. Cite the deficiency.
  3. Assess immediate civil penalty for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 5 days.
- If the licensee has been cited for this type of violation within the last 12 months, the civil penalty may continue at \$100 per day, for a maximum of **30 days**. Follow steps 1 through 3 above.

Regulations will be amended to reflect this change.

NOTE: Nothing above changes the current requirement that the individual must be removed from the facility and cannot return until he/she receives a clearance or a criminal record exemption.