LEGISLATIVE AND PUBLIC POLICY COMMITTEE MEETING NOTICE/AGENDA

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DATE:	**Thursday, April 19, 2012**
TIME:	**10:30 a.m. – 3:30 p.m.**
LOCATION:	**State Council on Developmental Disabilities** **1507 21st Street, Suite 210** **Sacramento, CA 95811** **(916) 322-8481**

Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Michael Brett at (916) 322-8481 or michael.brett@scdd.ca.gov by 5:00 pm, April 13, 2012.

**Denotes action item.*

		Page
1. **CALL TO ORDER**	R. Ceragioli	
2. **ESTABLISHMENT OF QUORUM**	R. Ceragioli	
3. **INTRODUCTIONS AND ANNOUNCEMENTS**	R. Ceragioli	
4. ***APPROVAL OF 3/15/12 MINUTES**	R. Ceragioli	3
5. **PUBLIC COMMENTS**		

*This item is for members of the public only to provide comments and/or present information to the Committee on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Committee will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

6. **LEGISLATIVE ISSUES**

A. State Legislation

*i.	Senate Bill 1186- Access	K. Alipourfard	6
*ii.	Assembly Bill 2325- Access	K. Alipourfard	14
*iii.	Senate Bill 1163- Access	K. Alipourfard	21
*iv.	Assembly Bill 1994- Access	K. Alipourfard	29
*v.	Assembly Bill 2623- Firearms	M. Corral	35
*vi.	Senate Bill 1377- Confidential Info.	M. Corral	40
*vii.	Senate Bill 764- Telehealth	C. Arroyo	57
*viii.	Assembly Bill 2338- Employment	C. Arroyo	74
*ix.	Assembly Bill 1244- Self Determination	C. Risley	85
*x.	Senate Bill 770- Autism	C. Arroyo	120
*xi.	Assembly Bill 2538- IHSS	M. Corral	128
*xii.	Assembly Bill 1841- IHSS	M. Corral	138
*xiii.	Assembly Bill 2074- IHSS	C. Arroyo	149
*ivx.	Assembly Bill 2370- R Word	K. Alipourfard	153
*vx.	Senate Bill 1381- R Word	K. Alipourfard	205

B. Budget Update

i.	2012-13 Governor's Budget	C. Risley	287
ii.	2013 Federal Budget	C. Risley	290

C. SCDD Legislative Update

i.	Key Bills	C. Arroyo	296

7. **AREA BOARD LEGISLATIVE UPDATES** R. Smith

8. **ADJOURNMENT** R. Ceragioli

For a additional information regarding this agenda, please contact Michael Brett, 1507 21st Street, Suite 210, Sacramento, CA 95811, (916) 322-8481

DRAFT
Legislative & Public Policy (LPPC) Committee Minutes
Thursday, March 15, 2012

Members Present
Ray Ceragioli, Chair
Jennifer Allen
Tho Vinh Banh
Marilyn Barraza
Dan Boomer
Lisa Cooley
Connie Lapin
David Mulvaney
Leroy Shipp
Margaret Shipp

Members Absent
Rocio Smith

Others Present
Karim Alipourfard
Christofer Arroyo
Melissa Corral
Carol Risley

1. CALL TO ORDER

Ray Ceragioli, Chairperson, called the meeting to order at 10:41 AM.

2. ESTABLISHMENT OF A QUORUM

A quorum was established.

3. INTRODUCTIONS AND ANNOUNCEMENTS

Members introduced themselves and announcements were made.

4. APPROVAL OF 2/16/12 MINUTES

It was moved, seconded (Lapin/Cooley), and carried to approve the LPPC minutes as written. (4 abstentions)

5. PUBLIC COMMENTS

Connie Lapin provided public input related to telehealth and developmental center investigations. Dan Boomer provided public input related to postsecondary education, employment first issues, and the number of students in special education.

6. LEGISLATIVE ISSUES

Assembly Bill (AB) 2338 was reviewed. It was moved, seconded (Barraza/Boomer), and carried for the Council to support, sponsor and work with the bill author.

AB 1657 was reviewed. It was moved, seconded (Barraza/Lapin), and carried to watch AB 1657.

Senate Bill (SB) 1123 was reviewed. It was moved, seconded (M. Shipp/L. Shipp), and carried to watch SB 1123 and express concerns to the author regarding the increased costs for individuals with disabilities and that the bill will not "fix" the fraud issues.

AB 1564 was reviewed. It was moved, seconded (Lapin/M. Shipp) and carried to watch AB 1564 and express concerns about the penalties against non-profits in the bill.

AB 1729 was reviewed. It was moved, seconded (Barraza/L. Shipp) and carried to support AB 1729.

AB 1714 was reviewed. It was moved, seconded (Lapin/M. Shipp) and carried to support AB 1714. (1 abstention)

AB 1610 was reviewed. It was moved, seconded (M. Shipp/Lapin) and carried to oppose AB 1610.

AB 1705 was reviewed. It was moved, seconded (Mulvaney/M. Shipp) and carried to oppose unless amended AB 1705 to extend the waiver. (2 abstentions)

AB 1641 was reviewed. It was moved, seconded (Barraza/Lapin) and carried to watch AB 1641.

SB 1050 was reviewed. It was moved, seconded (Barraza/L. Shipp) and carried to watch SB 1050.

An update regarding the state budget was provided to the LPPC.

A number of bills worthy of the LPPC's attention were mentioned: AB 1553, AB 1997, AB 2370, AB 2623, SB 764, SB 1259, SB 1377, SB 1381, and SB 1392.

7. AREA BOARD LEGISLATIVE UPDATES

No updates were provided.

8. ADJOURNMENT

The meeting was adjourned at 2:41 PM.

LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: SB 1186: Special access: liability

SUMMARY: SB 1186 prohibits a person with a disability from starting a civil action for discrimination based on the failure to remove a structural barrier to entry into an existing public accommodation as allowed by the Americans with Disabilities Act (ADA) of 1990. The bill contains legislative findings and declarations regarding the abuse of special access laws through vexatious litigation, and the intent of the Legislature to restrict the filing of special access lawsuits under California law by requiring that: (1) the owner or operator of such accommodation is provided with a written notice specific enough to identify such barrier by the aggrieved party; (2) the owner, agent, or other responsible party respond within 30 days and (3) and have another 90 days to respond and agree to fix the alleged violation or refuse with specific objections. The bill declares that its provisions do not apply to claims for recovery of special damages for an injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws to educate affected business owners on access laws.

BACKGROUND: Existing federal law, the ADA, provides that no individual shall be discriminated against on the basis of disability. Persons with a disability have the right to full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. According to the ADA persons with disabilities have the right to start a civil action if the responsible party fails to remove the structural barriers to entry into existing public accommodations.

Existing California law, the Unruh Civil Rights Act, declares that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities privileges, or services in all business establishments of every kind whatsoever. A violation of the ADA also constitutes a violation of Unruh. The violation of this section is subject to actual damages incurred by an injured party, treble actual damages but not less than $1,000, and any attorney's fees as the court may determine to be proper.

ANALYSIS/DISCUSSION: SB 1186 is substantially similar to Senate Bill (SB) 783 that was introduced last year by Senator Dutton who is also the author of this bill. SB 783 suggested similar pre-litigation procedural requirements before a person could pursue a lawsuit under the state civil rights and equal access to the public or housing

accommodation laws, including the ADA. The strategy of "notice and delay" bills has been used as a means to undermine the ADA access laws since its 1990 enactment.

SB 783 did not become law following the path of previous failures.

While the intent of this legislation is stated to be preventing vexatious litigation and inhibiting waste of public and private resources, the author fails to provide valid statistics to support the line of reasoning. The fact sheet prepared by author says: "Recently, there has been an increase in small businesses being challenged by lawsuits for their non-compliance of federal and state provisions of the ADA. In most cases, a handful of attorneys utilize a boilerplate lawsuit claiming a business is in violation of a number of special access laws. Using aggressive lawsuits and threats, these attorneys have designed a scheme to extract financial compensation knowing small businesses may lack the resources to combat such a lawsuit in a court of law. In the end, businesses settle out of court and ultimately the only outcome is "legalized extortion."

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #13: Individuals with developmental disabilities and their families have access to community based services and supports available to the general population (such as recreation, transportation, childcare, etc.) that enable them to live productive and inclusive lives

PRIOR COUNCIL ACTIVITY: The Council has opposed similar legislation in the past since it creates legal barriers for persons with disabilities when attempting to achieve physical integration into community life.

STAFF RECOMMENDATION: Oppose SB 1186

ATTACHMENT: SB 1186

PREPARED: Karim Alipourfard, April 4 , 2012

SENATE BILL No. 1186

Introduced by Senator Dutton

February 22, 2012

An act to add Sections 55.4 and 55.41 to the Civil Code, and to amend Section 4452 of the Government Code, relating to special access, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1186, as introduced, Dutton. Special access: liability.

Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified.

This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 90 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by the alleged

aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) The federal Americans with Disabilities Act of 1990 (Public
4 Law 101-336) and this state's complementary special access laws
5 set forth in Sections 51, 52, 54, 54.1, and 54.3 of the Civil Code
6 and Sections 4450 and 4452 of the Government Code are intended
7 to protect Californians with special needs from unlawful and unfair
8 restrictions on access to the full and free use of the streets,
9 highways, sidewalks, walkways, public buildings, medical
10 facilities, including hospitals, clinics, and physicians' offices,
11 public facilities, and other public places.
12 (b) These special access laws are susceptible to abuse through
13 vexatious litigation that is not pursued with the primary intent of
14 rectifying a wrong or advancing or creating a public benefit.
15 (c) Vexatious special access lawsuits unduly burden our courts
16 and taxpayers and do not result in improved access for those with
17 special access needs. Those lawsuits cost California jobs and
18 economic prosperity, unfairly threaten small businesses, force
19 businesses to respond with higher costs for goods and services,
20 and have adverse impacts on levels of employment and employee
21 compensation.
22 (d) It is the intent of the Legislature in enacting this act to
23 eliminate vexatious special access lawsuits while protecting the
24 right of individuals to retain counsel and file an action for relief
25 pursuant to the federal Americans with Disabilities Act of 1990
26 (Public Law 101-336) and Sections 51, 52, 54, 54.1, and 54.3 of
27 the Civil Code and Sections 4450 and 4452 of the Government
28 Code.
29 (e) It is the intent of the Legislature in enacting this act to restrict
30 the filing of special access lawsuits under California law without

first notifying and allowing property owners, agents, or other responsible parties the opportunity to improve access by curing any violations.

(f) It is not the intent of the Legislature in enacting this act to prohibit the filing of special access lawsuits where, because of an alleged violation of this state's special access laws, an individual has suffered an injury in fact for which a proceeding in a court of competent jurisdiction is proper.

SEC. 2. Section 55.4 is added to the Civil Code, to read:

55.4. (a) Notwithstanding any other provision of law, prior to filing a claim under Section 51, 52, 54, 54.1, or 54.3 of this code, or Section 4450 or 4452 of the Government Code, the alleged aggrieved party shall notify the owner of the property, agent, or other responsible party where the alleged violation occurred by personal service, in accordance with applicable state or federal laws, or certified mail, of all alleged special access violations for which a claim may be filed by the alleged aggrieved party. That notice shall contain the following language:

"This letter is to inform you that the property located at (address of property), for which you are the property owner, agent, or other responsible party, may be in violation of federal and/or state special access laws pursuant to (expressly cite the federal and/or California statute of which the property is believed to be in violation) and caused harm to (list the name of the alleged aggrieved party).

Specifically, the possible violation(s) has/have been identified as follows: (Notice must identify the specific facts that constitute the alleged violation, including the date on which the alleged violation occurred and identification of the location of the alleged violation with sufficient detail, so that the location can be identified by the property owner, agent, or other responsible party).

Under Section 55.4 of the California Civil Code, you have 30 days to respond to this notice by certified mail or personal service. Your response must be addressed to (give address where personal service may be received or certified mail may be sent). California law allows you to respond in one of three ways:

(1) You may expressly state that improvements will be made to bring the premises into compliance with applicable special access laws. If you respond in this fashion, you have a maximum of 90 days to make these improvements or repairs. The 90-day

period shall begin on the date your response to this notice is received at the address given above. If the improvements or repairs necessary to bring the property into compliance with federal and state special access laws are not completed in 90 days, a lawsuit may be brought against you.

(2) You may challenge the validity of the alleged violations. If you respond in this fashion, a lawsuit may be brought against you immediately.

(3) If the violations listed above are the same or similar to previous violations that you believe have been corrected, you may respond by stating that the necessary repairs have been made to bring the property into compliance with federal and state special access laws. You must also attach evidence that verifies those improvements.

If you have any questions about this notice or your rights under federal or California law, please contact your legal counsel."

(b) Beginning with the date of notice, the property owner, agent, or other responsible party where the alleged violation occurred shall have 30 days to respond by certified mail or personal service to the alleged aggrieved party. That response shall communicate any of the following:

(1) Expressly state that improvements will be made to bring the premises into compliance with applicable laws. A response in this fashion by the property owner, agent, or other responsible party where the alleged violation occurred shall not be considered an admission of guilt and is inadmissible in any future claims based on the same facts filed against the property owner, agent, or other responsible party.

(2) Challenge the validity of the alleged violation. If the property owner, agent, or other responsible party where the alleged violation occurred so responds, the alleged aggrieved party may file a claim, subject to any applicable statutes of limitations, any time after receipt of notice as prescribed in this section.

(3) State that the alleged violations identified by the alleged aggrieved party have been corrected to comply with applicable state and federal special access laws. The property owner, agent, or other responsible party where the alleged violation occurred shall also attach evidence that verifies those improvements.

(c) If the property owner, agent, or responsible party where the alleged violation occurred responds in the manner described in paragraph (1) of subdivision (b), the property owner, agent, or responsible party where the alleged violation occurred shall have 90 days to remedy the alleged violation. The 90-day period shall begin on the date the alleged aggrieved party receives a response, pursuant to subdivision (b), from the owner, agent, or responsible party where the alleged violation occurred.

(d) If, at the end of the 90-day period, the property owner, agent, or responsible party where the alleged violation occurred has not made the improvements described in paragraph (1) of subdivision (b) and fails to provide satisfactory explanation as to why those repairs were not yet completed, the alleged aggrieved party may file a claim.

(e) If the property owner, agent, or other responsible party where the alleged violation occurred has made the improvements described in paragraph (1) of subdivision (b), no current or future alleged aggrieved party shall receive any damages or attorney's fees, other than special damages, for any claim arising out of the same or similar facts that served as a basis for the alleged violation.

(f) This section applies to all claims for damages or fees, other than those praying for special damages arising out of injuries in fact. This section shall not be construed to limit claims for recovery of special damages filed by any person who suffers an injury in fact because they were denied full and equal access to an accommodation as required by Section 51, 52, 54, 54.1, or 54.3 of this code, or Section 4450 or 4452 of the Government Code.

(g) In making a determination of the amount of damages awarded to a successful plaintiff, a court or jury shall consider previous or pending actual damage awards received or prayed for by that plaintiff for the same or similar injury.

SEC. 3. Section 55.41 is added to the Civil Code, to read:

55.41. It is the intent of the Legislature to institute programs to educate business property owners and local municipalities about the accessibility requirements of federal and state special access laws.

SEC. 4. Section 4452 of the Government Code is amended to read:

4452. *(a)* It is the intent of the Legislature that the building standards published in the State Building Standards Code relating

to access by the physically handicapped and the other regulations adopted by the State Architect pursuant to Section 4450 shall be used as minimum requirements to insure that buildings, structures and related facilities covered by this chapter are accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facility where the general public is concerned.

~~Any~~

(b) Any unauthorized deviation from ~~such~~ *those* regulations or building standards shall be rectified by full compliance within 90 days after discovery of the deviation.

(c) Notwithstanding subdivision (b), prior to any action commenced for an alleged violation of Section 4450 or this section, the notice requirements specified in Section 55.4 of the Civil Code shall apply to the alleged aggrieved party.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Small business owners across the state have been hit recently with a spate of frivolous and vexatious lawsuits, threatening the viability of small businesses. In order to protect small business owners and ensure that these lawsuits stop, it is necessary that this act take effect immediately.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 2325: Special access: liability

BILL SUMMARY: AB 2325 would prevent a person with a disability from starting a civil action for discrimination based on the failure to remove structural barriers to entry into an existing public accommodation as allowed by the Americans with Disabilities Act (ADA) of 1990. This bill requires that: (1) the owner or operator of such accommodation is provided with a written notice specific enough to identify such barrier by the aggrieved party; (2) the owner, agent, or other responsible party respond within 30 days and (3) and have another 120 days to fix the alleged violation or refuse with specific objections. The bill declares that its provisions do not apply to claims for recovery of special damages for an injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws to educate affected business owners on access laws.

BACKGROUND: Existing federal law, the ADA, provides that no individual shall be discriminated against on the basis of disability. Persons with a disability have the right to full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation (42 U.S.C. Sec.12181). According to the ADA (section 302(b) (2)) persons with disabilities have the right to start a civil action if the responsible party fails to remove the structural barriers to entry into existing public accommodations.

Existing California law, the Unruh Civil Rights Act, declares that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities privileges, or services in all business establishments of every kind whatsoever. A violation of the ADA also constitutes a violation of Unruh. The violation of this section is subject to actual damages incurred by an injured party, treble actual damages but not less than $1,000, and any attorney's fees as the court may determine to be proper. (Civ. Code Sec.51)

ANALYSIS/DISCUSSION: AB 2325 is substantially similar to Senate Bill (SB) 783 that was introduced last year. SB 783 suggested similar pre-litigation procedural requirements before a person could pursue a lawsuit under the state civil rights and equal access to the public or housing accommodation laws, including the ADA. The strategy of "notice and delay" bills has been used as a means to undermine the ADA

access laws since its 1990 enactment. SB 783 did not become law following the path of previous failures.

The impact of yet another state legislative effort to create pre-litigation hurdles for persons with disabilities is an inequity since other protected classes are not subject to these delaying procedures.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #13: Individuals with developmental disabilities and their families have access to community based services and supports available to the general population (such as recreation, transportation, childcare, etc.) that enable them to live productive and inclusive lives

PRIOR COUNCIL ACTIVITY: The Council has opposed similar legislation in the past since it creates legal barriers for persons with disabilities when attempting to achieve physical integration into community life.

STAFF RECOMMENDATION: Oppose AB 2325. Although the author has indicated this bill has been withdrawn, it is important make them aware of opposition to this type of approach.

ATTACHMENT: AB 2325

PREPARED: Karim Alipourfard, April 4, 2012

ASSEMBLY BILL No. 2325

Introduced by Assembly Member Norby

February 24, 2012

An act to add Sections 55.4 and 55.41 to the Civil Code, and to amend Section 4452 of the Government Code, relating to special access, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2325, as introduced, Norby. Special access: liability.

Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified.

This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 120 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special

damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by the alleged aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 55.4 is added to the Civil Code, to read:
2 55.4. (a) Notwithstanding any other provision of law, prior to
3 filing a claim under Section 51, 52, 54, 54.1, or 54.3 of this code,
4 or Section 4450 or 4452 of the Government Code, the alleged
5 aggrieved party shall notify the owner of the property, agent, or
6 other responsible party where the alleged violation occurred by
7 personal service, in accordance with applicable state or federal
8 laws, or certified mail, of all alleged special access violations for
9 which a claim may be filed by the alleged aggrieved party. That
10 notice shall contain the following language:
11
12 "This letter is to inform you that the property located at (address
13 of property), for which you are the property owner, agent, or other
14 responsible party, may be in violation of federal and/or state special
15 access laws pursuant to (expressly cite the federal and/or California
16 statute of which the property is believed to be in violation) and
17 caused harm to (list the name of the alleged aggrieved party).
18 Specifically, the possible violation(s) has/have been identified
19 as follows: (Notice must identify the specific facts that constitute
20 the alleged violation, including the date on which the alleged
21 violation occurred and identification of the location of the alleged
22 violation with sufficient detail, so that the location can be identified
23 by the property owner, agent, or other responsible party).
24 Under Section 55.4 of the California Civil Code, you have 30
25 days to respond to this notice by certified mail or personal service.
26 Your response must be addressed to (give address where personal
27 service may be received or certified mail may be sent). California
28 law allows you to respond in one of three ways:

(1) You may expressly state that improvements will be made to bring the premises into compliance with applicable special access laws. If you respond in this fashion, you have a maximum of 120 days to make these improvements or repairs. The 120-day period shall begin on the date your response to this notice is received at the address given above. If the improvements or repairs necessary to bring the property into compliance with federal and state special access laws are not completed in 120 days, a lawsuit may be brought against you.

(2) You may challenge the validity of the alleged violations. If you respond in this fashion, a lawsuit may be brought against you immediately.

(3) If the violations listed above are the same or similar to previous violations that you believe have been corrected, you may respond by stating that the necessary repairs have been made to bring the property into compliance with federal and state special access laws. You must also attach evidence that verifies those improvements.

If you have any questions about this notice or your rights under federal or California law, please contact your legal counsel."

(b) Beginning with the date of notice, the property owner, agent, or other responsible party where the alleged violation occurred shall have 30 days to respond by certified mail or personal service to the alleged aggrieved party. That response shall communicate any of the following:

(1) Expressly state that improvements will be made to bring the premises into compliance with applicable laws. A response in this fashion by the property owner, agent, or other responsible party where the alleged violation occurred shall not be considered an admission of guilt and is inadmissible in any future claims based on the same facts filed against the property owner, agent, or other responsible party.

(2) Challenge the validity of the alleged violation. If the property owner, agent, or other responsible party where the alleged violation occurred so responds, the alleged aggrieved party may file a claim, subject to any applicable statutes of limitations, any time after receipt of notice as prescribed in this section.

(3) State that the alleged violations identified by the alleged aggrieved party have been corrected to comply with applicable

state and federal special access laws. The property owner, agent, or other responsible party where the alleged violation occurred shall also attach evidence that verifies those improvements.

(c) If the property owner, agent, or responsible party where the alleged violation occurred responds in the manner described in paragraph (1) of subdivision (b), the property owner, agent, or responsible party where the alleged violation occurred shall have 120 days to remedy the alleged violation. The 120-day period shall begin on the date the alleged aggrieved party receives a response, pursuant to subdivision (b), from the owner, agent, or responsible party where the alleged violation occurred.

(d) If, at the end of the 120-day period, the property owner, agent, or responsible party where the alleged violation occurred has not made the improvements described in paragraph (1) of subdivision (b) and fails to provide satisfactory explanation as to why those repairs were not yet completed, the alleged aggrieved party may file a claim.

(e) If the property owner, agent, or other responsible party where the alleged violation occurred has made the improvements described in paragraph (1) of subdivision (b), no current or future alleged aggrieved party shall receive any damages or attorney's fees, other than special damages, for any claim arising out of the same or similar facts that served as a basis for the alleged violation.

(f) This section applies to all claims for damages or fees, other than those praying for special damages arising out of injuries in fact. This section shall not be construed to limit claims for recovery of special damages filed by any person who suffers an injury in fact because they were denied full and equal access to an accommodation as required by Section 51, 52, 54, 54.1, or 54.3, or Section 4450 or 4452 of the Government Code.

(g) In making a determination of the amount of damages awarded to a successful plaintiff, a court or jury shall consider previous or pending actual damage awards received or prayed for by that plaintiff for the same or similar injury.

SEC. 2. Section 55.41 is added to the Civil Code, to read:

55.41. It is the intent of the Legislature to institute programs to educate business property owners and local municipalities about the accessibility requirements of federal and state special access laws.

SEC. 3. Section 4452 of the Government Code is amended to read:

4452. (a) It is the intent of the Legislature that the building standards published in the State Building Standards Code relating to access by the physically handicapped and the other regulations adopted by the State Architect pursuant to Section 4450 shall be used as minimum requirements to insure that buildings, structures and related facilities covered by this chapter are accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facility where the general public is concerned.

(b) Any unauthorized deviation from those regulations or building standards shall be rectified by full compliance within 90 days after discovery of the deviation.

(c) Notwithstanding subdivision (b), prior to any action commenced for an alleged violation of Section 4450 or this section, the notice requirements specified in Section 55.4 of the Civil Code shall apply to the alleged aggrieved party.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Small business owners across the state have been hit recently with a spate of frivolous and vexatious lawsuits, threatening the viability of small businesses. In order to protect small business owners and ensure that these lawsuits stop, it is necessary that this act take effect immediately.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: SB 1163: Special access: liability

BILL SUMMARY: Sponsored by Cummings Myers, Civil Justice Association of California, Citizens Against Lawsuit Abuse, Lawyers Against Lawsuit Abuse and Islands Restaurant, SB 1186 establishes notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of existing law that provides a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense. The bill contains legislative findings and declarations regarding the abuse of special access laws through vexatious litigation, and the intent of the Legislature to restrict the filing of special access lawsuits under California law by requiring that: (1) the owner or operator of such accommodation is provided with a written notice specific enough to identify such barrier by the aggrieved party; (2) the owner, agent, or other responsible party respond within 30 days and (3) and have another 120 days to respond and agree to fix the alleged violation or refuse with specific objections. This bill declares that its provisions do not apply to claims for recovery of special damages for an injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws to educate affected business owners on access laws.

BACKGROUND: Existing federal law, ADA, provides that no individual shall be discriminated against on the basis of disability. Persons with a disability have the right to full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. According to ADA, persons with disabilities have the right to start a civil action if the responsible party fails to remove the structural barriers to entry into existing public accommodations.

Existing California law, the Unruh Civil Rights Act, declares that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities privileges, or services in all business establishments of every kind whatsoever. A violation of the ADA also constitutes a violation of Unruh. The violation of this section is subject to actual damages incurred by an injured party, treble actual damages but not less than $1,000, and any attorney's fees as the court may determine to be proper.

ANALYSIS/DISCUSSION: SB 1163, along with about 10 other similar bills, is mostly similar to Senate Bill (SB) 783 that was introduced last year by Senator Dutton who is also the author of SB 1163. SB 783 suggested similar pre-litigation procedural requirements before a person could pursue a lawsuit under the state civil rights and equal access to the public or housing accommodation laws, including ADA. The strategy of "notice and delay" bills has been used as a means to undermine the ADA access laws since its 1990 enactment. SB 783 did not become law following the path of previous failures.

While the intent of this bill is stated to be preventing vexatious litigation and inhibiting waste of public and private resources, the author fails to provide valid statistics to support the line of reasoning. SB 1163 findings are without factual foundation and the numbers given in their fact sheets differ from one legislator to another. The SB 1163 factsheet prepared by the author's staff says: 1) of the total U.S. ADA lawsuits filed- 42% are filed in California; 2) since 2008- 35,000 lawsuits have been filed in California 3) Some attorneys have filed 4000 ADA lawsuits each and 4) A select few individuals make a living from suing small business owners for violating existing code. The figures are highly exaggerated and saying that there are some individuals who make a living from suing small businesses is disrespectful and improper.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #13: Individuals with developmental disabilities and their families have access to community based services and supports available to the general population (such as recreation, transportation, childcare, etc.) that enable them to live productive and inclusive lives

PRIOR COUNCIL ACTIVITY: The Council has opposed similar legislation in the past since it creates legal barriers for persons with disabilities when attempting to achieve physical integration into community life.

STAFF RECOMMENDATION: Oppose SB 1163

ATTACHMENT: SB 1163

PREPARED: Karim Alipourfard, April 4, 2012

SENATE BILL No. 1163

Introduced by Senator Walters

February 22, 2012

An act to add Sections 55.4 and 55.41 to the Civil Code, and to amend Section 4452 of the Government Code, relating to special access, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1163, as introduced, Walters. Special access: liability.

Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified.

This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 120 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by

the alleged aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) The federal Americans with Disabilities Act of 1990 (Public
4 Law 101-336) and this state's complementary special access laws
5 set forth in Sections 51, 52, 54, 54.1, and 54.3 of the Civil Code
6 and Sections 4450 and 4452 of the Government Code are intended
7 to protect Californians with special needs from unlawful and unfair
8 restrictions on access to the full and free use of the streets,
9 highways, sidewalks, walkways, public buildings, medical
10 facilities, including hospitals, clinics, and physicians' offices,
11 public facilities, and other public places.
12 (b) These special access laws are susceptible to abuse through
13 vexatious litigation that is not pursued with the primary intent of
14 rectifying a wrong or advancing or creating a public benefit.
15 (c) Vexatious special access lawsuits unduly burden our courts
16 and taxpayers and do not result in improved access for those with
17 special access needs. Those lawsuits cost California jobs and
18 economic prosperity, unfairly threaten small businesses, force
19 businesses to respond with higher costs for goods and services,
20 and have adverse impacts on levels of employment and employee
21 compensation.
22 (d) It is the intent of the Legislature in enacting this act to
23 eliminate vexatious special access lawsuits while protecting the
24 right of individuals to retain counsel and file an action for relief
25 pursuant to the federal Americans with Disabilities Act of 1990
26 (Public Law 101-336) and Sections 51, 52, 54, 54.1, and 54.3 of
27 the Civil Code and Sections 4450 and 4452 of the Government
28 Code.
29 (e) It is the intent of the Legislature in enacting this act to restrict
30 the filing of special access lawsuits under California law without

first notifying and allowing property owners, agents, or other responsible parties the opportunity to improve access by curing any violations.

(f) It is not the intent of the Legislature in enacting this act to prohibit the filing of special access lawsuits where, because of an alleged violation of this state's special access laws, an individual has suffered an injury in fact for which a proceeding in a court of competent jurisdiction is proper.

SEC. 2. Section 55.4 is added to the Civil Code, to read:

55.4. (a) Notwithstanding any other provision of law, prior to filing a claim under Section 51, 52, 54, 54.1, or 54.3, or Section 4450 or 4452 of the Government Code, the alleged aggrieved party shall notify the owner of the property, agent, or other responsible party where the alleged violation occurred by personal service, in accordance with applicable state or federal laws, or certified mail, of all alleged special access violations for which a claim may be filed by the alleged aggrieved party. That notice shall contain the following language:

"This letter is to inform you that the property located at (address of property), for which you are the property owner, agent, or other responsible party, may be in violation of federal and/or state special access laws pursuant to (expressly cite the federal and/or California statute of which the property is believed to be in violation) and caused harm to (list the name of the alleged aggrieved party).

Specifically, the possible violation(s) has/have been identified as follows: (Notice must identify the specific facts that constitute the alleged violation, including the date on which the alleged violation occurred and identification of the location of the alleged violation with sufficient detail, so that the location can be identified by the property owner, agent, or other responsible party).

Under Section 55.4 of the California Civil Code, you have 30 days to respond to this notice by certified mail or personal service. Your response must be addressed to (give address where personal service may be received or certified mail may be sent). California law allows you to respond in one of three ways:

(1) You may expressly state that improvements will be made to bring the premises into compliance with applicable special access laws. If you respond in this fashion, you have a maximum of 120 days to make these improvements or repairs. The 120-day

period shall begin on the date your response to this notice is received at the address given above. If the improvements or repairs necessary to bring the property into compliance with federal and state special access laws are not completed in 120 days, a lawsuit may be brought against you.

(2) You may challenge the validity of the alleged violations. If you respond in this fashion, a lawsuit may be brought against you immediately.

(3) If the violations listed above are the same or similar to previous violations that you believe have been corrected, you may respond by stating that the necessary repairs have been made to bring the property into compliance with federal and state special access laws. You must also attach evidence that verifies those improvements.

If you have any questions about this notice or your rights under federal or California law, please contact your legal counsel."

(b) Beginning with the date of notice, the property owner, agent, or other responsible party where the alleged violation occurred shall have 30 days to respond by certified mail or personal service to the alleged aggrieved party. That response shall communicate any of the following:

(1) Expressly state that improvements will be made to bring the premises into compliance with applicable laws. A response in this fashion by the property owner, agent, or other responsible party where the alleged violation occurred shall not be considered an admission of guilt and is inadmissible in any future claims based on the same facts filed against the property owner, agent, or other responsible party.

(2) Challenge the validity of the alleged violation. If the property owner, agent, or other responsible party where the alleged violation occurred so responds, the alleged aggrieved party may file a claim, subject to any applicable statutes of limitations, any time after receipt of notice as prescribed in this section.

(3) State that the alleged violations identified by the alleged aggrieved party have been corrected to comply with applicable state and federal special access laws. The property owner, agent, or other responsible party where the alleged violation occurred shall also attach evidence that verifies those improvements.

(c) If the property owner, agent, or responsible party where the alleged violation occurred responds in the manner described in paragraph (1) of subdivision (b), the property owner, agent, or responsible party where the alleged violation occurred shall have 120 days to remedy the alleged violation. The 120-day period shall begin on the date the alleged aggrieved party receives a response, pursuant to subdivision (b), from the owner, agent, or responsible party where the alleged violation occurred.

(d) If, at the end of the 120-day period, the property owner, agent, or responsible party where the alleged violation occurred has not made the improvements described in paragraph (1) of subdivision (b) and fails to provide satisfactory explanation as to why those repairs were not yet completed, the alleged aggrieved party may file a claim.

(e) If the property owner, agent, or other responsible party where the alleged violation occurred has made the improvements described in paragraph (1) of subdivision (b), no current or future alleged aggrieved party shall receive any damages or attorney's fees, other than special damages, for any claim arising out of the same or similar facts that served as a basis for the alleged violation.

(f) This section applies to all claims for damages or fees, other than those praying for special damages arising out of injuries in fact. This section shall not be construed to limit claims for recovery of special damages filed by any person who suffers an injury in fact because they were denied full and equal access to an accommodation as required by Section 51, 52, 54, 54.1, or 54.3, or Section 4450 or 4452 of the Government Code.

(g) In making a determination of the amount of damages awarded to a successful plaintiff, a court or jury shall consider previous or pending actual damage awards received or prayed for by that plaintiff for the same or similar injury.

SEC. 3. Section 55.41 is added to the Civil Code, to read:

55.41. It is the intent of the Legislature to institute programs to educate business property owners and local municipalities about the accessibility requirements of federal and state special access laws.

SEC. 4. Section 4452 of the Government Code is amended to read:

4452. *(a)* It is the intent of the Legislature that the building standards published in the State Building Standards Code relating

to access by the physically handicapped and the other regulations adopted by the State Architect pursuant to Section 4450 shall be used as minimum requirements to insure that buildings, structures and related facilities covered by this chapter are accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facility where the general public is concerned.

~~Any~~

(b) Any unauthorized deviation from ~~such~~ *those* regulations or building standards shall be rectified by full compliance within 90 days after discovery of the deviation.

(c) Notwithstanding subdivision (b), prior to any action commenced for an alleged violation of Section 4450 or this section, the notice requirements specified in Section 55.4 of the Civil Code shall apply to the alleged aggrieved party.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Small business owners across the state have been hit recently with a spate of frivolous and vexatious lawsuits, threatening the viability of small businesses. In order to protect small business owners and ensure that these lawsuits stop, it is necessary that this act take effect immediately.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 1994: Disability access: liability

BILL SUMMARY: Sponsored by the author, AB1994 intends to delay starting of a civil action for discrimination by a person with disability based on the failure to remove a structural barrier to entry into an existing public accommodation as allowed by the Americans with Disabilities Act (ADA) of 1990. This bill would direct every county to establish a program requiring that every aggrieved party to file a complaint with the county planning department and through them the complaint is given to a Certified Access Specialist and follow particular procedures in order to establish validity of the claim.

Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000.

Existing law requires the State Architect to develop and submit for approval and adoption building standards for making building structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified.

BACKGROUND: Existing federal law, ADA, provides that no individual shall be discriminated against on the basis of disability. Persons with a disability have the right to full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. According to ADA persons with disabilities have the right to start a civil action if the responsible party fails to remove the structural barriers to entry into existing public accommodations.

Existing California law, the Unruh Civil Rights Act, declares that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities privileges, or services in all business establishments of every kind whatsoever. A violation of the ADA constitutes a violation of Unruh too. The violation of this section is subject to actual damages incurred by an injured party, treble actual damages but not less than $1,000, and any attorney's fees as the court may determine to be proper.

ANALYSIS/DISCUSSION: AB 1994 establishes lengthy compliance procedures to delay starting of a civil action allowed by ADA. However, the language is less accusatory and by engaging the counties in advance problem solving configures a different methodology. The aim is to encourage the owner or responsible parties of such properties or public accommodations to remove obstacles to access in compliance with federal and state laws. This bill would require every county to establish a program that requires an alleged aggrieved party under the state access laws to file a complaint with the county planning department in which an alleged violation occurred. In this process attorneys have fewer opportunities to start litigation early on. From county planning department the complaint goes to a certified access specialist to determine what measures are necessary to remedy the alleged violation and the estimated timeframe for remedy. This bill allows the county to charge a fee to the responsible parties of alleged violation therefore federal reimbursement is not required.

For the complainants AB 1994 is also another legislative effort that creates pre-litigation hurdles. For persons with disabilities it creates inequity since other protected classes are not subject to these delaying procedures.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #13: Individuals with developmental disabilities and their families have access to community based services and supports available to the general population (such as recreation, transportation, childcare, etc.) that enable them to live productive and inclusive lives

PRIOR COUNCIL ACTIVITY: The Council has opposed similar legislation in the past since it creates legal barriers for persons with disabilities when attempting to achieve physical integration into community life.

STAFF RECOMMENDATION: Oppose AB 1994. Although the author indicates this is a "spot bill", it is inconsistent with the Council's historical position on similar bills.

ATTACHMENT: AB 1994

PREPARED: Karim Alipourfard, April 4, 2012

ASSEMBLY BILL No. 1994

Introduced by Assembly Member Huber

February 23, 2012

An act to add Sections 55.5 and 55.6 to the Civil Code, and to amend Section 4452 of the Government Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as introduced, Huber. Disability access: causes of action.

Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified.

This bill would require every county to establish a program that requires an alleged aggrieved party under the state access laws to file a complaint with the county planning department in which an alleged violation occurred. The bill would require the county planning department to refer every complaint received under this act to a certified access specialist to determine what measures are necessary to remedy the alleged violation and the estimated timeframe for remedy. The bill would require the adoption of a compliance schedule and require issuance of building permits to the owner, agent, or responsible party of the alleged violation. The bill would require all complaints to be subject to the compliance schedule prior to a cause of action being filed. The bill would authorize the county to charge a fee to the owner, agent,

or responsible party of the alleged violation for the costs of the program and the compliance schedule.

By imposing additional duties on a county, this bill would create 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 55.5 is added to the Civil Code, to read:
2 55.5. (a) Notwithstanding any other law, every county shall
3 establish a program that requires an alleged aggrieved party under
4 this chapter to file a complaint with the county planning department
5 in which an alleged violation occurred.
6 (b) A county planning department shall refer every complaint
7 received under this section to a certified access specialist to
8 determine what measures are necessary to remedy the alleged
9 violation and the estimated timeframe for remedy. The county
10 planning department shall notify the owner of the property, agent,
11 or other responsible party where the alleged violation occurred of
12 any complaint filed under this section and the measures that are
13 required to be taken to remedy the alleged violation and the
14 timeframe for compliance.
15 (c) The county planning department shall be guided by the
16 recommendations of the certified access specialist, but may modify
17 the recommendations, as needed. The county planning department
18 shall approve the final guidelines and timeframe for compliance
19 and shall expeditiously submit the compliance schedule to the
20 alleged aggrieved party and the owner of the property, agent, or
21 other responsible party. The owner of the property, agent, or other
22 responsible party shall be subject to the compliance schedule for
23 repair of any alleged violation.
24 (d) The county planning department or other county entity shall
25 issue building permits to the owner of the property, agent, or other
26 responsible party for purposes of compliance with this section.

The issuance of building permits shall be subject to existing statutes and regulations, including existing fees.

(e) If the owner of the property, agent, or other responsible party fails to comply with the compliance schedule or any of the timeframes for repair, the alleged aggrieved party may file a cause of action at any point in time thereafter.

(f) Notwithstanding subdivision (e), the county planning department may, at any point during the time for repair, amend the compliance schedule upon the request of the owner of the property, agent, or other responsible party, if the following requirements are met:

(1) The owner, agent, or other responsible party proves that he or she has been diligent in meeting, and has made progress in attempting to meet, the requirements of the compliance schedule. The circumstances for which the county planning department may approve the amendment of the compliance schedule include proof of incremental weather or backordered, destroyed, or stolen supplies or equipment.

(2) The alleged aggrieved party is provided notice of the amendment prior to amendment.

(3) The alleged aggrieved party is provided an opportunity to rebut the statements of the owner, agent, or other responsible party.

(4) The county planning department weighs the evidence and provides on the record the reason for approving or denying the amendment of the compliance schedule.

(g) All alleged violations under this chapter shall be subject to this section prior to a cause of action being filed.

(h) A county may charge the owner, agent, or other responsible party a reasonable fee that does not exceed the costs of operating the program and implementation of compliance schedules.

SEC. 2. Section 55.6 is added to the Civil Code, to read:

55.6. Notwithstanding any other law, prior to filing a claim under Section 51, 52, 54, 54.1, or 54.3, or Section 4450 or 4452 of the Government Code, an alleged aggrieved party shall notify the county in which the alleged violation occurred by personal service, in accordance with applicable state or federal laws, or certified mail, of all alleged special access violations for which a claim may be filed by the alleged aggrieved party. The alleged aggrieved party may not file any cause of action for an alleged violation until the county determines that the alleged violation has

not been remedied pursuant to the requirements set forth in Section 55.5.

SEC. 3. Section 4452 of the Government Code is amended to read:

4452. *(a)* It is the intent of the Legislature that the building standards published in the State Building Standards Code relating to access by the physically handicapped and the other regulations adopted by the State Architect pursuant to Section 4450 shall be used as minimum requirements to insure that buildings, structures and related facilities covered by this chapter are accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facility where the general public is concerned.

~~Any~~

(b) Any unauthorized deviation from ~~such~~ *those* regulations or building standards shall be rectified by full compliance within 90 days after discovery of the deviation.

(c) Notwithstanding subdivision (b), prior to any action commenced for an alleged violation of Section 4450 or this section, the notice requirements and procedures specified in Sections 55.5 and 55.6 of the Civil Code shall apply to the alleged aggrieved party.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 2623 – Peace officer use of firearms in state hospitals

BILL SUMMARY: Sponsored by the author, this bill would require peace officers of state hospitals (Patton, Coalinga, Napa, Atascadero, and Metropolitan) to carry a firearm while performing assigned functions outside of the secure treatment area of the hospital.

BACKGROUND: Existing law provides authorization for peace officers of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services to carry firearms only as authorized and under the terms and conditions specified by their employing agency.

ANALYSIS/DISCUSSION: This bill is intended to address issues related to the increased admissions of individuals with psychiatric disabilities who are admitted for criminal/legal (forensic) reasons. The bill specifies that more admissions are made for individuals who have committed, "heinous and violent crimes against other human beings, including rape, assault with a deadly weapon, and murder." In addition, the bill states that hospital peace officers may be assigned duties such as, patrolling hospital grounds, conducting vehicle stops, pursuing and apprehending individuals who have escaped, providing off-grounds custody to patients, and transporting individuals off grounds. The intent language in the bill also provides that this bill will provide the neighboring communities with more protection of having officers with firearms.

Recently, the director of DDS, Terri Delgadillo, testified during a legislative committee meeting and stated that one of the reasons she has consistently declined to provide firearms to peace officers in developmental centers is because firearms have not shown to either: 1) improve investigation of abuse and neglect, or 2) improve the quality of life for residents of the facility. Although this bill specifically outlines Department of Mental Health facilities, there are several similarities to developmental centers.

In fact, the role of peace officers in the facility is one that should be well-balanced between the need for safety, and the quality of life of residents. It may negatively impact the quality of life for resident as well as be quite intimidating to have armed peace officers on the grounds of resident living quarters.

Finally, existing law does provide for the use of firearms by DMH and DDS peace officers when specifically authorized to do so by their employing agency.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #4- Public safety agencies, other first responders and the justice system get information and assistance to be knowledgeable and aware of the needs of individuals with developmental disabilities so they can respond appropriately when individuals with developmental disabilities may have experienced abuse, neglect, sexual or financial exploitation or violation of legal or human rights.

PRIOR COUNCIL ACTIVITY: None.

STAFF RECOMMENDATION: Oppose AB 2623

ATTACHMENT: AB 2623

PREPARED: Melissa C. Corral – March 19, 2012

ASSEMBLY BILL No. 2623

Introduced by Assembly Member Allen

February 24, 2012

An act to amend Section 830.38 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, as introduced, Allen. State hospitals: peace officers.

Under existing law, peace officers of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services are authorized to carry firearms only as authorized and under terms and conditions specified by their employing agency.

This bill would instead require peace officers of those state hospitals to carry a firearm while performing assigned functions outside of the secure treatment area of the hospital.

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. The Legislature finds and declares all of the
2 following:
3 (a) Over the years, the patient population in state hospitals has
4 changed from virtually all the clients being civil commitments to
5 the current population of over 92 percent forensic commitments.
6 The majority of these patients have been committed to the state

hospitals for heinous and violent crimes against other human beings, including rape, assault with a deadly weapon, and murder.

(b) Hospital police officers (HPOs) are employed at the following state hospitals: Patton, Coalinga, Napa, Atascadero, and Metropolitan. HPOs are peace officers pursuant to Section 830.38 of the Penal Code, and they perform their duties without a firearm. Each hospital works under the auspices of the State Department of Mental Health.

(c) HPOs at each facility have varying roles. HPOs are responsible for enforcing the law on hospital grounds 24 hours a day and seven days a week. Inside each facility is a forensic compound, which is surrounded by an 18-foot fence. Housed within these compounds are forensic patients who, among other things, have been found not guilty by reason of insanity, incompetent to stand trial, and have been transferred from prison for psychiatric treatment.

(d) Most HPOs work any one of three shifts during a 24-hour period and may be assigned duties that include patrolling hospital grounds in a vehicle, conducting vehicle stops, pursuing and apprehending escaped patients, providing off-grounds custody to patients, transporting a patient on a compassionate leave visit, or transporting patients off grounds.

(e) At Patton and Coalinga State Hospitals, transportation, custody, and perimeter patrol functions outside the secure treatment area are performed by armed correctional officers. HPOs provide these same functions, as well as mutual aid to local law enforcement agencies, at Napa, Metropolitan, and Atascadero State Hospitals.

(f) It is the intent of the Legislature in enacting this legislation to provide the surrounding communities of Napa, Metropolitan, and Atascadero State Hospitals with the same level of protection and security that Patton and Coalinga State Hospitals currently enjoy. This legislation shall only apply to functions performed outside the secure treatment area during the prescribed functions in Section 830.38 of the Penal Code.

SEC. 2. Section 830.38 of the Penal Code is amended to read:

830.38. The officers of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services appointed pursuant to Section 4313 or 4493 of the Welfare and Institutions Code, are peace officers whose

1 authority extends to any place in the state for the purpose of
2 performing their primary duty or when making an arrest pursuant
3 to Section 836 as to any public offense with respect to which there
4 is immediate danger to person or property, or of the escape of the
5 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
6 the Government Code provided that the primary duty of the peace
7 officers shall be the enforcement of the law as set forth in Sections
8 4311, 4313, 4491, and 4493 of the Welfare and Institutions Code.
9 Those peace officers ~~may~~ *shall* carry firearms ~~only if authorized~~
10 ~~and under terms and conditions specified by their employing~~
11 ~~agency~~ *while performing assigned functions outside of the secure*
12 *treatment area of the hospital.*

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: SB 1377 –Protection and advocacy agencies; confidential client information

BILL SUMMARY: Sponsored by Disability Rights California (DRC), this bill would provide access to unredacted (non-confidential) citation, licensing, or survey reports prepared by a department responsible for issuing a license or certificate to a program, facility, plan of correction, survey report, or service serving and individual with a disability.

BACKGROUND: Existing law provides authority to the protection and advocacy agency to investigate any incident of abuse or neglect of persons with developmental disabilities or persons with mental illness if the complaints are reported to the protection and advocacy agency or if probable cause exists to believe that abuse or neglect has occurred.

This authority includes authorization to examine all records and interview any facility or program service recipient, employee or other person who may have knowledge of the incident.

ANALYSIS/DISCUSSION: In order to ensure that the protection and advocacy agency in California (DRC) receives the appropriate information and facts to indentify situations of abuse and neglect, it is imperative that they receive reports quickly and thoroughly.

Leslie Morrison testified at a recent legislative committee meeting that in many instances, reports are transmitted to DRC completely redacted, thereby eliminating critical information that would be used to identify possible witnesses and other information that would assist in the investigation process.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #4- Public safety agencies, other first responders and the justice system get information and assistance to be knowledgeable and aware of the needs of individuals with developmental disabilities so they can respond appropriately when individuals with developmental disabilities may have experienced abuse, neglect, sexual or financial exploitation or violation of legal or human rights.

PRIOR COUNCIL ACTIVITY: None.

STAFF RECOMMENDATION: Support SB 1377

ATTACHMENT: SB 1377

PREPARED: Melissa C. Corral – March 19, 2012

SENATE BILL No. 1377

Introduced by Senator Corbett

February 24, 2012

An act to amend Sections 4514, 4903, and 5328.15 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1377, as introduced, Corbett. Protection and advocacy agencies.

Existing law prescribes, in accordance with federal law, the powers of the protection and advocacy agency, which is a private, nonprofit corporation charged with protecting and advocating for the rights of persons with developmental disabilities and mental disorders. Under existing law, a protection and advocacy agency's powers include the authority to investigate any incident of abuse or neglect of persons with developmental disabilities or persons with mental illness if the complaints are reported to the protection and advocacy agency or if probable cause exists to believe that abuse or neglect has occurred. This authority includes the authorization to examine all relevant records and interview any facility or program service recipient, employee, or other person who might have knowledge of the alleged abuse or neglect. Existing law requires the agency to have access to the records of specified people with disabilities, including reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death occurring at the program, facility, or service.

This bill would provide that the authority to access these records includes access to an unredacted citation, licensing, or survey report prepared by a department responsible for issuing a license or certificate to a program, facility, or service serving an individual with a disability.

Existing law requires the confidentiality of all information and records obtained in the course of providing intake, assessment, and services

pursuant to specified provisions of existing law to persons with developmental disabilities and to voluntary or involuntary recipients of services under the existing Lanterman-Petris Short Act or within a prescribed state or county hospital.

This bill would authorize disclosure of the above-described confidential information to a protection and advocacy agency to the extent that the information is incorporated within a citation report, plan of correction, unredacted survey report, or statement of deficiency prepared by authorized licensing personnel or authorized representatives of the State Department of Health Care Services or the State Department of Social Services.

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 4514 of the Welfare and Institutions Code
2 is amended to read:
3 4514. All information and records obtained in the course of
4 providing intake, assessment, and services under Division 4.1
5 (commencing with Section 4400), Division 4.5 (commencing with
6 Section 4500), Division 6 (commencing with Section 6000), or
7 Division 7 (commencing with Section 7100) to persons with
8 developmental disabilities shall be confidential. Information and
9 records obtained in the course of providing similar services to
10 either voluntary or involuntary recipients prior to 1969 shall also
11 be confidential. Information and records shall be disclosed only
12 in any of the following cases:
13 (a) In communications between qualified professional persons,
14 whether employed by a regional center or state developmental
15 center, or not, in the provision of intake, assessment, and services
16 or appropriate referrals. The consent of the person with a
17 developmental disability, or his or her guardian or conservator,
18 shall be obtained before information or records may be disclosed
19 by regional center or state developmental center personnel to a
20 professional not employed by the regional center or state
21 developmental center, or a program not vendored by a regional
22 center or state developmental center.
23 (b) When the person with a developmental disability, who has
24 the capacity to give informed consent, designates individuals to

whom information or records may be released, except that nothing in this chapter shall be construed to compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, dependent ward, or conservatee, and his or her parent, guardian, conservator, limited conservator with access to confidential records, or authorized representative, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this chapter shall be construed to compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

" _____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from ____ (fill in the facility, agency or person), I, ____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information

obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____ "
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, *and* Section 6502 of the Welfare and Institutions Code~~, and Section 56557 of Title 17 of the California Code of Regulations~~.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident that is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain

confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of *Public* Health ~~Services~~, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of *Public* Health ~~Services~~ or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of *Public* Health ~~Services~~ or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of *Public* Health ~~Services~~ or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of

any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in any provision listed in Section 16590 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Division of Juvenile Facilities and Department of Corrections and Rehabilitation or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by

a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

(t) (1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final except for the actual records and documents submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not

1 necessary for the prosecution or defense of the adverse action,
2 shall not be disclosed.
3 (4) All records, documents, or other materials containing
4 confidential information protected by this section that have been
5 submitted or otherwise disclosed to the administrative agency or
6 other person as a component of an appeal from an adverse action
7 shall, upon proper motion by the appointing authority to the
8 administrative tribunal, be placed under administrative seal and
9 shall not, thereafter, be subject to disclosure to any person or entity
10 except upon the issuance of an order of a court of competent
11 jurisdiction.
12 (5) For purposes of this subdivision, an adverse action becomes
13 final when the employee fails to answer within the time specified
14 in Section 19575 of the Government Code, or, after filing an
15 answer, withdraws the appeal, or, upon exhaustion of the
16 administrative appeal or of the judicial review remedies as
17 otherwise provided by law.
18 (u) To the person appointed as the developmental services
19 decisionmaker for a minor, dependent, or ward pursuant to Section
20 319, 361, or 726.
21 *(v) To a protection and advocacy agency established pursuant*
22 *to Section 4901 to the extent that the information is incorporated*
23 *within a citation report, plan of correction, unredacted survey*
24 *report, or statement of deficiency prepared by authorized licensing*
25 *personnel or authorized representatives described in subdivision*
26 *(n). This information shall remain confidential and subject to the*
27 *confidentiality requirements of subdivision (f) of Section 4903.*
28 SEC. 2. Section 4903 of the Welfare and Institutions Code is
29 amended to read:
30 4903. (a) The protection and advocacy agency shall have
31 access to the records of any of the following people with
32 disabilities:
33 (1) Any person who is a client of the agency, or any person who
34 has requested assistance from the agency, if that person or the
35 agent designated by that person, or the legal guardian, conservator,
36 or other legal representative of that person, has authorized the
37 protection and advocacy agency to have access to the records and
38 information. If a person with a disability who is able to authorize
39 the protection and advocacy agency to access his or her records
40 expressly denies this access after being informed by the protection

1 and advocacy agency of his or her right to authorize or deny access,
2 the protection and advocacy agency may not have access to that
3 person's records.
4 (2) Any person, including any individual who cannot be located,
5 to whom all of the following conditions apply:
6 (A) The individual, due to his or her mental or physical
7 condition, is unable to authorize the protection and advocacy
8 agency to have access to his or her records.
9 (B) The individual does not have a legal guardian, conservator,
10 or other legal representative, or the individual's representative is
11 a public entity, including the state or one of its political
12 subdivisions.
13 (C) The protection and advocacy agency has received a
14 complaint that the individual has been subject to abuse or neglect,
15 or has determined that probable cause exists to believe that the
16 individual has been subject to abuse or neglect.
17 (3) Any person who is deceased, and for whom the protection
18 and advocacy agency has received a complaint that the individual
19 had been subjected to abuse or neglect, or for whom the agency
20 has determined that probable cause exists to believe that the
21 individual had been subjected to abuse or neglect.
22 (4) Any person who has a legal guardian, conservator, or other
23 legal representative with respect to whom a complaint has been
24 received by the protection and advocacy agency, or with respect
25 to whom the protection and advocacy agency has determined that
26 probable cause exists to believe that the person has been subjected
27 to abuse or neglect, whenever all of the following conditions exist:
28 (A) The representative has been contacted by the protection and
29 advocacy agency upon receipt of the representative's name and
30 address.
31 (B) The protection and advocacy agency has offered assistance
32 to the representatives to resolve the situation.
33 (C) The representative has failed or refused to act on behalf of
34 the person.
35 (b) Individual records that shall be available to the protection
36 and advocacy agency under this section shall include, but not be
37 limited to, all of the following information and records related to
38 the investigation, whether written or in another medium, draft or
39 final, including, but not limited to, handwritten notes, electronic
40 files, photographs, videotapes, or audiotapes:

(1) Information and records prepared or received in the course of providing intake, assessment, evaluation, education, training, or other supportive services, including, but not limited to, medical records, financial records, monitoring reports, or other reports, prepared or received by a member of the staff of a facility, program, or service that is providing care, treatment, or services.

(2) Reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death occurring at the program, facility, or service while the individual with a disability is under the care of a member of the staff of a program, facility, or service, or by or for a program, facility, or service, that describe any or all of the following:

(A) Abuse, neglect, injury, or death.

(B) The steps taken to investigate the incidents.

(C) Reports and records, including, but not limited to, personnel records prepared or maintained by the facility, program, or service in connection with reports of incidents, subject to the following:

(i) If a state statute specifies procedures with respect to personnel records, the protection and advocacy agency shall follow those procedures.

(ii) Personnel records shall be protected from disclosure in compliance with the fundamental right of privacy established pursuant to Section 1 of Article I of the California Constitution. The custodian of personnel records shall have a right and a duty to resist attempts to allow the unauthorized disclosure of personnel records, and may not waive the privacy rights that are guaranteed pursuant to Section 1 of Article I of the California Constitution.

(D) Supporting information that was relied upon in creating a report, including, but not limited to, all information and records that document interviews with persons who were interviewed, physical and documentary evidence that was reviewed, or related investigative findings.

(3) Discharge planning records.

(c) Information in the possession of a program, facility, or service that must be available to the agency investigating instances of abuse or neglect pursuant to paragraph (1) of subdivision (a) of Section 4902, whether written or in another medium, draft or final, including, but not limited to, handwritten notes, electronic files, photographs, videotapes, audiotapes, or records, shall include, but not be limited to, all of the following:

(1) Information in reports prepared by individuals and entities performing certification or licensure reviews, or by professional accreditation organizations, as well as related assessments prepared for a program, facility, or service by its staff, contractors, or related entities, subject to any other provision of state law protecting records produced by medical care evaluation or peer review committees.

(2) Information in professional, performance, building, or other safety standards, or demographic and statistical information, relating to the facility.

(d) The authority of the protection and advocacy agency to have access to records does not supersede any prohibition on discovery specified in Sections 1157 and 1157.6 of the Evidence Code, nor does it supersede any prohibition on disclosure subject to the physician-patient privilege or the psychotherapist-patient privilege.

(e) (1) The protection and advocacy agency shall have access to records of individuals described in paragraph (1) of subdivision (a) of Section 4902 and in subdivision (a), and other records that are relevant to conducting an investigation, under the circumstances described in those subdivisions, not later than three business days after the agency makes a written request for the records involved.

(2) The protection and advocacy agency shall have immediate access to the records, not later than 24 hours after the agency makes a request, without consent from another party, in a situation in which treatment, services, supports, or other assistance is provided to an individual with a disability, if the agency determines there is probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy, or in a case of death of an individual with a disability.

(f) Confidential information kept or obtained by the protection and advocacy agency shall remain confidential and may not be subject to disclosure. This subdivision shall not, however, prevent the protection and advocacy agency from doing any of the following:

(1) Sharing the information with the individual client who is the subject of the record or report or other document, or with his or her legally authorized representative, subject to any limitation on disclosure to recipients of mental health services as provided in subsection (b) of Section 10806 of Title 42 of the United States Code.

(2) Issuing a public report of the results of an investigation that maintains the confidentiality of individual service recipients.

(3) Reporting the results of an investigation to responsible investigative or enforcement agencies should an investigation reveal information concerning the facility, its staff, or employees warranting possible sanctions or corrective action. This information may be reported to agencies that are responsible for facility licensing or accreditation, employee discipline, employee licensing or certification suspension or revocation, or criminal prosecution.

(4) Pursuing alternative remedies, including the initiation of legal action.

(5) Reporting suspected elder or dependent adult abuse pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9).

(g) The protection and advocacy agency shall inform and train employees as appropriate regarding the confidentiality of client records.

(h) The authority provided pursuant to subdivision (b) shall include access to an unredacted citation, licensing, or survey report prepared by a department responsible for issuing a license or certificate to a program, facility, or service serving an individual with a disability.

SEC. 3. Section 5328.15 of the Welfare and Institutions Code is amended to read:

5328.15. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:

(a) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of *Public* Health ~~Services~~, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities and

to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of *Public* Health ~~Services~~ or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of *Public* Health ~~Services~~ or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of *Public* Health ~~Services~~ or the State Department of Social Services shall not contain the name of the patient.

(b) To any board which licenses and certifies professionals in the fields of mental health pursuant to state law, when the Director of Mental Health has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of that board and the records are relevant to the violation. This information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the patient.

(c) To a protection and advocacy agency established pursuant to Section 4901 to the extent that the information is incorporated within a citation report, plan of correction, unredacted survey report, or statement of deficiency prepared by authorized licensing

1 *personnel or authorized representatives described in subdivision*
2 *(a). This information shall remain confidential and subject to the*
3 *confidentiality requirements of subdivision (f) of Section 4903.*

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Senate Bill (SB) 764, developmental services: telehealth systems program.

BILL SUMMARY: Sponsored by the author, SB 764 would permit regional centers, through a pilot project, to pay for the provision of applied behavior analysis (ABA) and/or intensive behavioral intervention (IBI) services through telehealth systems. The provision of these services would have to be a part of a person's individual program plan (IPP) and subject to the approval of the individual, or where appropriate, the parents, legal guardian, conservator, or authorized representative.

BACKGROUND: Some individuals with developmental disabilities may have difficulty obtaining needed services if they live in rural areas where providers a few and far between. Telehealth services are a way that services can be provided to individuals whereby the provider is in a distant location from the service recipient. It has been reported that research has indicated that telehealth services result in cost savings (presumably because of the elimination of transportation costs for the individual and service provider to meet in person) and effective.

Research has indicated that nearly all individuals with autism and many with other developmental disabilities benefit from ABA and/or IBI, whereby the symptoms of their condition are reduced or eliminated.

ANALYSIS/DISCUSSION: This bill makes ABA and IBI services available to individuals who provide consent for it through telehealth. For those who wish to receive such services, this bill would seem to provide them with the services they need.

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: None

STAFF RECOMMENDATION: Support SB 764.

ATTACHMENT(S): SB 764 and analyses from the Senate Rules Committee and Senate Human Services Committee

PREPARED: Christofer Arroyo, April 3, 2012

AMENDED IN SENATE JANUARY 12, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL No. 764

Introduced by Senator Steinberg

February 18, 2011

An act to add Section 4686.21 to the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 764, as amended, Steinberg. Developmental services: telehealth systems program.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities.

This bill would require the department to ~~establish the telehealth systems program to~~, *on a demonstration pilot project basis,* authorize a provider who is currently vendorized with a regional center to provide applied behavioral analysis (ABA) services, intensive behavioral intervention (IBI) services, or both, to provide these services through the use of telehealth systems (THS), as defined, *as part of a consumer's individual program plan* upon approval of a regional center *and the voluntary approval of the consumer or specified persons*.

~~It~~

The bill would also *require the department, on this basis, to* authorize a regional center to purchase ABA or IBI services *provided* through the use of THS *as part of a consumer's individual program plan* if the

consumer or specified persons voluntarily approve this use and the provider can demonstrate a potential benefit for the consumer or regional center, or both, through the use of THS and can establish that the services being provided comply with specified requirements.

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 4686.21 is added to the Welfare and
2 Institutions Code, to read:
3 4686.21. (a) The State Department of Developmental Services
4 shall ~~establish the telehealth systems program. The program shall~~
5 ~~accomplish~~, *on a demonstration pilot basis, do* all of the following:
6 (1) Authorize a provider who is currently vendorized with a
7 regional center to provide applied behavioral analysis (ABA)
8 services, intensive behavioral intervention (IBI) services, or both,
9 to provide these services through the use of telehealth systems
10 (THS) *as part of a consumer's individual program plan* upon
11 approval of a regional center *and the voluntary approval of the*
12 *consumer, or where appropriate, his or her parents, legal*
13 *guardian, conservator, or authorized representative.*
14 (2) Authorize a regional center to purchase ABA or IBI services
15 *provided* through the use of THS *as part of a consumer's individual*
16 *program plan if both the consumer, or where appropriate, his or*
17 *her parents, legal guardian, conservator, or authorized*
18 *representative voluntarily approves this use of THS and* if the
19 provider can demonstrate a potential benefit for the consumer or
20 regional center, or both, through the use of THS and can establish
21 that the services being provided are in compliance with at least all
22 of the following:
23 (A) ABA and IBI program requirements in existence on the
24 effective date of this section.
25 (B) All requirements related to consumer privacy and
26 confidentiality.
27 (C) The requirements of this division.
28 (D) State and federal requirements with regards to the purchase
29 of regional center services.
30 (E) All federal funding participation guidelines and
31 requirements.

(F) The consumer's individual program plan.

(3) Require regional centers to consider the use of THS in the implementation of parent training for autism ABA or behavior intervention services as specified in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) of Section 4685, or both.

(b) The department shall implement vendorization codes or subcodes, or both, for all THS services and programs that apply pursuant to this section.

(c) The provider shall be responsible for all expenses and costs related to the equipment, transmission, storage, infrastructure, and other expenses related to the THS.

(d) For purposes of this section, ~~"telehealth~~ *the following definitions shall apply:*

(1) "Applied behavioral analysis" and "intensive behavioral intervention" have the same meanings as provided in Section 4686.2.

(2) "Telehealth systems" means a mode of delivering services ~~and~~ *that utilizes* information ~~that utilizes~~ *and communications* technologies to ~~enable~~ *facilitate the diagnosis,* evaluation, consultation, ~~and~~ treatment, *education, care management, supports, and self-management* of ~~individuals, and the provision of supports, self-management, and other appropriate services, including synchronous and asynchronous interactions, to individuals who are within the purview and responsibility of the regional center~~ *consumers,* regardless of the location of the providers or ~~individuals~~ *consumers. Telehealth systems also includes synchronous interactions and asynchronous store and forward transfers.*

~~(c) For purposes of this section, "applied behavioral analysis" and "intensive behavioral intervention" have the same meanings as provided in Section 4686.2.~~

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BILL ANALYSIS

SENATE HUMAN
SERVICES COMMITTEE
Senator Carol Liu, Chair

BILL NO: SB 764
S
AUTHOR: Steinberg
B
VERSION: January 4, 2012
HEARING DATE: January 10, 2012
7
FISCAL: Appropriations
6

4
CONSULTANT: Sara Rogers

SUBJECT

Developmental Services: Autism TeleHealth Program

SUMMARY

Requires the Department of Developmental Services to establish the telehealth systems program for the purpose of expanding the provision of applied behavioral analysis (ABA) or intensive behavioral intervention (IBI) services by regional centers or vendors through the use of telehealth systems (THS). Requires the Department to implement vendorization codes and/or sub codes for relevant THS services and programs.

ABSTRACT

Current law

1. Enacts the Telehealth Advancement Act of 2011 and repeals the Telemedicine Development Act of 1996. Defines telehealth as a mode of delivering health care and public health services facilitating the diagnosis, consultation, treatment, education, care management and self-management while the patient is at an originating site and the health care provider is at a distant site.

Continued---

2. Enacts the Lanterman Developmental Disabilities Service Act under the Department of Developmental Services (DDS) affirming a variety of rights and responsibilities for persons with developmental disabilities, including the right to treatment and habilitation services and supports in the least restrictive environment.

3. Establishes regional centers (RC), a network of nonprofit private corporations that operate under contract with DDS to provide or direct the provision of services and supports identified in a client individual program plan.

4. Enacts the California Early Intervention Services Act of 1993 establishing a statewide system of family-centered interagency programs responsible for providing appropriate early intervention services and support to all eligible infants and toddlers and their families, also known as "Early Start."

5. Enacts, through federal law, the Early Intervention Program for Infants and Toddlers with Disabilities of 1986 under the Individuals with Disabilities Education Act (IDEA).

6. Prohibits health care service plans, health insurers, and the Medi-Cal program from requiring in-person contact to occur between a health provider and a patient before payment is made for covered services appropriately provided through telehealth, subject to the terms and conditions of plan contract or the reimbursement policies adopted by the Department of Health Care Services.

This bill

1. Requires the Department of Developmental Services to establish the telehealth systems program.

_____ 2. Authorizes a provider vendorized with a regional center to provide applied behavioral analysis (ABA) services or intensive behavioral intervention (IBI) services to provide such services through telehealth systems (THS), subject to approval by a regional center.

_____ 3. Authorizes a regional center to purchase ABA or IBI

services through the use of THS if the provider can demonstrate that the provided services are beneficial for the consumer and are in compliance with existing ABA and IBI program requirements, privacy and confidentiality standards, state and federal requirements and federal funding participation guidelines.

_____ 4. Requires regional centers to consider the use of THS in implementation of parent training for autism related ABA or behavior intervention as part of the regional centers family support services.

_____ 5. Requires the department to implement vendorization codes or subcodes for all applicable THS services and programs.

_____ 6. States that a provider shall be responsible for all expenses and costs related to the THS.

_____ 7. Defines telehealth systems as a mode of delivering services and information that utilizes technologies to enable evaluation, consultation, and treatment of individuals and the provision of supports, self-management and other appropriate services, including synchronous and asynchronous interactions to individuals

being served by regional centers regardless of the location of the providers or individuals.

FISCAL IMPACT

This bill has not been analyzed by a fiscal committee.

BACKGROUND AND DISCUSSION

Purpose of the bill
According to the author, this bill is intended to enhance and promote the use of telehealth for the diagnosis and treatment of Autism Spectrum Disorders (ASD) by DDS and RCs and support the provision of services in the most competent and cost effective manner possible. The author notes that there are currently over 53,000 ASD consumers receiving services through RCs and that remote and underserved communities in particular lack sufficient access to

programs and providers to serve these consumers. The author states that telehealth applications have been established as highly effective in providing access to services, especially in rural and underserved communities.

The author further asserts that the goals and objectives of SB 764 are consistent with the DDS ASD initiative that has emphasized the use of innovative methods and technology to promote best practices in the assessment, diagnosis, treatment, education and training for individuals with ASD and their families.

The author states that, as amended, SB 764 is intended to ensure that the proposed telehealth services comply with all existing requirements of the Lanterman Act; comply with all existing privacy and confidentiality requirements and regulations; and also comply with all relevant federal and state requirements.

Autism
Autism is defined as a group of neural development disorders linked to atypical biology and chemistry in the brain and generally appearing within the first three years of life. Autism is further characterized by delayed, impaired or otherwise atypical verbal and social communication skills, sensitivity to sensory stimulation, atypical behaviors and body movements, and sensitivity to changes in routines.

According to the Centers for Disease Control and Prevention (CDC), the average total ASD prevalence in 2006 (children born in 1998) was 9.0 per 1,000 children, translating to one in 110 children. ASD prevalence was found to be 4 to 5 times higher for boys than for girls.

In 2007, the California Department of Developmental Services (DDS) reported serving 38,000 individuals with autism reflecting an annual increase of 13.4 percent since 2002, and that, of California children born during 1990-1997, more than 11,000 are enrolled with DDS to

receive services for autism.

Public services for children and adults with autism
The Lanterman Developmental Disabilities Service Act administered by the Department of Developmental Services

(DDS) affirms a variety of rights and responsibilities for persons with developmental disabilities, including the right to treatment and habilitation services and supports in the least restrictive environment. Prior to enactment of the Lanterman Act the majority of children with autism were placed in state funded institutions for life at higher average and overall cost to the state.

State law requires the Department of Developmental Services and Regional Centers, as their contracted local administrator, to provide a variety of services and supports necessary to prevent institutionalization and to assist families caring for their children at home. Provided services include diagnosis and eligibility assessment services as well as family support or community/independent living services in accordance with an individual program plan (IPP) or an individualized family service plan (IFSP). Regional centers are permitted to purchase Applied Behavior Analysis or Intensive Behavior Intervention services if the service provider uses evidence-based practices and the services promote positive social behaviors and help address issues with learning and social interactions.

DDS additionally administers the Early Start program in California which provides a broad scope of behavioral intervention and family support services to infants and toddlers under the age of 3 who are 'developmentally delayed' or have an 'established risk' or are 'at high risk' of a developmental delay.

Telehealth as a treatment modality for autism
Many studies indicate that early diagnosis and intervention is critical for children with ASD, offering significant opportunities to improve quality of life for these children and their families over the short and long term.

Recent studies have evaluated the effectiveness and efficiency of behavioral intervention treatments, functional communication training and functional analysis training for parents conducted through telehealth, including both synchronous (simultaneous exchange of information) and asynchronous (information exchange occurs over a period of time) modalities. These studies have demonstrated that telehealth can result in increased

efficiency, cost savings and comparable treatment outcomes.

Related/prior legislation
AB 415 (Logue), Chapter 547, Statutes of 2011 repealed the Telemedicine Development Act of 1996, changing the reference from "telemedicine" to "telehealth", revising confidentiality and privacy standards, consent requirements, and other health provider and insurance requirements for telehealth.

ABx4 9, Chapter 9, Statutes of 2009-10, Fourth Extraordinary Session among other provisions, required the least costly available provider of comparable service, including transportation costs, who is able to accomplish all or parts of the consumer's IPP, consistent with the needs of the consumer and family as identified in the IPP, to be selected to deliver services to the consumer.

Statutorily defined ABA and IBI treatments and established a variety of standards and restrictions for vendors providing applied behavioral analysis (ABA) services or intensive behavioral intervention services, or both.

SB 1665 (M. Thompson), Chapter 864, Statutes of 1996 enacted the "Telemedicine Development Act of 1996" imposing several requirements governing the delivery of health care services through telemedicine. Prohibited health insurers from requiring face to face contact between a health care provider and patient for covered services appropriately provided through telemedicine.

COMMENTS AND QUESTIONS

1. A previous Senate Health Committee analysis of an earlier version of this bill noted that a number of terms and conditions used in this bill are also defined in AB 415 (Chapter 547, 2011). Health Committee staff recommended this bill use terms that are consistent with that law. Currently, the definitions of the terms continue to differ. Staff notes that differences between ABA/IBI services in comparison to traditional medical services may necessitate some variance between the definitions; however staff recommends the author consider bringing the two definitions into closer alignment.

STAFF ANALYSIS OF SENATE BILL 764 (Steinberg) Page 7

(d) For purposes of this section, "telehealth systems" means ~~a~~ the mode of delivering services ~~and~~ via information ~~that utilizes~~ and communication technologies to ~~enable~~ facilitate diagnosis, evaluation, consultation, ~~and~~ treatment, education, care management, supports, and self-management ~~and other appropriate services, including synchronous and a synchronous interactions to individuals who are within the purview and responsibility of the regional center~~ regardless of the location of the providers or ~~individuals~~ consumers. Telehealth includes synchronous interactions and asynchronous store and forward transfers.

2. Creation of a new program. This bill calls for the creation of the telehealth systems program; however, the substantive effect of the bill makes changes addressing

the administration of existing programs. Staff recommends the author consider amending or deleting this provision.

POSITIONS

Support: Behavioral Intervention Association (BIA)
Capitol Autism Services
The Children's Partnership

Oppose: None received

-- END --

BILL ANALYSIS

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916)
327-4478

SB 764

THIRD READING

Bill No: SB 764
Author: Steinberg (D)
Amended: 1/12/12
Vote: 21

SENATE HUMAN SERVICES COMMITTEE : 4-0, 1/10/12
AYES: Liu, Hancock, Wright, Yee
NO VOTE RECORDED: Emmerson, Berryhill, Strickland

SENATE APPROPRIATIONS COMMITTEE : 6-2, 1/19/12
AYES: Kehoe, Alquist, Lieu, Pavley, Price, Steinberg
NOES: Walters, Emmerson
NO VOTE RECORDED: Runner

SUBJECT : Developmental services: Autism Telehealth Program

SOURCE : Author

DIGEST : This bill requires the Department of Developmental Services to establish a program to provide certain services to clients with autism spectrum disorders through telehealth systems.

ANALYSIS :

Existing law :

1. Enacts the Telehealth Advancement Act of 2011 and repeals the Telemedicine Development Act of 1996.

CONTINUED

Defines telehealth as a mode of delivering health care and public health services facilitating the diagnosis, consultation, treatment, education, care management and self-management while the patient is at an originating site and the health care provider is at a distant site.

2. Enacts the Lanterman Developmental Disabilities Service Act under the Department of Developmental Services (DDS)

affirming a variety of rights and responsibilities for persons with developmental disabilities, including the right to treatment and habilitation services and supports in the least restrictive environment.

3. Establishes regional centers, a network of nonprofit private corporations that operate under contract with DDS to provide or direct the provision of services and supports identified in a client individual program plan.

4. Enacts the California Early Intervention Services Act of 1993 establishing a statewide system of family-centered interagency programs responsible for providing appropriate early intervention services and support to all eligible infants and toddlers and their families, also known as "Early Start."

5. Enacts, through federal law, the Early Intervention Program for Infants and Toddlers with Disabilities of 1986 under the Individuals with Disabilities Education Act.

6. Prohibits health care service plans, health insurers, and the Medi-Cal program from requiring in-person contact to occur between a health provider and a patient before payment is made for covered services appropriately provided through telehealth, subject to the terms and conditions of plan contract or the reimbursement policies adopted by the Department of Health Care Services.

This bill

1. Requires DDS to establish a program to provide certain services to clients with autism spectrum disorders through telehealth systems.

CONTINUED

2. Authorizes a provider vendorized with a regional center to provide applied behavioral analysis (ABA) services or intensive behavioral intervention (IBI) services to provide such services through THS, subject to approval by a regional center.

3. Authorizes a regional center to purchase ABA or IBI services through the use of THS if the provider can demonstrate that the provided services are beneficial for the consumer and are in compliance with existing ABA and IBI program requirements, privacy and confidentiality standards, state and federal requirements and federal funding participation guidelines.

4. Requires regional centers to consider the use of THS in implementation of parent training for autism related ABA or behavior intervention as part of the regional centers family support services.

5. Requires the department to implement vendorization codes or subcodes for all applicable THS services and programs.

6. States that a provider shall be responsible for all expenses and costs related to the THS.

7. Defines THS as a mode of delivering services and information that utilizes technologies to enable evaluation, consultation, and treatment of individuals and the provision of supports, self-management and other appropriate services, including synchronous and asynchronous interactions to individuals being served by regional centers regardless of the location of the providers or individuals.

Background

Autism . Autism Spectrum Disorders (ASD) is defined as a group of neural development disorders linked to atypical biology and chemistry in the brain and generally appearing within the first three years of life. ASD is further characterized by delayed, impaired or otherwise atypical

CONTINUED

verbal and social communication skills, sensitivity to sensory stimulation, atypical behaviors and body movements, and sensitivity to changes in routines.

According to the Centers for Disease Control and Prevention, the average total ASD prevalence in 2006 (children born in 1998) was 9.0 per 1,000 children, translating to one in 110 children. ASD prevalence was found to be four to five times higher for boys than for girls.

In 2007, the California DDS reported serving 38,000 individuals with ASD reflecting an annual increase of 13.4 percent since 2002, and that, of California children born during 1990-1997, more than 11,000 are enrolled with DDS to receive services for autism.

Public services for children and adults with autism . The Lanterman Developmental Disabilities Service Act administered by the DDS affirms a variety of rights and responsibilities for persons with developmental disabilities, including the right to treatment and habilitation services and supports in the least restrictive environment. Prior to enactment of the Lanterman Act the majority of children with autism were placed in state funded institutions for life at higher average and overall cost to the state.

State law requires the DDS and Regional centers, as their contracted local administrator, to provide a variety of services and supports necessary to prevent institutionalization and to assist families caring for their children at home. Provided services include diagnosis and eligibility assessment services as well as family support or community/independent living services in accordance with an individual program plan (IPP) or an individualized family service plan. Regional centers are permitted to purchase Applied Behavior Analysis or Intensive Behavior Intervention services if the service provider uses evidence-based practices and the services

promote positive social behaviors and help address issues with learning and social interactions.

DDS additionally administers the Early Start program in

CONTINUED

California which provides a broad scope of behavioral intervention and family support services to infants and toddlers under the age of three who are 'developmentally delayed' or have an 'established risk' or are 'at high risk' of a developmental delay.

Telehealth as a treatment modality for autism . Many studies indicate that early diagnosis and intervention is critical for children with ASD, offering significant opportunities to improve quality of life for these children and their families over the short and long term.

Recent studies have evaluated the effectiveness and efficiency of behavioral intervention treatments, functional communication training and functional analysis training for parents conducted through telehealth, including both synchronous (simultaneous exchange of information) and asynchronous (information exchange occurs over a period of time) modalities. These studies have demonstrated that telehealth can result in increased efficiency, cost savings and comparable treatment outcomes.

Prior/Related Legislation

AB 415 (Logue), Chapter 547, Statutes of 2011, repeals the Telemedicine Development Act of 1996, changing the reference from "telemedicine" to "telehealth", revising confidentiality and privacy standards, consent requirements, and other health provider and insurance requirements for telehealth.

ABx4 9 (Evans), Chapter 9, Statutes of 2009-10, Fourth Extraordinary Session, among other provisions, required the least costly available provider of comparable service, including transportation costs, who is able to accomplish all or parts of the consumer's IPP, consistent with the needs of the consumer and family as identified in the IPP, to be selected to deliver services to the consumer.

Statutorily defines ABA and IBI treatments and established a variety of standards and restrictions for vendors providing ABA services or IBI services, or both.

SB 1665 (M. Thompson), Chapter 864, Statutes of 1996,

CONTINUED

enacts the "Telemedicine Development Act of 1996" imposing

several requirements governing the delivery of health care services through telemedicine. Prohibited health insurers from requiring face to face contact between a health care provider and patient for covered services appropriately provided through telemedicine.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: No

Fiscal Impact (in thousands)

Major Provisions	2012-13	2013-14	2014-15	Fund
Increased utilization of Regional Center services	Unknown potential costs			General
Cost savings from using telehealth systems	Unknown potential savings			General

SUPPORT : (Verified 1/23/12)

Behavioral Intervention Association
Capitol Autism Services
The Children's Partnership

ARGUMENTS IN SUPPORT : According to the author's office, this bill is intended to enhance and promote the use of telehealth for the diagnosis and treatment of ASD by DDS and RCs and support the provision of services in the most competent and cost effective manner possible. The author's office notes that there are currently over 53,000 ASD consumers receiving services through regional centers and that remote and underserved communities in particular lack sufficient access to programs and providers to serve these consumers. The author's office states that telehealth applications have been established as highly effective in providing access to services, especially in rural and underserved communities.

The author's office further asserts that the goals and

CONTINUED

objectives of this bill are consistent with the DDS ASD initiative that has emphasized the use of innovative methods and technology to promote best practices in the assessment, diagnosis, treatment, education and training for individuals with ASD and their families.

The author's office states that, as amended, this bill intends to ensure that the proposed telehealth services comply with all existing requirements of the Lanterman Act; comply with all existing privacy and confidentiality requirements and regulations; and also comply with all relevant federal and state requirements.

CTW:do 1/23/12 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

CONTINUED

AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill (AB) 2338 developmental services: employment first policy

BILL SUMMARY: Recommended to be sponsored by the State Council on Developmental Disabilities, AB 2338 requires the regional center, when developing an individual program plan (IPP) for transition age youth or working age adults, to consider the Employment First Policy while not infringing upon an individual's right to make informed choices about services and supports. The Employment First Policy is identified as: "It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities. This policy shall be known as the Employment First Policy." This bill also, beginning when an individual with a developmental disability is 16 years of age, requires the planning team to discuss school-to-work opportunities during IPP meetings and to inform the consumer, parents, legal guardian, or conservator about the Employment First Policy. Lastly, AB 2338 includes a provision that nothing about it should be understood to expand the entitlement to services as part of the Lanterman Act.

BACKGROUND: Last session, Chapter 231, Statutes of 2009 (AB 287) was enacted requiring the Council to create an Employment First Committee (EFC). The EFC was required to submit a report to the Legislature and Governor that identified an employment first policy and included recommendations to enhance and increase integrated employment opportunities for people with developmental disabilities. This report was submitted to the Governor and Legislature in August 2011.

The Employment First Policy, as articulated in the report, is: "It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities." In order to clarify that the Employment First Policy is in no way intended to diminish any part of the IPP planning process, the following appears immediately after the policy as the first key principle underpinning the policy:

> "The individual program plan (IPP) and the provision of services and supports is centered on the individual and the family. The IPP and the provision of services take into account the needs and preferences of the individual and family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments."

AB 254 (Beall) from this session sought to accomplish similar but slightly different provisions as AB 2338.

ANALYSIS/DISCUSSION: While AB 2338 is largely similar to AB 254 (which did not pass) there are substantial differences. Given LPPC members' familiarity with AB 254, this analysis compares and contrasts AB 254 and AB 2338.

Regarding AB 254, some erroneously believed that it removed a portion of the Lanterman Act that provides for the IPP process and the ability of one's right to make choices about one's own life. It was also understood why one might have been left with this impression based upon the ways in which changes were made to this bill. However, AB 254 made no such changes to the Lanterman Act and the Employment First Policy was designed in that bill to further the intent of the Act, be consistent with rights established under the Act, and maintains one's right to make choices in respect to the development and implementation of IPPs. **AB 2338** explicitly includes provisions that the Employment First Policy is designed to further the intent of the Lanterman Act, be consistent with rights established under the Act, and may not infringe upon an individual's right to make informed choices about services and supports.

On January 19th, 2012, the Assembly Appropriations Committee reviewed AB 254. At that time, the committee's staff analysis indicated a belief that AB 254 broadens the entitlement in the Lanterman Act "...to include an entitlement that all working-age consumers receive a prevailing wage job." **AB 2338** explicitly indicates that there is no broadening of the entitlement in the Lanterman Act.

The Appropriations Committee staff analysis of AB 254 also indicated that additional costs would be incurred by the state if IPPs were required to have school-to-work plans for students 14 or over and if DDS collected data from regional centers in order to evaluate progress for the implementation of Employment First. **AB 2338** is likely to have a less costly projection because it only requires the planning team to discuss school-to-work opportunities during IPP meetings and to inform the consumer, parents, legal guardian, or conservator about the Employment First Policy. Additionally, **AB 2338** indicates DDS **may** request information from regional centers on current and planned activities related to the Employment First Policy. Because this provision is permissive and does not create a requirement, it is anticipated that this will be less costly than the provision that appeared in AB 254.

The California Disability Services Association, an organization that spoke in opposition to AB 254 at the Appropriations hearing on January 12th, indicated that if many individuals chose to pursue employment, additional and substantial state resources would be necessary to support this increased need. One could make a similar

argument for **AB 2338**, but if there were a provision for services to be provided within existing resources, there would be no basis for this argument.

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

The State of California will adopt an Employment First policy which reflects inclusive and gainful employment as the preferred outcome for working age individuals with developmental disabilities.

PRIOR COUNCIL ACTIVITY: The Council supported AB 287 (2009) and submitted the first annual Employment First report to the Governor and Legislature in August 2011. In April 2011, the Council supported AB 254. In December 2011, the Council sponsored AB 254.

RECOMMENDATION(S): Pending Executive Committee action on 4/10/12 and outcome of hearing on same date.

ATTACHMENT: AB 2338

PREPARED: Christofer Arroyo, April 2, 2012

ASSEMBLY BILL No. 2338

Introduced by Assembly Members Chesbro and Beall

February 24, 2012

An act to amend Sections 4646.5 and 4868 of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, as introduced, Chesbro. Developmental services: Employment First Policy.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

Existing law requires the State Council on Developmental Disabilities to, among other responsibilities, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, as defined, self-employment, and microenterprises for persons with developmental disabilities, as specified.

This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, and,

where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy.

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 4646.5 of the Welfare and Institutions
2 Code is amended to read:
3 4646.5. (a) The planning process for the individual program
4 plan described in Section 4646 shall include all of the following:
5 (1) Gathering information and conducting assessments to
6 determine the life goals, capabilities and strengths, preferences,
7 barriers, and concerns or problems of the person with
8 developmental disabilities. For children with developmental
9 disabilities, this process should include a review of the strengths,
10 preferences, and needs of the child and the family unit as a whole.
11 Assessments shall be conducted by qualified individuals and
12 performed in natural environments whenever possible. Information
13 shall be taken from the consumer, his or her parents and other
14 family members, his or her friends, advocates, authorized
15 representative, if applicable, providers of services and supports,
16 and other agencies. The assessment process shall reflect awareness
17 of, and sensitivity to, the lifestyle and cultural background of the
18 consumer and the family.
19 (2) A statement of goals, based on the needs, preferences, and
20 life choices of the individual with developmental disabilities, and
21 a statement of specific, time-limited objectives for implementing
22 the person's goals and addressing his or her needs. These objectives
23 shall be stated in terms that allow measurement of progress or
24 monitoring of service delivery. These goals and objectives should
25 maximize opportunities for the consumer to develop relationships,
26 be part of community life in the areas of community participation,

housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals.

(3) When developing individual program plans for children, regional centers shall be guided by the principles, process, and services and support parameters set forth in Section 4685.

(4) When developing an individual program plan for a transition age youth or working age adult, the planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).

~~(4)~~

(5) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The individual program plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services.

~~(5)~~

(6) When agreed to by the consumer, the parents, legally appointed guardian, or authorized representative of a minor consumer, or the legally appointed conservator of an adult consumer or the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548, subdivision (b) of Section 4701.6, and subdivision (e) of Section 4705, a review of the general health status of the adult or child including a medical, dental, and mental health needs shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of *the* last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator.

~~(6)~~

(7) (A) The development of a transportation access plan for a consumer when all of the following conditions are met:

(i) The regional center is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services.

(ii) The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation services.

(iii) The planning team has determined that generic transportation services are available and accessible.

(B) To maximize independence and community integration and participation, the transportation access plan shall identify the services and supports necessary to assist the consumer in accessing public transportation and shall comply with Section 4648.35. These services and supports may include, but are not limited to, mobility training services and the use of transportation aides. Regional centers are encouraged to coordinate with local public transportation agencies.

~~(7)~~

(8) A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled within the times specified, and that consumers and families are satisfied with the individual program plan and its implementation.

(b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, authorized representative, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted.

(c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the Organization of Area Boards shall prepare training material and a standard format and instructions for the preparation of individual program plans, which embodies an approach centered on the person and family.

(2) Each regional center shall use the training materials and format prepared by the department pursuant to paragraph (1).

(3) The department shall biennially review a random sample of individual program plans at each regional center to ~~assure~~ *ensure* that these plans are being developed and modified in compliance with Section 4646 and this section.

SEC. 2. Section 4868 of the Welfare and Institutions Code is amended to read:

4868. (a) The State Council on Developmental Disabilities shall form a standing Employment First Committee consisting of the following members:

(1) One designee of each of the members of the state council specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph (2) of subdivision (b) of Section 4521.

(2) A member of the consumer advisory committee of the state council.

(b) In carrying out the requirements of this section, the committee shall meet and consult, as appropriate, with other state and local agencies and organizations, including, but not limited to, the Employment Development Department, the Association of Regional Center Agencies, one or more supported employment provider organizations, an organized labor organization representing service coordination staff, and one or more consumer family member organizations.

(c) The responsibilities of the committee shall include, but need not be limited to, all of the following:

(1) Identifying the respective roles and responsibilities of state and local agencies in enhancing integrated and gainful employment opportunities for people with developmental disabilities.

(2) Identifying strategies, best practices, and incentives for increasing integrated employment and gainful employment opportunities for people with developmental disabilities, including, but not limited to, ways to improve the transition planning process for students 14 years of age or older, and to develop partnerships with, and increase participation by, public and private employers and job developers.

(3) Identifying existing sources of employment data and recommending goals for, and approaches to, measuring progress in~~,~~ increasing integrated employment and gainful employment of people with developmental disabilities.

(4) Recommending legislative, regulatory, and policy changes for increasing the number of individuals with developmental disabilities in integrated employment, self-employment, and microenterprises and who earn wages at or above minimum wage, including, but not limited to, recommendations for improving transition planning and services for students with developmental disabilities who are 14 years of age or older. This shall include, but shall not be limited to, the development of ~~an Employment First Policy~~ *a policy with* the intended outcome of ~~which is a significant increase in~~ *significantly increasing* the number of individuals with developmental disabilities who engage in integrated employment, self-employment, and microenterprises and in the number of individuals who earn wages at or above minimum wage. This proposed policy shall be in furtherance of the intent of this division that services and supports be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age and that support their integration into the mainstream life of the community, and that those services and supports result in more independent, productive, and normal lives for the persons served. The proposed ~~Employment First Policy~~ *policy* shall not limit service and support options otherwise available to consumers, or the rights of consumers, or, where appropriate, parents, legal guardians, or conservators to make choices in their own lives.

(d) For purposes of this chapter, ~~"integrated employment" shall have the same definition as "integrated work" as defined in subdivision (o) of Section 4851.~~ *the following definitions shall apply:*

(1) "Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(2) "Integrated employment" means "integrated work" as defined in subdivision (o) of Section 4851.

(3) "Microenterprises" means small businesses owned by individuals with developmental disabilities who have control and responsibility for decisionmaking and overseeing of the business,

with accompanying business licenses, taxpayer identification numbers other than social security numbers, and separate business bank accounts. Microenterprises may be considered integrated competitive employment.

(4) "Self-employment" means an employment setting in which an individual works in a chosen occupation, for profit or fee, in his or her own small business, with control and responsibility for decisions affecting the conduct of the business.

(e) The committee, by July 1, 2011, and annually thereafter, shall provide a report to the appropriate policy committees of the Legislature and to the Governor describing its work and recommendations. The report due by July 1, 2011, shall include the proposed ~~Employment First Policy~~ *policy* described in paragraph (4) of subdivision (c).

SEC. 3. Section 4869 is added to the Welfare and Institutions Code, to read:

4869. (a) (1) It is the policy of the state that integrated, competitive employment is the priority outcome for working age individuals with developmental disabilities. This policy shall be known as the Employment First Policy.

(2) This policy is in furtherance of the intent of this division to make services and supports available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age, to support the integration of persons with developmental disabilities into the mainstream life of the community, and to bring about more independent, productive, and normal lives for the persons served.

(3) Implementation of the policy shall be consistent with, and shall not infringe upon, the rights established pursuant to this division, including the right of people with developmental disabilities to make informed choices with respect to services and supports through the individual program planning process.

(4) Integrated competitive employment is intended to be the first option considered by planning teams for working age individuals, but individuals may choose goals other than integrated competitive employment.

(5) This chapter shall not be construed to expand the existing entitlement to services for persons with developmental services described in this division.

(b) Regional centers shall ensure that consumers, beginning at 16 years of age, and, where appropriate, their parents, legal guardians, or conservators, are provided with information, in a language that the consumer and, as appropriate, the consumer's representative understand, about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment.

(c) The department may request information from regional centers on current and planned activities related to the Employment First Policy.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill 1244: Developmental Services: Self-Determination

BILL SUMMARY: AB 1244 creates the Self-Determination Program within the existing developmental services system to provide individuals with a single, capitated funding allocation they may use to purchase services that support goals identified in Individual Program Plans (IPPs).

The Self-Determination Program has the potential to generate short and long-term cost savings to the state, while giving regional center clients flexibility within a capitated service budget as an alternative to the traditional service system and limitations in regional center purchase authority.

The Self-Determination Program will be designed to promote and be evaluated against core quality outcomes based on universal human aspirations:

- welfare, health and safety,
- living in a place called home,
- meaningful participation and membership in their own community,
- reciprocal long-term relationships,
- generating private income, through typical jobs in regular employment settings or through self-employment, and
- access to or control over transportation.

The Self-Determination Program makes individualized funding available to individuals with developmental disabilities who are receiving services under the Lanterman Developmental Services Act. Individual allocations are computed in a fair, transparent, and equitable manner based on their characteristics and needs. It enables consumers/families to exercise their rights and access services and supports they choose to realize their IPPs.

BACKGROUND: Existing law:

- Entitles individuals with developmental disabilities to community services and supports through the Department of Developmental Services (DDS) and requires the department to enter into contracts with private nonprofit regional centers to provide these supports.

- Creates a self-directed services program, contingent upon approval of a federal waiver, in which consumers of regional center services can opt for a set individual budget that allows them to choose from a menu of service options rather than having services coordinated through a regional center case manager. This has not been implemented.

- Establishes the individual choice budget, contingent upon certification by the director of DDS that the program would save $35.1 million, which would provide individuals with a per-capita budget to purchase services. The individual choice budget has not been implemented.

The Self-Determination program represents an alternative model of service delivery, whereby individuals who are eligible for state developmental disabilities services are empowered to gain control over the selection of services and supports that meet their own needs. It is an alternative to the standard service model of the Lanterman Act, in which regional centers purchase services directly from approved "vendors" or obtain services from other agencies. Self-determination is intended to enhance the ability of a consumer and his or her family to control the decisions and resources required to meet all or some of the objectives in the consumer's IPP.

ANALYSIS/DISCUSSION: The Lanterman Act has led to tremendous advancements in deinstitutionalization, community integrated services, disability rights and family support. However, the long-term national trends are moving away from congregate services toward highly individualized options which have led to demands by people with disabilities for control over their services and their lives. People seek homes of their own, where they control who comes in and who supports them. They seek real membership in their communities, participating as a valued member in community organizations and activities that they choose. They seek to develop and preserve long-term reciprocal relationships, with friends, family, neighbors, and others in their communities. People want to earn income to begin to overcome the barriers inherent to a life of deprivation. AB 1244 is an effective step toward the achievement of these goals and aspirations. And as the bill's author explained: "Self-Determination leads to those outcomes that people seek" and, "in an environment of fiscal constraint, and with more and more limits put on the availability of traditional services, Self-Determination offers an alternative to the cost pressures and increasing limits of the traditional developmental services system."

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #14- Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families.

Objective 14a) The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities,

will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: The Council currently has a support position on AB 1244.

LPPC continues to monitor AB 1244 for anticipated amendments and reviewed a draft set that provided additional clarity regarding the development of the individual budget allocation; however, at the time, the sponsors indicated that these amendments are not yet being put forth in the bill. While the proposed amendments are not yet in print, the sponsor has provided a copy to the Council. A portion of the amendments is consistent with LPPC's recommendation that would allow an individual or family to select using either a historical expenditure or modeled costs process to establish the level of their individual budget allotment.

STAFF RECOMMENDATION: Continue to support AB 1244 as proposed to be amended.

ATTACHMENT: AB 1244 and proposed amendments.

PREPARED: Karim Alipourfard, March 7, 2012; Carol Risley, April 4, 2012

Risley, Carol@SCDD

From: Mark Polit [mark.polit@seiu.org]
Sent: Monday, March 26, 2012 2:40 PM
To: Robb Layne
Cc: Evelyn Abouhassan; Blakemore, Catherine@disabilityrightsca; Risley, Carol@SCDD; Judy Mark; Areva Martin; Susan Henderson; Bryon MacDonald; Kai Liu; Landry, Linda; Goldfarb, Fran; Wheeler, Barbara@chla; Mike Clark; Conlap@aol.com; Harvey; Arroyo, Christofer@SCDD; Grace Vergara; susan strubbe; Bayardo, Rene; Jennifer Hunter; Maryann Parker
Subject: Amendments for AB 1244
Attachments: Proposed Amendments AB 1244 - March 23 2012.docx

Hi Robb,

Attached are the amendments to AB 1244 that we have discussed, including the earlier amendment that we all agreed to on the allocation methodology.

The allocation methodology really needs to be in print as soon as possible, since that change is important to many people supporting or considering supporting the bill. So we may as well make the other changes at the same time. This would give us a cleaned up version that should last until we have to deal with the fiscal committee or the Administration.

Please let me know if you have any questions.

Thanks
--
Mark Polit
510-206-5227 (c)
510-343-8563

MEMORANDUM

From: Mark Polit
To: Robb Layne
Date: March 13, 2012
Re: Suggested Amendments for AB 1244

The following suggested amendments will address some technical issues, clean up and also some substantive amendments to defray any costs of a union election and ensure that Self-Determination Workers under the bill would have the ability to access health benefits and workers compensation.

I. Cost of Election and PERB

There may be concerns over the cost of an election and PERB's lack of experience in conducting a statewide, mail-ballot election. We propose to address those by providing that the union pay for an election, and that PERB could hire a neutral third party to actually conduct the election. We therefore propose this amendment:

In § 4689.93(d)(2), add subparagraphs (D) and (E):

(D) The board may designate a neutral third party to act on petitions filed with the board under subparagraphs (B) or (C).

(E)The costs of verifying the number of SD support workers who have authorized a labor union to be their negotiating representative under subparagraph (B) shall be paid by the labor organization that petitions the board to be designated the negotiating representative. The cost of an election held under subparagraph (C) will be shared equally by all labor organizations placed on the ballot.

II. Workers' Compensation and Health Insurance

The mechanism for workers to obtain heath insurance and workers compensation is not clear in the bill. Many workers will be covered for injuries in the home under home-owners, rental, or the landlords insurance, but many will not. We want to make sure that SD support workers can bargain for health insurance and the provision of workers compensation, and that the financial management service can provide it. Therefore we propose the following changes:

Edit the definition of "financial management service" in § 4689.90(b):

(b) "Financial management service" means a conflict-of-interest free service or function that assists the participant to manage and direct the distribution of funds contained in the individual allocation. This may include, but is not limited to, bill paying services and activities that facilitate the employment of service workers by the participant, including, but not limited to, federal, state, and local tax withholding payments;~~.~~ unemployment compensation fees;~~.~~ ~~establishing~~ providing benefits, including workers' compensation and health insurance benefits, to the extent they are or become available to SD support workers;~~.~~ fiscal accounting, and expenditure reports. The financial management service shall provide to the department workforce and expenditure information as required in this article. The department shall establish specific qualifications which shall be required of a financial management services provider and contract with one entity to provide financial management services statewide.

Edit the list of topics the representative of SD workers can negotiate over in § 4689.93(d)(4):

(4) The designated negotiating representative of SD support workers shall negotiate with the department concerning the terms and conditions of workers' participation in the SD Program including all of the following:

(A) The base compensation package mandated by this article which includes, but is not limited to, wages and ~~.~~

~~(B) A~~access to benefits, includ~~ing, but not limited to,~~ing workers' compensation and health insurance benefits, for SD support workers.

(~~C~~B) Payment procedures.

(~~D~~C) Training and career development opportunities.

(~~E~~D) Deduction of membership dues and fair share service fees.

III. Other Amendments to Labor Part of Bill

In § 4689.93(d)(3)(C) there is a typo in the reference, it should reference 4689.90. Also, saying the fair share fee can include "other activities" is too vague. Therefore we propose:

4689.93(d)(3)(C) The designated negotiating representative may charge a reasonable fair share service fee to bargaining unit nonmembers, who meet the minimum hour criteria described in subdivision (i) of Section 4689.90~~4689.9~~ for representing them in negotiations, contract administration, and other activities germane to the designated negotiating representative's role as the exclusive negotiating representative of SD support workers.

IV. Allocation Methodology

This amendment would conform AB 1244 to the choice provided in current statute for Self-Directed Services, where a regional center client could choose one of two allocation options:

90% of their annual historic POS cost or 90% of the average annual POS cost of somebody with similar consumer characteristics. The amendments are given below.

4689.90. For the purposes of this section, the following definitions shall apply:

.....

(c) "Individual allocation" means the amount of funding available to the participant for the purchase of services and supports necessary to implement an individual program plan (IPP). The individual allocation shall be constructed using a fair, equitable, and transparent methodology ~~that includes, but is not limited to, consumer characteristics and needs~~.

4689.92.

(b) Prior to enrollment in the SD Program, and based on the methodology described in this subdivision, an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall be provided in writing ***two*** ~~with the~~ individual allocation amount***s. The individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, may then choose which of the two individual allocation amounts*** ~~that~~ would be provided for developing his or her individual budget to implement his or her IPP. The individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, may then elect to participate in the SD Program.

(1) The methodology and formulae for determining the ***two*** individual allocation amount***s*** shall be computed in a fair, transparent, and equitable manner~~, that includes, but is not be limited to, consumer characteristics and needs~~. The methodology shall specify the mechanism by which a consumer's individual allocation shall be adjusted to allow for increased wages established in the base compensation package established in subdivision (a) of Section 4689.93. The department shall meet with the Self-Determination Program Advisory Committee, established pursuant to Section 4689.94, to receive their input on developing the methodology.

(2) The methodologies and formulae for determining the two individual allocation amounts shall be as follows:

(A) One individual allocation amount shall equal 90 percent of the annual purchase of services costs for the individual. The annual costs shall reflect the average annual costs for the previous two fiscal years for the individual.

(B)~~(2) The~~ ***One*** individual allocation amount shall equal 90 percent of the annual per capita purchase of service costs for the previous fiscal year for consumers with similar characteristics, who do not receive services through the SD Program. The allocation methodology shall be constructed using data available on the State Department of Developmental Services' information system, including, but not limited to, age, type of residence, type of disability and ability, functional skills, support needs, and whether the individual is in transition. Until the first full year of historical data is available, the department shall adjust the allocation to estimate the impact of service reductions resulting from the Budget Act of 2011.

(3) The allocation methodology shall provide for additional necessary resources when a participant is transitioning from a family home or a congregate setting to living independently.

(4) Once an individual, and when appropriate his or her parents, legal guardian or conservator, or authorized representative, has elected to become an SD Program participant, his or her individual allocation amount shall be available to the participant each year for the purchase of SD Program services until a new individual allocation amount has been determined. An individual allocation amount shall be calculated no more than once in a 12-month period.

V. Technical Amendments in Other Parts of Bill

1. Section 4689.92(b)(1) refers to "the base compensation package established in subdivision (a) of Section 4689.93." This reference seems to be wrong; § 4689.93(a) is just a statement of legislative finding. Therefore we suggest referring to § 4689.93 in general. Furthermore, the language adopted in July referred narrowly to adjusting individual allocations to allow for increases in "wages" only. The language needs to refer more broadly to increases in the "base compensation". We therefore recommend the following changes:

   4689.92(b)(1) The methodology and formulae for determining the individual allocation amount shall be computed in a fair, transparent, and equitable manner, that includes, but is not be limited to, consumer characteristics and needs. The methodology shall specify the mechanism by which a consumer's individual allocation shall be adjusted to allow for increases ~~increased wages established~~ in the base compensation package established in ~~subdivision (a) of~~ Section 4689.93.

2. Section 4689.92(b)(4) refers to the calculation of a new individual allocation amount, but does not reference the bill section that controls that. For clarity we recommend adding the reference:

   4689.92(b)(4) Once an individual, and when appropriate his or her parents, legal guardian or conservator, or authorized representative, has elected to become an SD Program participant, his or her individual allocation amount shall be available to the participant each year for the purchase of SD Program services until a new individual allocation amount has been determined pursuant to paragraph (9) of subdivision (c). An individual allocation amount shall be calculated no more than once in a 12-month period.

3. Section 4689.92(b)(5) refers to an appeal "within 30 days after receipt of the allocation amount." This could be clarified to mean within 30 days of receiving the statement about how much money will be received, and not receipt of the actual funds:

   4689.92(b)(5) A regional center's calculation of an individual allocation amount may be appealed to the executive director of the regional center, or his or her designee, within 30 days after ~~receipt~~ receiving the statement of the allocation amount.

4. The intent of Section 4689.92(c)(1) is that the regional center will cover the costs of the initial person centered planning and line item budget development. Our cost analysis delivered to Assembly fiscal committee reflected those costs. Also, Section 4689.92(e) is explicit that the regional centers cover that cost. However, the language in (c)(1) is not clear that these funds are independent of the individual's allocation. Therefore we propose the following language to clarify:

4689.92 (c) Once an individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, has elected to become an SD Program participant and his or her individual allocation amount has been determined, the following shall occur:
(1) A regional center shall advance funds to the financial management services entity to support a participant's hiring of a supports broker to assist with person centered planning, budget development, and the Individual Program Plan, pursuant to paragraphs (2), (3), and (6). These funds shall be independent of the allocation computed pursuant to subdivision (b) of Section 4689.92.

5. Section 4689.91(b) lists the core quality indicators that the program is designed to promote and be evaluated against. This section was amended at the request of DRC to add core quality indicators (7) and (8) on the mix of services and community inclusion. Sections 4689.92(c)(2), (3), and (6), where also amended with the intent to specify that only core quality indicators (1) – (6) would be listed as separate categories in the person centered plan, the line item budget, and IPP. However, the amendment that was made referenced all 8 core quality indicators. The one place where this is especially problematic is in paragraph (3), which lists the six budget line items that need to be included, but that paragraph refers to all eight core quality outcomes. Therefore, we recommend amending paragraph (3) as originally intended, and adding text to refer to the intent of (7) and (8):

Section 4689.92(c)(3) The individual budget shall enable participants to achieve personally defined outcomes in inclusive community settings using services and supports selected and directed by the participant. The individual budget shall distribute the allocation, including expenditures for services and supports, among the following categories based on the core quality outcomes specified in paragraphs (1) to ~~(8),~~(6), inclusive, of subdivision (b) of Section 4689.91:
(A) Welfare, health, and safety.
(B) Supports for living in a place called home.
(C) Meaningful participation and membership in the community including, but not limited to, socialization, recreational, and educational opportunities.
(D) Developing and maintaining long-term relationships.
(E) Generating income, supports for employment or self-employment.
(F) Transportation.

6. Section 4689.92(c)(5) refers to "a request pursuant to paragraphs (1) and (2)." The phrasing is awkward, falsely implying that there is a request made pursuant to those paragraphs. The intent is to reference the person centered planning pursuant to those paragraphs. Therefore we suggest:

4689.92(c)(5) Consumers currently living in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or receiving day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of

Section 54302 of Title 17 of the California Code of Regulations, respectively, may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SD Program. In that case, within 30 days of a request, the regional center shall initiate person-centered planning services ~~within 30 days of a request~~ pursuant to paragraphs (1) and (2).

7. In section 4689.92(c)(6), the regional center must ensure that the core quality outcomes are addressed in the person centered plan and the individual's line item budget. The regional center then incorporates the budget in the Individual Program Plan. However, in paragraph (8), the participant is allowed to transfer funds between budget categories, and the regional center must approve that transfer, unless necessary to protect the health and safety of the participant. According to paragraph (8), the regional center is not able to deny approval of transfers, even if all the other budget sections (home, community participation, etc.) are de-funded. This effectively negates the role of the regional center in ensuring that all the core quality indicators are addressed in the plan. We therefore suggest the following change:

   4689.92(c)(8) Annually, participants may transfer up to 20 percent of the funds originally distributed to any budget category set forth in paragraph (3), to another budget category or categories. Transfers in excess of 20 percent of the original amount allocated to any budget category may be made upon the approval of the regional center. Regional centers may only deny a transfer if necessary to protect the health and safety of the participant or if the budgeted funds fail to address the core quality outcomes pursuant to paragraph (6).

8. The Department has concerns that Section 4689.95 would require DDS to apply for a 1915(k) state plan amendment, as opposed to just considering it (referred to in the bill as 1396n(k) of Title 42 of the US Code). The Department is concerned that the "state-wideness" requirement of 1915(k) would require them to offer Self-Determination services to anybody under Medicaid, not just to regional center clients, creating a substantial new liability for the state. We therefore propose amending this section to be clear that 1915(k) is just one option available to the Department:

   4689.95. It is the intent of the Legislature that the purchase of services and supports through the SD Program be eligible for federal Medicaid match funding. The department shall take all steps necessary to ensure federal financial participation is available for all SD Program services and supports by applying for amendments to the current home and community-based waiver for individuals with developmental disabilities, ~~or~~ for a new waiver pursuant to Section 1396n of Title 42 of the United States Code, or. ~~The department shall seek~~ seeking to maximize federal financial participation by applying for an enhanced federal match through the federal Community First Choice Option pursuant to Section 1396n(k) of Title 42 of the United States Code.

To: **Developmental Disabilities Stakeholders**

From: Evelyn Abouhassen, Disability Rights California
Carol J. Risley, State Council on Developmental Disabilities
Mark Polit, Service Employees International Union

Date: February 3, 2012

Subject: **Support of AB 1244 (Chesbro), Self-Determination**

We are writing to ask for your support of Assembly Bill (AB) 1244, which would give people the CHOICE to keep the services they have now OR to choose self-determination.

Real change never comes easy, and AB 1244 is no exception. If adult consumers and families are to be given this choice, then we all have to stand up and fight for it.

California has been "piloting" self-determination since 1999, serving only 140 regional center individuals and families. AB 1244 would finally make that option available to all people served by the regional centers.

Self-determination would put the person with a disability in control of their service dollars. They would be able to use their service dollars to hire their own workers or negotiate unique service arrangements from provider agencies.

Self-determination is not for everyone. Yet many families and adults want and need something different than the services and supports they have now, and many want greater control of their own lives. Self-determination would give these people the authority to direct their own services and supports, with help as needed from the people they choose.

In designing this legislation, the three of us worked with Assemblymember Chesbro, Tom Nerney, from the Center for Self-Determination, and others to propose some significant improvements over prior attempts to make consumer-direction an option in this state:

- Focuses the program on supporting people to achieve universal human aspirations, such as growing up with family or, for adults, a home where they control who enters; real participation in their communities; having reciprocal long-term relationships; and earning income to lift themselves out of poverty.

- Requires an evaluation of the SD option to be submitted to the Legislature every three years, to see if self-determination is actually helping people to achieve these outcomes.

- Adds a Self-Determination Advisory Committee to give participants, family members, advocates, academics, and regional centers a means to oversee the option and advise on how it works. The advisory board would be more than 50% program participants and family members.

- Requires the Advisory Committee and Department to evaluate the adequacy of the risk pool.

- Decreases bureaucracy and increases the flexibility people have to access a wide range of services that support inclusion in their local communities.

- Adds provisions for those support workers that people employ directly. People would have the right to hire, supervise, train, schedule, incentivize, or fire their workers as they like. The State would set a minimum compensation level for those workers, and they would be able to organize to advocate to the State to protect the option and seek better funding for better pay. Should workers unionize, AB 1244 prohibits strikes, other work stoppages, and any collective bargaining that would infringe on the ability of participants to hire, supervise, train, schedule, incentivize, or fire their workers. (These workforce provisions would NOT apply to workers who are employed by an agency).

- Requires a mechanism for increasing people's individual budget allocations when the state raises worker wages.

- Allows people to select any service broker they choose.

- Requires a statewide fiscal manager to hold and dispense funds. This will create simplified procedures and reduce costs, making it easier for consumers and families to get the necessary administrative/fiscal management support.

- Gives the State flexibility on how to receive approval from the federal government.

- Clarifies roles and responsibilities of regional center service coordinators and mandates a designated caseload for the SD option that averages no more than 1:62. This allows for adequate training and specialization of service coordinators, monitoring, and assistance available to participants.

- Rolls out self-determination first in the five regional centers that have piloted self-determination, followed the next year by all the other centers. This seeks to create good models for the option by doing it first in regional centers with the most experience.

We hope you will join Disability Rights California (DRC), the State Council on Developmental Disabilities (SCDD), the Service Employees International Union (SEIU), Disability Rights Education and Defense Fund (DREDF), World Institute on Disability (WID), and others in supporting this critical reform.

As we struggle to maintain basic services for people with developmental disabilities and their families, AB 1244 is an opportunity to give people the flexibility to spend scarce public funds in the way that they feel best meets their needs.

AMENDED IN SENATE JULY 5, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1244

Introduced by Assembly Member Chesbro
(Coauthors: Assembly Members Ammiano and Beall)

February 18, 2011

An act to amend Sections 4677 and 4678 of, *to add Article 4.5 (commencing with Section 4689.90) to Chapter 6 of Division 4.5 of, and to* repeal Section 4685.7~~of, and to add Article 4.5 (commencing with Section 4689.90) to Chapter 6 of Division 4.5 of, the Welfare and Institutions Code, relating to~~ *of, the Welfare and Institutions Code, relating to* developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1244, as amended, Chesbro. Developmental services: Self-Determination Program.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center

consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the program to be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports.

This bill would repeal the provisions establishing the Self-Directed Services Program and would, instead, contingent upon approval of federal Medicaid matching funding, establish the Self-Determination Program to be available in every regional center catchment area to enable individuals with developmental disabilities to exercise their rights to make choices in their own lives, and would make conforming changes. This bill would require that program participants be provided with a capitated individual funding allocation, as prescribed, to be used for the purchase of services and supports necessary to implement the participant's individual program plan. This bill would require the department to establish a risk pool fund to meet the unanticipated needs of participants in the program. This bill would require the department to take all steps necessary to ensure federal financial participation is available for all program services and supports by applying for amendments to a specified federal waiver or by applying for a new waiver.

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 4677 of the Welfare and Institutions Code
2 is amended to read:
3 4677. (a) (1) All parental fees collected by or for regional
4 centers shall be remitted to the State Treasury to be deposited in
5 the Developmental Disabilities Program Development Fund, which
6 is hereby created and hereinafter called the Program Development
7 Fund. The purpose of the Program Development Fund shall be to
8 provide resources needed to initiate new programs, and to expand
9 or convert existing programs. Within the context of, and consistent
10 with, approved priorities for program development in the state
11 plan, program development funds shall promote integrated
12 residential, work, instructional, social, civic, volunteer, and
13 recreational services and supports that increase opportunities for

self-determination and maximum independence of persons with developmental disabilities. Notwithstanding any other provision of law or regulation to the contrary, commencing July 1, 2009, parental fees remitted to the State Treasury shall be deposited in accordance with Section 4784.

(2) In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

(b) (1) The State Council on Developmental Disabilities shall, at least once every five years, request from all regional centers information on the types and amounts of services and supports needed, but currently unavailable.

(2) The state council shall work collaboratively with the department and the Association of Regional Center Agencies to develop standardized forms and protocols that shall be used by all regional centers and area boards in collecting and reporting this information. In addition to identifying services and supports that are needed, but currently unavailable, the forms and protocols shall also solicit input and suggestions on alternative and innovative service delivery models that would address consumer needs.

(3) In addition to the information provided pursuant to paragraph (2), the state council may utilize information from other sources, including, but not limited to, public hearings, quality assurance assessments conducted pursuant to Section 4571, regional center reports on alternative service delivery submitted to the department pursuant to Section 4669.2, and the annual report on Self-Determination Program services produced pursuant to Section 4689.94.

(4) The department shall provide additional information, as requested by the state council.

(5) Based on the information provided by the regional centers and other agencies, the state council shall develop an assessment of the need for new, expanded, or converted community services and support, and make that assessment available to the public. The assessment shall include a discussion of the type and amount of services and supports necessary but currently unavailable including the impact on consumers with common characteristics, including, but not limited to, disability, specified geographic regions, age, and ethnicity, face distinct challenges. The assessment shall highlight alternative and innovative service delivery models identified through their assessment process.

(6) This needs assessment shall be conducted at least once every five years and updated annually. The assessment shall be included in the state plan and shall be provided to the department and to the appropriate committees of the Legislature. The assessment and annual updates shall be made available to the public. The State Council on Developmental Disabilities, in consultation with the department, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually, as needed, by the department, with the approval of the state council. The July 1, 2009, parental fee adjustment shall be exempt from this approval requirement. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

(d) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department, and subject to any allocations that may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(e) The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other ~~state supported~~ *state-supported* services and supports for persons with developmental disabilities.

(2) The information on priority services and supports needed, but currently unavailable, submitted by the regional centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than programs specified in subdivision (a) only when specifically appropriated

to the State Department of Developmental Services for those purposes.

(f) Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

SEC. 2. Section 4678 of the Welfare and Institutions Code is amended to read:

4678. (a) The State Council on Developmental Disabilities, in implementing subdivision (b) of Section 4677, and with the support of the State Department of Developmental Services, shall convene a stakeholder workgroup on alternative and expanded options for nonresidential services and supports. The workgroup shall include persons with developmental disabilities, family members, providers, and other system stakeholders. The workgroup shall develop recommendations on how to best achieve all of the following:

(1) The development and expansion of community-based models that provide an array of nonresidential options, including, but not limited to, participation in integrated instructive, social, civic, volunteer, and recreational activities.

(2) The development and expansion of community-based work activities, including, but not limited to, customized employment development, integrated job training, and employer-provided job coaching.

(3) The expansion of work opportunities in the public sector.

(4) The increased utilization of existing models, including, but not limited to, Self-Determination Program services, vouchers, family teaching models, existing habilitation, and supported work vendors to facilitate access to nontraditional community-based nonresidential activities.

(5) Strategies to promote and duplicate successful and innovative models developed in California and in other states.

(6) The identification of, and strategies to address, statutory, regulatory, licensing, vendor-related, funding, and other types of

barriers to achieving the goals identified in this act, including strategies to improve individualization of services and supports by increased flexibility in design, staffing, and compensation.

(b) By May 1, 2007, the State Council on Developmental Disabilities shall submit recommendations from the workgroup to the Governor and appropriate committees of the Legislature and may, thereafter, incorporate subsequent recommendations into its state plan developed pursuant to Section 4561.

SEC. 3. Section 4685.7 of the Welfare and Institutions Code is repealed.

SEC. 4. Article 4.5 (commencing with Section 4689.90) is added to Chapter 6 of Division 4.5 of the Welfare and Institutions Code, to read:

Article 4.5. Self-Determination Program

4689.90. For the purposes of this section, the following definitions shall apply:

(a) "Advocacy services" means services and supports that facilitate the participant in exercising his or her legal, civil, and service rights to gain access to generic services and benefits that the participant is entitled to receive. Advocacy services shall be provided only when other sources of similar assistance are not available to the participant, and when advocacy is directed ~~towards~~ *toward* obtaining generic services.

(b) "Financial management service" means ~~a conflict of interest~~ *conflict-of-interest* free service or function that assists the participant to manage and direct the distribution of funds contained in the individual allocation. This may include, but is not limited to, bill paying services and activities that facilitate the employment of service workers by the participant, including, but not limited to, federal, state, and local tax withholding payments, unemployment compensation fees, establishing benefits, fiscal accounting, and expenditure reports. The financial management service shall provide to the department workforce and expenditure information as required in this article. The department shall establish specific qualifications which shall be required of a financial management services provider and contract with one entity to provide financial management services statewide.

(c) "Individual allocation" means the amount of funding available to the participant for the purchase of services and supports necessary to implement an individual program plan (IPP). The individual allocation shall be constructed using a fair, equitable, and transparent methodology that includes, but is not limited to, consumer characteristics and needs.

(d) "Individual budget" means an individually created and designed expenditure plan, developed by the participant, for purchases to be made within the individual allocation to achieve the core quality outcomes relevant to the participant and meet the participant's IPP goals.

(e) "Participant" means an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and ~~have~~ *has* voluntarily agreed to participate in, the Self-Determination Program.

(f) "Public Employment Relations Board" or "board" means the board established pursuant to Article 2 (commencing with Section 3541) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(g) "Risk pool" means an account that is available for use in addressing the unanticipated needs of participants in the Self-Determination Program.

(h) "Self-Determination Program" or "SD Program" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant, in order to meet all or some of the objectives in his or her IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in inclusive community settings. Self-determination services and supports shall include, but are not limited to, all of the following:

(1) Home health aide services.

(2) Employment and self-employment ~~supports including individual placement supported employment.~~ *supports, including individual placement-supported employment.*

(3) Respite services.

(4) Supports broker functions and services.

(5) Financial management services and functions.

(6) Environmental accessibility adaptations.

(7) Skilled nursing.
(8) Transportation.
(9) Specialized medical equipment and supplies.
(10) Personal emergency response system.
(11) Integrative therapies.
(12) Vehicle adaptations.
(13) Communication support, including interpretive or translation services.
(14) Crises intervention.
(15) Nutritional consultation.
(16) Behavior intervention services.
(17) Specialized therapeutic services.
(18) Family assistance and support.
(19) Housing access supports.
(20) Community living supports, including, but not limited to, socialization, personal skill development, community participation, recreation, and leisure.
(21) In-home and personal care supports.
(22) Advocacy services.
(23) Individual training and education, including, but not limited to, adult education and support to attend community college.
(24) Participant-designated goods and services.
(25) Training and education transition services.

(i) "Self-Determination support worker" or "SD support worker" means a person who has been selected and employed by a participant for an average of at least 25 hours per month over a two-month period to provide the relevant SD services and supports described in subdivision (h), but does not include licensed professionals and workers providing services purchased from agencies or other organizations where the worker is solely under the employ of those organizations.

(j) "Supports broker" means a person, selected and directed by the participant, who fulfills the supports brokerage service or function and assists the participant in the SD Program.

(k) "Supports brokerage" means a ~~conflict of interest~~ *conflict-of-interest* free service or function that assists participants in making informed decisions about how to develop their budget from the individual allocation, assists in locating, accessing, and coordinating services consistent with and reflecting a participant's needs and preferences and negotiating with providers. A supports

1 brokerage service is available to assist in identifying immediate
2 and long-term needs, developing options to meet those needs,
3 participating in the person-centered planning process and
4 development of the IPP, and obtaining identified services and
5 supports.
6 4689.91. (a) (1) Contingent upon approval of federal Medicaid
7 matching funding, the Self-Determination Program is hereby
8 established and shall be available in every regional center
9 catchment area to enable individuals with developmental
10 disabilities to exercise their rights to make choices in their own
11 lives and access services and supports as described in subdivision
12 (j) of Section 4502. The program shall give participants greater
13 control over ~~access to, and the flexibility~~, *increased flexibility and*
14 *choice over, and the ability* to access, a wide range of needed and
15 desired services and supports, including, but not limited to, hiring
16 their own workers and purchasing needed items. The SD Program
17 shall be consistent with the requirements set forth in this section.
18 (2) SD Program participants shall be provided with a capitated
19 individual funding allocation computed in a fair, transparent, and
20 equitable manner, based on consumer characteristics and needs.
21 The allocation shall be used for the purchase of services and
22 supports necessary to implement the participant's individual
23 program plan (IPP).
24 (b) The SD Program shall be designed to promote, and shall be
25 evaluated against, core quality outcomes for the participants,
26 including, but not limited to, all of the following:
27 (1) Participants' welfare, health, and safety.
28 (2) Participants living in a place called home, including living
29 with family, friends, or on one's own; adult participants' living
30 arrangements are under their own control.
31 (3) Participants having meaningful participation and membership
32 in their own community.
33 (4) Participants maintaining reciprocal long-term relationships,
34 including relationships that assist the participant to live a healthy,
35 included life.
36 (5) Participants of working age generating private income,
37 through typical jobs in regular employment settings or through
38 self-employment.
39 (6) Participants having access to or control over transportation.

(7) Participants having access to a defined and comprehensive mix of services and supports that are selected and directed by a participant.

(8) Participants controlling and achieving personally defined outcomes in inclusive community settings.

(c) Participation in the SD Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the SD Program at any time. A regional center may not require participation in the SD Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division. Participation in the SD Program shall be available to any regional center consumer who meets the following eligibility requirements:

(1) The participant is three years of age or older.

(2) The participant, and when appropriate his or her parents, legal guardian or conservator, or authorized representative, agrees to all of the following terms and conditions:

(A) The participant shall agree to utilize the services and supports available within the SD Program only when generic services cannot be accessed, and except for Medi-Cal state plan benefits when applicable.

(B) The participant shall consent to use only services necessary to implement his or her IPP, as an available service in the SD Program, and shall agree to comply with any and all other terms and conditions for participation in the SD Program described in this section.

(C) The participant shall manage SD Program services within the individual allocation amount.

(D) The participant shall utilize the services of the conflict of interest free financial management services entity.

(E) The participant shall utilize the services of *a* supports broker of his or her own choosing for the purpose of providing services and functions as described in subdivisions (j) and (k) of Section 4689.90. A supports broker may either be hired or designated by the participant. A designated supports broker shall perform support brokerage services on a nonpaid basis. An individual or a parent of an individual in the SD Program shall provide supports brokerage services only as an unpaid designated provider.

(3) A participant who is not Medi-Cal eligible may participate in the SD Program and receive SD Program services if all other program eligibility requirements are met.

(d) An adult may designate an authorized representative to participate in the program on his or her behalf. The representative shall meet all of the following requirements:

(1) He or she shall demonstrate knowledge and understanding of the participant's needs and preferences.

(2) He or she shall be willing and able to comply with SD Program requirements.

(3) He or she shall be at least 18 years of age.

(4) He or she shall be approved by the participant to act in the capacity of a representative.

(e) Notwithstanding any provision of law, an individual receiving services and supports under the self-determination pilot projects originally established pursuant to Section 13 of Chapter 80 of the Statutes of 1998, as amended, may elect to continue to receive self-determination services within his or her current scope and existing procedures and parameters. Participation in self-determination projects originally authorized pursuant to Section 13 of Chapter 80 of the Statutes of 1998, as amended, may only be terminated upon a participant's voluntary election and qualification to receive services under another delivery system.

(f) The SD Program shall be phased in during the first year in the five regional centers with self-determination pilot projects that were originally authorized by Section 13 of Chapter 80 of the Statutes of 1998, as amended. In the second year, each regional center shall be responsible for implementing an SD Program as a term of its contract under Section 4629.

4689.92. (a) The department shall develop informational materials about the SD Program. The department shall ensure that regional centers are trained in the principles of the SD Program, the mechanics of the SD Program, and the rights of consumers and families as candidates for, and participants in, the SD Program. Regional centers shall conduct local meetings or forums to provide regional center consumers and families with information about the SD Program. Regional centers shall make available to consumers and families who express an interest in participating in the SD ~~program~~ *Program* a timely in-depth orientation; however,

enrollment in the SD ~~program~~ *Program* shall not be delayed or conditioned on the orientation.

(b) Prior to enrollment in the SD Program, and based on the methodology described in this subdivision, an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall be provided in writing with the individual allocation amount that would be provided for developing his or her individual budget to implement his or her IPP. The individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, may then elect to participate in the SD Program.

(1) The methodology and formulae for determining the individual allocation amount shall be computed in a fair, transparent, and equitable manner, that includes, but is not ~~be~~ limited to, consumer characteristics and needs. *The methodology shall specify the mechanism by which a consumer's individual allocation shall be adjusted to allow for increased wages established in the base compensation package established in subdivision (a) of Section 4689.93.* The department shall meet with the Self-Determination Program Advisory Committee, established pursuant to Section 4689.94, to receive their input on developing the methodology.

(2) The individual allocation amount shall equal 90 percent of the annual per capita purchase of service costs for the previous fiscal year for consumers with similar characteristics, who do not receive services through the SD Program. The allocation methodology shall be constructed using data available on the State Department of Developmental Services' information system, including, but not limited to, age, type of residence, type of disability and ability, functional skills, support needs, and whether the individual is in transition. Until the first full year of historical data is available, the department shall adjust the allocation to estimate the impact of service reductions resulting from the Budget Act of 2011.

(3) The allocation methodology shall provide for additional necessary resources when a participant is transitioning from a family home or a congregate setting to living independently.

(4) Once an individual, and when appropriate his or her parents, legal guardian or conservator, or authorized representative, has elected to become an SD Program participant, his or her individual

allocation amount shall be available to the participant each year for the purchase of SD Program services until a new individual allocation amount has been determined. An individual allocation amount shall be calculated no more than once in a 12-month period.

(5) A regional center's calculation of an individual allocation amount may be appealed to the executive director of the regional center, or his or her designee, within 30 days after receipt of the allocation amount. The executive director of the regional center shall issue a written decision within 10 working days. The decision of the executive director may be appealed to the Director of Developmental Services, or his or her designee, within 15 days of receipt of the written decision. The decision of the department is final.

(c) Once an individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, has elected to become an SD Program participant and his or her individual allocation amount has been determined, the following shall occur:

(1) A regional center shall advance funds to the financial management services entity to support a participant's hiring of a supports broker.

(2) The participant, and when appropriate his parents, legal guardian or conservator, or authorized representative, with the assistance of the service broker and other members of his or her circle of support if appropriate, shall develop a person-centered plan and individual budget within the amount of the individual allocation. The plan and budget shall be designed to assist the participant to achieve the relevant core quality outcomes specified in *paragraphs (1) to (8), inclusive, of* subdivision (b) of Section 4689.91.

(3) The individual budget shall distribute the allocation, including expenditures for services and supports, among the following categories based on the core quality outcomes specified in *paragraphs (1) to (8), inclusive, of* subdivision (b) of Section 4689.91:

(A) Welfare, health, and safety.

(B) Supports for living in a place called home.

(C) Meaningful participation and membership in the community including, but not limited to, socialization, recreational, and educational opportunities.

(D) Developing and maintaining long-term relationships.

(E) Generating income, supports for employment or self-employment.

(F) Transportation.

(4) A participant may not use any portion of his or her individual allocation to purchase services from a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations. A participant may not use his or her individual allocation to purchase complete day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively. However, a participant may use a portion of his or her individual allocation to negotiate for specific periodic or one-time services from a day program or habilitation services provider. A participant may also use a portion of his or her allocation to purchase job development and job coaching services for individual ~~placement supported~~ *placement-supported* employment.

(5) Consumers currently living in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or receiving day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively, may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SD Program. In that case, the regional center shall initiate person-centered planning services within 30 days of a request pursuant to paragraphs (1) and (2).

(6) The planning team, established pursuant to subdivision (j) of Section 4512, shall review and utilize the person-centered plan developed in paragraph (2) to develop the IPP for the participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of ~~participant selected~~ *participant-selected* services and supports. The planning team shall also review the individual budget to ensure the budget assists the

1 participant to achieve the *relevant* core quality ~~outcomes, assures~~
2 *outcomes identified in paragraphs (1) to (8), inclusive, of*
3 *subdivision (b) of Section 4689.91, ensures* his or her health and
4 safety, and implements his or her IPP goals. The completed budget
5 shall be attached to the IPP.
6 (7) The participant shall implement his or her IPP, including
7 choosing the services and supports allowable under this section
8 necessary to implement the plan. A regional center may not prohibit
9 the purchase of any service or support that is otherwise allowable
10 under this section.
11 (8) Annually, participants may transfer up to 20 percent of the
12 funds originally distributed to any budget category set forth in
13 paragraph (3), to another budget category or categories. Transfers
14 in excess of 20 percent of the original amount allocated to any
15 budget category may be made upon the approval of the regional
16 center. Regional centers may only deny a transfer if necessary to
17 protect the health and safety of the participant.
18 (9) Consistent with the implementation date of the IPP, the
19 regional center shall annually ascertain from the participant whether
20 there are any circumstances that require a change to the annual
21 individual allocation amount as calculated pursuant to subdivision
22 (b). Based on that review, the regional center shall calculate a new
23 budget amount based on the methodology described in subdivision
24 (b). The participant may choose the new budget amount, or
25 continue using the current amount. The IPP shall be amended to
26 reflect any changes in the allocation.
27 (d) The department shall establish a risk pool fund to meet the
28 unanticipated needs of participants in the SD Program. The fund
29 is hereby administered by the department.
30 (1) The risk pool shall be funded at the equivalent of 2.5 percent
31 of the historical annual purchase of service costs for consumers
32 participating in the SD Program, as determined for consumers of
33 similar characteristics pursuant to paragraph (2) of subdivision
34 (b).
35 (2) The risk pool shall be allocated by the department to regional
36 centers through a process specified by the department.
37 (3) The risk pool may be used only in the event of substantial
38 change in a participant's service and support needs that were not
39 known at the time the individual allocation was set including, but

not limited to, an urgent need to relocate a residence or to prevent or respond to significant injury or illness.

(4) The risk pool may be accessed by a participant more than once in a lifetime.

(e) The department shall allocate 7.5 percent of the historical annual purchase of service costs for consumers participating in the SD Program, as determined for consumers of similar characteristics pursuant to paragraph (2) of subdivision (b), ~~towards~~ *toward* offsetting costs to the state of the SD Program with the remainder to be returned as savings to the General Fund. Program costs to the state shall include, but not be limited to, training of consumers, family members, regional centers, and service brokers, caseload ratio improvement, and service broker support for participants' initial ~~person centered~~ *person-centered* planning and budget plan development.

(f) The regional center service coordinator shall assist consumers and when appropriate his or her parents, legal guardian or conservator, or authorized representative, in understanding the SD Program service option, assist participants to understand their rights, responsibilities, and opportunities under the SD Program, and provide information on locating service brokers. The regional center service coordinator shall, as required by this section, determine the SD Program participant's individual allocation amount, participate in the IPP, approve the initial individual budget and amendments to the budget, ensure plans and services are adequate to ensure the ~~participants~~ *participants'* health, welfare, and safety, address the goals of the IPP and the core quality outcomes specified in *paragraphs (1) to (8), inclusive, of* subdivision (b) of Section 4689.91, monitor for abuse, fraud, and exploitation, monitor the quarterly budget report for rate of expenditure and consistency with the budget plan, annually ascertain from the participant whether there are any circumstances that require a change to the annual individual allocation amount, conduct quarterly visits as required by the department, and assist the participant to access the risk pool in the event of a substantial change in a participant's service and support needs that were not known at the time the individual allocation was set. Regional centers, therefore, shall provide an average service coordinator-to-consumer ratio of 1 to 62 for all SD Program participants. To the maximum extent possible, regional centers

shall assign SD Program participants to service coordinators with a designated SD Program caseload.

(g) The financial management service shall send to the participant and the regional center case manager a quarterly statement that describes the amount of allocation by budget category, the amount spent in the previous 90-day period, and the amount of funding that remains available under the participant's individual budget.

(h) If at any time during participation in the SD Program a regional center determines that an individual is no longer eligible to continue based on the eligibility criteria described in subdivision (c) of Section 4689.91, or a participant voluntarily chooses to exit the SD Program, the regional center shall provide for the participant's transition from the SD Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(1) Upon determination of ineligibility pursuant to this subdivision, the regional center shall inform the participant in writing of his or her ineligibility, the reason for the determination of ineligibility, and shall provide a written notice of the fair hearing rights, as required by Section 4701.

(2) An individual determined to be ineligible, or who voluntarily exits the SD Program, shall be permitted to return to the SD Program upon meeting all applicable eligibility criteria and after a minimum of 12 months time has elapsed.

(i) A participant in the SD Program shall have all the rights established in Chapter 7 (commencing with Section 4700), except as provided under paragraph (5) of subdivision (b).

(j) Only the financial management service provider is required to apply for vendorization in accordance with subchapter 2 (commencing with Section 54300) of Chapter 3 of Title 17 of the California Code of Regulations, for the SD Program. All other service providers shall have applicable state licenses, certifications, or other state required documentation, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations. The financial management services entity shall ensure and document that all service providers meet specified

requirements for any service that may be delivered to the participant.

(k) A participant enrolled in the SD Program pursuant to this section and utilizing an individual allocation for services and supports is exempt from Section 4783, the Family Cost Participation Program, and cost control restrictions, including, but not limited to, purchases of services pursuant to Sections 4648.35, 4648.5, and 4659, subparagraph (B) of paragraph (3) of subdivision (c) of Section 4685, Sections 4686.2, 4686.5, and 4689, and purchase of service best practices enacted pursuant to 4620.3.

4689.93. (a) The Legislature finds and declares that SD Program support workers are the foundation necessary for SD Program participants to access full community participation and employment opportunities and to pursue a life of meaning in the ways that they choose.

(b) Participants shall have the right to utilize their individual allocation to employ SD support workers of their choice, hire, supervise, direct, schedule, evaluate, train, and terminate employment of SD support workers. Except for the limited purposes set forth herein, the state shall not be deemed the employer of SD support workers for any purpose.

(c) The state shall support the quality, availability, and stability of direct support workers by establishing a base compensation package to ensure decent pay standards for workers in the program. Individuals may use their allocation and private sources of funds to pay SD support workers above the base established by the state, develop job descriptions, and otherwise organize and incentivize their SD support workers.

(d) SD support workers may form, join, and participate in the activities of labor organizations of their own choosing in order to engage in collective negotiations with the department with regard to all matters specified in paragraph (4).

(1) Within 10 days of receipt of a request from a labor organization that represents SD support workers, the department shall provide the following information concerning SD support workers:

(A) Name, address, telephone number, and any unique personal identification generated by the department.

(B) Wage rates earned by each SD support worker.

(C) Hours of services provided by each SD support worker. The department shall be required to collect the information on no less than a quarterly basis from any financial management services providers that process payments for SD support workers.

(2) A labor organization that represents SD support workers may petition the board to be designated as the exclusive negotiating representative of SD support workers in the state.

(A) The only appropriate bargaining unit of SD support workers shall consist of all SD support workers in the state.

(B) If a labor organization that represents SD support workers petitions the board to be designated as the negotiating representative for SD support workers and provides written authorization from a majority of the total number of workers in the unit as of January of the year in which the petition is made, the board shall designate that organization as the exclusive negotiating representative for all SD support workers in the unit.

(C) If a labor organization that represents SD support workers petitions to be designated as the negotiating representative for all SD support workers in the unit and provides written authorization to serve as the negotiating representative from at least 30 percent of the workers in the unit, an election shall be held pursuant to board policies and procedures within 90 days after the day on which the petition is filed. The board shall designate the labor organization that prevails in the election the exclusive negotiating representative for all SD support workers in the unit.

(3) The designated exclusive negotiating representative pursuant to paragraph (2) shall be the negotiating representative for all SD support workers in the unit for the purposes of this subdivision.

(A) An SD support worker may refuse to join or participate in the activities of the designated negotiating representative.

(B) The designated negotiating representative shall represent all SD support workers in the bargaining unit fairly and without discrimination and without regard to whether the workers are members of the labor organization designated as the negotiating representative.

(C) The designated negotiating representative may charge a reasonable fair share service fee to bargaining unit nonmembers, who meet the minimum hour criteria described in subdivision (i) of Section 4689.9, for representing them in negotiations, contract administration, and other activities. The costs covered by the fair

share service fee pursuant to this section may include, but are not limited to, costs associated with representing SD support workers pursuant to paragraph (4).The fair share service fee shall not exceed the annual dues paid by members of the labor organization designated as the negotiating representative of SD support workers.

(4) The designated negotiating representative of SD support workers shall negotiate with the department concerning the terms and conditions of workers' participation in the SD Program including all of the following:

(A) The base compensation package mandated by this article.

(B) Access to benefits for SD support workers.

(C) Payment procedures.

(D) Training and career development opportunities.

(E) Deduction of membership dues and fair share service fees.

(5) The designated negotiating representative of SD support workers shall not negotiate over terms and conditions of employment reserved for the participant pursuant to subdivisions (b) and (c).

(6) The designated negotiating representative of SD support workers shall not call or direct a strike or any other form of work stoppage.

(7) The board's jurisdiction shall include all matters related to the representation of SD support workers.

(e) A participant in the SD Program may request, at no charge to the participant or the regional center, criminal history background checks for persons seeking employment as a service provider and providing direct care services to the participant.

(1) Criminal history records checks pursuant to this subdivision shall be performed and administered as described in subdivision (b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and Sections 4689.4 to 4689.6, inclusive, and shall apply to vendorization of providers and hiring of employees to provide services for family home agencies and family homes.

(2) The department may enter into a written agreement with the Department of Justice to implement this subdivision.

4689.94. (a) The department shall establish a statewide Self-Determination Program Advisory Committee. Greater than 50 percent of the committee shall be comprised of SD Program participants and their family members representing the geographic, ethnic, and language diversity of the state. Other committee

members shall include representatives from the State Council on Developmental Disabilities, Disability Rights California, a University Center for Excellence in Developmental Disabilities, regional centers, and a labor representative of regional center employees. The committee shall meet at least semiannually and participate in system oversight and advise with respect to ongoing system design and implementation and SD support worker wages, benefits, training, and career development. In addition, the committee shall meet with the department at least twice during the initial development phase of the SD Program to provide input on the methodology for calculating individual allocations and other initial implementation issues.

(b) Notwithstanding Section 10231.5 of the Government Code, commencing January 10, 2013, the department shall annually provide the following information to the SD Program Advisory Committee and to the policy and fiscal committees of the Legislature:

(1) The number and characteristics of participants, by regional center.

(2) The range and average of individual allocations, by regional center.

(3) Utilization of the risk pool, including range and average individual allocation augmentations and type of service, by regional center.

(4) The proportion of participants who report that their choices and decisions are respected and supported.

(5) Detailed workforce metrics for SD support workers including wages, hours worked, and length of time on the job.

(6) The number and outcome of individual allocation appeals, by regional center.

(7) The number and outcome of fair hearing appeals, by regional center.

(8) The number of participants who voluntarily withdraw from participation in the SD Program and a summary of the reasons why, by regional center.

(9) The number of participants who are subsequently determined to no longer be eligible for the SD Program and a summary of the reasons why, by regional center.

(10) Identification of barriers to participation and recommendations for program improvements.

(11) A comparison of average annual expenditures for individuals with similar characteristics not participating in the SD Program.

(c) Notwithstanding Section 10231.5 of the Government Code, commencing June 30, 2015, and at three year intervals, the department shall submit an SD ~~program~~ *Program* evaluation to the relevant policy committees of the Legislature and the SD Program Advisory Committee. The evaluation shall be developed in consultation with the advisory committee and shall be based on the core quality outcomes described in subdivision (b) of Section 4689.91 and also include a summary of all of the following:

(1) The types and ranking of services and supports purchased under the SD Program, by regional center.

(2) Consumer satisfaction under the SD Program and, when data is available, the traditional service delivery system, by regional center.

(3) The proportion of participants who report they are able to recruit, hire, and retain qualified service providers.

(4) The adequacy of the risk pool established pursuant to subdivision (d) of Section 4689.92.

4689.95. It is the intent of the Legislature that the purchase of services and supports through the SD Program be eligible for federal Medicaid match funding. The department shall take all steps necessary to ensure federal financial participation is available for all SD Program services and supports by applying for amendments to the current ~~home~~ *home-* and community-based waiver for individuals with developmental disabilities or for a new waiver pursuant to Section 1396n of Title 42 of the United States Code. The department shall seek to maximize federal financial participation by applying for an enhanced federal match through the federal Community First Choice Option pursuant to Section 1396n(k) of Title 42 of the United States Code.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Senate Bill (SB) 770-health care coverage: mental illness: developmental disorder and autism.

BILL SUMMARY: Sponsored by the author, SB 770 is largely the same as SB 946, which passed earlier this year. SB 946 mandates insurance coverage for behavioral treatment for autism and Pervasive Developmental Disorder.

BACKGROUND: N/A

ANALYSIS/DISCUSSION: The author's staff indicated that this bill has been held by the Assembly Appropriations Committee and will not move forward at this time. He also stated that there is a possibility SB 770 could be gutted and amended, but it is unlikely.

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: The Council supported SB 946.

STAFF RECOMMENDATION(S): No action. If the status of this bill changes such that it is of interest to the Legislative and Public Policy Committee, it will be brought to the Committee's attention at that time.

ATTACHMENT(S): SB 770

PREPARED: Christofer Arroyo, April 4, 2012

AMENDED IN ASSEMBLY AUGUST 31, 2011

AMENDED IN ASSEMBLY AUGUST 16, 2011

AMENDED IN ASSEMBLY JUNE 30, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL No. 770

Introduced by Senators Steinberg and Evans
(Principal coauthor: Assembly Member Beall)
~~(Coauthor: Assembly Member Fuentes)~~

February 18, 2011

An act to add Section 1374.73 to the Health and Safety Code, and to add Sections 10144.51 and 10144.52 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 770, as amended, Steinberg. Health care coverage: mental illness: developmental disorder and autism.

(1) Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions.

This bill would require those health care service plan contracts and health insurance policies to also provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism. The bill would provide, however, that no benefits are required to be provided that exceed the essential health benefits required under specified federal law. Because a violation of these provisions with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

(2) 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. The Legislature finds and declares all of the
2 following:
3 (a) Scientific research has established that behavioral health
4 treatment can significantly improve the cognitive function and
5 emotional capabilities, and reduce self-injurious behavior, for a
6 significant number of individuals with pervasive developmental
7 disorder or autism.
8 (b) Existing law requires health care service plan contracts and
9 health insurance policies to provide coverage for all medically
10 necessary treatment for individuals with pervasive developmental
11 disorder or autism pursuant to Section 1374.72 of the Health and
12 Safety Code and Section 10144.5 of the Insurance Code.
13 (c) Scientists, physicians, and other autism experts consider
14 behavioral health treatment an important and medically necessary
15 treatment for a significant number of individuals with pervasive
16 developmental disorder or autism.
17 (d) Despite Section 1374.72 of the Health and Safety Code,
18 Section 10144.5 of the Insurance Code, and the scientific literature
19 findings that behavioral health treatment is efficacious in the
20 treatment of pervasive developmental disorder and autism, some
21 health care service plans and health insurers continue to refuse to

cover medically necessary behavioral health treatment for individuals with these disorders.

(e) Of the grievances and appeals that have been filed with the Department of Managed Health Care and the Department of Insurance, an increasing number of independent medical review decisions have determined that behavioral health treatment is medically necessary for the treatment of pervasive developmental disorder or autism.

(f) Therefore, it is the intent of the Legislature to ensure that behavioral health treatment is considered a covered benefit, when it is medically necessary, for the treatment of pervasive developmental disorder or autism.

SEC. 2. Section 1374.73 is added to the Health and Safety Code, to read:

1374.73. (a) (1) Every health care service plan contract issued, amended, or renewed on or after January 1, 2012, that provides hospital, medical, or surgical coverage pursuant to Section 1374.72 shall provide coverage for behavioral health treatment for pervasive developmental disorder or autism. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

(2) Notwithstanding paragraph (1), this section does not require any benefits to be provided that exceed the essential health benefits required to be provided under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not be construed as reducing any obligation to provide services to an individual under an individualized family service plan as described in Section 95020 of the Government Code, an individualized program plan as described in Section 4646 of the Welfare and Institutions Code, a prevention program plan as described in Section 4435 of the Welfare and Institutions Code, an individualized education program as defined in Section 56032 of the Education Code, or an individualized service plan as described in Section 5600.4 of the Welfare and Institutions Code.

(b) Every health care service plan subject to this section shall maintain an adequate network of qualified autism service providers, and the plan shall comply with all applicable provisions of this act or regulations adopted thereunder.

(c) (1) Notwithstanding any other provision of law, unlicensed or uncertified staff may implement services if the qualified autism service provider ensures that each staff person implementing services pursuant to this section has adequate training and the qualified autism service provider supervises these staff persons.

(2) Prior to implementing services, all unlicensed or uncertified staff shall be subject to criminal background screening and fingerprinting meeting requirements established by the department.

(d) For the purposes of this section, the following definitions shall apply:

(1) "Behavioral health treatment" means professional services and treatment programs, including, but not limited to, applied behavior analysis and other intervention programs, such as Pivotal Response Therapy and Early Start Denver Model, that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(B) The treatment shall be derived from peer-reviewed literature or scientific evidence-based research that has demonstrated clinical efficacy in treating the symptoms or manifestations associated with pervasive developmental disorder or autism.

(C) The treatment is provided or supervised by a qualified autism service provider.

(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.

(3) "Qualified autism service provider" shall include any person, entity, or group that is nationally certified by an entity, such as, but not limited to, the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, or any person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist, pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally

1 certified or the licensee. A "qualified autism service provider"
2 shall also include both of the following:
3 (A) Any service provider that is approved as a vendor of a
4 regional center to provide those same services for pervasive
5 developmental disorder or autism pursuant to Division 4.5
6 (commencing with Section 4500) of the Welfare and Institutions
7 Code or Title 14 (commencing with Section 95000) of the
8 Government Code.
9 (B) A State Department of Education nonpublic, nonsectarian
10 agency, as defined in Section 56035 of the Education Code, that
11 is approved to provide those same services for pervasive
12 developmental disorder or autism.
13 SEC. 3. Section 10144.51 is added to the Insurance Code, to
14 read:
15 10144.51. (a) (1) Every health insurance policy issued,
16 amended, or renewed on or after January 1, 2012, that provides
17 hospital, medical, or surgical coverage pursuant to Section 10144.5
18 shall provide coverage for behavioral health treatment for pervasive
19 developmental disorder or autism. The coverage shall be provided
20 in the same manner and shall be subject to the same requirements
21 as provided in Section 10144.5.
22 (2) Notwithstanding paragraph (1), this section does not require
23 any benefits to be provided that exceed the essential health benefits
24 required to be provided under Section 1302(b) of the federal Patient
25 Protection and Affordable Care Act (Public Law 111-148), as
26 amended by the federal Health Care and Education Reconciliation
27 Act of 2010 (Public Law 111-152).
28 (3) This section shall not be construed as reducing any obligation
29 to provide services to an individual under an individualized family
30 service plan as described in Section 95020 of the Government
31 Code, an individualized program plan as described in Section 4646
32 of the Welfare and Institutions Code, a prevention program plan
33 as described in Section 4435 of the Welfare and Institutions Code,
34 an individualized education program as defined in Section 56032
35 of the Education Code, or an individualized service plan as
36 described in Section 5600.4 of the Welfare and Institutions Code.
37 (b) Pursuant to Article 6 (commencing with Section 2240.1) of
38 Title 10 of the California Code of Regulations, every health insurer
39 subject to this section shall maintain an adequate network of
40 qualified autism service providers to ensure that all insureds have

1 timely access to qualified autism service providers, continuity of
2 care, and ready referral to in-network qualified autism service
3 providers.
4 (c) (1) Notwithstanding any other provision of law, unlicensed
5 or uncertified staff may implement services if the qualified autism
6 service provider ensures that each staff person implementing
7 services pursuant to this section has adequate training and the
8 qualified autism service provider supervises these staff persons.
9 (2) All unlicensed or uncertified staff implementing services
10 pursuant to this section shall be subject to criminal background
11 screening and fingerprinting meeting requirements established by
12 the department.
13 (d) For the purposes of this section, the following definitions
14 shall apply:
15 (1) "Behavioral health treatment" means professional services
16 and treatment programs, including, but not limited to, applied
17 behavior analysis and other intervention programs, such as Pivotal
18 Response Therapy and Early Start Denver Model, that meet all of
19 the following criteria:
20 (A) The treatment is prescribed by a physician and surgeon
21 licensed pursuant to Chapter 5 (commencing with Section 2000)
22 of Division 2 of the Business and Professions Code.
23 (B) The treatment shall be derived from peer-reviewed literature
24 or scientific evidence-based research that has demonstrated clinical
25 efficacy in treating the symptoms or manifestations associated
26 with pervasive developmental disorder or autism.
27 (C) The treatment is provided or supervised by a qualified autism
28 service provider.
29 (2) "Pervasive developmental disorder or autism" shall have
30 the same meaning and interpretation as used in Section 10144.5.
31 (3) "Qualified autism service provider" shall include any person,
32 entity, or group that is nationally certified by an entity, such as,
33 but not limited to, the Behavior Analyst Certification Board, that
34 is accredited by the National Commission for Certifying Agencies,
35 or any person licensed as a physician and surgeon, physical
36 therapist, occupational therapist, psychologist, marriage and family
37 therapist, educational psychologist, clinical social worker,
38 professional clinical counselor, speech-language pathologist, or
39 audiologist, pursuant to Division 2 (commencing with Section
40 500) of the Business and Professions Code, who designs,

supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified or the licensee. A "qualified autism service provider" shall also include both of the following:

(A) Any service provider that is approved as a vendor of a regional center to provide those same services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

(B) A State Department of Education nonpublic, nonsectarian agency as defined in Section 56035 of the Education Code, approved to provide those same services for pervasive developmental disorder or autism.

SEC. 4. Section 10144.52 is added to the Insurance Code, to read:

10144.52. For purposes of this part, the terms "provider," "professional provider," "network provider," "mental health provider," and "mental health professional" shall include the term "qualified autism service ~~provider"~~ *provider,"* as defined in subdivision (d) of Section 10144.51.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 2538 –In Home Support Services, abuse

BILL SUMMARY: Sponsored by the author, this bill would require the Department of Social Services to request a copy of the proposed service provider's criminal record from either the: 1) local county welfare department (currently the law), or 2) from a public authority.

BACKGROUND: Existing law authorizes IHSS service provider contracts to be: 1) direct employment by IHSS recipients, 2) between the county welfare department and an entity that provides services (public authority), or 3) between the county welfare department and a non-profit consortium.

Existing law also provides that proposed service providers of IHSS may request a general exception if they have been convicted within the last 10 years of specified crimes (felonies.)

ANALYSIS/DISCUSSION: This bill is one of many bills this legislative session attempting to address possible abuse and neglect within the IHSS system. This bill retains both options available to exempt criminal convictions from barring an individual as an IHSS service provider.

When an individual seeks to provide IHSS services and they have been convicted within the last 10 years of a specified crime (felony), they can submit a request for general exception to the Department of Social Services. DSS then requests a copy of the requestor's criminal record information from the local county welfare department.

This bill would allow DSS to request the information from either the county welfare department or from the public authority that has been contracted by the county welfare department.

Although the public authority should have this information readily available for all of its service providers, staff recommends that information be gathered from the local county welfare office. Governmental agencies should be responsible for information that could affect the health and well-being of individuals served by government programs; although it is not clear what issue this bill is attempting to resolve.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #4- Public safety agencies, other first responders and the justice system get information and assistance to be knowledgeable and aware of the needs of individuals with developmental disabilities so

they can respond appropriately when individuals with developmental disabilities may have experienced abuse, neglect, sexual or financial exploitation or violation of legal or human rights.

PRIOR COUNCIL ACTIVITY: None.

STAFF RECOMMENDATION: Watch AB 2538

ATTACHMENT: AB 2538

PREPARED: Melissa C. Corral – March 19, 2012

ASSEMBLY BILL No. 2538

Introduced by Assembly Member John A. Pérez
(Principal coauthor: Senator Steinberg)

February 24, 2012

An act to amend Section 12305.87 of the Welfare and Institutions Code, relating to in-home supportive services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2538, as introduced, John A. Pérez. In-home supportive services: criminal exclusions.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law prohibits an applicant from providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, specified felony offenses. Existing law provides an exception to this criminal exclusion under certain circumstances. Existing law requires the State Department of Social Services, upon receipt of an exception request, to request a copy of the applicant's criminal offender record information search response from the applicable county welfare department.

This bill would instead require the department to request a copy of the applicant's criminal offender record information search response from the applicable county welfare department or public authority.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. 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 12305.87 of the Welfare and Institutions
2 Code is amended to read:
3 12305.87. (a) (1) Commencing 90 days following the effective
4 date of the act that adds this section, a person specified in paragraph
5 (2) shall be subject to the criminal conviction exclusions provided
6 for in this section, in addition to the exclusions required under
7 Section 12305.81.
8 (2) This section shall apply to a person who satisfies either of
9 the following conditions:
10 (A) He or she is a new applicant to provide services under this
11 article.
12 (B) He or she is an applicant to provide services under this
13 article whose application has been denied on the basis of a
14 conviction and for whom an appeal of that denial is pending.
15 (b) Subject to subdivisions (c), (d), and (e), an applicant subject
16 to this section shall not be eligible to provide or receive payment
17 for providing supportive services for 10 years following a
18 conviction for, or incarceration following a conviction for, any of
19 the following:
20 (1) A violent or serious felony, as specified in subdivision (c)
21 of Section 667.5 of the Penal Code and subdivision (c) of Section
22 1192.7 of the Penal Code.
23 (2) A felony offense for which a person is required to register
24 under subdivision (c) of Section 290 of the Penal Code. For
25 purposes of this paragraph, the 10-year time period specified in
26 this section shall commence with the date of conviction for, or
27 incarceration following a conviction for, the underlying offense,
28 and not the date of registration.
29 (3) A felony offense described in paragraph (2) of subdivision
30 (c) or paragraph (2) of subdivision (g) of Section 10980.

(c) Notwithstanding subdivision (b), an application shall not be denied under this section if the applicant has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or if the information or accusation against him or her has been dismissed pursuant to Section 1203.4 of the Penal Code.

(d) (1) Notwithstanding subdivision (b), a recipient of services under this article who wishes to employ a provider applicant who has been convicted of an offense specified in subdivision (b) may submit to the county an individual waiver of the exclusion provided for in this section. This paragraph shall not be construed to allow a recipient to submit an individual waiver with respect to a conviction or convictions for offenses specified in Section 12305.81.

(2) The county shall notify a recipient who wishes to hire a person who is applying to be a provider and who has been convicted of an offense subject to exclusion under this section of that applicant's relevant criminal offense convictions that are covered by subdivision (b). The notice shall include both of the following:

(A) A summary explanation of the exclusions created by subdivision (b), as well as the applicable waiver process described in this subdivision and the process for an applicant to seek a general exception, as described in subdivision (e). This summary explanation shall be developed by the department for use by all counties.

(B) An individual waiver form, which shall also be developed by the department and used by all counties. The waiver form shall include both of the following:

(i) A space for the county to include a reference to any Penal Code sections and corresponding offense names or descriptions that describe the relevant conviction or convictions that are covered by subdivision (b) and that the provider applicant has in his or her background.

(ii) A statement that the service recipient, or his or her authorized representative, if applicable, is aware of the applicant's conviction or convictions and agrees to waive application of this section and employ the applicant as a provider of services under this article.

(3) To ensure that the initial summary explanation referenced in this subdivision is comprehensible for recipients and provider

applicants, the department shall consult with representatives of county welfare departments and advocates for, or representatives of, recipients and providers in developing the summary explanation and offense descriptions.

(4) The individual waiver form shall be signed by the recipient, or by the recipient's authorized representative, if applicable, and returned to the county welfare department by mail or in person. Except for a parent, guardian, or person having legal custody of a minor recipient, a conservator of an adult recipient, or a spouse or registered domestic partner of a recipient, a provider applicant shall not sign his or her own individual waiver form as the recipient's authorized representative. The county shall retain the waiver form and a copy of the provider applicant's criminal offense record information search response until the date that the convictions that are the subject of the waiver request are no longer within the 10-year period specified in subdivision (b).

(5) An individual waiver submitted pursuant to this subdivision shall entitle a recipient to hire a provider applicant who otherwise meets all applicable enrollment requirements for the In-Home Supportive Services program. A provider hired pursuant to an individual waiver may be employed only by the recipient who requested that waiver, and the waiver shall only be valid with respect to convictions that are specified in that waiver. A new waiver shall be required if the provider is subsequently convicted of an offense to which this section otherwise would apply. A provider who wishes to be listed on a provider registry or to provide supportive services to a recipient who has not requested an individual waiver shall be required to apply for a general exception, as provided for in subdivision (e).

(6) Nothing in this section shall preclude a provider who is eligible to receive payment for services provided pursuant to an individual waiver under this subdivision from being eligible to receive payment for services provided to one or more additional recipients who obtain waivers pursuant to this same subdivision.

(7) The state and a county shall be immune from any liability resulting from granting an individual waiver under this subdivision.

(e) (1) Notwithstanding subdivision (b), an applicant who has been convicted of an offense identified in subdivision (b) may seek from the department a general exception to the exclusion provided for in this section.

(2) Upon receipt of a general exception request, the department shall request a copy of the applicant's criminal offender record information search response from the applicable county welfare department *or public authority*. Notwithstanding any other provision of law, the county *or public authority* shall provide a copy of the criminal offender record information search response, as provided to the county by the Department of Justice, to the department. The county *or public authority* shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response. The state or federal criminal history record information search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(3) The department shall consider the following factors when determining whether to grant a general exception under this subdivision:

(A) The nature and seriousness of the conduct or crime under consideration and its relationship to employment duties and responsibilities.

(B) The person's activities since conviction, including, but not limited to, employment or participation in therapy education, or community service, that would indicate changed behavior.

(C) The number of convictions and the time that has elapsed since the conviction or convictions.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any evidence of rehabilitation, including character references, submitted by the person, or by others on the person's behalf.

(F) Employment history and current or former employer recommendations. Additional consideration shall be given to employer recommendations provided by a person who has received or has indicated a desire to receive supportive or personal care services from the applicant, including, but not limited to, those services, specified in Section 12300.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

(f) If the department makes a determination to deny an application to provide services pursuant to a request for a general exception, the department shall notify the applicant of this determination by either personal service or registered mail. The notice shall include the following information:

(1) A statement of the department's reasons for the denial that evaluates evidence of rehabilitation submitted by the applicant, if any, and that specifically addresses any evidence submitted relating to the factors in paragraph (3) of subdivision (e).

(2) A copy of the applicant's criminal offender record information search response, even if the applicant already has received a copy pursuant to Section 12301.6 or 12305.86. The department shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The department shall retain a copy of each individual's criminal offender record information search response until the date that the convictions that are the subject of the exception are no longer within the 10-year period specified in subdivision (b), and shall record the date the copy of the response was provided to the individual and the department.

(C) The criminal offender record information search response shall not be made available by the department to any individual other than the provider applicant.

(g) (1) Upon written notification that the department has determined that a request for exception shall be denied, the applicant may request an administrative hearing by submitting a written request to the department within 15 business days of receipt of the written notification. Upon receipt of a written request, the department shall hold an administrative hearing consistent with the procedures specified in Section 100171 of the Health and Safety Code, except where those procedures are inconsistent with this section.

(2) A hearing under this subdivision shall be conducted by a hearing officer or administrative law judge designated by the director. A written decision shall be sent by certified mail to the applicant.

(h) The department shall revise the provider enrollment form developed pursuant to Section 12305.81 to include both of the following:

(1) The text of subdivision (c) of Section 290 of the Penal Code, subdivision (c) of Section 667.5 of the Penal Code, subdivision (c) of Section 1192.7 of the Penal Code, and paragraph (2) of subdivisions (c) and (g) of Section 10980.

(2) A statement that the provider understands that if he or she has been convicted, or incarcerated following conviction for, any of the crimes specified in the provisions identified in paragraph (b) in the last 10 years, and has not received a certificate of rehabilitation or had the information or accusation dismissed, as provided in subdivision (c), he or she shall only be authorized to receive payment for providing in-home supportive services under an individual waiver or general exception as described in this section, and upon meeting all other applicable criteria for enrollment as a provider in the program.

(i) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2011. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(j) In developing the individual waiver form and all-county letters or information notices or similar instructions, the department shall consult with stakeholders, including, but not limited to, representatives of the county welfare departments, and representatives of consumers and providers. The consultation shall include at least one in-person meeting prior to the finalization of the individual waiver form and all-county letters or information notices or similar instructions.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the well-being of recipients of social services and the most efficient delivery of these services at the earliest possible time, it is necessary that this act take effect immediately.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 1841 – Elimination of IHSS criminal conviction waiver.

BILL SUMMARY: Sponsored by the author, this bill would delete the authority of a recipient of IHSS services to submit a waiver for the purpose of employing a person as a service provider who has been convicted of one of the specified crimes. This bill does not eliminate the general exception process that the proposed service provider submits directly to the Department of Social Services.

BACKGROUND: Existing law provides that recipients of IHSS services may request a waiver for a proposed service provider that has been convicted of specified crimes (felonies) in the previous 10 years.

ANALYSIS/DISCUSSION: The IHSS waiver process currently requires that the individual who receives IHSS services or his/her authorized representative, sign a document that clearly states: 1) that s/he is aware of the proposed service provider's specific convictions and, 2) that s/he accepts the responsibility of hiring the proposed service provider. The Department of Social Services, as well as the local county welfare department, will be free from any liability stemming from this waiver.

Existing law also provides for a general exception which is different than the waiver process above. The general exception request is made by the proposed service provider to the Department of Social Services. The department then evaluates: 1) the nature and seriousness of the crime and its relationship to the proposed duties, 2) the person's activities since conviction, 3) the number of convictions, 4) compliance with probation, parole, restitution, etc., 5) evidence of rehabilitation, 6) employment history, 7) circumstances surrounding the offense that may indicate repetition, and 8) granting of a pardon.

Although this bill intends to protect vulnerable individuals from persons who have been convicted of felonies, it also eliminates individual choice in selecting providers of a personal nature. Therefore, staff recommends that the Committee suggest an alternative method of increasing protection, while retaining individual choice.

Perhaps it could be suggested to the author that amendments be made to continue the waiver with a heightened review process (similar to the general exception already in law.)

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #4- Public safety agencies, other first responders and the justice system get information and assistance to be knowledgeable and aware of the needs of individuals with developmental disabilities so they can respond appropriately when individuals with developmental disabilities may have experienced abuse, neglect, sexual or financial exploitation or violation of legal or human rights.

PRIOR COUNCIL ACTIVITY: None.

STAFF RECOMMENDATION: Support AB 1841if amended

ATTACHMENT: AB 1841

PREPARED: Melissa C. Corral – March 19, 2012

ASSEMBLY BILL No. 1841

Introduced by Assembly Member Silva

February 22, 2012

An act to amend Section 12305.87 of the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1841, as introduced, Silva. In-home supportive services providers: criminal exclusions.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law prohibits a person from providing supportive services if he or she has been convicted of specified crimes in the previous 10 years, unless the information or accusation against the person has been dismissed, or he or she has obtained a certificate of rehabilitation, as specified. In addition, existing law authorizes a recipient of services who wishes to employ a provider applicant who has been convicted of a specified offense to submit to the county a prescribed individual waiver, signed by the recipient, or by the recipient's authorized representative, and returned to the county welfare department. Existing law also permits a provider applicant who has been convicted of a specified offense to request from the State Department of Social Services a general exception from exclusion as a potential provider.

This bill would delete the authority of a recipient to submit a waiver for the purpose of employing a person who has been convicted of one of the specified crimes as the recipient's IHSS provider.

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 12305.87 of the Welfare and Institutions
2 Code is amended to read:
3 12305.87. (a) (1) Commencing 90 days following the effective
4 date of the act that adds this section, a person specified in paragraph
5 (2) shall be subject to the criminal conviction exclusions provided
6 for in this section, in addition to the exclusions required under
7 Section 12305.81.
8 (2) This section shall apply to a person who satisfies either of
9 the following conditions:
10 (A) He or she is a new applicant to provide services under this
11 article.
12 (B) He or she is an applicant to provide services under this
13 article whose application has been denied on the basis of a
14 conviction and for whom an appeal of that denial is pending.
15 (b) Subject to subdivisions ~~(c), (d), and (e)~~ *(c) and (d)*, an
16 applicant subject to this section shall not be eligible to provide or
17 receive payment for providing supportive services for 10 years
18 following a conviction for, or incarceration following a conviction
19 for, any of the following:
20 (1) A violent or serious felony, as specified in subdivision (c)
21 of Section 667.5 of the Penal Code and subdivision (c) of Section
22 1192.7 of the Penal Code.
23 (2) A felony offense for which a person is required to register
24 under subdivision (c) of Section 290 of the Penal Code. For
25 purposes of this paragraph, the 10-year time period specified in
26 this section shall commence with the date of conviction for, or
27 incarceration following a conviction for, the underlying offense,
28 and not the date of registration.
29 (3) A felony offense described in paragraph (2) of subdivision
30 (c) or paragraph (2) of subdivision (g) of Section 10980.
31 (c) Notwithstanding subdivision (b), an application shall not be
32 denied under this section if the applicant has obtained a certificate
33 of rehabilitation under Chapter 3.5 (commencing with Section
34 4852.01) of Title 6 of Part 3 of the Penal Code or if the information

or accusation against him or her has been dismissed pursuant to Section 1203.4 of the Penal Code.

~~(d) (1) Notwithstanding subdivision (b), a recipient of services under this article who wishes to employ a provider applicant who has been convicted of an offense specified in subdivision (b) may submit to the county an individual waiver of the exclusion provided for in this section. This paragraph shall not be construed to allow a recipient to submit an individual waiver with respect to a conviction or convictions for offenses specified in Section 12305.81.~~

~~(2) The county shall notify a recipient who wishes to hire a person who is applying to be a provider and who has been convicted of an offense subject to exclusion under this section of that applicant's relevant criminal offense convictions that are covered by subdivision (b). The notice shall include both of the following:~~

~~(A) A summary explanation of the exclusions created by subdivision (b), as well as the applicable waiver process described in this subdivision and the process for an applicant to seek a general exception, as described in subdivision (e). This summary explanation shall be developed by the department for use by all counties.~~

~~(B) An individual waiver form, which shall also be developed by the department and used by all counties. The waiver form shall include both of the following:~~

~~(i) A space for the county to include a reference to any Penal Code sections and corresponding offense names or descriptions that describe the relevant conviction or convictions that are covered by subdivision (b) and that the provider applicant has in his or her background.~~

~~(ii) A statement that the service recipient, or his or her authorized representative, if applicable, is aware of the applicant's conviction or convictions and agrees to waive application of this section and employ the applicant as a provider of services under this article.~~

~~(3) To ensure that the initial summary explanation referenced in this subdivision is comprehensible for recipients and provider applicants, the department shall consult with representatives of county welfare departments and advocates for, or representatives of, recipients and providers in developing the summary explanation and offense descriptions.~~

~~(4) The individual waiver form shall be signed by the recipient, or by the recipient's authorized representative, if applicable, and returned to the county welfare department by mail or in person. Except for a parent, guardian, or person having legal custody of a minor recipient, a conservator of an adult recipient, or a spouse or registered domestic partner of a recipient, a provider applicant shall not sign his or her own individual waiver form as the recipient's authorized representative. The county shall retain the waiver form and a copy of the provider applicant's criminal offense record information search response until the date that the convictions that are the subject of the waiver request are no longer within the 10-year period specified in subdivision (b).~~

~~(5) An individual waiver submitted pursuant to this subdivision shall entitle a recipient to hire a provider applicant who otherwise meets all applicable enrollment requirements for the In-Home Supportive Services program. A provider hired pursuant to an individual waiver may be employed only by the recipient who requested that waiver, and the waiver shall only be valid with respect to convictions that are specified in that waiver. A new waiver shall be required if the provider is subsequently convicted of an offense to which this section otherwise would apply. A provider who wishes to be listed on a provider registry or to provide supportive services to a recipient who has not requested an individual waiver shall be required to apply for a general exception, as provided for in subdivision (c).~~

~~(6) Nothing in this section shall preclude a provider who is eligible to receive payment for services provided pursuant to an individual waiver under this subdivision from being eligible to receive payment for services provided to one or more additional recipients who obtain waivers pursuant to this same subdivision.~~

~~(7) The state and a county shall be immune from any liability resulting from granting an individual waiver under this subdivision.~~

~~(c)~~

(d) (1) Notwithstanding subdivision (b), an applicant who has been convicted of an offense identified in subdivision (b) may seek from the department a general exception to the exclusion provided for in this section.

(2) Upon receipt of a general exception request, the department shall request a copy of the applicant's criminal offender record information search response from the applicable county welfare

department. Notwithstanding any other provision of law, the county shall provide a copy of the criminal offender record information search response, as provided to the county by the Department of Justice, to the department. The county shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response. The state or federal criminal history record information search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(3) The department shall consider the following factors when determining whether to grant a general exception under this subdivision:

(A) The nature and seriousness of the conduct or crime under consideration and its relationship to employment duties and responsibilities.

(B) The person's activities since conviction, including, but not limited to, employment or participation in therapy education, or community service, that would indicate changed behavior.

(C) The number of convictions and the time that has elapsed since the conviction or convictions.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any evidence of rehabilitation, including character references, submitted by the person, or by others on the person's behalf.

(F) Employment history and current or former employer recommendations. Additional consideration shall be given to employer recommendations provided by a person who has received or has indicated a desire to receive supportive or personal care services from the applicant, including, but not limited to, those services, specified in Section 12300.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

~~(f)~~

(e) If the department makes a determination to deny an application to provide services pursuant to a request for a general exception, the department shall notify the applicant of this

determination by either personal service or registered mail. The notice shall include the following information:

(1) A statement of the department's reasons for the denial that evaluates evidence of rehabilitation submitted by the applicant, if any, and that specifically addresses any evidence submitted relating to the factors in paragraph (3) of subdivision ~~(c)~~ *(d)*.

(2) A copy of the applicant's criminal offender record information search response, even if the applicant already has received a copy pursuant to Section 12301.6 or 12305.86. The department shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The department shall retain a copy of each individual's criminal offender record information search response until the date that the convictions that are the subject of the exception are no longer within the 10-year period specified in subdivision (b), and shall record the date the copy of the response was provided to the individual and the department.

(C) The criminal offender record information search response shall not be made available by the department to any individual other than the provider applicant.

~~(g)~~

(f) (1) Upon written notification that the department has determined that a request for exception shall be denied, the applicant may request an administrative hearing by submitting a written request to the department within 15 business days of receipt of the written notification. Upon receipt of a written request, the department shall hold an administrative hearing consistent with the procedures specified in Section 100171 of the Health and Safety Code, except where those procedures are inconsistent with this section.

(2) A hearing under this subdivision shall be conducted by a hearing officer or administrative law judge designated by the director. A written decision shall be sent by certified mail to the applicant.

~~(h)~~

(g) The department shall revise the provider enrollment form developed pursuant to Section 12305.81 to include both of the following:

(1) The text of subdivision (c) of Section 290 of the Penal Code, subdivision (c) of Section 667.5 of the Penal Code, subdivision (c) of Section 1192.7 of the Penal Code, and paragraph (2) of subdivisions (c) and (g) of Section 10980.

(2) A statement that the provider understands that if he or she has been convicted, or incarcerated following conviction for, any of the crimes specified in the provisions identified in paragraph (b) in the last 10 years, and has not received a certificate of rehabilitation or had the information or accusation dismissed, as provided in subdivision (c), he or she shall only be authorized to receive payment for providing in-home supportive services under ~~an individual waiver or~~ *a* general exception as described in this section, and upon meeting all other applicable criteria for enrollment as a provider in the program.

~~(i)~~

(h) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2011. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each

shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

~~(j)~~

(i) In developing the ~~individual waiver form and~~ all-county letters or information notices or similar instructions, the department shall consult with stakeholders, including, but not limited to, representatives of the county welfare departments, and representatives of consumers and providers. The consultation shall include at least one in-person meeting prior to the finalization of the ~~individual waiver form and~~ all-county letters or information notices or similar instructions.

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April 3, 2012

The Honorable Jim Beall
Chair, Assembly Human Services Committee
State Capitol, Room 5016
Sacramento, California 95814

Re: AB 1841 (Silva): In-Home Supportive Services Providers: Criminal Exclusions
As introduced on February 22, 2012 – OPPOSE
Set for Hearing on April 10, 2012 – Assembly Human Services Committee

Dear Assembly Member Beall:

The California State Association of Counties (CSAC), the County Welfare Directors Association (CWDA), and the California Association of Public Authorities for IHSS (CAPA) have taken an OPPOSE position on AB 1841.

Assembly Bill 1841, by Assembly Member Jim Silva, would remove the right of In-Home Supportive Services (IHSS) recipients to choose a provider and dismantle an effective system that identifies former offenders and protects counties and the state from liability for a recipient's hiring decision.

A core provision of the current IHSS program allows recipient to identify and hire the caregivers that will be entering their home and providing domestic and health related services. A recipient who knows and trusts their IHSS provider is more likely to establish a long-term recipient-caregiver relationship, thereby achieving the top goal of the IHSS program: to allow those with documented service needs to receive quality care while remaining in their homes.

Current law provides a clear process in which the recipient, provider, and county are informed of the potential provider's criminal background. It allows for a 10-year "statute of limitations" on felony offenses for potential IHSS providers and provides a waiver process by which recipients are informed of a provider's criminal record without infringing on their right to hire the caregiver of their choice. Current law also protects counties and the state from liability for these hiring choices. Counties believe that the current waiver process at the county level is sound.

Assembly Member Silva's AB 1841 will deprive IHSS recipients of their right to choose a known and trusted person to care for them. It is for these reasons that CSAC, CWDA, and CAPA oppose AB 1841. Should you have any questions about our position, please do not hesitate to contact our organizations. Thank you.

Sincerely,

Kelly Brooks-Lindsey
Legislative Representative
CSAC – 916/327-7500

Cathy Senderling-McDonald
Deputy Executive Director
CWDA – 916/443-1749

Karen Keeslar
Executive Director
CAPA – 916/492-9111

cc: The Honorable Jim Silva, Member, California State Assembly
Members, Assembly Human Services Committee
Eric Gelber, Consultant, Assembly Human Services Committee
Mary Bellamy, Assembly Republican Caucus
Lark Park, Deputy Legislative Secretary, Office of the Governor

LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill (AB) 2074:In-Home Supportive Services program: telehealth training program

BILL SUMMARY: sponsored by the author, AB 2074 requires the Department of Social Services to develop a training program for in-home supportive services (IHSS) providers on the use of telehealth by January 1, 2014. The training must include:

- how to use applications, tools, and resources available on the internet;
- patient safety, clinical risk management, and the use of computerized health care records;
- standard practices regarding patient data including maintaining confidential records; and,
- the use of devices commonly used in telehealth (such as blood pressure devices, blood glucose devices, electrocardiogram devices, weight scales, pulse oximetry devices, and stethoscopes).

The author's staff indicated, at the time of this writing, that the purpose of this bill is to ensure that providers have access to necessary information so they may provide adequate services. It is acknowledged that at this time counties have different training requirements and this will need to be worked out in subsequent amendments.

BACKGROUND: IHSS provides critical services to adults and children with disabilities who live in the community in their own or family homes so as to avoid unnecessary and costly institutionalization. The California Department of Social Services (CDSS) has oversight of county IHSS operations and the federal and state funds used to pay for services provided. Services provided include personal care (such as dressing, feeding, and grooming), domestic services (such as cleaning, and shopping), related services (such as meal preparation, laundry, and menu planning), and other services (heavy cleaning, respite care, and transportation).

IHSS is predicated on upon providing services and supports in the least restrictive environment (people's homes) so they may avoid unnecessary and costly institutionalization.

ANALYSIS/DISCUSSION: With IHSS' impending absorption into a managed health care system, some believe that this bill provides greater opportunities for recipients of IHSS and ensure providers have the information necessary to provide adequate services. Conversely, others argue that this bill moves IHSS from a social support model to a medically-based service, thus objectionable. Medically-based models have

historically viewed individuals with disabilities as broken and in need of being fixed. Such a perspective generally ignores the choices made by individuals with disabilities.

While this bill does not actually address the movement of IHSS into managed care, it also fails to acknowledge how that change would impact the training provisions addressed by the bill. Generally, the Council is supportive and y opportunity to increase the continuity and quality of care, however it is unclear how managed care and these provisions will be coordinated.

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: The Council has taken no prior action related to this bill. However, the Council supports the belief that individuals with developmental disabilities and their families are best suited to identify and understand their unique needs and how to best address those needs.

STAFF RECOMMENDATION: Watch AB 2074

ATTACHMENT: AB 2074

PREPARED: Christofer Arroyo, April 2, 2012

ASSEMBLY BILL No. 2074

Introduced by Assembly Member Bradford

February 23, 2012

An act to add Section 12300.15 to the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2074, as introduced, Bradford. In-Home Supportive Services program: telehealth training program.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. Existing law requires the department, in consultation with counties, to develop a standardized curriculum, training materials, and work aids, and operate an ongoing statewide training program, on specified matters related to the provision of in-home supportive services.

This bill would require the department to develop a training program, as specified, to train IHSS providers on the utilization of telehealth in home-based care.

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 12300.15 is added to the Welfare and
2 Institutions Code, to read:
3 12300.15. (a) For purposes of this section, "telehealth" has
4 the meaning set forth in subparagraph (6) of subdivision (a) of
5 Section 2290.5 of the Business and Professions Code.
6 (b) The department shall develop a training program, which
7 includes a standardized curriculum and training materials, to train
8 in-home supportive services (IHSS) providers on the utilization
9 of telehealth, as described in subdivision (a), in home-based care.
10 (c) The training program shall instruct IHSS providers in areas
11 relating to telehealth, including, but not limited to, the following:
12 (1) The use of relevant Internet tools and resources, and the
13 development of a technical understanding of the Internet and of
14 relevant applications on the Internet.
15 (2) Patient safety and clinical risk management, including the
16 prevention and control of risk to patients and the use of
17 computerized health care records.
18 (3) Standard practices regarding patient data within a health
19 information system, including the handling of confidential
20 information and personal data, and other responsibilities and
21 prohibitions relating to patient data.
22 (4) The use of devices commonly used in telehealth, including,
23 but not limited to, the following:
24 (A) Blood pressure devices.
25 (B) Blood glucose devices.
26 (C) Electrocardiogram devices.
27 (D) Weight scales.
28 (E) Pulse oximetry devices.
29 (F) Spirometry devices.
30 (G) Portable sonogram devices.
31 (H) Stethoscopes.
32 (e) The department shall develop a program pursuant to this
33 section by January 1, 2014.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 2370: Mental Retardation: Change of term to intellectual disability

SUMMARY: Sponsored by Best Buddies California and Special Olympics International, AB 2370 would revise current law that uses "mental retardation or mentally retarded person" to refer instead to "intellectual disability" or "a person with an intellectual disability."

BACKGROUND: It is estimated that seven to eight million Americans or one in ten families in the United States, experience intellectual disabilities. In a survey, conducted by the Special Olympics Global Collaborating Center, it fund that 92% of young Americans (ages 8-18) report having heard the "R-Word" used, and 36% have heard the term used toward someone with intellectual disabilities. The R-word, "retard," is slang for the term mental retardation. Mental retardation was what doctors, psychologists, and other professionals used to describe people with significant intellectual impairment. Today the r-word has become a common word used by society as an insult for someone or something stupid.

ANALYSIS/DISCUSSION: The R-word used intentionally or unintentionally demeans and hurts people with intellectual disabilities. It is a term used in bullying and sometimes hate crimes.

Like SB 1381, AB 2370 is also a follow up to the Federal legislation S.2781 (Rosa's Law) that was signed into law on October 5, 2010. Rosa's Law, which takes its name and inspiration from the 9-year-old Rosa Marcellino, removes the terms "mental retardation" and "mentally retarded" from federal health, education and labor policy and replaces them with people first language "individual with an intellectual disability" and "intellectual disability." Two other states New York and Maryland have also made this significant change to their laws.

COUNCIL STRATEGIC PLAN OBJECTIVE: **Goal #14**: Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: None, although the Council is committed to not labeling individuals with disabilities.

STAFF RECOMMENDATION: Support AB 2370.

ATTACHMENT: AB 2370

PREPARED: Karim Alipourfard, April 4, 2012

ASSEMBLY BILL No. 2370

Introduced by Assembly Member Mansoor

February 24, 2012

An act to amend Section 4502 of the Business and Professions Code, to amend Sections 8769, 16191, 16195, 16196, 16200, 41306, 41401, and 51765 of the Education Code, to amend Sections 854.2, 6514, 12428, 14670.1, 14670.2, 14670.3, 14670.5, 14672.1, 14672.92, 16813, 16814, and 16816 of the Government Code, to amend Sections 1275.5, 13113, 123935, 127260, and 129395 of the Health and Safety Code, to amend Sections 1370.1 and 1376 of the Penal Code, to amend Section 1420 of the Probate Code, to amend Section 25276 of the Vehicle Code, and to amend Sections 4426, 4801, 5002, 5008, 5325, 6250, 6500, 6502, 6504, 6504.5, 6505, 6506, 6507, 6508, 6509, 6511, 6512, 6513, 6551, 6715, 6717, 6718, 6740, 6741, 7275, and 7351 of, and to amend the heading of Article 2 (commencing with Section 6500) of Chapter 2 of, and to amend the heading of Article 4 (commencing with Section 6715) of Chapter 3 of, Part 2 of Division 6 of, the Welfare and Institutions Code, relating to intellectual disabilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2370, as introduced, Mansoor. Mental retardation: change of term to intellectual disabilities.

Existing federal Medicaid provisions require a state to describe its Medicaid program in its state plan, which is required by federal law to provide for, among other things, a public process for determination of rates of payment under the plan for hospital services, nursing facility services, and services of intermediate care facilities for the mentally retarded.

Under existing law, various state statutes refer to mentally retarded persons in provisions relating to, among other things, services, commitment to state facilities, and criminal punishment.

This bill would revise various statutes to, instead, refer to a person with an intellectual disability. The bill would also state the intent of the Legislature not to make a change to services or the eligibility for services.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 4502 of the Business and Professions
2 Code is amended to read:
3 4502. As used in this chapter, "psychiatric technician" means
4 any person who, for compensation or personal profit, implements
5 procedures and techniques which involve understanding of cause
6 and effect and which are used in the care, treatment, and
7 rehabilitation of mentally ill, emotionally disturbed, or ~~mentally~~
8 ~~retarded~~ *intellectually disabled* persons and who has one or more
9 of the following:
10 (a) Direct responsibility for administering or implementing
11 specific therapeutic procedures, techniques, treatments, or
12 medications with the aim of enabling recipients or patients to make
13 optimal use of their therapeutic regime, their social and personal
14 resources, and their residential care.
15 (b) Direct responsibility for the application of interpersonal and
16 technical skills in the observation and recognition of symptoms
17 and reactions of recipients or patients, for the accurate recording
18 of such symptoms and reactions, and for the carrying out of
19 treatments and medications as prescribed by a licensed physician
20 and surgeon or a psychiatrist.
21 The psychiatric technician in the performance of such procedures
22 and techniques is responsible to the director of the service in which
23 his *or her* duties are performed. The director may be a licensed
24 physician and surgeon, psychiatrist, psychologist, rehabilitation
25 therapist, social worker, registered nurse, or other professional
26 personnel.
27 Nothing herein shall authorize a licensed psychiatric technician
28 to practice medicine or surgery or to undertake the prevention,

treatment or cure of disease, pain, injury, deformity, or mental or physical condition in violation of the law.

SEC. 2. Section 8769 of the Education Code is amended to read:

8769. The county superintendent of schools may, with the approval of the county board of education, lease any real or personal property for the purpose of care, teaching, and training of physically handicapped or ~~mentally retarded~~ *intellectually disabled* children at such time as the property is not required for outdoor science education and conservation education, upon such terms and conditions as are agreed upon.

SEC. 3. Section 16191 of the Education Code is amended to read:

16191. As used in this article, "exceptional children" means physically handicapped pupils, ~~mentally retarded pupils~~ *pupils with intellectual disabilities*, educationally handicapped pupils, multihandicapped pupils, or pupils enrolled in development centers for the handicapped required or allowed to be educated pursuant to Part 30 (commencing with Section 56000).

SEC. 4. Section 16195 of the Education Code is amended to read:

16195. Allocations under this article may be made in the amount as may be necessary, and in the manner as to distribute the available funds equitably among school districts, giving consideration to the needs of each district and the number of children within each district who are blind, partially seeing, aphasic, deaf, hard of hearing, ~~mentally retarded~~ *intellectually disabled*, or orthopedic, or who are health impaired, multihandicapped, speech handicapped, educationally handicapped, or enrolled in development centers for the handicapped.

In computing the number of those children, there shall be included all of the following:

(a) The number of them residing in the district.

(b) The number of handicapped minors who are actually living within the district five or more days a week, although their legal residence may be outside the district and who are educated pursuant to *former* Section 56708, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

(c) The number of them who reside outside of the district, except those described in subdivision (b), and who are to be educated by

the district, excluding ~~mentally retarded~~ minors *with intellectual disabilities* within Section 56501, as amended by Section 58 of Chapter 1247 of the Statutes of 1977, who reside within a district having an average daily attendance of 900 or more and which does not meet the requirements of Section 16058 concerning outstanding bonded indebtedness.

Allocations for housing and equipment for minors having speech defects or disorders shall be allowed in new schools constructed after July 1, 1968, and in existing schools constructed between July 1, 1933, and July 1, 1968. The housing and equipment shall be designed and provided to permit their utilization for remedial and other special services including speech therapy, speech reading (lipreading), and auditory training for the speech and hearing handicapped, screening and testing for speech and hearing defects, or both, psychological testing of exceptional children, subject matter tutoring of exceptional children, and other specialized activities required by these children. In addition to the maximum building area allowances provided in Sections 16047, 16052, 16053, and 16054, not more than an additional 200 square feet of building area shall be allowed for each new school so planned and constructed.

Each existing school, constructed between July 1, 1933, and July 1, 1968, shall be allowed not more than an additional 200 square feet of building area only for construction thereon of a new speech facility. At the option of the applicant district, the board may allocate funds to convert existing facilities or to provide a combination of new construction and conversion of existing facilities to provide housing for minors having speech defects or disorders, provided the cost of the conversion or combination of new construction and conversion does not exceed the computed cost for 200 square feet of new classroom construction based upon cost standards adopted by the board. At the further option of the applicant district, and in lieu of new building construction or conversion, the board may allocate funds for the acquisition of mobile speech therapy facilities, provided the cost of the mobile facilities does not exceed the combined computed cost for 200 square feet of new classroom construction, based upon cost standards adopted by the board, at all schools which will be served by the mobile facility.

SEC. 5. Section 16196 of the Education Code is amended to read:

16196. Notwithstanding any provisions of this article to the contrary, apportionments for the construction of facilities and the purchase of essential furniture and equipment for the education of exceptional children may, subject to the approval of the State Department of Education, be made to any school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, for the education of blind, partially seeing, aphasic, deaf, hard-of-hearing, ~~mentally retarded~~ *intellectually disabled*, orthopedic or other health-impaired, multihandicapped, and educationally handicapped minors, pupils having speech defects or disorders, or pupils enrolled in development centers for the handicapped.

The State Department of Education may approve applications in those situations where the facilities will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to *former* Section 1850, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and ~~mentally retarded minors~~ *minors with intellectual disabilities* pursuant to *former* Section 1880, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. A school district may educate these minors by agreement with a county superintendent of schools required to educate these minors. Priority in the use of the facilities shall be given to pupils from districts other than the applicant district.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and at the interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools conducts classes in the facility during any fiscal year shall at that time or times within the fiscal year that may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to 80 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he or she approves the application.

SEC. 6. Section 16200 of the Education Code is amended to read:

16200. Notwithstanding any provisions of this article to the contrary, the board may make apportionments to school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) for the construction of special education facilities and the purchase of essential furniture and equipment for the purpose of either or both (1) educating those physically handicapped, ~~mentally retarded~~ *intellectually disabled*, and educationally handicapped pupils who regularly reside in an established, licensed children's institution or family home and are being educated pursuant to *former* Section 42902, as amended by Section 1 of Chapter 1173 of the Statutes of 1977, and (2) educating handicapped pupils in development centers for handicapped pupils pursuant to *former* Article 1 (commencing with Section 56800) of Chapter 6 of Part 30, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

Only 50 percent of any amounts allocated and disbursed to a district under this section shall be repaid by the district. Each disbursement shall be repaid in 20 equal annual installments, including interest as determined by the board, and shall be computed and withheld by the Controller. The first computation of repayment of any disbursement shall be made in the fiscal year following the disbursement and shall during the next fiscal year be deducted in equal amounts from the February, March, April, and May installments of the apportionment made to the district from the State School Fund under Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive.

SEC. 7. Section 41306 of the Education Code is amended to read:

41306. The Superintendent of Public Instruction shall also allow as otherwise provided in Section 41304 for the driver training instruction necessary to be safely tested for a driver's license at the Department of Motor Vehicles, those physically handicapped pupils, ~~mentally retarded pupils~~ *pupils with intellectual disabilities* who come within the provisions of former Section 56501 as amended by Chapter 1247 of the Statutes of 1977, and educationally handicapped pupils who are in attendance in a public secondary school in California that offers qualified instruction, and who may qualify for a driver's license, or other license, issued by the ~~California~~ Department of Motor Vehicles, a total allowance not to exceed two hundred ninety dollars ($290) including the reimbursement provisions set forth in Section 41900 to each school district and county superintendent of schools. All driver training for pupils herein described shall be provided by qualified teachers, as defined by Sections 41906 and 41907. The provisions of this section may not be applied if reimbursement allowable under Sections 41900 to 41912, inclusive, is sufficient to meet the total cost of instruction as herein described.

It is the intent of the Legislature that driver training instruction be provided pupils as a part of the high school curriculum, and the Legislature finds and declares that exceptional children are entitled to the benefit of that instruction so far as their individual capabilities permit, understanding that those pupils herein described often require individualized and amplified driver training instruction in order to succeed in becoming safe operators of motor vehicles. Since without a means of self-transportation much of the

overall program of education and rehabilitation provided for by the Legislature would be of little avail to the person without the mobility required to become a productive and well-adjusted member of society, the Legislature further declares that it is incumbent upon the state to share in the cost of providing a most needed and desirable program of driver training instruction for these exceptional children.

SEC. 8. Section 41401 of the Education Code is amended to read:

41401. For the purposes of this article:

(a) "Administrative employee" means an employee of a school district, employed in a position requiring certification qualifications, who does not come within the definition set forth in subdivision (c) or (d).

(b) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.

(c) "Pupil services employee" means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. "Pupil services employee" includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.

(d) "Teacher" means an employee of a school district, employed in a position requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in the schools of that district for the full time for which he or she is employed. "Teacher" includes, but is not limited to, teachers of special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of ~~mentally retarded~~ minors *with intellectual disabilities*, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers. Instructional preparation time shall be counted as part of the teacher full-time equivalent, including, but not limited to, mentor teacher or department chairperson time.

SEC. 9. Section 51765 of the Education Code is amended to read:

51765. The governing board of any school district ~~which~~ *that* establishes and supervises a work experience education program in which ~~mentally retarded~~ pupils *with intellectual disabilities* are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of pupils so employed.

The Legislature hereby finds and declares that the authority granted by the provisions of this section is necessary to ensure that the work experience education program will continue to provide maximum educational benefit to students, particularly ~~mentally retarded pupils~~ *pupils with intellectual disabilities*, and that ~~such~~ *the* program is deemed to serve a public purpose.

SEC. 10. Section 854.2 of the Government Code is amended to read:

854.2. As used in this chapter, "mental institution" means any state hospital for the care and treatment of the mentally disordered or ~~the mentally retarded~~ *persons with intellectual disabilities*, the California Rehabilitation Center referred to in Section 3300 of the Welfare and Institutions Code, or any county psychiatric hospital.

SEC. 11. Section 6514 of the Government Code is amended to read:

6514. ~~Any~~ *A* state department or agency concerned with the provisions of services or facilities to ~~mentally retarded~~ persons *with intellectual disabilities* and their families may enter into agreements under this chapter.

SEC. 12. Section 12428 of the Government Code is amended to read:

12428. In the event either the Governor or the Legislature should obtain federal approval to transfer programs receiving federal support for ~~the mentally retarded~~ *people who are intellectually disabled* or mentally disordered from one state department to another state department under the provisions of Public Law 90-577 (Intergovernmental Cooperation Act of 1968), the ~~State~~ Controller shall, upon approval of the Director of Finance, transfer to a ~~state~~ department designated by the Governor ~~such~~ *the* parts of the appropriation of the other ~~state~~ departments that are related to ~~mentally retarded or mentally disordered~~ programs *for people who have intellectual disabilities or are mentally*

disordered, provided further, that ~~such~~ *the* transfer shall enable the state to make maximum utilization of available state and federal funds.

SEC. 13. Section 14670.1 of the Government Code is amended to read:

14670.1. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Mental Health, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. ~~Such~~ *The* review shall be made by the Director of General Services, who shall do both of the following:

(a) Assure the state that the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars ($30,000) prior to January 1, 1976. ~~Such~~ *The* capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 14. Section 14670.2 of the Government Code, as amended by Section 1 of Chapter 65 of the Statutes of 1992, is amended to read:

14670.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Mental Health, may, in the best interests of the state, let to a public governmental agency, for the purpose of locating and conducting its ~~trainable mentally retarded~~ *training* program *for people with intellectual disabilities*, and for locating and conducting a child-care facility, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital. For the additional purpose of establishing an educational park, the director may, with the consent of the department, renegotiate the lease, for a period not to exceed 50 years, which period shall commence January 1, 1993. For the purposes of this section, "educational park" means a conglomerate

of educational services, including, but not limited to, a children's center, a preschool for severely disabled children, adult educational services, administrative offices, a community school, and a media services building.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. That review shall be made by the Director of General Services, who shall do both of the following:

(a) Assure the state the purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for the establishment of a school building facility by the lessee prior to July 1, 1977. That facility shall not be established until after the effective date of the act amending this section.

SEC. 15. Section 14670.3 of the Government Code is amended to read:

14670.3. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of *Mental* Health, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 55 years, real property not exceeding five acres located within the grounds of the Fairview State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. ~~Such~~ *The* review shall be made by the Director of General Services, who shall *do both of the following*:

(a) Assure the state that the original purposes of the lease are being carried ~~out;~~ *out.*

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars ($30,000) prior to January 1, 1976. Such capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 16. Section 14670.5 of the Government Code is amended to read:

14670.5. Notwithstanding Section 14670, the Director of General Services, with the consent of the *State* Department of Mental ~~Hygiene~~ *Health* may let to a nonprofit corporation, for the purpose of establishing and maintaining a rehabilitation center for ~~mentally retarded minor and adult~~ persons *with intellectual disabilities*, for a period not exceeding 20 years, real property, not exceeding five acres, located within the grounds of the Fairview State Hospital in Orange County, and which is retained by the state primarily to provide a peripheral buffer area, or zone, between real property upon which is located the state hospital and adjacent real property, where the director deems ~~such~~ *the* letting is in the best interests of the state.

SEC. 17. Section 14672.1 of the Government Code is amended to read:

14672.1. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections *and Rehabilitation*, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 50 years, real property not exceeding 10 acres, located within the grounds of the Medical Facility at Vacaville, California.

Any lease executed pursuant to this section shall include a provision that ~~such~~ *the* lease shall be canceled if permanent facilities are not constructed on the leased land within five years after the effective date of the amendments to this section enacted at the 1967 Regular Session of the Legislature.

Any lease executed pursuant to this section may be assigned or sublet in whole or in part by the lessee nonprofit corporation to any public agency with the approval of the Director of General Services and the Department of Corrections *and Rehabilitation*.

SEC. 18. Section 14672.92 of the Government Code is amended to read:

14672.92. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of ~~Health Services~~ *Developmental Services*, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 50 years, real property not exceeding

18.50 acres located within the grounds of the Camarillo State Hospital at 1732 Lewis Road in the City of Camarillo.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. ~~Such~~ *The* review shall be made by the Director of General Services and the Director of ~~Health~~ *Developmental* Services who shall do all of the following:

(a) Assure the state the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

SEC. 19. Section 16813 of the Government Code is amended to read:

16813. Bonds of the State of California shall be prepared, issued, and sold in the amount of one hundred million dollars ($100,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the state for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of ~~physically handicapped minors and mentally retarded minors as those terms are~~ *individuals who have exceptional needs, as that term is* defined in ~~Chapters 9 and 11 of Division 4~~ *Section 56026* of the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof,

and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State ~~Allocations~~ *Allocation* Board or a similar agency and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the state on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the state on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

SEC. 20. Section 16814 of the Government Code is amended to read:

16814. Bonds of the State of California shall be prepared, issued, and sold in the amount of two hundred twenty million dollars ($220,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the state for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of ~~physically handicapped minors and mentally retarded minors as those terms are~~ *individuals who have exceptional needs, as that term is* defined in ~~Chapters 9 and 11 of Division 4~~ *Section 56026* of the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

(d) To repay, as provided by law, any money appropriated from the Investment Fund at the 1958 First Extraordinary Session for state school building aid.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds

required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State ~~Allocations~~ Board or a similar agency and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the state on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the state on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

SEC. 21. Section 16816 of the Government Code is amended to read:

16816. Bonds of the State of California shall be prepared, issued, and sold in the amount of three hundred million dollars ($300,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the state for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning

and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of ~~physically handicapped minors and mentally retarded minors as those terms are~~ *individuals who have exceptional needs, as that term is* defined in ~~Chapters 8 and 9 of Division 6 of~~ *Section 56026* the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

(d) To repay, as provided by law, any money appropriated from the General Fund at the 1960 First Extraordinary Session for state school building aid.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State Allocation Board or a similar agency. Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending

before such board concerning this section or any other section of the Constitution or legislative act authorizing the allocation of funds to school districts for purposes the same or substantially the same as those enumerated in this section.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the state on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the state on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

SEC. 22. Section 1275.5 of the Health and Safety Code is amended to read:

1275.5. (a) The regulations relating to the licensing of hospitals, ~~heretofore~~ *previously* adopted by the *State* Department of Public Health pursuant to Chapter 2 (commencing with Section 1400) of Division 2, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any hospital required to be licensed by this chapter, unless and until the regulations are readopted, amended, or repealed by the director.

(b) The regulations relating to private institutions receiving or caring for any mentally disordered persons, ~~mentally retarded persons~~ *persons with intellectual disabilities*, and other incompetent persons, ~~heretofore~~ *previously* adopted by the Department of Mental Hygiene pursuant to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any facility, establishment, or institution for the reception and care of mentally

disordered persons, ~~mentally retarded~~ persons *with intellectual disabilities,* and other incompetent persons, required to be licensed by the provisions of this chapter unless and until said regulations are readopted, amended, or repealed by the director.

(c) All regulations relating to the licensing of psychiatric health facilities ~~heretofore~~ *previously* adopted by the State Department of Health Services, pursuant to authority now vested in the State Department of Mental Health by Section 5652.5 of the Welfare and Institutions Code, and in effect immediately preceding September 20, 1988, shall remain in effect and shall be fully enforceable by the State Department of Mental Health with respect to any facility or program required to be licensed as a psychiatric health facility, unless and until readopted, amended, or repealed by the Director of Mental Health.

SEC. 23. Section 13113 of the Health and Safety Code is amended to read:

13113. (a) Except as otherwise provided in this section, no person, firm, or corporation shall establish, maintain, or operate any hospital, children's home, children's nursery, or institution, home or institution for the care of aged or senile persons, sanitarium or institution for insane or ~~mentally retarded~~ persons *with intellectual disabilities*, or nursing or convalescent home, wherein more than six guests or patients are housed or cared for on a 24-hour-per-day basis unless there is installed and maintained in an operable condition in every building, or portion thereof where patients or guests are housed, an automatic sprinkler system approved by the State Fire Marshal.

(b) This section does not apply to homes or institutions for the 24-hour-per-day care of ambulatory children if all of the following conditions are satisfied:

(1) The buildings, or portions thereof in which children are housed, are not more than two stories in height and are constructed and maintained in accordance with regulations adopted by the State Fire Marshal pursuant to Section 13143 and building standards published in the California Building Standards Code.

(2) The buildings, or portions thereof housing more than six children, shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to invisible products of combustion other than heat.

(3) The buildings or portions thereof do not house mentally ill ~~or mentally retarded~~ children *or children with intellectual disabilities*.

(c) This section does not apply to any one-story building or structure of an institution or home for the care of the aged providing 24-hour-per-day care if the building or structure is used or intended to be used for the housing of no more than six ambulatory aged persons. However, the buildings or institutions shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to products of combustion other than heat.

(d) This section does not apply to occupancies, or any alterations thereto, located in type I construction, as defined by the State Fire Marshal, under construction or in existence on March 4, 1972.

(e) "Under construction," as used in this section, means that actual work shall have been performed on the construction site and shall not be construed to mean that the hospital, home, nursery, institution, sanitarium, or any portion thereof, is in the planning stage.

SEC. 24. Section 123935 of the Health and Safety Code is amended to read:

123935. A handicapped child shall not be denied services pursuant to this article because he or she ~~is mentally retarded~~ *has an intellectual disability*.

SEC. 25. Section 127260 of the Health and Safety Code is amended to read:

127260. The Advisory Health Council, upon review of a decision of the department, shall do one of the following:

(a) Enter an order affirming the decision of the department where it finds as to the respective basis of review that:

(1) The application was processed and the hearing conducted was consistent with this chapter, or that any inconsistency with respect thereto was immaterial to the decision of the department.

(2) There is substantial evidence in the record supporting the department's decision.

(3) The department has not acted in an arbitrary and capricious manner.

(b) Enter an order remanding the decision of the department where it finds as to the respective basis of review that:

(1) The application was not processed or the hearing conducted was not consistent with this chapter, and this inconsistency was material to the decision rendered by the department.

(2) There is no substantial evidence in the record supporting the decision.

(3) The department has acted in an arbitrary or capricious manner.

(c) Enter an order reversing the decision of the department where it finds as to the respective basis of review that:

(1) The application was not processed or the hearing conducted was not consistent with the provisions of this chapter, and this inconsistency was material to the decision rendered by the department.

(2) There is no substantial evidence in the record supporting the decision.

(3) The department has acted in an arbitrary or capricious manner.

Orders of the council authorized by this section shall be made only upon the affirmative vote of a majority of the council, with at least six of the affirmative votes cast by the following members:

~~(a)~~

(A) Representative of consumers of services for ~~the mentally retarded~~ *people with intellectual disabilities* appointed by the Governor.

~~(b)~~

(B) Representative of consumers of mental health services appointed by the Governor.

~~(c)~~

(C) Representative of local government appointed by the Governor.

~~(d)~~

(D) Representatives of the general consumer public appointed by the Governor, Senate Committee on Rules, or Speaker of the Assembly.

~~(e)~~

(E) Members of the Legislature appointed by the Senate Committee on Rules or Speaker of the Assembly.

SEC. 26. Section 129395 of the Health and Safety Code is amended to read:

129395. "Hospital" includes hospitals for the chronically ill and impaired, public health centers, community mental health centers, facilities for ~~the mentally retarded~~ *people with intellectual disabilities*, and general, tuberculosis, mental and other types of hospitals and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, diagnostic or treatment centers, nursing homes, and rehabilitation facilities, but except for facilities for ~~the mentally retarded~~ *people with intellectual disabilities* does not include any institution furnishing primarily domiciliary care.

SEC. 27. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) (1) (A) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced.

(B) If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent.

(i) Except as provided in clause (ii) or (iii), the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center or designee. In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff or other person designated by the court to a state hospital or developmental center for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy attainment of mental competence, or be placed on outpatient status pursuant to the provisions of Section 1370.4 and Title 15 (commencing with Section 1600) of Part 2.

(ii) However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made,

1 the prosecutor shall so notify the court and defendant in writing.
2 After this notification, and opportunity for hearing, the court shall
3 order that the defendant be delivered by the sheriff to a state
4 hospital or other secure treatment facility for the care and treatment
5 of the developmentally disabled unless the court makes specific
6 findings on the record that an alternative placement would provide
7 more appropriate treatment for the defendant and would not pose
8 a danger to the health and safety of others.
9 (iii) If the action against the defendant who has been found
10 mentally incompetent is on a complaint charging a felony offense
11 specified in Section 290 and the defendant has been denied bail
12 pursuant to subdivision (b) of Section 12 of Article I of the
13 California Constitution because the court has found, based upon
14 clear and convincing evidence, a substantial likelihood that the
15 person's release would result in great bodily harm to others, the
16 court shall order that the defendant be delivered by the sheriff to
17 a state hospital for the care and treatment of the developmentally
18 disabled unless the court makes specific findings on the record
19 that an alternative placement would provide more appropriate
20 treatment for the defendant and would not pose a danger to the
21 health and safety of others.
22 (iv) The clerk of the court shall notify the Department of Justice
23 in writing of any finding of mental incompetence with respect to
24 a defendant who is subject to clause (ii) or (iii) for inclusion in his
25 or her state summary criminal history information.
26 (C) Upon becoming competent, the court shall order that the
27 defendant be returned to the committing court pursuant to the
28 procedures set forth in paragraph (2) of subdivision (a) of Section
29 1372 or by another person designated by the court. The court shall
30 further determine conditions under which the person may be absent
31 from the placement for medical treatment, social visits, and other
32 similar activities. Required levels of supervision and security for
33 these activities shall be specified.
34 (D) The court shall transmit a copy of its order to the regional
35 center director or designee and to the Director of Developmental
36 Services.
37 (E) A defendant charged with a violent felony may not be placed
38 in a facility or delivered to a state hospital, developmental center,
39 or residential facility pursuant to this subdivision unless the facility,
40 state hospital, developmental center, or residential facility has a

secured perimeter or a locked and controlled treatment facility, and the judge determines that the public safety will be protected.

(F) For purposes of this paragraph, "violent felony" means an offense specified in subdivision (c) of Section 667.5.

(G) A defendant charged with a violent felony may be placed on outpatient status, as specified in Section 1370.4 or 1600, only if the court finds that the placement will not pose a danger to the health or safety of others.

(H) As used in this section, "developmental disability" means a disability that originates before an individual attains ~~age~~ 18 *years of age*, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for the individual, and shall not include other handicapping conditions that are solely physical in nature. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to ~~mental retardation~~ *intellectual disability* or to require treatment similar to that required for ~~mentally retarded~~ individuals *with an intellectual disability*, but shall not include other handicapping conditions that are solely physical in nature.

(2) Prior to making the order directing the defendant be confined in a state hospital, developmental center, or other residential facility or be placed on outpatient status, the court shall order the regional center director or designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be committed to a state hospital or developmental center or to any other available residential facility approved by the regional center director. No person shall be admitted to a state hospital, developmental center, or other residential facility or accepted for outpatient status under Section 1370.4 without having been evaluated by the regional center director or designee.

(3) When the court orders that the defendant be confined in a state hospital or other secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1), the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other secure treatment facility where the defendant is to be confined:

(A) State summary criminal history information.

(B) Any arrest reports prepared by the police department or other law enforcement agency.

(C) Records of ~~any~~ *a* finding of mental incompetence pursuant to this chapter arising out of a complaint charging a felony offense specified in Section 290 or ~~any~~ *a* pending Section 1368 proceeding arising out of a charge of a Section 290 offense.

(4) When the defendant is committed to a residential facility pursuant to clause (i) of subparagraph (B) of paragraph (1) or the court makes the findings specified in clause (ii) or (iii) of subparagraph (B) of paragraph (1) to assign the defendant to a facility other than a state hospital or other secure treatment facility, the court shall order that notice be given to the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility of ~~any~~ *a* finding of mental incompetence pursuant to this chapter arising out of a charge of a Section 290 offense.

(5) (A) If the defendant is committed or transferred to a state hospital or developmental center pursuant to this section, the court may, upon receiving the written recommendation of the executive director of the state hospital or developmental center and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to that facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or developmental center or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney may contest either kind of order of transfer by filing a petition with the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant

may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or designee.

(B) If the defendant is committed to a state hospital or secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1) and is subsequently transferred to ~~any other~~ *another* facility, copies of the documents specified in paragraph (3) shall be taken with the defendant to the new facility. The transferring facility shall also notify the appropriate law enforcement agency or agencies having local jurisdiction at the site of the new facility that the defendant is a person subject to clause (ii) or (iii) of subparagraph (B) of paragraph (1).

(b) (1) Within 90 days of admission of a person committed pursuant to subdivision (a), the executive director or designee of the state hospital, developmental center, or other facility to which the defendant is committed, or the outpatient supervisor where the defendant is placed on outpatient status, shall make a written report to the committing court and the regional center director or a designee concerning the defendant's progress toward becoming mentally competent. If the defendant has not become mentally competent, but the report discloses a substantial likelihood the defendant will become mentally competent within the next 90 days, the court may order that the defendant shall remain in the state hospital, developmental center, or other facility or on outpatient status for that period of time. Within 150 days of an admission made pursuant to subdivision (a) or if the defendant becomes mentally competent, the executive director or designee of the hospital or developmental center or person in charge of the facility or the outpatient supervisor shall report to the court and the regional center director or his or her designee regarding the defendant's progress toward becoming mentally competent. The court shall provide to the prosecutor and defense counsel copies of all reports under this section. If the report indicates that there is no substantial likelihood that the defendant has become mentally competent, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of

subdivision (c). The court shall transmit a copy of its order to the regional center director or designee and to the executive director of the developmental center.

(2) ~~Any~~ *A* defendant who has been committed or has been on outpatient status for 18 months, and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or designee and the executive director of the developmental center.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. A copy of this order shall be sent to the regional center director or designee and to the executive director of the developmental center.

(4) At each review by the court specified in this subdivision, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination.

(c) (1) (A) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, any defendant who has not become mentally competent shall be returned to the committing court.

(B) The court shall notify the regional center director or designee and the executive director of the developmental center of that return and of any resulting court orders.

(2) In the event of dismissal of the criminal charges before the defendant becomes mentally competent, the defendant shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), or to commitment and detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual

shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385. The court shall notify the regional center director and the executive director of the developmental center of any dismissal.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges. The court shall transmit a copy of any order of dismissal to the regional center director and to the executive director of the developmental center.

(e) For the purpose of this section, "secure treatment facility" shall not include, except for state mental hospitals, state developmental centers, and correctional treatment facilities, any facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter 3.2 (commencing with Section 1569) of, Division 2 of the Health and Safety Code, or any community board and care facility.

SEC. 28. Section 1376 of the Penal Code is amended to read:

1376. (a) As used in this section, ~~"mentally retarded"~~ *"intellectually disabled"* means the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before ~~the age of~~ 18 *years of age*.

(b) (1) In any case in which the prosecution seeks the death penalty, the defendant may, at a reasonable time prior to the commencement of trial, apply for an order directing that a ~~mental retardation~~ hearing *to determine intellectual disability* be conducted. Upon the submission of a declaration by a qualified expert stating his or her opinion that the defendant is ~~mentally retarded~~ *intellectually disabled*, the court shall order a hearing to determine whether the defendant is ~~mentally retarded~~ *intellectually disabled*. At the request of the defendant, the court shall conduct the hearing without a jury prior to the commencement of the trial. The defendant's request for a court hearing prior to trial shall

constitute a waiver of a jury hearing on the issue of ~~mental retardation~~ *intellectual disability*. If the defendant does not request a court hearing, the court shall order a jury hearing to determine if the defendant is ~~mentally retarded~~ *intellectually disabled*. The jury hearing on ~~mental retardation~~ *intellectual disability* shall occur at the conclusion of the phase of the trial in which the jury has found the defendant guilty with a finding that one or more of the special circumstances enumerated in Section 190.2 are true. Except as provided in paragraph (3), the same jury shall make a finding that the defendant is ~~mentally retarded~~ *intellectually disabled*, or that the defendant is not ~~mentally retarded~~ *intellectually disabled*.

(2) For the purposes of the procedures set forth in this section, the court or jury shall decide only the question of the defendant's ~~mental retardation~~ *intellectual disability*. The defendant shall present evidence in support of the claim that he or she is ~~mentally retarded~~ *intellectually disabled*. The prosecution shall present its case regarding the issue of whether the defendant is ~~mentally retarded~~ *intellectually disabled*. Each party may offer rebuttal evidence. The court, for good cause in furtherance of justice, may permit either party to reopen its case to present evidence in support of or opposition to the claim of ~~retardation~~ *intellectual disability*. Nothing in this section shall prohibit the court from making orders reasonably necessary to ensure the production of evidence sufficient to determine whether or not the defendant is ~~mentally retarded~~ *intellectually disabled*, including, but not limited to, the appointment of, and examination of the defendant by, qualified experts. No statement made by the defendant during an examination ordered by the court shall be admissible in the trial on the defendant's guilt.

(3) At the close of evidence, the prosecution shall make its final argument, and the defendant shall conclude with his or her final argument. The burden of proof shall be on the defense to prove by a preponderance of the evidence that the defendant is ~~mentally retarded~~ *intellectually disabled*. The jury shall return a verdict that either the defendant is ~~mentally retarded~~ *intellectually disabled* or the defendant is not ~~mentally retarded~~ *intellectually disabled*. The verdict of the jury shall be unanimous. In any case in which the jury has been unable to reach a unanimous verdict that the defendant is ~~mentally retarded~~ *intellectually disabled*, and does not reach a unanimous verdict that the defendant is not ~~mentally~~

~~retarded~~ *intellectually disabled*, the court shall dismiss the jury and order a new jury impaneled to try the issue of ~~mental retardation~~ *intellectual disability*. The issue of guilt shall not be tried by the new jury.

(c) In the event the hearing is conducted before the court prior to the commencement of the trial, the following shall apply:

(1) If the court finds that the defendant is ~~mentally retarded~~ *intellectually disabled*, the court shall preclude the death penalty and the criminal trial thereafter shall proceed as in any other case in which a sentence of death is not sought by the prosecution. If the defendant is found guilty of murder in the first degree, with a finding that one or more of the special circumstances enumerated in Section 190.2 are true, the court shall sentence the defendant to confinement in the state prison for life without the possibility of parole. The jury shall not be informed of the prior proceedings or the findings concerning the defendant's claim of ~~mental retardation~~ *intellectual disability*.

(2) If the court finds that the defendant is not ~~mentally retarded~~ *intellectually disabled*, the trial court shall proceed as in any other case in which a sentence of death is sought by the prosecution. The jury shall not be informed of the prior proceedings or the findings concerning the defendant's claim of ~~mental retardation~~ *intellectual disability*.

(d) In the event the hearing is conducted before the jury after the defendant is found guilty with a finding that one or more of the special circumstances enumerated in Section 190.2 are true, the following shall apply:

(1) If the jury finds that the defendant is ~~mentally retarded~~ *intellectually disabled*, the court shall preclude the death penalty and shall sentence the defendant to confinement in the state prison for life without the possibility of parole.

(2) If the jury finds that the defendant is not ~~mentally retarded~~ *intellectually disabled*, the trial shall proceed as in any other case in which a sentence of death is sought by the prosecution.

(e) In any case in which the defendant has not requested a court hearing as provided in subdivision (b), and has entered a plea of not guilty by reason of insanity under Sections 190.4 and 1026, the hearing on ~~mental retardation~~ *intellectual disability* shall occur at the conclusion of the sanity trial if the defendant is found sane.

SEC. 29. Section 1420 of the Probate Code is amended to read:

1420. "Developmental disability" means a disability ~~which~~ *that* originates before an individual attains ~~age~~ 18 *years of age*, continues, or can be expected to continue, indefinitely, and constitutes a substantial handicap for ~~such~~ *the* individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term includes ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism. This term also includes handicapping conditions found to be closely related to ~~mental retardation~~ *intellectual disability* or to require treatment similar to that required for ~~mentally retarded~~ individuals *with an intellectual disability*, but does not include other handicapping conditions that are solely physical in nature.

SEC. 30. Section 25276 of the Vehicle Code is amended to read:

25276. (a) A motor vehicle designed for carrying more than eight persons, including the driver, owned by a private, nonprofit organization that provides training or other activities for persons who ~~are mentally retarded or physically disabled~~ *have intellectual or physical disabilities*, or both, and that is certified by the Department of Rehabilitation or licensed by the State Department of ~~Health~~ *Developmental Services*, with respect to the providing of this training or other activities, may be equipped with a flashing amber light signal system.

(b) A motor vehicle, described in subdivision (a), may, while actually engaged in the transportation of persons described in subdivision (a) to or from a training or activity center operated by the organization, display the flashing amber lights of the system when necessarily parked upon a highway and in the process of loading or unloading persons.

(c) Subdivisions (a) and (b) apply to a motor vehicle that is rented, leased, or chartered by the organization.

SEC. 31. Section 4426 of the Welfare and Institutions Code is amended to read:

4426. The department may inquire into the manner in which ~~any mentally retarded~~ *a* person *with an intellectual disability who is* subject to commitment, not confined in a state hospital, is cared for and maintained. If, in its judgment, ~~any such~~ *the* person is not properly and suitably cared for, ~~it~~ *the department* may apply to a judge of the superior court for an order to commit him *or her* to a state hospital under the provisions of this code. ~~Such~~ *This* order

shall not be made unless the judge finds, and certifies in the order, that ~~such~~ *the* person is not properly or suitably cared for by his *or her* relatives ~~or~~, *legal* guardian, or conservator, or that it is dangerous to the public to allow him *or her* to be cared for and maintained by ~~such~~ *the* relatives ~~or~~, *legal* guardian, or conservator.

SEC. 32. Section 4801 of the Welfare and Institutions Code is amended to read:

4801. (a) Judicial review shall be in the superior court for the county in which the state hospital, developmental center, community care facility, or health facility is located, except that, if the adult has been found incompetent to stand trial and has been committed pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, judicial review shall be in the superior court of the county that determined the question of the mental competence of the defendant. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, developmental center, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in the preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The person shall pay the costs of those legal services if he or she is able.

(b) At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Notice shall also be provided to the director of the appropriate developmental center if the person seeking release or for whom release is sought resides in a developmental center. The notice shall be sent by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested.

(c) The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center

and developmental center are deposited in the United States mail pursuant to this section.

(1) Except as provided in paragraph (2), if the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled, or (B) that he or she is developmentally disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be released within 72 hours. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to the responsible person or regional center or other public or private agency, as the case may be, subject to any conditions that the court deems proper for the welfare of the developmentally disabled adult and that are consistent with the purposes of this division.

(2) If the person is charged with a violent felony and has been committed to his or her current placement pursuant to Section 1370.1 of the Penal Code or Section 6500, and the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled or ~~mentally retarded~~ *intellectually disabled*, or (B) that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, the court shall, before releasing the person, determine that the release will not pose a danger to the health or safety of others due to the person's known behavior. If the court finds there is no danger pursuant to the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code, the person shall be released within 72 hours. If the person's release poses a danger to the health or safety of others, the court may grant or deny the request, taking into account the danger to the health or safety of others posed by the person. If the court finds that release of the person can be made subject to conditions that the court deems proper for the preservation of public health and safety and the welfare of the person, the person shall be released subject to those conditions.

(d) If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or

conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

(e) This section shall become operative January 1, 1988.

SEC. 33. Section 5002 of the Welfare and Institutions Code is amended to read:

5002. Mentally disordered persons and persons impaired by chronic alcoholism may no longer be judicially committed.

Mentally disordered persons shall receive services pursuant to this part. Persons impaired by chronic alcoholism may receive services pursuant to this part if they elect to do so pursuant to Article 3 (commencing with Section 5225) of Chapter 2 ~~of this part~~.

Epileptics may no longer be judicially committed.

This part shall not be construed to repeal or modify laws relating to the commitment of mentally disordered sex offenders, ~~mentally retarded~~ persons *with an intellectual disability*, and mentally disordered criminal offenders, except as specifically provided in Penal Code Section 4011.6, or as specifically provided in other statutes.

SEC. 34. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions ~~as~~ *that* may appear to constitute a problem. ~~Persons~~ *A person* providing evaluation services shall be *a* properly qualified ~~professionals~~ *professional* and may be *a* full-time ~~employees~~ *employee* of an agency providing evaluation services ~~or~~, may be *a* part-time ~~employees~~ *employee,* or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of ~~such~~ hospital and other services ~~as~~ *that* may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in

1 facilities qualifying for reimbursement under the California
2 Medical Assistance Program (Medi-Cal) set forth in Chapter 7
3 (commencing with Section 14000) of Part 3 of Division 9, or under
4 Title XVIII of the federal Social Security Act and regulations
5 thereunder. Intensive treatment may be provided in hospitals of
6 the United States government by properly qualified professionals.
7 Nothing in this part shall be construed to prohibit an intensive
8 treatment facility from also providing 72-hour treatment and
9 evaluation.
10 (d) "Referral" is referral of persons by each agency or facility
11 providing intensive treatment or evaluation services to other
12 agencies or individuals. The purpose of referral shall be to provide
13 for continuity of care, and may include, but need not be limited
14 to, informing the person of available services, making appointments
15 on the person's behalf, discussing the person's problem with the
16 agency or individual to which the person has been referred,
17 appraising the outcome of referrals, and arranging for personal
18 escort and transportation when necessary. Referral shall be
19 considered complete when the agency or individual to whom the
20 person has been referred accepts responsibility for providing the
21 necessary services. All persons shall be advised of available precare
22 services which prevent initial recourse to hospital treatment or
23 aftercare services ~~which~~ *that* support adjustment to community
24 living following hospital treatment. These services may be provided
25 through county welfare departments, State Department of Mental
26 Health, Short-Doyle programs, or other local agencies.
27 Each agency or facility providing evaluation services shall
28 maintain a current and comprehensive file of all community
29 services, both public and private. These files shall contain current
30 agreements with agencies or individuals accepting referrals, as
31 well as appraisals of the results of past referrals.
32 (e) "Crisis intervention" consists of an interview or series of
33 interviews within a brief period of time, conducted by qualified
34 professionals, and designed to alleviate personal or family
35 situations ~~which~~ *that* present a serious and imminent threat to the
36 health or stability of the person or the family. The interview or
37 interviews may be conducted in the home of the person or family,
38 or on an inpatient or outpatient basis with ~~such~~ *the* therapy, or
39 other services, as may be appropriate. Crisis intervention may, as

appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result

of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include ~~mentally retarded~~ persons *with intellectual disabilities* by reason of ~~being mentally retarded~~ *having an intellectual disability* alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(*l*) "Antipsychotic medication" means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

SEC. 35. Section 5325 of the Welfare and Institutions Code is amended to read:

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient for psychiatric evaluation or treatment to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered, and each ~~mentally retarded~~ person *with an intellectual disability* committed to a state hospital pursuant to Article 5 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing such services and otherwise brought to his or her

attention by ~~such~~ additional means ~~as~~ *that* the Director of Mental Health may designate by regulation:

(a) To wear his or her own clothes; to keep and use his or her own personal possessions including his or her toilet articles; and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his or her private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls or to have ~~such~~ calls made for them.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition ~~which~~ *that* depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of any of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Mental Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) To see and receive the services of a patient advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services.

(i) Other rights, as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and

statutory rights which are found by the State Department of Mental Health to be frequently misunderstood, ignored, or denied.

Upon admission to a facility each patient shall immediately be given a copy of a State Department of Mental Health prepared patients' rights handbook.

The State Department of Mental Health shall prepare and provide the forms specified in this section and in Section 5157.

The rights specified in this section may not be waived by the person's parent, guardian, or conservator.

SEC. 36. Section 6250 of the Welfare and Institutions Code is amended to read:

6250. As used in this part, "persons subject to judicial commitment" means persons who may be judicially committed under this part as mentally disordered sex offenders pursuant to Article 1 (commencing with Section ~~6300)~~ *6331)*, sexually violent predators pursuant to Article 4 (commencing with Section 6600), or ~~mentally retarded~~ persons *with intellectual disabilities* pursuant to Article 2 (commencing with Section 6500) of Chapter 2 ~~of this part~~.

Nothing in this part shall be held to change or interfere with the provisions of the Penal Code and other laws relating to mentally disordered persons charged with crime or to the criminally insane.

This part shall be liberally construed so that, as far as possible and consistent with the rights of persons subject to commitment, those persons shall be treated, not as criminals, but as sick persons.

SEC. 37. The heading of Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code is amended to read:

Article 2. ~~Mentally Retarded~~ Persons *with Intellectual Disabilities*

SEC. 38. Section 6500 of the Welfare and Institutions Code, as amended by Section 102 of Chapter 178 of the Statutes of 2010, is amended to read:

6500. On and after July 1, 1971, no ~~mentally retarded~~ person *with an intellectual disability* may be committed to the State Department of Developmental Services pursuant to this article, unless he or she is a danger to himself or herself, or others. For the purposes of this article, dangerousness to self or others shall

be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

If the ~~mentally retarded~~ person *with an intellectual disability* is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions

are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article, the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability* shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person ~~is mentally retarded~~ *has an intellectual disability* and *is* a danger to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

SEC. 39. Section 6502 of the Welfare and Institutions Code is amended to read:

6502. A petition for the commitment of a ~~mentally retarded~~ person *with an intellectual disability* to the State Department of Developmental Services who has been found incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with one or more of the offenses identified or described in Section 6500, may be filed in the superior court of the county that determined the question of mental competence of the defendant. All other petitions may be filed in the county in which that person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

(a) The parent, guardian, conservator, or other person charged with the support of the ~~mentally retarded~~ person.

(b) The probation officer.

(c) The ~~Youth Authority~~ *Division of Juvenile Facilities, Department of Corrections and Rehabilitation.*

(d) Any person designated for that purpose by the judge of the court.

(e) The ~~Director of Corrections~~ *Secretary of the Department of Corrections and Rehabilitation.*

(f) The regional center director or his or her designee.

The request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

SEC. 40. Section 6504 of the Welfare and Institutions Code is amended to read:

6504. In all cases the court shall require due notice of the hearing of the petition to be given to the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. Whenever a petition is filed, the court shall require ~~such~~ notice of the hearing of the petition as it deems proper to be given to ~~any~~ *a* parent, guardian, conservator, or other person charged with the support of the person mentioned in the petition.

SEC. 41. Section 6504.5 of the Welfare and Institutions Code is amended to read:

6504.5. Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 ~~of this code~~ *(commencing with Section 4500)*, or the designee of the director, to examine the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*.

Within 15 judicial days after his or her appointment, the regional center director or designee shall submit to the court in writing a report containing his or her evaluation of the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. The report shall contain a recommendation of a facility or facilities in which the ~~alleged developmentally disabled~~ person *alleged to have an intellectual disability* may be placed.

The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment. In determining the least restrictive residential placement, consideration shall be given to public safety. If placement into or out of a developmental center is recommended, the regional center director or designee simultaneously shall submit the report to the executive director of the developmental center or his or her designee. The executive director of the developmental center or his or her designee may, within 15 days of receiving the regional center report, submit to the court a written report evaluating the ability of the developmental center to achieve the purposes of treatment for this person and whether the developmental center placement can adequately provide the security measures or systems

required to protect the public health and safety from the potential dangers posed by the person's known behaviors.

The reports prepared by the regional center director and developmental center director, if applicable, shall also address suitable interim placements for the person as provided for in Section 6506.

SEC. 42. Section 6505 of the Welfare and Institutions Code is amended to read:

6505. Whenever the court considers it necessary or advisable, it may cause an order to issue for the apprehension and delivery to the court of the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*, and may have the order executed by ~~any~~ *a* peace officer.

SEC. 43. Section 6506 of the Welfare and Institutions Code is amended to read:

6506. Pending the hearing, the court may order that the alleged dangerous ~~mentally retarded~~ *intellectually disabled* person may be left in the charge of his or her parent, guardian, conservator, or other suitable person, or placed in a state hospital for the developmentally disabled, in the county psychiatric hospital, or in any other suitable placement, as determined by the court. Prior to the issuance of an order under this section, the regional center and developmental center, if applicable, shall recommend to the court a suitable person or facility to care for the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. The determination of a suitable person or facility shall be the least restrictive option that provides for the person's treatment needs and that has existing security systems or measures in place to adequately protect the public safety from any known dangers posed by the person. In determining whether the public safety will be adequately protected, the court shall make the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code.

Pending the hearing, the court may order that the person receive necessary habilitation, care, and treatment, including medical and dental treatment.

Orders made pursuant to this section shall expire at the time set for the hearing pursuant to Section 6503. If the court upon a showing of good cause grants a continuance of the hearing on the

matter, it shall order that the person be detained pursuant to this section until the hearing on the petition is held.

SEC. 44. Section 6507 of the Welfare and Institutions Code is amended to read:

6507. The court shall inquire into the condition or status of the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. For this purpose it may, by subpoena, require the attendance before it of a physician who has made a special study of ~~mental retardation~~ *intellectual disabilities* and is qualified as a medical examiner, and of a clinical psychologist, or of two such physicians, or of two such psychologists, to examine the person and testify concerning his *or her* mentality. The court may also, by subpoena, require the attendance of ~~such~~ other persons as it deems advisable, to give evidence.

SEC. 45. Section 6508 of the Welfare and Institutions Code is amended to read:

6508. Each psychologist and physician shall receive for each attendance mentioned in Section 6507 the sum of five dollars ($5) for each person examined, together with his *or her* necessary actual expenses occasioned thereby, and other witnesses shall receive for ~~such~~ attendance such fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, physician, or witness as provided in this section and all expenses connected with the execution of ~~any~~ *a* process under the provisions of this article, which are not paid by the parent, guardian, conservator, or person charged with the support of the ~~supposed mentally retarded~~ person *supposed to have an intellectual disability*, shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the judge that the claimant is entitled thereto.

SEC. 46. Section 6509 of the Welfare and Institutions Code is amended to read:

6509. (a) If the court finds that the person ~~is mentally retarded~~ *has an intellectual disability*, and that he or she is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive

residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any state hospital, developmental center, any licensed community care facility, as defined in Section 1504, or any health facility, as defined in Section 1250, or any other appropriate placement permitted by law. The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to that placement that the court finds to be the most appropriate alternative. If the court finds that release of the person can be made subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

The court, however, may commit a ~~mentally retarded~~ person *who has an intellectual disability* who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(b) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code, the court shall order the State Department of Developmental Services to give notice of that finding to the designated placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(c) If the *State* Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment, the district attorney, and the attorney of record for the person and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed

approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

SEC. 47. Section 6511 of the Welfare and Institutions Code is amended to read:

6511. Any person who knowingly contrives to have ~~any~~ *a* person adjudged ~~mentally retarded~~ *to have an intellectual disability* under the provisions of this article, unlawfully or improperly, is guilty of a misdemeanor.

SEC. 48. Section 6512 of the Welfare and Institutions Code is amended to read:

6512. If, when a boy or girl is brought before a juvenile court under the juvenile court law, it appears to the court, either before or after adjudication, that the person ~~is mentally retarded~~ *has an intellectual disability*, or if, on the conviction of any person of crime by any court it appears to the court that the person ~~is mentally retarded~~ *has an intellectual disability*, the court may adjourn the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this article against the person before the court, and the court may order that, pending the preparation, filing, and hearing of the petition, the person before the court be detained in a place of safety, or be placed under the guardianship of some suitable person, on his *or her* entering into a recognizance for the appearance of the person upon trial or under conviction when required. If, upon the hearing of the petition, or upon a subsequent hearing, the person upon trial or under conviction is not found ~~to be mentally retarded~~ *have an intellectual disability*, the court may proceed with the trial or impose sentence, as the case may be.

SEC. 49. Section 6513 of the Welfare and Institutions Code is amended to read:

6513. (a) The State Department of Developmental Services shall pay for the costs, as defined in this section, of judicial proceedings, including commitment, placement, or release, under this article under both of the following conditions:

(1) The judicial proceedings are in a county within which a state hospital or developmental center maintains a treatment program for ~~mentally retarded~~ persons *with intellectual disabilities* who are a danger to themselves or others.

(2) The judicial proceedings relate to a ~~mentally retarded~~ person *with an intellectual disability* who is at the time residing in the

state hospital or developmental center located in the county of the proceedings.

(b) The appropriate financial officer or other designated official in a county described in subdivision (a) may prepare a statement of all costs incurred by the county in the investigation, preparation for, and conduct of the proceeding, including any costs of the district attorney or county counsel and any public defender or court-appointed counsel representing the person, and including any costs incurred by the county for the guarding or keeping of the person while away from the state hospital and for transportation of the person to and from the hospital. The statement shall be certified ~~to~~ by a judge of the superior court and shall be sent to the State Department of Developmental Services. In lieu of sending statements after each proceeding, the statements may be held and submitted quarterly for the preceding three-month period.

SEC. 50. Section 6551 of the Welfare and Institutions Code is amended to read:

6551. If the court is in doubt as to whether the person is mentally disordered or ~~mentally retarded~~ *has an intellectual disability*, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. If the professional person in charge of the facility finds the person is, as a result of mental disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if that article applies.

If the professional person in charge of the facility finds that the person ~~is mentally retarded~~ *has an intellectual disability*, the juvenile court may direct the filing in any other court of a petition

for the commitment of a minor ~~as a mentally retarded person~~ to the State Department of Developmental Services for placement in a state hospital. In ~~such~~ *this* case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to ~~such~~ *the* commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with any mental disorder requiring intensive treatment or ~~mental retardation~~ *does not have an intellectual disability*, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

The jurisdiction of the juvenile court over the minor shall be suspended during such time as the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a ~~mentally retarded~~ person *with an intellectual disability* is filed or under remand for 90 days for intensive treatment or commitment ordered by ~~such~~ *the* court.

SEC. 51. The heading of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 of the Welfare and Institutions Code is amended to read:

Article 4. ~~Mentally Retarded~~ Persons *with Intellectual Disabilities*

SEC. 52. Section 6715 of the Welfare and Institutions Code is amended to read:

6715. The court shall inquire into the financial condition of the parent, guardian, or other person charged with the support of ~~any~~ *a* person committed as ~~mentally retarded person~~ *having an intellectual disability*, and if it finds ~~him~~ *the person* able to do so, in whole or in part, it shall make a further order, requiring him *or her* to pay, to the extent the court considers ~~him~~ *the person* able ~~to pay~~, the expenses of the proceedings in connection with the investigation, detention, and commitment of the person committed, and the expenses of ~~his~~ *the committed person's* delivery to the institution, and to pay to the county, at stated periods, ~~such~~ *the* sums ~~as~~ the court deems proper, during ~~such~~ *the* time ~~as~~ the person remains in the institution or on leave of absence to a licensed hospital, facility, or home for the care of ~~such~~ *those* persons. This order may be enforced by ~~such~~ further orders as the court deems necessary, and may be varied, altered, or revoked in its discretion.

The court shall designate ~~some~~ *a* county officer to keep a record of ~~such~~ payments ordered to be made, to receive, receipt for, and record ~~such~~ *the* payments made, to pay over ~~such~~ *the* payments to the county treasurer, to see that the persons ordered to make ~~such~~ *the* payments comply with ~~such~~ *the* orders, and to report to the court any failure ~~on the part of such persons~~ to make ~~such~~ *the* payments.

SEC. 53. Section 6717 of the Welfare and Institutions Code is amended to read:

6717. The cost necessarily incurred in determining whether a person is a fit subject for ~~admission to a home for the mentally retarded~~ *commitment* and securing his ~~admission thereto~~ *or her commitment*, is a charge upon the county whence he *or she* is committed. ~~Such~~ *These* costs include the fees of witnesses, medical examiners, psychiatrists, and psychologists allowed by the judge ordering the examination. If the person sought to be committed is not an indigent person, the costs of the proceedings are the obligation of ~~such~~ *that* person and shall be paid by him *or her*, or by ~~the~~ *his or her* guardian or conservator ~~of his estate~~, as provided in Division 4 (commencing with Section 1400) of the Probate Code, or shall be paid by persons legally liable for his *or her* maintenance, unless otherwise ordered by the judge.

SEC. 54. Section 6718 of the Welfare and Institutions Code is amended to read:

6718. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount due the state by reason of commitments of ~~the mentally retarded~~ *persons with intellectual disabilities,* which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 55. Section 6740 of the Welfare and Institutions Code is amended to read:

6740. The court shall attach to the order of commitment of a ~~mentally retarded~~ person *with an intellectual disability* its findings and conclusions, together with all the social and other data it has bearing upon the case, and the same shall be delivered to the ~~home~~ *place of commitment* with the order.

SEC. 56. Section 6741 of the Welfare and Institutions Code is amended to read:

6741. The sheriff or probation officer, whichever ~~may be~~ *is* designated by the court, may execute the order of commitment with respect to ~~any mentally retarded~~ *a* person *with an intellectual disability*.

In any case in which the probation officer executes the order of commitment, he *or she* shall be compensated for transporting ~~such~~ *the* person to a state hospital in the amount and manner in which a sheriff is compensated for similar services.

SEC. 57. Section 7275 of the Welfare and Institutions Code is amended to read:

7275. The husband, wife, father, mother, or children of a patient in a state hospital for the mentally disordered, the estates of ~~such~~ *these* persons, and the guardian or conservator and administrator of the estate of ~~such~~ *the* patient shall cause him *or her* to be properly and suitably cared for and maintained, and shall pay the costs and charges ~~of his~~ *for* transportation to a state institution. The husband, wife, father, mother, or children of a patient in a state hospital for the mentally disordered and the administrators of their estates, and the estate of ~~such~~ *the* person shall be liable for his *or her* care, support, and maintenance in a state institution of which he *or she* is a patient. The liability of ~~such~~ *these* persons and estates shall be a joint and several liability, and ~~such~~ *the*

liability shall exist whether the person has become a patient of a state institution pursuant to the provisions of this code or pursuant to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of the Penal Code.

This section does not impose liability for the care of ~~mentally retarded~~ persons *with intellectual disabilities* in state hospitals.

SEC. 58. Section 7351 of the Welfare and Institutions Code is amended to read:

7351. Wherever in any provision of this code heretofore or hereafter enacted the term "parole" is used in relation to the release of a patient from a state hospital, it shall be construed to refer to and mean "leave of absence." ~~Any~~ *A* judicially committed patient or ~~mentally retarded~~ patient *with an intellectual disability* granted a leave of absence on or after July 1, 1969, and ~~any~~ *a* patient on leave of absence as of July 1, 1969, may at any time during the period of the leave of absence be recalled and returned to the hospital.

Upon the release of a judicially committed patient as granted by the medical director of a state hospital, on leave of absence or discharge upon any of the grounds provided in this article, in accordance with the rules and regulations prescribed by the department, the superintendent shall issue to or on behalf of the judicially committed patient a document stating the general terms or limitations of the leave of absence, or a certificate stating the general condition of, or the reason for, the discharge of the judicially committed patient.

SEC. 59. Nothing in this act shall be construed as making changes to services being provided or eligibility standards in effect at the time of enactment.

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LEGISLATIVE AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: SB 1381: Mental Retardation: Change of term to intellectual disability

BILL SUMMARY: Sponsored by The Arc and United Cerebral Palsy in California, existing law refers to mental retardation or a mentally retarded person in provisions relating to, among other things, educational and social services, commitment to state facilities, and criminal punishment. SB 1381 would revise these provisions to refer instead to "intellectual disability" or "a person with an intellectual disability" and these changes will occur during routine revisions to laws and documents over the next several years; therefore, the state is not expected to incur any additional costs

BACKGROUND: It is estimated that seven to eight million Americans or one in ten families in the United States, experience intellectual disabilities. In a survey, conducted by the Special Olympics Global Collaborating Center, it found that 92% of young Americans (ages 8-18) report having heard the "R-Word" used, and 36% have heard the term used toward someone with intellectual disabilities. The R-word, "retard," is slang for the term mental retardation. Mental retardation was what doctors, psychologists, and other professionals used to describe people with significant intellectual impairment. Today the r-word has become a common word used by society as an insult for someone or something stupid.

ANALYSIS/DISCUSSION: The author stated that "The R-word used intentionally or unintentionally demeans and hurts people with intellectual disabilities. It is a term used in bullying and sometimes hate crimes."

SB 1381 is a follow up to the Federal legislation S.2781 (Rosa's Law) that was signed into law on October 5, 2010. Rosa's Law, which takes its name and inspiration from the 9-year-old Rosa Marcellino, removes the terms "mental retardation" and "mentally retarded" from federal health, education and labor policy and replaces them with people first language "individual with an intellectual disability" and "intellectual disability." Two other states New York and Maryland have also made this significant change to their laws. Thirty-three California organizations and associations including, Autism Speaks, California Disability Services Association. Disability Rights Education Defense Fund, and Developmental Disabilities Area Board 5 have expressed support for this bill.

AB 2370 authored by Assemblyman Alan Mansoor is the Assembly version of this bill. However, S.B. 1381 is more extensive covering more sections in various state codes.

COUNCIL STRATEGIC PLAN OBJECTIVE: **Goal #14**: Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: None, although the council is committed to not labeling individuals with disabilities.

STAFF RECOMMENDATION: Support SB 1381.

ATTACHMENT: SB 1381

PREPARED: Karim Alipourfard, April 4, 2012

SENATE BILL No. 1381

Introduced by Senator Pavley

February 24, 2012

An act to amend Sections 4502 and 17206.1 of the Business and Professions Code, to amend Section 1761 of the Civil Code, to amend Sections 8769, 16191, 16195, 16196, 16200, 41306, 41401, and 51765 of the Education Code, to amend Sections 854.2, 6514, 12428, 12926, 14670.1, 14670.2, 14670.3, 14670.5, 14672.1, 14672.92, 16813, 16814, and 16816 of the Government Code, to amend Sections 1275.5, 1337.1, 1337.3, 13113, 51312, 110403, 123935, 125000, 127260, and 129395 of the Health and Safety Code, to amend Sections 10118, 10124, and 10203.4 of the Insurance Code, to amend Sections 1001.20, 1346, 1370.1, 1376, and 2962 of the Penal Code, to amend Section 1420 of the Probate Code, to amend Section 25276 of the Vehicle Code, and to amend Sections 4417, 4426, 4512, 4801, 5002, 5008, 5325, 5585.25, 6250, 6500, 6502, 6504, 6504.5, 6505, 6506, 6507, 6508, 6509, 6511, 6512, 6513, 6551, 6715, 6717, 6718, 6740, 6741, 7275, 7351, and 11014 of, and to amend the headings of Article 2 (commencing with Section 6500) of Chapter 2 of, Article 4 (commencing with Section 6715) of Chapter 3 of, and Article 4 (commencing with Section 6740) of Chapter 4 of, Part 2 of Division 6 of, the Welfare and Institutions Code, relating to intellectual disability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1381, as introduced, Pavley. Mental retardation: change of term to intellectual disability.

Existing law, refers to mental retardation or a mentally retarded person in provisions relating to, among other things, educational and social services, commitment to state facilities, and criminal punishment.

This bill would revise these provisions to refer instead to intellectual disability or a person with an intellectual disability. This bill would express the intent of the Legislature to not make a substantive change in law or a change to services or the eligibility for services in revising this terminology.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. (a) It is the intent of the Legislature to increase
2 respect for people with disabilities by eliminating the use of the
3 outdated, offensive, and misleading terms "mental retardation"
4 and "mentally retarded."
5 (b) Nothing in this act shall be construed as making a substantive
6 change in law or a change to services being provided or eligibility
7 standards in effect at the time of enactment.
8 SEC. 2. Section 4502 of the Business and Professions Code is
9 amended to read:
10 4502. As used in this chapter, "psychiatric technician" means
11 any person who, for compensation or personal profit, implements
12 procedures and techniques ~~which~~ *that* involve understanding of
13 cause and effect and ~~which~~ *that* are used in the care, treatment,
14 and rehabilitation of mentally ~~ill,~~ *ill or* emotionally ~~disturbed, or~~
15 ~~mentally retarded~~ *disturbed* persons, *or persons with intellectual*
16 *disabilities,* and who has one or more of the following:
17 (a) Direct responsibility for administering or implementing
18 specific therapeutic procedures, techniques, treatments, or
19 medications with the aim of enabling recipients or patients to make
20 optimal use of their therapeutic regime, their social and personal
21 resources, and their residential care.
22 (b) Direct responsibility for the application of interpersonal and
23 technical skills in the observation and recognition of symptoms
24 and reactions of recipients or patients, for the accurate recording
25 of ~~such~~ *these* symptoms and reactions, and for the carrying out of
26 treatments and medications as prescribed by a licensed physician
27 and surgeon or a psychiatrist.
28 The psychiatric technician in the performance of ~~such~~ *these*
29 procedures and techniques is responsible to the director of the
30 service in which his *or her* duties are performed. The director may

be a licensed physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse, or other professional personnel.

Nothing herein shall authorize a licensed psychiatric technician to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition in violation of the law.

SEC. 3. Section 17206.1 of the Business and Professions Code is amended to read:

17206.1. (a) (1) In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

(2) Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment that substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) Any mental or psychological disorder, ~~such as mental retardation~~ *including intellectual disability*, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

"Physical or mental impairment" includes, but is not limited to, ~~such~~ diseases and conditions ~~as~~ *including* orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular

dystrophy, multiple sclerosis, cancer, heart disease, diabetes, ~~mental retardation~~ *intellectual disability*, and emotional illness.

(B) "Major life activities" means functions ~~such as~~ *that include* caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) Any court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person any money or property, real or personal, which may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

SEC. 4. Section 1761 of the Civil Code is amended to read:

1761. As used in this title:

(a) "Goods" means tangible chattels bought or leased for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of real property, whether or not they are severable from the real property.

(b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods.

(c) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.

(d) "Consumer" means an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.

(e) "Transaction" means an agreement between a consumer and any other person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

(f) "Senior citizen" means a person who is 65 years of age or older.

(g) "Disabled person" means any person who has a physical or mental impairment that substantially limits one or more major life activities.

(1) As used in this subdivision, "physical or mental impairment" means any of the following:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) Any mental or psychological disorder, ~~such as mental retardation~~ *including intellectual disability*, organic brain syndrome, emotional or mental illness, and specific learning disabilities. "Physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular

dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions ~~such as~~ *that include* caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(h) "Home solicitation" means any transaction made at the consumer's primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

SEC. 5. Section 8769 of the Education Code is amended to read:

8769. The county superintendent of schools may, with the approval of the county board of education, lease any real or personal property for the purpose of care, teaching, and training of physically handicapped ~~or mentally retarded~~ children *or children with intellectual disabilities* at such time as the property is not required for outdoor science education and conservation education, upon such terms and conditions as are agreed upon.

SEC. 6. Section 16191 of the Education Code is amended to read:

16191. As used in this article, "exceptional children" means physically handicapped pupils, ~~mentally retarded pupils~~ *pupils with intellectual disabilities*, educationally handicapped pupils, multihandicapped pupils, or pupils enrolled in development centers for the handicapped required or allowed to be educated pursuant to Part 30 (commencing with Section 56000).

SEC. 7. Section 16195 of the Education Code is amended to read:

16195. Allocations under this article may be made in the amount as may be necessary, and in the manner as to distribute the available funds equitably among school districts, giving consideration to the needs of each district and the number of children within each district who are blind, partially seeing, aphasic, deaf, hard of hearing, ~~mentally retarded, or orthopedic~~ *orthopedically impaired, or have an intellectual disability,* or who are health impaired, multihandicapped, speech handicapped, educationally handicapped, or enrolled in development centers for the handicapped.

In computing the number of those children, there shall be included all of the following:

(a) The number of them residing in the district.

(b) The number of handicapped minors who are actually living within the district five or more days a week, although their legal residence may be outside the district and who are educated pursuant to *former* Section 56708, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

(c) The number of them who reside outside of the district, except those described in subdivision (b), and who are to be educated by the district, excluding ~~mentally retarded~~ minors *with intellectual disabilities* within *former* Section 56501, as amended by Section 58 of Chapter 1247 of the Statutes of 1977, who reside within a district having an average daily attendance of 900 or more and which does not meet the requirements of Section 16058 concerning outstanding bonded indebtedness.

Allocations for housing and equipment for minors having speech defects or disorders shall be allowed in new schools constructed after July 1, 1968, and in existing schools constructed between July 1, 1933, and July 1, 1968. The housing and equipment shall be designed and provided to permit their utilization for remedial and other special services including speech therapy, speech reading (lipreading), and auditory training for the speech and hearing handicapped, screening and testing for speech and hearing defects, or both, psychological testing of exceptional children, subject matter tutoring of exceptional children, and other specialized activities required by these children. In addition to the maximum building area allowances provided in Sections 16047, 16052, 16053, and 16054, not more than an additional 200 square feet of building area shall be allowed for each new school so planned and constructed.

Each existing school, constructed between July 1, 1933, and July 1, 1968, shall be allowed not more than an additional 200 square feet of building area only for construction thereon of a new speech facility. At the option of the applicant district, the board may allocate funds to convert existing facilities or to provide a combination of new construction and conversion of existing facilities to provide housing for minors having speech defects or disorders, provided the cost of the conversion or combination of new construction and conversion does not exceed the computed cost for 200 square feet of new classroom construction based upon cost standards adopted by the board. At the further option of the

applicant district, and in lieu of new building construction or conversion, the board may allocate funds for the acquisition of mobile speech therapy facilities, provided the cost of the mobile facilities does not exceed the combined computed cost for 200 square feet of new classroom construction, based upon cost standards adopted by the board, at all schools which will be served by the mobile facility.

SEC. 8. Section 16196 of the Education Code is amended to read:

16196. Notwithstanding any provisions of this article to the contrary, apportionments for the construction of facilities and the purchase of essential furniture and equipment for the education of exceptional children may, subject to the approval of the State Department of Education, be made to any school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, for the education of blind, partially seeing, aphasic, deaf, hard-of-hearing, ~~mentally retarded, orthopedic~~ *orthopedically impaired* or other health-impaired, multihandicapped, and educationally handicapped minors, *minors with intellectual disabilities,* pupils having speech defects or disorders, or pupils enrolled in development centers for the handicapped.

The State Department of Education may approve applications in those situations where the facilities will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to *former* Section 1850, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and ~~mentally retarded minors~~ *minors with intellectual disabilities* pursuant to *former* Section 1880, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. A school district may educate these minors by agreement with a county superintendent of schools required to educate these minors. Priority in the use of the facilities shall be given to pupils from districts other than the applicant district.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and at the interest rate over the period as the State Allocation Board

may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools conducts classes in the facility during any fiscal year shall at that time or times within the fiscal year that may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to 80 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he or she approves the application.

SEC. 9. Section 16200 of the Education Code is amended to read:

16200. Notwithstanding any provisions of this article to the contrary, the board may make apportionments to school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) for the construction of special education facilities and the purchase of essential furniture and equipment for the purpose of either or both (1) educating those physically handicapped~~, mentally retarded,~~ and educationally handicapped pupils *and pupils with intellectual disabilities* who regularly reside

in an established, licensed children's institution or family home and are being educated pursuant to *former* Section 42902, as amended by Section 1 of Chapter 1173 of the Statutes of 1977, and (2) educating handicapped pupils in development centers for handicapped pupils pursuant to *former* Article 1 (commencing with Section 56800) of Chapter 6 of Part 30, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

Only 50 percent of any amounts allocated and disbursed to a district under this section shall be repaid by the district. Each disbursement shall be repaid in 20 equal annual installments, including interest as determined by the board, and shall be computed and withheld by the Controller. The first computation of repayment of any disbursement shall be made in the fiscal year following the disbursement and shall during the next fiscal year be deducted in equal amounts from the February, March, April, and May installments of the apportionment made to the district from the State School Fund under Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive.

SEC. 10. Section 41306 of the Education Code is amended to read:

41306. The Superintendent of Public Instruction shall also allow as otherwise provided in Section 41304 for the driver training instruction necessary to be safely tested for a driver's license at the Department of Motor Vehicles, those physically handicapped pupils, ~~mentally retarded pupils~~ *pupils with intellectual disabilities* who come within the provisions of former Section 56501 as amended by Chapter 1247 of the Statutes of 1977, and educationally handicapped pupils who are in attendance in a public secondary school in California that offers qualified instruction, and who may qualify for a driver's license, or other license, issued by the ~~California~~ Department of Motor Vehicles, a total allowance not to exceed two hundred ninety dollars ($290) including the reimbursement provisions set forth in Section 41900 to each school district and county superintendent of schools. All driver training for pupils herein described shall be provided by qualified teachers, as defined by Sections 41906 and 41907. The provisions of this section may not be applied if reimbursement allowable under Sections 41900 to 41912, inclusive, is sufficient to meet the total cost of instruction as herein described.

It is the intent of the Legislature that driver training instruction be provided pupils as a part of the high school curriculum, and the Legislature finds and declares that exceptional children are entitled to the benefit of that instruction so far as their individual capabilities permit, understanding that those pupils herein described often require individualized and amplified driver training instruction in order to succeed in becoming safe operators of motor vehicles. Since without a means of self-transportation much of the overall program of education and rehabilitation provided for by the Legislature would be of little avail to the person without the mobility required to become a productive and well-adjusted member of society, the Legislature further declares that it is incumbent upon the state to share in the cost of providing a most needed and desirable program of driver training instruction for these exceptional children.

SEC. 11. Section 41401 of the Education Code is amended to read:

41401. For the purposes of this article:

(a) "Administrative employee" means an employee of a school district, employed in a position requiring certification qualifications, who does not come within the definition set forth in subdivision (c) or (d).

(b) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.

(c) "Pupil services employee" means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. "Pupil services employee" includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.

(d) "Teacher" means an employee of a school district, employed in a position requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in the schools of that district for the full time for which he or she is employed. "Teacher" includes, but is not limited to, teachers of

special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of ~~mentally retarded~~ minors *with intellectual disabilities*, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers. Instructional preparation time shall be counted as part of the teacher full-time equivalent, including, but not limited to, mentor teacher or department chairperson time.

SEC. 12. Section 51765 of the Education Code is amended to read:

51765. The governing board of any school district ~~which~~ *that* establishes and supervises a work experience education program in which ~~mentally retarded~~ pupils *with intellectual disabilities* are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of pupils so employed.

The Legislature hereby finds and declares that the authority granted by the provisions of this section is necessary to ensure that the work experience education program will continue to provide maximum educational benefit to students, particularly ~~mentally retarded pupils~~ *pupils with intellectual disabilities*, and that ~~such~~ *the* program is deemed to serve a public purpose.

SEC. 13. Section 854.2 of the Government Code is amended to read:

854.2. As used in this chapter, "mental institution" means any state hospital for the care and treatment of the mentally disordered or ~~the mentally retarded~~ *persons with intellectual disabilities*, the California Rehabilitation Center referred to in Section 3300 of the Welfare and Institutions Code, or any county psychiatric hospital.

SEC. 14. Section 6514 of the Government Code is amended to read:

6514. ~~Any~~ *A* state department or agency concerned with the provisions of services or facilities to ~~mentally retarded~~ persons *with intellectual disabilities* and their families may enter into agreements under this chapter.

SEC. 15. Section 12428 of the Government Code is amended to read:

12428. In the event either the Governor or the Legislature should obtain federal approval to transfer programs receiving federal support for ~~the mentally retarded~~ *persons who have*

intellectual disabilities or ~~mentally disordered~~ *mental disorders* from one state department to another state department under the provisions of Public Law 90-577 (Intergovernmental Cooperation Act of 1968), the ~~State~~ Controller shall, upon approval of the Director of Finance, transfer to a ~~state~~ department designated by the Governor ~~such~~ *the* parts of the appropriation of the other ~~state~~ departments that are related to ~~mentally retarded or mentally disordered~~ programs *for people who have intellectual disabilities or mental disorders*, provided further, that ~~such~~ *the* transfer shall enable the state to make maximum utilization of available state and federal funds.

SEC. 16. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or

desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) (1) "Genetic information" means, with respect to any individual, information about any of the following:

(A) The individual's genetic tests.

(B) The genetic tests of family members of the individual.

(C) The manifestation of a disease or disorder in family members of the individual.

(2) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(3) "Genetic information" does not include information about the sex or age of any individual.

(h) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances,

terms or conditions of employment, or of other mutual aid or protection.

(i) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(j) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, ~~such as mental retardation~~ *including intellectual disability*, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, or sexual orientation.

(*l*) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures ~~such as~~, *including* medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(m) Notwithstanding subdivisions (j) and (*l*), if the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (P.L. 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (*l*), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (*l*).

(n) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(o) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations,

training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(p) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(q) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(r) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(s) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(t) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 17. Section 14670.1 of the Government Code is amended to read:

14670.1. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Mental Health, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. ~~Such~~ *The* review shall be made by the Director of General Services, who shall do both of the following:

(a) Assure the state that the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars ($30,000) prior to January 1, 1976. ~~Such~~ *The* capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 18. Section 14670.2 of the Government Code, as amended by Section 1 of Chapter 65 of the Statutes of 1992, is amended to read:

14670.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Mental Health, may, in the best interests of the state, let to a public governmental agency, for the purpose of locating and conducting its ~~trainable mentally retarded~~ *training* program *for people with intellectual disabilities*, and for locating and conducting a child-care facility, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital. For the additional purpose of establishing an educational park, the director may, with the consent of the department, renegotiate the lease, for a period not to exceed 50 years, which period shall commence January 1, 1993. For the purposes of this section, "educational park" means a conglomerate of educational services, including, but not limited to, a children's center, a preschool for severely disabled children, adult educational

services, administrative offices, a community school, and a media services building.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. That review shall be made by the Director of General Services, who shall do both of the following:

(a) Assure the state the purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for the establishment of a school building facility by the lessee prior to July 1, 1977. That facility shall not be established until after the effective date of the act amending this section.

SEC. 19. Section 14670.3 of the Government Code is amended to read:

14670.3. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of *Mental* Health, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 55 years, real property not exceeding five acres located within the grounds of the Fairview State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. ~~Such~~ *The* review shall be made by the Director of General Services, who shall *do both of the following*:

(a) Assure the state that the original purposes of the lease are being carried ~~out;~~ *out.*

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars ($30,000) prior to January 1, 1976. Such capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 20. Section 14670.5 of the Government Code is amended to read:

14670.5. Notwithstanding Section 14670, the Director of General Services, with the consent of the *State* Department of Mental ~~Hygiene~~ *Health* may let to a nonprofit corporation, for the

purpose of establishing and maintaining a rehabilitation center for ~~mentally retarded minor and adult~~ persons *with intellectual disabilities*, for a period not exceeding 20 years, real property, not exceeding five acres, located within the grounds of the Fairview State Hospital in Orange County, and ~~which~~ *that* is retained by the state primarily to provide a peripheral buffer area, or zone, between real property upon which is located the state hospital and adjacent real property, ~~where~~ *if* the director deems ~~such~~ *the* letting is in the best interests of the state.

SEC. 21. Section 14672.1 of the Government Code is amended to read:

14672.1. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections *and Rehabilitation*, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 50 years, real property not exceeding 10 acres, located within the grounds of the Medical Facility at Vacaville, California.

Any lease executed pursuant to this section shall include a provision that ~~such~~ *the* lease shall be canceled if permanent facilities are not constructed on the leased land within five years after the effective date of the amendments to this section enacted at the 1967 Regular Session of the Legislature.

Any lease executed pursuant to this section may be assigned or sublet in whole or in part by the lessee nonprofit corporation to any public agency with the approval of the Director of General Services and the Department of Corrections *and Rehabilitation*.

SEC. 22. Section 14672.92 of the Government Code is amended to read:

14672.92. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of ~~Health Services~~ *Developmental Services*, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for ~~mentally retarded~~ persons *with intellectual disabilities*, and for a period not to exceed 50 years, real property not exceeding 18.50 acres located within the grounds of the Camarillo State Hospital at 1732 Lewis Road in the City of Camarillo.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. ~~Such~~ *The*

review shall be made by the Director of General Services and the Director of ~~Health~~ *Developmental* Services who shall do all of the following:

(a) Assure the state the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

SEC. 23. Section 16813 of the Government Code is amended to read:

16813. Bonds of the State of California shall be prepared, issued, and sold in the amount of one hundred million dollars ($100,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the state for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of ~~physically handicapped minors and mentally retarded minors as those terms are~~ *individuals who have exceptional needs, as that term is* defined in ~~Chapters 9 and 11 of Division 4~~ *Section 56026* of the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State ~~Allocations~~ *Allocation* Board or a similar agency and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the state on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the state on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

SEC. 24. Section 16814 of the Government Code is amended to read:

16814. Bonds of the State of California shall be prepared, issued, and sold in the amount of two hundred twenty million dollars ($220,000,000), in such denominations, to be numbered,

to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the state for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of ~~physically handicapped minors and mentally retarded minors as those terms are~~ *individuals who have exceptional needs, as that term is* defined in ~~Chapters 9 and 11 of Division 4~~ *Section 56026* of the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

(d) To repay, as provided by law, any money appropriated from the Investment Fund at the 1958 First Extraordinary Session for state school building aid.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State ~~Allocations~~ *Allocation* Board or a similar agency and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the state on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the state on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

SEC. 25. Section 16816 of the Government Code is amended to read:

16816. Bonds of the State of California shall be prepared, issued, and sold in the amount of three hundred million dollars ($300,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the state for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of ~~physically handicapped minors and mentally retarded minors as those terms are~~ *individuals who have exceptional needs, as that term is* defined in ~~Chapters 8 and 9 of Division 6 of~~ *Section 56026* the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

(d) To repay, as provided by law, any money appropriated from the General Fund at the 1960 First Extraordinary Session for state school building aid.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State Allocation Board or a similar agency. Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board concerning this section or any other section of the Constitution or legislative act authorizing the allocation of

funds to school districts for purposes the same or substantially the same as those enumerated in this section.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the state on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the state on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

SEC. 26. Section 1275.5 of the Health and Safety Code is amended to read:

1275.5. (a) The regulations relating to the licensing of hospitals, ~~heretofore~~ *previously* adopted by the *State* Department of Public Health pursuant to Chapter 2 (commencing with Section ~~1400~~ *1250*) of Division 2, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any hospital required to be licensed by this chapter, unless and until the regulations are readopted, amended, or repealed by the director.

(b) The regulations relating to private institutions receiving or caring for any mentally disordered persons, ~~mentally retarded persons~~ *persons with intellectual disabilities*, and other incompetent persons, ~~heretofore~~ *previously* adopted by the *former* Department of Mental Hygiene pursuant to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any facility, establishment, or institution for the reception and care of mentally disordered persons, ~~mentally retarded~~ persons *with intellectual disabilities,* and other incompetent persons, required to be licensed

by the provisions of this chapter unless and until said regulations are readopted, amended, or repealed by the director.

(c) All regulations relating to the licensing of psychiatric health facilities ~~heretofore~~ *previously* adopted by the State Department of Health Services, pursuant to authority now vested in the State Department of Mental Health by Section ~~5652.5~~ *4080* of the Welfare and Institutions Code, and in effect immediately preceding September 20, 1988, shall remain in effect and shall be fully enforceable by the State Department of Mental Health with respect to any facility or program required to be licensed as a psychiatric health facility, unless and until readopted, amended, or repealed by the Director of Mental Health.

SEC. 27. Section 1337.1 of the Health and Safety Code is amended to read:

1337.1. A skilled nursing or intermediate care facility shall adopt an approved training program that meets standards established by the state department. The approved training program shall consist of at least the following:

(a) An orientation program to be given to newly employed nurse assistants prior to providing direct patient care in skilled nursing or intermediate care facilities.

(b) (1) A precertification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and resident abuse prevention, recognition, and reporting pursuant to subdivision (e). The 60 classroom hours of training may be conducted within a skilled nursing or intermediate care facility or in an educational institution.

(2) In addition to the 60 classroom hours of training required under paragraph (1), the precertification training program shall consist of at least 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of nurse training or a licensed nurse qualified to provide nurse assistant training who has no other assigned duties while providing the training.

(3) At least two hours of the 60 hours of classroom training and at least four hours of the 100 hours of the supervised clinical training shall address the special needs of persons with developmental and mental disorders, including ~~mental retardation~~

intellectual disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(4) In a precertification training program subject to this subdivision, credit shall be given for the training received in an approved precertification training program adopted by another skilled nursing or intermediate care facility.

(5) This subdivision shall not apply to a skilled nursing or intermediate care facility that demonstrates to the state department that it employs only nurse assistants with a valid certification.

(c) Continuing in-service training to assure continuing competency in existing and new nursing skills.

(d) Each facility shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).

(e) (1) The approved training program shall include, within the 60 hours of classroom training, a minimum of six hours of instruction on preventing, recognizing, and reporting instances of resident abuse utilizing those courses developed pursuant to Section 13823.93 of the Penal Code, and a minimum of one hour of instruction on preventing, recognizing, and reporting residents' rights violations.

(2) A minimum of four hours of instruction on preventing, recognizing, and reporting instances of resident abuse, including instruction on preventing, recognizing, and reporting residents' rights violations, shall be included within the total minimum hours of continuing education or in-service training required and in effect for certified nursing assistants.

SEC. 28. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The ~~state~~ department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the ~~state~~ department to inspect a representative sample of training programs. The ~~state~~ department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the ~~state~~ department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the ~~state~~ department determines that any training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The ~~state~~ department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or ~~medicaid programs~~ *Medicaid Programs*.

(2) (A) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting pursuant to subdivision (e) of Section 1337.1. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(B) In addition to the 60 classroom hours of training required under subparagraph (A), the certification program shall also consist of 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff

development or a licensed nurse qualified to provide nurse assistant training who has no other assigned duties while providing the training.

(3) At least two hours of the 60 hours of classroom training and at least four hours of the 100 hours of the supervised clinical training shall address the special needs of persons with developmental and mental disorders, including ~~mental retardation~~ *intellectual disability*, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(d) The ~~state~~ department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) On or before January 1, 2004, the ~~state~~ department, in consultation with the State Department of Education, the American Red Cross, and other appropriate organizations, shall do the following:

(1) Review the current examination for approved training programs for certified nurse assistants to ensure the accurate assessment of whether a nurse assistant has obtained the required knowledge and skills related to basic patient care services.

(2) Develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants, including the application of on-the-job post-certification hours to educational credits.

(f) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.

(g) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(h) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of college credit. The state department shall make this information available to all training programs in the state.

SEC. 29. Section 13113 of the Health and Safety Code is amended to read:

13113. (a) Except as otherwise provided in this section, no person, firm, or corporation shall establish, maintain, or operate any hospital, children's home, children's nursery, or institution, home or institution for the care of aged or senile persons, sanitarium or institution for insane or ~~mentally retarded~~ persons *with intellectual disabilities*, or nursing or convalescent home, wherein more than six guests or patients are housed or cared for on a 24-hour-per-day basis unless there is installed and maintained in an operable condition in every building, or portion thereof where patients or guests are housed, an automatic sprinkler system approved by the State Fire Marshal.

(b) This section does not apply to homes or institutions for the 24-hour-per-day care of ambulatory children if all of the following conditions are satisfied:

(1) The buildings, or portions thereof in which children are housed, are not more than two stories in height and are constructed and maintained in accordance with regulations adopted by the State Fire Marshal pursuant to Section 13143 and building standards published in the California Building Standards Code.

(2) The buildings, or portions thereof housing more than six children, shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to invisible products of combustion other than heat.

(3) The buildings or portions thereof do not house mentally ill ~~or mentally retarded~~ children *or children with intellectual disabilities*.

(c) This section does not apply to any one-story building or structure of an institution or home for the care of the aged providing 24-hour-per-day care if the building or structure is used or intended

to be used for the housing of no more than six ambulatory aged persons. However, the buildings or institutions shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to products of combustion other than heat.

(d) This section does not apply to occupancies, or any alterations thereto, located in type I construction, as defined by the State Fire Marshal, under construction or in existence on March 4, 1972.

(e) "Under construction," as used in this section, means that actual work shall have been performed on the construction site and shall not be construed to mean that the hospital, home, nursery, institution, sanitarium, or any portion thereof, is in the planning stage.

SEC. 30. Section 51312 of the Health and Safety Code is amended to read:

51312. (a) The primary purpose of this chapter is to provide an additional method of financing special needs housing.

(b) (1) For purposes of this chapter, "special needs housing" means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to any of the following:

(A) Mental health.

(B) Physical disabilities.

(C) Developmental disabilities, including, but not limited to, ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism.

(D) The risk of homelessness.

(2) Special needs housing shall also mean housing intended to meet the housing needs of persons eligible for mental health services funded in whole or in part by the Mental Health Services Fund, created by Section 5890 of the Welfare and Institutions Code.

SEC. 31. Section 110403 of the Health and Safety Code is amended to read:

110403. Except as otherwise provided in Section 110405, it is unlawful for any person to advertise any drug or device represented to have any effect in any of the following conditions, disorders, or diseases:

(a) Appendicitis.

(b) Blood disorders.
(c) Bone or joint diseases.
(d) Kidney diseases or disorders.
(e) Cancer.
(f) Carbuncles.
(g) Diseases, disorders, or conditions of the eye.
(h) Diabetes.
(i) Diphtheria.
(j) Gallbladder diseases or disorders.
(k) Heart and vascular diseases.
(*l*) High blood pressure.
(m) Diseases or disorders of the ear or auditory apparatus, including hearing loss and deafness.
(n) Measles.
(o) Meningitis.
(p) Mental disease or ~~mental retardation~~ *intellectual disability*.
(q) Paralysis.
(r) Pneumonia.
(s) Poliomyelitis.
(t) Prostate gland disorders.
(u) Conditions of the scalp, affecting hair loss, or baldness.
(v) Alcoholism.
(w) Periodontal diseases.
(x) Epilepsy.
(y) Goiter.
(z) Endocrine disorders.
(aa) Sexual impotence.
(ab) Sinus infections.
(ac) Encephalitis.
(ad) Tumors.
(ae) Venereal diseases.
(af) Tuberculosis.
(ag) Ulcers of the stomach.
(ah) Varicose ulcers.
(ai) Scarlet fever.
(aj) Typhoid fever.
(ak) Whooping cough.
(a *l*) Acquired immune deficiency syndrome (AIDS).
(am) AIDS-related complex (ARC).
(an) Diseases, disorders, or conditions of the immune system.

SEC. 32. Section 123935 of the Health and Safety Code is amended to read:

123935. A handicapped child shall not be denied services pursuant to this article because he or she ~~is mentally retarded~~ *has an intellectual disability*.

SEC. 33. Section 125000 of the Health and Safety Code is amended to read:

125000. (a) It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable heritable or congenital disorders leading to ~~mental retardation~~ *intellectual disability* or physical defects.

The department shall establish a genetic disease unit, that shall coordinate all programs of the department in the area of genetic disease. The unit shall promote a statewide program of information, testing, and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program.

The information, tests, and counseling for children shall be in accordance with accepted medical practices and shall be administered to each child born in California once the department has established appropriate regulations and testing methods. The information, tests, and counseling for pregnant women shall be in accordance with accepted medical practices and shall be offered to each pregnant woman in California once the department has established appropriate regulations and testing methods. These regulations shall follow the standards and principles specified in Section 124980. The department may provide laboratory testing facilities or contract with any laboratory that it deems qualified to conduct tests required under this section. However, notwithstanding *former* Section 125005, provision of laboratory testing facilities by the department shall be contingent upon the provision of funding therefor by specific appropriation to the Genetic Disease Testing Fund enacted by the Legislature. If moneys appropriated for purposes of this section are not authorized for expenditure to provide laboratory facilities, the department may nevertheless contract to provide laboratory testing services pursuant to this section and shall perform laboratory services, including, but not limited to, quality control, confirmatory, and emergency testing, necessary to ensure the objectives of this program.

(b) The department shall charge a fee for any tests performed pursuant to this section. The amount of the fee shall be established and periodically adjusted by the director in order to meet the costs of this section.

(c) The department shall inform all hospitals or physicians and surgeons, or both, of required regulations and tests and may alter or withdraw any of these requirements whenever sound medical practice so indicates. To the extent practicable, the department shall provide notice to hospitals and other payers in advance of any increase in the fees charged for the program.

(d) This section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his or her religious beliefs or practices.

(e) The genetic disease unit is authorized to make grants or contracts or payments to vendors approved by the department for all of the following:

(1) Testing and counseling services.

(2) Demonstration projects to determine the desirability and feasibility of additional tests or new genetic services.

(3) To initiate the development of genetic services in areas of need.

(4) To purchase or provide genetic services from any sums as are appropriated for this purpose.

(f) The genetic disease unit shall evaluate and prepare recommendations on the implementation of tests for the detection of hereditary and congenital diseases, including, but not limited to, biotinidase deficiency and cystic fibrosis. The genetic disease unit shall also evaluate and prepare recommendations on the availability and effectiveness of preventative followup interventions, including the use of specialized medically necessary dietary products.

It is the intent of the Legislature that funds for the support of the evaluations and recommendations required pursuant to this subdivision, and for the activities authorized pursuant to subdivision (e), shall be provided in the annual Budget Act appropriation from the Genetic Disease Testing Fund.

(g) Health care providers that contract with a prepaid group practice health care service plan that annually has at least 20,000 births among its membership, may provide, without contracting with the department, any or all of the testing and counseling

services required to be provided under this section or the regulations adopted pursuant thereto, if the services meet the quality standards and adhere to the regulations established by the department and the plan pays that portion of a fee established under this section that is directly attributable to the department's cost of administering the testing or counseling service and to any required testing or counseling services provided by the state for plan members. The payment by the plan, as provided in this subdivision, shall be deemed to fulfill any obligation the provider or the provider's patient may have to the department to pay a fee in connection with the testing or counseling service.

(h) The department may appoint experts in the area of genetic screening, including, but not limited to, cytogenetics, molecular biology, prenatal, specimen collection, and ultrasound to provide expert advice and opinion on the interpretation and enforcement of regulations adopted pursuant to this section. These experts shall be designated agents of the state with respect to their assignments. These experts shall receive no salary, but shall be reimbursed for expenses associated with the purposes of this section. All expenses of the experts for the purposes of this section shall be paid from the Genetic Disease Testing Fund.

SEC. 34. Section 127260 of the Health and Safety Code is amended to read:

127260. The Advisory Health Council, upon review of a decision of the department, shall do one of the following:

(a) Enter an order affirming the decision of the department ~~where~~ *if* it finds as to the respective basis of review that:

(1) The application was processed and the hearing conducted was consistent with this chapter, or that any inconsistency with respect thereto was immaterial to the decision of the department.

(2) There is substantial evidence in the record supporting the department's decision.

(3) The department has not acted in an arbitrary and capricious manner.

(b) Enter an order remanding the decision of the department ~~where~~ *if* it finds as to the respective basis of review that:

(1) The application was not processed or the hearing conducted was not consistent with this chapter, and this inconsistency was material to the decision rendered by the department.

(2) There is no substantial evidence in the record supporting the decision.

(3) The department has acted in an arbitrary or capricious manner.

(c) Enter an order reversing the decision of the department where it finds as to the respective basis of review that:

(1) The application was not processed or the hearing conducted was not consistent with the provisions of this chapter, and this inconsistency was material to the decision rendered by the department.

(2) There is no substantial evidence in the record supporting the decision.

(3) The department has acted in an arbitrary or capricious manner.

Orders of the council authorized by this section shall be made only upon the affirmative vote of a majority of the council, with at least six of the affirmative votes cast by the following members:

(a) Representative of consumers of services for ~~the mentally retarded~~ *persons with intellectual disabilities* appointed by the Governor.

(b) Representative of consumers of mental health services appointed by the Governor.

(c) Representative of local government appointed by the Governor.

(d) Representatives of the general consumer public appointed by the Governor, Senate Committee on Rules, or Speaker of the Assembly.

(e) Members of the Legislature appointed by the Senate Committee on Rules or Speaker of the Assembly.

SEC. 35. Section 129395 of the Health and Safety Code is amended to read:

129395. "Hospital" includes hospitals for the chronically ill and impaired, public health centers, community mental health centers, facilities for ~~the mentally retarded~~ *persons with intellectual disabilities*, and general, tuberculosis, mental and other types of hospitals and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, diagnostic or treatment centers, nursing homes, and rehabilitation facilities, but except for facilities for ~~the mentally retarded~~ *persons with*

intellectual disabilities does not include any institution furnishing primarily domiciliary care.

SEC. 36. Section 10118 of the Insurance Code is amended to read:

10118. A policy of disability insurance delivered or issued for delivery in this state more than 120 days after the effective date of this section, ~~which~~ *that* provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract, shall also provide in substance that attainment of ~~such~~ *the* limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of ~~mental retardation~~ *intellectual disability* or physical handicap and (b) chiefly dependent upon the insured for support and maintenance, provided proof of ~~such~~ *the* incapacity and dependency is furnished to the insurer by the insured within 31 days of the child's attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

Disability policies currently approved by the commissioner which are delivered or issued for delivery more than 120 days after the effective date of this section shall be automatically construed to be in compliance with this section and need not be refiled or reprinted. Disability policies submitted to the commissioner for approval on and after the effective date of this section shall contain provisions in compliance with this section.

SEC. 37. Section 10124 of the Insurance Code is amended to read:

10124. (a) A self-insured employee welfare benefit plan delivered or issued for delivery in this state more than 120 days after the effective date of this section, ~~which~~ *that* provides that coverage of a dependent child of an employee shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract, shall also provide in substance that attainment of ~~such~~ *the* limiting age shall not operate to terminate the coverage of ~~such~~ *the* child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of ~~mental retardation~~ *intellectual disability* or physical handicap and (b) chiefly dependent upon the employee for support and

maintenance, provided proof of ~~such~~ *the* incapacity and dependency is furnished to the employer or employee organization providing the plan or program of benefits by the employee within 31 days of the child's attainment of the limiting age and subsequently as may be required by such employer or employee organization, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(b) As used in this section, "self-insured employee welfare benefit plan" means any plan or program of benefits provided by an employer or an employee organization, or both, for the purpose of providing hospital, medical, surgical, nursing, or dental services, or indemnification for the costs incurred for such services, to such employer's employees or their dependents.

SEC. 38. Section 10203.4 of the Insurance Code is amended to read:

10203.4. (a) Insurance under any group life insurance policy issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and 10203.7 may be extended to insure the dependents, or any class or classes thereof, of each insured employee who so elects, in amounts in accordance with some plan that precludes individual selection and that shall not be in excess of 100 percent of the insurance on the life of the insured employee.

(b) "Dependent" includes the member's spouse and all children from birth until 26 years of age, or a child 26 years of age or older who is both incapable of self-sustaining employment by reason of ~~mental retardation~~ *intellectual disability* or physical handicap and chiefly dependent upon the employee for support and maintenance if proof of the incapacity and dependency is furnished to the insurer by the employee within 31 days of the child's attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(c) The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

SEC. 39. Section 1001.20 of the Penal Code is amended to read:

1001.20. As used in this chapter:

(a) "Cognitive Developmental Disability" means any of the following:

(1) ~~"Mental retardation," meaning~~ *"Intellectual disability" means* a condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) ~~"Autism," meaning~~ *"Autism" means* a diagnosed condition of markedly abnormal or impaired development in social interaction, in communication, or in both, with a markedly restricted repertoire of activity and interests.

(3) Disabling conditions found to be closely related to mental retardation or autism, or that require treatment similar to that required for individuals with ~~mental retardation~~ *intellectual disability* or autism, and that would qualify an individual for services provided under the Lanterman Developmental Disabilities Services Act.

(b) "Diversion-related treatment and habilitation" means, but is not limited to, specialized services or special adaptations of generic services, directed towards the alleviation of cognitive developmental disability or towards social, personal, physical, or economic habilitation or rehabilitation of an individual with a cognitive developmental disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with this disability and of his or her family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with cognitive developmental disabilities.

(c) "Regional center" means a regional center for the developmentally disabled established under the Lanterman Developmental Disabilities Services Act that is organized as a private nonprofit community agency to plan, purchase, and coordinate the delivery of services which cannot be provided by state agencies to developmentally disabled persons residing in a particular geographic catchment area, and which is licensed and funded by the State Department of Developmental Services.

(d) "Director of a regional center" means the executive director of a regional center for the developmentally disabled or his or her designee.

(e) "Agency" means the prosecutor, the probation department, and the regional center involved in a particular defendant's case.

(f) "Dual agency diversion" means a treatment and habilitation program developed with court approval by the regional center, administered jointly by the regional center and by the probation department, which is individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, and which includes, but is not limited to, treatment specifically addressed to the criminal offense charged, for a specified period of time as prescribed in Section 1001.28.

(g) "Single agency diversion" means a treatment and habilitation program developed with court approval by the regional center, administered solely by the regional center without involvement by the probation department, which is individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, and which includes, but is not limited to, treatment specifically addressed to the criminal offense charged, for a specified period of time as prescribed in Section 1001.28.

SEC. 40. Section 1346 of the Penal Code is amended to read:

1346. (a) When a defendant has been charged with a violation of Section 220, 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286, 288, 288a, 288.5, 289, or 647.6, ~~where~~ *and* the victim either is a person 15 years of age or less or is developmentally disabled as a result of ~~mental retardation~~ *intellectual disability*, as specified in subdivision (a) of Section 4512 of the Welfare and Institutions Code, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be recorded and preserved on videotape.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved on videotape. The videotape shall be transmitted to the clerk of the court in which the action is pending.

(d) If at the time of trial the court finds that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable within the meaning

of Section 240 of the Evidence Code, the court may admit the videotape of the victim's testimony at the preliminary hearing as former testimony under Section 1291 of the Evidence Code.

(e) Any videotape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) Any videotape made pursuant to this section shall be made available to the prosecuting attorney, the defendant, and his or her attorney for viewing during ordinary business hours. Any videotape which is made available pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim.

(g) The tape shall be destroyed after five years have elapsed from the date of entry of judgment; provided, however, that if an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been rendered.

SEC. 41. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) (1) (A) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced.

(B) If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent.

(i) Except as provided in clause (ii) or (iii), the court shall consider a recommendation for placement, which recommendation shall be made to the court by the director of a regional center or designee. In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff or other person designated by the court to a state hospital or developmental center for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy attainment of mental competence, or be placed on outpatient status pursuant to the provisions of Section 1370.4 and Title 15 (commencing with Section 1600) of Part 2.

(ii) However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony

1 offense specified in Section 290, the prosecutor shall determine
2 whether the defendant previously has been found mentally
3 incompetent to stand trial pursuant to this chapter on a charge of
4 a Section 290 offense, or whether the defendant is currently the
5 subject of a pending Section 1368 proceeding arising out of a
6 charge of a Section 290 offense. If either determination is made,
7 the prosecutor shall so notify the court and defendant in writing.
8 After this notification, and opportunity for hearing, the court shall
9 order that the defendant be delivered by the sheriff to a state
10 hospital or other secure treatment facility for the care and treatment
11 of the developmentally disabled unless the court makes specific
12 findings on the record that an alternative placement would provide
13 more appropriate treatment for the defendant and would not pose
14 a danger to the health and safety of others.
15 (iii) If the action against the defendant who has been found
16 mentally incompetent is on a complaint charging a felony offense
17 specified in Section 290 and the defendant has been denied bail
18 pursuant to subdivision (b) of Section 12 of Article I of the
19 California Constitution because the court has found, based upon
20 clear and convincing evidence, a substantial likelihood that the
21 person's release would result in great bodily harm to others, the
22 court shall order that the defendant be delivered by the sheriff to
23 a state hospital for the care and treatment of the developmentally
24 disabled unless the court makes specific findings on the record
25 that an alternative placement would provide more appropriate
26 treatment for the defendant and would not pose a danger to the
27 health and safety of others.
28 (iv) The clerk of the court shall notify the Department of Justice
29 in writing of any finding of mental incompetence with respect to
30 a defendant who is subject to clause (ii) or (iii) for inclusion in his
31 or her state summary criminal history information.
32 (C) Upon becoming competent, the court shall order that the
33 defendant be returned to the committing court pursuant to the
34 procedures set forth in paragraph (2) of subdivision (a) of Section
35 1372 or by another person designated by the court. The court shall
36 further determine conditions under which the person may be absent
37 from the placement for medical treatment, social visits, and other
38 similar activities. Required levels of supervision and security for
39 these activities shall be specified.

(D) The court shall transmit a copy of its order to the regional center director or designee and to the Director of Developmental Services.

(E) A defendant charged with a violent felony may not be placed in a facility or delivered to a state hospital, developmental center, or residential facility pursuant to this subdivision unless the facility, state hospital, developmental center, or residential facility has a secured perimeter or a locked and controlled treatment facility, and the judge determines that the public safety will be protected.

(F) For purposes of this paragraph, "violent felony" means an offense specified in subdivision (c) of Section 667.5.

(G) A defendant charged with a violent felony may be placed on outpatient status, as specified in ~~Section~~ *Sections* 1370.4 or 1600, only if the court finds that the placement will not pose a danger to the health or safety of others.

(H) As used in this section, "developmental disability" means a disability that originates before an individual attains ~~age~~ 18 *years of age*, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for the individual, and shall not include other handicapping conditions that are solely physical in nature. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to ~~mental retardation~~ *intellectual disability* or to require treatment similar to that required for ~~mentally retarded~~ individuals *with an intellectual disability*, but shall not include other handicapping conditions that are solely physical in nature.

(2) Prior to making the order directing the defendant be confined in a state hospital, developmental center, or other residential facility or be placed on outpatient status, the court shall order the regional center director or designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be committed to a state hospital or developmental center or to any other available residential facility approved by the regional center director. No person shall be admitted to a state hospital, developmental center, or other residential facility or accepted for outpatient status under

Section 1370.4 without having been evaluated by the regional center director or designee.

(3) When the court orders that the defendant be confined in a state hospital or other secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1), the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other secure treatment facility where the defendant is to be confined:

(A) State summary criminal history information.

(B) Any arrest reports prepared by the police department or other law enforcement agency.

(C) Records of ~~any~~ *a* finding of mental incompetence pursuant to this chapter arising out of a complaint charging a felony offense specified in Section 290 or ~~any~~ *a* pending Section 1368 proceeding arising out of a charge of a Section 290 offense.

(4) When the defendant is committed to a residential facility pursuant to clause (i) of subparagraph (B) of paragraph (1) or the court makes the findings specified in clause (ii) or (iii) of subparagraph (B) of paragraph (1) to assign the defendant to a facility other than a state hospital or other secure treatment facility, the court shall order that notice be given to the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility of ~~any~~ *a* finding of mental incompetence pursuant to this chapter arising out of a charge of a Section 290 offense.

(5) (A) If the defendant is committed or transferred to a state hospital or developmental center pursuant to this section, the court may, upon receiving the written recommendation of the executive director of the state hospital or developmental center and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to that facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or developmental center or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1

(commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney may contest either kind of order of transfer by filing a petition with the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or designee.

(B) If the defendant is committed to a state hospital or secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1) and is subsequently transferred to ~~any other~~ *another* facility, copies of the documents specified in paragraph (3) shall be taken with the defendant to the new facility. The transferring facility shall also notify the appropriate law enforcement agency or agencies having local jurisdiction at the site of the new facility that the defendant is a person subject to clause (ii) or (iii) of subparagraph (B) of paragraph (1).

(b) (1) Within 90 days of admission of a person committed pursuant to subdivision (a), the executive director or designee of the state hospital, developmental center, or other facility to which the defendant is committed, or the outpatient supervisor where the defendant is placed on outpatient status, shall make a written report to the committing court and the regional center director or a designee concerning the defendant's progress toward becoming mentally competent. If the defendant has not become mentally competent, but the report discloses a substantial likelihood the defendant will become mentally competent within the next 90 days, the court may order that the defendant shall remain in the state hospital, developmental center, or other facility or on outpatient status for that period of time. Within 150 days of an admission made pursuant to subdivision (a) or if the defendant becomes mentally competent, the executive director or designee of the hospital or developmental center or person in charge of the

facility or the outpatient supervisor shall report to the court and the regional center director or his or her designee regarding the defendant's progress toward becoming mentally competent. The court shall provide to the prosecutor and defense counsel copies of all reports under this section. If the report indicates that there is no substantial likelihood that the defendant has become mentally competent, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or designee and to the executive director of the developmental center.

(2) ~~Any~~ *A* defendant who has been committed or has been on outpatient status for 18 months, and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or designee and the executive director of the developmental center.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. A copy of this order shall be sent to the regional center director or designee and to the executive director of the developmental center.

(4) At each review by the court specified in this subdivision, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination.

(c) (1) (A) At the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, any defendant who has not become mentally competent shall be returned to the committing court.

(B) The court shall notify the regional center director or designee and the executive director of the developmental center of that return and of any resulting court orders.

(2) In the event of dismissal of the criminal charges before the defendant becomes mentally competent, the defendant shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the

Welfare and Institutions Code), or to commitment and detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code. If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385. The court shall notify the regional center director and the executive director of the developmental center of any dismissal.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges. The court shall transmit a copy of any order of dismissal to the regional center director and to the executive director of the developmental center.

(e) For the purpose of this section, "secure treatment facility" shall not include, except for state mental hospitals, state developmental centers, and correctional treatment facilities, any facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter 3.2 (commencing with Section 1569) of, Division 2 of the Health and Safety Code, or any community board and care facility.

SEC. 42. Section 1376 of the Penal Code is amended to read:

1376. (a) As used in this section, ~~"mentally retarded"~~ *"intellectually disability"* means the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before ~~the age of~~ 18 *years of age*.

(b) (1) In any case in which the prosecution seeks the death penalty, the defendant may, at a reasonable time prior to the commencement of trial, apply for an order directing that a ~~mental~~

~~retardation~~ hearing *to determine intellectual disability* be conducted. Upon the submission of a declaration by a qualified expert stating his or her opinion that the defendant ~~is mentally retarded~~ *has an intellectual disability*, the court shall order a hearing to determine whether the defendant ~~is mentally retarded~~ *has an intellectual disability*. At the request of the defendant, the court shall conduct the hearing without a jury prior to the commencement of the trial. The defendant's request for a court hearing prior to trial shall constitute a waiver of a jury hearing on the issue of ~~mental retardation~~ *intellectual disability*. If the defendant does not request a court hearing, the court shall order a jury hearing to determine if the defendant ~~is mentally retarded~~ *has an intellectual disability*. The jury hearing on ~~mental retardation~~ *intellectual disability* shall occur at the conclusion of the phase of the trial in which the jury has found the defendant guilty with a finding that one or more of the special circumstances enumerated in Section 190.2 are true. Except as provided in paragraph (3), the same jury shall make a finding that the defendant ~~is mentally retarded~~ *has an intellectual disability*, or that the defendant ~~is~~ *does* not ~~mentally retarded~~ *have an intellectual disability*.

(2) For the purposes of the procedures set forth in this section, the court or jury shall decide only the question of the defendant's ~~mental retardation~~ *intellectual disability*. The defendant shall present evidence in support of the claim that he or she ~~is mentally retarded~~ *has an intellectual disability*. The prosecution shall present its case regarding the issue of whether the defendant ~~is mentally retarded~~ *has an intellectual disability*. Each party may offer rebuttal evidence. The court, for good cause in furtherance of justice, may permit either party to reopen its case to present evidence in support of or opposition to the claim of ~~retardation~~ *intellectual disability*. Nothing in this section shall prohibit the court from making orders reasonably necessary to ensure the production of evidence sufficient to determine whether or not the defendant ~~is mentally retarded~~ *has an intellectual disability*, including, but not limited to, the appointment of, and examination of the defendant by, qualified experts. No statement made by the defendant during an examination ordered by the court shall be admissible in the trial on the defendant's guilt.

(3) At the close of evidence, the prosecution shall make its final argument, and the defendant shall conclude with his or her final

argument. The burden of proof shall be on the defense to prove by a preponderance of the evidence that the defendant ~~is mentally retarded~~ *has an intellectual disability*. The jury shall return a verdict that either the defendant ~~is mentally retarded~~ *has an intellectual disability* or the defendant ~~is~~ *does* not ~~mentally retarded~~ *have an intellectual disability*. The verdict of the jury shall be unanimous. In any case in which the jury has been unable to reach a unanimous verdict that the defendant ~~is mentally retarded~~ *has an intellectual disability*, and does not reach a unanimous verdict that the defendant ~~is~~ *does* not ~~mentally retarded~~ *have an intellectual disability*, the court shall dismiss the jury and order a new jury impaneled to try the issue of ~~mental retardation~~ *intellectual disability*. The issue of guilt shall not be tried by the new jury.

(c) In the event the hearing is conducted before the court prior to the commencement of the trial, the following shall apply:

(1) If the court finds that the defendant ~~is mentally retarded~~ *has an intellectual disability*, the court shall preclude the death penalty and the criminal trial thereafter shall proceed as in any other case in which a sentence of death is not sought by the prosecution. If the defendant is found guilty of murder in the first degree, with a finding that one or more of the special circumstances enumerated in Section 190.2 are true, the court shall sentence the defendant to confinement in the state prison for life without the possibility of parole. The jury shall not be informed of the prior proceedings or the findings concerning the defendant's claim of ~~mental retardation~~ *intellectual disability*.

(2) If the court finds that the defendant ~~is~~ *does* not ~~mentally retarded~~ *have an intellectual disability*, the trial court shall proceed as in any other case in which a sentence of death is sought by the prosecution. The jury shall not be informed of the prior proceedings or the findings concerning the defendant's claim of ~~mental retardation~~ *intellectual disability*.

(d) In the event the hearing is conducted before the jury after the defendant is found guilty with a finding that one or more of the special circumstances enumerated in Section 190.2 are true, the following shall apply:

(1) If the jury finds that the defendant ~~is mentally retarded~~ *has an intellectual disability*, the court shall preclude the death penalty and shall sentence the defendant to confinement in the state prison for life without the possibility of parole.

(2) If the jury finds that the defendant ~~is~~ *does* not ~~mentally retarded~~ *have an intellectual disability*, the trial shall proceed as in any other case in which a sentence of death is sought by the prosecution.

(e) In any case in which the defendant has not requested a court hearing as provided in subdivision (b), and has entered a plea of not guilty by reason of insanity under Sections 190.4 and 1026, the hearing on ~~mental retardation~~ *intellectual disability* shall occur at the conclusion of the sanity trial if the defendant is found sane.

SEC. 43. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) (1) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

(2) The term "severe mental disorder" means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term "severe mental disorder" as used in this section does not include a personality or adjustment disorder, epilepsy, ~~mental retardation~~ *intellectual disability* or other developmental disabilities, or addiction to or abuse of intoxicating substances.

(3) The term "remission" means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard

shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections and Rehabilitation, and a chief psychiatrist of the Department of Corrections and Rehabilitation has certified to the Board of Parole Hearings that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections and Rehabilitation, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections and Rehabilitation.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Parole Hearings pursuant to this paragraph, then the Board of Parole Hearings shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) If at least one of the independent professionals who evaluate the prisoner pursuant to paragraph (2) concurs with the chief

psychiatrist's certification of the issues described in paragraph (2), this subdivision shall be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) Any robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(E) Carjacking, as defined in subdivision (a) of Section 215, if it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the carjacking.

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(G) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(H) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(I) Lewd acts on a child under ~~the age of~~ 14 years *of age* in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 ~~where~~ *if* the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 ~~where~~ *if* the act posed a substantial danger of physical harm to others.

(M) Any felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section 18745.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in such a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph, substantial physical harm shall not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) As used in this chapter, "substantial danger of physical harm" does not require proof of a recent overt act.

SEC. 44. Section 1420 of the Probate Code is amended to read:

1420. "Developmental disability" means a disability ~~which~~ *that* originates before an individual attains ~~age~~ 18 *years of age*, continues, or can be expected to continue, indefinitely, and constitutes a substantial handicap for ~~such~~ *the* individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term includes ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism. This term also includes handicapping conditions found to be closely related ~~to mental retardation~~ *intellectual disability* or to require treatment similar to that required for ~~mentally retarded~~ individuals *with an intellectual disability*, but does not include other handicapping conditions that are solely physical in nature.

SEC. 45. Section 25276 of the Vehicle Code is amended to read:

25276. (a) A motor vehicle designed for carrying more than eight persons, including the driver, owned by a private, nonprofit organization that provides training or other activities for persons

1 who ~~are mentally retarded or physically disabled~~ *have intellectual*
2 *or physical disabilities*, or both, and that is certified by the
3 Department of Rehabilitation or licensed by the State Department
4 of ~~Health~~ *Developmental Services*, with respect to the providing
5 of this training or other activities, may be equipped with a flashing
6 amber light signal system.
7 (b) A motor vehicle, described in subdivision (a), may, while
8 actually engaged in the transportation of persons described in
9 subdivision (a) to or from a training or activity center operated by
10 the organization, display the flashing amber lights of the system
11 when necessarily parked upon a highway and in the process of
12 loading or unloading persons.
13 (c) Subdivisions (a) and (b) apply to a motor vehicle that is
14 rented, leased, or chartered by the organization.
15 SEC. 46. Section 4417 of the Welfare and Institutions Code is
16 amended to read:
17 4417. The State Department of Developmental Services may:
18 (a) Disseminate educational information relating to the
19 prevention, diagnosis and treatment of ~~mental retardation~~
20 *intellectual disability*.
21 (b) Upon request, advise all public officers, organizations and
22 agencies interested in the developmental disabilities of the people
23 of the state.
24 (c) Conduct such educational and related work as will tend to
25 encourage the development of proper developmental disabilities
26 facilities throughout the state.
27 The department may organize, establish and maintain community
28 mental hygiene clinics for the prevention, early diagnosis and
29 treatment of ~~mental retardation~~ *intellectual disability*. Such clinics
30 may be maintained only for persons not requiring institutional
31 care, who voluntarily seek the aid of such clinics. Such clinics may
32 be maintained at the locations in the communities of the state
33 designated by the director, or at any institution under the
34 jurisdiction of the department designated by the director.
35 The department may establish such rules and regulations as are
36 necessary to carry out the provisions of this section. This section
37 does not authorize any form of compulsory medical or physical
38 examination, treatment, or control of any person.
39 SEC. 47. Section 4426 of the Welfare and Institutions Code is
40 amended to read:

4426. The department may inquire into the manner in which ~~any mentally retarded~~ *a* person *with an intellectual disability who is* subject to commitment, not confined in a state hospital, is cared for and maintained. If, in its judgment, ~~any such~~ *the* person is not properly and suitably cared for, ~~it~~ *the department* may apply to a judge of the superior court for an order to commit him *or her* to a state hospital under the provisions of this code. ~~Such~~ *This* order shall not be made unless the judge finds, and certifies in the order, that ~~such~~ *the* person is not properly or suitably cared for by his *or her* relatives ~~or~~, *legal* guardian, or conservator, or that it is dangerous to the public to allow him *or her* to be cared for and maintained by ~~such~~ *the* relatives ~~or~~, *legal* guardian, or conservator.

SEC. 48. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this division:

(a) "Developmental disability" means a disability that originates before an individual attains ~~age~~ 18 years *of age*, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include ~~mental retardation~~ *intellectual disability*, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to ~~mental retardation~~ *intellectual disability* or to require treatment similar to that required for individuals with ~~mental retardation~~ *intellectual disability*, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services and supports for persons with developmental disabilities" means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan

1 participants, the effectiveness of each option in meeting the goals
2 stated in the individual program plan, and the cost-effectiveness
3 of each option. Services and supports listed in the individual
4 program plan may include, but are not limited to, diagnosis,
5 evaluation, treatment, personal care, day care, domiciliary care,
6 special living arrangements, physical, occupational, and speech
7 therapy, training, education, supported and sheltered employment,
8 mental health services, recreation, counseling of the individual
9 with a developmental disability and of his or her family, protective
10 and other social and sociolegal services, information and referral
11 services, follow-along services, adaptive equipment and supplies,
12 advocacy assistance, including self-advocacy training, facilitation
13 and peer advocates, assessment, assistance in locating a home,
14 child care, behavior training and behavior modification programs,
15 camping, community integration services, community support,
16 daily living skills training, emergency and crisis intervention,
17 facilitating circles of support, habilitation, homemaker services,
18 infant stimulation programs, paid roommates, paid neighbors,
19 respite, short-term out-of-home care, social skills training,
20 specialized medical and dental care, supported living arrangements,
21 technical and financial assistance, travel training, training for
22 parents of children with developmental disabilities, training for
23 parents with developmental disabilities, vouchers, and
24 transportation services necessary to ensure delivery of services to
25 persons with developmental disabilities. Nothing in this subdivision
26 is intended to expand or authorize a new or different service or
27 support for any consumer unless that service or support is contained
28 in his or her individual program plan.
29 (c) Notwithstanding subdivisions (a) and (b), for any
30 organization or agency receiving federal financial participation
31 under the federal Developmental Disabilities Assistance and Bill
32 of Rights Act, as amended "developmental disability" and "services
33 for persons with developmental disabilities" means the terms as
34 defined in the federal act to the extent required by federal law.
35 (d) "Consumer" means a person who has a disability that meets
36 the definition of developmental disability set forth in subdivision
37 (a).
38 (e) "Natural supports" means personal associations and
39 relationships typically developed in the community that enhance
40 the quality and security of life for people, including, but not limited

to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities.

(f) "Circle of support" means a committed group of community members, who may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. A circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) "Facilitation" means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, that will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices that effect his or her life.

(h) "Family support services" means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(i) "Voucher" means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization that enables the consumer or family member to choose his or her own service provider.

(j) "Planning team" means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, any individual, including a service provider, invited by the consumer, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, or the authorized

representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, and including a minor's, dependent's, or ward's court-appointed developmental services decisionmaker appointed pursuant to Section 319, 361, or 726.

(k) "Stakeholder organizations" means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

(*l*) "Substantial disability" means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

(1) Self-care.

(2) Receptive and expressive language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

(7) Economic self-sufficiency.

Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

SEC. 49. Section 4801 of the Welfare and Institutions Code is amended to read:

4801. (a) Judicial review shall be in the superior court for the county in which the state hospital, developmental center, community care facility, or health facility is located, except that, if the adult has been found incompetent to stand trial and has been committed pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, judicial review shall be in the superior court of the county that determined the question of the mental competence of the defendant. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, developmental center, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in the preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The

person shall pay the costs of those legal services if he or she is able.

(b) At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Notice shall also be provided to the director of the appropriate developmental center if the person seeking release or for whom release is sought resides in a developmental center. The notice shall be sent by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested.

(c) The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center and developmental center are deposited in the United States mail pursuant to this section.

(1) Except as provided in paragraph (2), if the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled, or (B) that he or she is developmentally disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be released within 72 hours. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to the responsible person or regional center or other public or private agency, as the case may be, subject to any conditions that the court deems proper for the welfare of the developmentally disabled adult and that are consistent with the purposes of this division.

(2) If the person is charged with a violent felony and has been committed to his or her current placement pursuant to Section 1370.1 of the Penal Code or Section 6500, and the court finds (A) that the adult requesting release or for whom release is requested ~~is~~ *does* not ~~developmentally disabled or mentally retarded~~ *have a*

developmental disability or an intellectual disability, or (B) that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, the court shall, before releasing the person, determine that the release will not pose a danger to the health or safety of others due to the person's known behavior. If the court finds there is no danger pursuant to the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code, the person shall be released within 72 hours. If the person's release poses a danger to the health or safety of others, the court may grant or deny the request, taking into account the danger to the health or safety of others posed by the person. If the court finds that release of the person can be made subject to conditions that the court deems proper for the preservation of public health and safety and the welfare of the person, the person shall be released subject to those conditions.

(d) If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

(e) This section shall become operative January 1, 1988.

SEC. 50. Section 5002 of the Welfare and Institutions Code is amended to read:

5002. Mentally disordered persons and persons impaired by chronic alcoholism may no longer be judicially committed.

Mentally disordered persons shall receive services pursuant to this part. Persons impaired by chronic alcoholism may receive services pursuant to this part if they elect to do so pursuant to Article 3 (commencing with Section 5225) of Chapter 2 ~~of this part~~.

Epileptics may no longer be judicially committed.

This part shall not be construed to repeal or modify laws relating to the commitment of mentally disordered sex offenders, ~~mentally retarded~~ persons *with an intellectual disability*, and mentally disordered criminal offenders, except as specifically provided in Penal Code Section 4011.6, or as specifically provided in other statutes.

SEC. 51. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions ~~as~~ *that* may appear to constitute a problem. ~~Persons~~ *A person* providing evaluation services shall be *a* properly qualified ~~professionals~~ *professional* and may be *a* full-time ~~employees~~ *employee* of an agency providing evaluation services ~~or~~, may be *a* part-time ~~employees~~ *employee,* or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of ~~such~~ hospital and other services ~~as~~ *that* may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare

1 services which prevent initial recourse to hospital treatment or
2 aftercare services ~~which~~ *that* support adjustment to community
3 living following hospital treatment. These services may be provided
4 through county welfare departments, State Department of Mental
5 Health, Short-Doyle programs, or other local agencies.
6 Each agency or facility providing evaluation services shall
7 maintain a current and comprehensive file of all community
8 services, both public and private. These files shall contain current
9 agreements with agencies or individuals accepting referrals, as
10 well as appraisals of the results of past referrals.
11 (e) "Crisis intervention" consists of an interview or series of
12 interviews within a brief period of time, conducted by qualified
13 professionals, and designed to alleviate personal or family
14 situations ~~which~~ *that* present a serious and imminent threat to the
15 health or stability of the person or the family. The interview or
16 interviews may be conducted in the home of the person or family,
17 or on an inpatient or outpatient basis with ~~such~~ *the* therapy, or
18 other services, as may be appropriate. Crisis intervention may, as
19 appropriate, include suicide prevention, psychiatric, welfare,
20 psychological, legal, or other social services.
21 (f) "Prepetition screening" is a screening of all petitions for
22 court-ordered evaluation as provided in Article 2 (commencing
23 with Section 5200) of Chapter 2, consisting of a professional
24 review of all petitions; an interview with the petitioner and,
25 whenever possible, the person alleged, as a result of mental
26 disorder, to be a danger to others, or to himself or herself, or to be
27 gravely disabled, to assess the problem and explain the petition;
28 when indicated, efforts to persuade the person to receive, on a
29 voluntary basis, comprehensive evaluation, crisis intervention,
30 referral, and other services specified in this part.
31 (g) "Conservatorship investigation" means investigation by an
32 agency appointed or designated by the governing body of cases in
33 which conservatorship is recommended pursuant to Chapter 3
34 (commencing with Section 5350).
35 (h) (1) For purposes of Article 1 (commencing with Section
36 5150), Article 2 (commencing with Section 5200), and Article 4
37 (commencing with Section 5250) of Chapter 2, and for the purposes
38 of Chapter 3 (commencing with Section 5350), "gravely disabled"
39 means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include ~~mentally retarded~~ persons *with intellectual disabilities* by reason of ~~being mentally retarded~~ *having an intellectual disability* alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(*l*) "Antipsychotic medication" means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary

for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

SEC. 52. Section 5325 of the Welfare and Institutions Code is amended to read:

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient for psychiatric evaluation or treatment to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered, and each ~~mentally retarded~~ person *with an intellectual disability* committed to a state hospital pursuant to Article ~~5~~ *2* (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing such services and otherwise brought to his or her attention by such additional means as the Director of Mental Health may designate by regulation:

(a) To wear his or her own clothes; to keep and use his or her own personal possessions including his or her toilet articles; and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his or her private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls or to have ~~such~~ calls made for them.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition ~~which~~ *that* depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of any of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Mental Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) To see and receive the services of a patient advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services.

(i) Other rights, as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and statutory rights which are found by the State Department of Mental Health to be frequently misunderstood, ignored, or denied.

Upon admission to a facility each patient shall immediately be given a copy of a State Department of Mental Health prepared patients' rights handbook.

The State Department of Mental Health shall prepare and provide the forms specified in this section and in Section 5157.

The rights specified in this section may not be waived by the person's parent, guardian, or conservator.

SEC. 53. Section 5585.25 of the Welfare and Institutions Code is amended to read:

5585.25. "Gravely disabled minor" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. ~~Mental retardation~~ *Intellectual disability*, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.

SEC. 54. Section 6250 of the Welfare and Institutions Code is amended to read:

6250. As used in this part, "persons subject to judicial commitment" means persons who may be judicially committed under this part as mentally disordered sex offenders pursuant to Article 1 (commencing with Section ~~6300)~~ *6331)*, sexually violent predators pursuant to Article 4 (commencing with Section 6600), or ~~mentally retarded~~ persons *with intellectual disabilities* pursuant to Article 2 (commencing with Section 6500) of Chapter 2 ~~of this part~~.

Nothing in this part shall be held to change or interfere with the provisions of the Penal Code and other laws relating to mentally disordered persons charged with crime or to the criminally insane.

This part shall be liberally construed so that, as far as possible and consistent with the rights of persons subject to commitment, those persons shall be treated, not as criminals, but as sick persons.

SEC. 55. The heading of Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code is amended to read:

Article 2. ~~Mentally Retarded~~ Persons *with Intellectual Disabilities*

SEC. 56. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. On and after July 1, 1971, no ~~mentally retarded~~ person *with an intellectual disability* may be committed to the State Department of Developmental Services pursuant to this article, unless he or she is a danger to himself or herself, or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of

paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

If the ~~mentally retarded~~ person *with an intellectual disability* is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article, the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability* shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person ~~is mentally retarded~~ *has an intellectual disability* and a danger to himself or herself or to others shall be

presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

SEC. 57. Section 6502 of the Welfare and Institutions Code is amended to read:

6502. A petition for the commitment of ~~a mentally retarded~~ person *with an intellectual disability* to the State Department of Developmental Services who has been found incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with one or more of the offenses identified or described in Section 6500, may be filed in the superior court of the county that determined the question of mental competence of the defendant. All other petitions may be filed in the county in which that person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

(a) The parent, guardian, conservator, or other person charged with the support of the ~~mentally retarded~~ person.

(b) The probation officer.

(c) The ~~Youth Authority~~ *Division of Juvenile Facilities, Department of Corrections and Rehabilitation.*

(d) Any person designated for that purpose by the judge of the court.

(e) The ~~Director of Corrections~~ *Secretary of the Department of Corrections and Rehabilitation.*

(f) The regional center director or his or her designee.

The request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

SEC. 58. Section 6504 of the Welfare and Institutions Code is amended to read:

6504. In all cases the court shall require due notice of the hearing of the petition to be given to the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. Whenever a petition is filed, the court shall require ~~such~~ notice of the hearing of the petition as it deems proper to be given to ~~any~~ *a* parent, guardian, conservator, or other person charged with the support of the person mentioned in the petition.

SEC. 59. Section 6504.5 of the Welfare and Institutions Code is amended to read:

6504.5. Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 ~~of this code~~, or the designee of the director, to examine the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*.

Within 15 judicial days after his or her appointment, the regional center director or designee shall submit to the court in writing a report containing his or her evaluation of the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. The report shall contain a recommendation of a facility or facilities in which the ~~alleged developmentally disabled~~ person *alleged to have an intellectual disability* may be placed.

The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment. In determining the least restrictive residential placement, consideration shall be given to public safety. If placement into or out of a developmental center is recommended, the regional center director or designee simultaneously shall submit the report to the executive director of the developmental center or his or her designee. The executive director of the developmental center or his or her designee may, within 15 days of receiving the regional center report, submit to the court a written report evaluating the ability of the developmental center to achieve the purposes of treatment for this person and whether the developmental center placement can adequately provide the security measures or systems required to protect the public health and safety from the potential dangers posed by the person's known behaviors.

The reports prepared by the regional center director and developmental center director, if applicable, shall also address suitable interim placements for the person as provided for in Section 6506.

SEC. 60. Section 6505 of the Welfare and Institutions Code is amended to read:

6505. Whenever the court considers it necessary or advisable, it may cause an order to issue for the apprehension and delivery to the court of the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*, and may have the order executed by ~~any~~ *a* peace officer.

SEC. 61. Section 6506 of the Welfare and Institutions Code is amended to read:

6506. Pending the hearing, the court may order that the alleged dangerous ~~mentally retarded~~ person *with an intellectual disability* may be left in the charge of his or her parent, guardian, conservator, or other suitable person, or placed in a state hospital for the developmentally disabled, in the county psychiatric hospital, or in any other suitable placement, as determined by the court. Prior to the issuance of an order under this section, the regional center and developmental center, if applicable, shall recommend to the court a suitable person or facility to care for the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. The determination of a suitable person or facility shall be the least restrictive option that provides for the person's treatment needs and that has existing security systems or measures in place to adequately protect the public safety from any known dangers posed by the person. In determining whether the public safety will be adequately protected, the court shall make the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code.

Pending the hearing, the court may order that the person receive necessary habilitation, care, and treatment, including medical and dental treatment.

Orders made pursuant to this section shall expire at the time set for the hearing pursuant to Section 6503. If the court upon a showing of good cause grants a continuance of the hearing on the matter, it shall order that the person be detained pursuant to this section until the hearing on the petition is held.

SEC. 62. Section 6507 of the Welfare and Institutions Code is amended to read:

6507. The court shall inquire into the condition or status of the ~~alleged mentally retarded~~ person *alleged to have an intellectual disability*. For this purpose it may, by subpoena, require the attendance before it of a physician who has made a special study of ~~mental retardation~~ *intellectual disabilities* and is qualified as a medical examiner, and of a clinical psychologist, or of two such physicians, or of two such psychologists, to examine the person and testify concerning his *or her* mentality. The court may also, by subpoena, require the attendance of ~~such~~ other persons as it deems advisable, to give evidence.

SEC. 63. Section 6508 of the Welfare and Institutions Code is amended to read:

6508. Each psychologist and physician shall receive for each attendance mentioned in Section 6507 the sum of five dollars ($5) for each person examined, together with his *or her* necessary actual expenses occasioned thereby, and other witnesses shall receive for ~~such~~ attendance ~~such~~ *those* fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, physician, or witness as provided in this section and all expenses connected with the execution of ~~any~~ *a* process under the provisions of this article, which are not paid by the parent, guardian, conservator, or person charged with the support of the ~~supposed mentally retarded~~ person *supposed to have an intellectual disability*, shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the judge that the claimant is entitled thereto.

SEC. 64. Section 6509 of the Welfare and Institutions Code is amended to read:

6509. (a) If the court finds that the person ~~is mentally retarded~~ *has an intellectual disability*, and that he or she is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any state hospital, developmental center, any licensed community care facility, as defined in Section ~~1504~~ *1502 of the Health and Safety Code*, or any health facility, as defined in Section 1250 *of the Health and Safety Code*, or any other appropriate placement permitted by law. The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to that placement that the court finds to be the most appropriate alternative. If the court finds that release of the person can be made

subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

The court, however, may commit a ~~mentally retarded~~ person *who has an intellectual disability* who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(b) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code, the court shall order the State Department of Developmental Services to give notice of that finding to the designated placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(c) If the *State* Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment, the district attorney, and the attorney of record for the person and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

SEC. 65. Section 6511 of the Welfare and Institutions Code is amended to read:

6511. Any person who knowingly contrives to have ~~any~~ *a* person adjudged ~~mentally retarded~~ *to have an intellectual disability* under the provisions of this article, unlawfully or improperly, is guilty of a misdemeanor.

SEC. 66. Section 6512 of the Welfare and Institutions Code is amended to read:

6512. If, when a boy or girl is brought before a juvenile court under the juvenile court law, it appears to the court, either before or after adjudication, that the person ~~is mentally retarded~~ *has an intellectual disability*, or if, on the conviction of any person of

crime by any court it appears to the court that the person ~~is mentally retarded~~ *has an intellectual disability*, the court may adjourn the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this article against the person before the court, and the court may order that, pending the preparation, filing, and hearing of the petition, the person before the court be detained in a place of safety, or be placed under the guardianship of some suitable person, on his *or her* entering into a recognizance for the appearance of the person upon trial or under conviction when required. If, upon the hearing of the petition, or upon a subsequent hearing, the person upon trial or under conviction is not found to ~~be mentally retarded~~ *have an intellectual disability*, the court may proceed with the trial or impose sentence, as the case may be.

SEC. 67. Section 6513 of the Welfare and Institutions Code is amended to read:

6513. (a) The State Department of Developmental Services shall pay for the costs, as defined in this section, of judicial proceedings, including commitment, placement, or release, under this article under both of the following conditions:

(1) The judicial proceedings are in a county within which a state hospital or developmental center maintains a treatment program for ~~mentally retarded~~ persons *with intellectual disabilities* who are a danger to themselves or others.

(2) The judicial proceedings relate to a ~~mentally retarded~~ person *with an intellectual disability* who is at the time residing in the state hospital or developmental center located in the county of the proceedings.

(b) The appropriate financial officer or other designated official in a county described in subdivision (a) may prepare a statement of all costs incurred by the county in the investigation, preparation for, and conduct of the proceeding, including any costs of the district attorney or county counsel and any public defender or court-appointed counsel representing the person, and including any costs incurred by the county for the guarding or keeping of the person while away from the state hospital and for transportation of the person to and from the hospital. The statement shall be certified ~~to~~ by a judge of the superior court and shall be sent to the State Department of Developmental Services. In lieu of sending

statements after each proceeding, the statements may be held and submitted quarterly for the preceding three-month period.

SEC. 68. Section 6551 of the Welfare and Institutions Code is amended to read:

6551. If the court is in doubt as to whether the person is mentally disordered or ~~mentally retarded~~ *has an intellectual disability*, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. If the professional person in charge of the facility finds the person is, as a result of mental disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of *Chapter 2 of* Part 1 of Division 5 if that article applies.

If the professional person in charge of the facility finds that the person ~~is mentally retarded~~ *has an intellectual disability*, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a ~~mentally retarded~~ person *with an intellectual disability* to the State Department of Developmental Services for placement in a state hospital. In ~~such~~ *this* case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to ~~such~~ *the* commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with any mental disorder requiring intensive treatment or ~~mental retardation~~ *does not have an intellectual disability*, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

The jurisdiction of the juvenile court over the minor shall be suspended during such time as the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a ~~mentally retarded~~ person *with an intellectual disability* is filed or under remand for 90 days for intensive treatment or commitment ordered by ~~such~~ *the* court.

SEC. 69. The heading of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 of the Welfare and Institutions Code is amended to read:

Article 4. ~~Mentally Retarded~~ Persons *with Intellectual Disabilities*

SEC. 70. Section 6715 of the Welfare and Institutions Code is amended to read:

6715. The court shall inquire into the financial condition of the parent, guardian, or other person charged with the support of ~~any~~ *a* person committed as ~~mentally retarded person~~ *having an intellectual disability*, and if it finds ~~him~~ *the person* able to do so, in whole or in part, it shall make a further order, requiring him *or her* to pay, to the extent the court considers ~~him~~ *the person* able ~~to pay~~, the expenses of the proceedings in connection with the investigation, detention, and commitment of the person committed, and the expenses of ~~his~~ *the committed person's* delivery to the institution, and to pay to the county, at stated periods, ~~such~~ *the* sums ~~as~~ the court deems proper, during ~~such~~ *the* time ~~as~~ the person

remains in the institution or on leave of absence to a licensed hospital, facility, or home for the care of ~~such~~ *those* persons. This order may be enforced by ~~such~~ further orders as the court deems necessary, and may be varied, altered, or revoked in its discretion.

The court shall designate ~~some~~ *a* county officer to keep a record of ~~such~~ payments ordered to be made, to receive, receipt for, and record ~~such~~ *the* payments made, to pay over ~~such~~ *the* payments to the county treasurer, to see that the persons ordered to make ~~such~~ *the* payments comply with ~~such~~ *the* orders, and to report to the court any failure ~~on the part of such persons~~ to make ~~such~~ *the* payments.

SEC. 71. Section 6717 of the Welfare and Institutions Code is amended to read:

6717. The cost necessarily incurred in determining whether a person is a fit subject for ~~admission to a home for the mentally retarded~~ *commitment* and securing his ~~admission thereto~~ *or her commitment*, is a charge upon the county whence he *or she* is committed. ~~Such~~ *These* costs include the fees of witnesses, medical examiners, psychiatrists, and psychologists allowed by the judge ordering the examination. If the person sought to be committed is not an indigent person, the costs of the proceedings are the obligation of ~~such~~ *that* person and shall be paid by him *or her*, or by ~~the~~ *his or her* guardian or conservator ~~of his estate~~, as provided in Division 4 (commencing with Section 1400) of the Probate Code, or shall be paid by persons legally liable for his *or her* maintenance, unless otherwise ordered by the judge.

SEC. 72. Section 6718 of the Welfare and Institutions Code is amended to read:

6718. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount due the state by reason of commitments of ~~the mentally retarded which~~ *persons with intellectual disabilities, that* the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 73. The heading of Article 4 (commencing with Section 6740) of Chapter 4 of Part 2 of Division 6 of the Welfare and Institutions Code is amended to read:

Article 4. ~~Mentally Retarded~~ Persons *with Intellectual Disabilities*

SEC. 74. Section 6740 of the Welfare and Institutions Code is amended to read:

6740. The court shall attach to the order of commitment of a ~~mentally retarded~~ person *with an intellectual disability* its findings and conclusions, together with all the social and other data it has bearing upon the case, and the same shall be delivered to the ~~home~~ *place of commitment* with the order.

SEC. 75. Section 6741 of the Welfare and Institutions Code is amended to read:

6741. The sheriff or probation officer, whichever ~~may be~~ *is* designated by the court, may execute the order of commitment with respect to ~~any mentally retarded~~ *a* person *with an intellectual disability*.

In any case in which the probation officer executes the order of commitment, he *or she* shall be compensated for transporting ~~such~~ *the* person to a state hospital in the amount and manner in which a sheriff is compensated for similar services.

SEC. 76. Section 7275 of the Welfare and Institutions Code is amended to read:

7275. The husband, wife, father, mother, or children of a patient in a state hospital for the mentally disordered, the estates of ~~such~~ *these* persons, and the guardian or conservator and administrator of the estate of ~~such~~ *the* patient shall cause him *or her* to be properly and suitably cared for and maintained, and shall pay the costs and charges ~~of his~~ *for* transportation to a state institution. The husband, wife, father, mother, or children of a patient in a state hospital for the mentally disordered and the administrators of their estates, and the estate of ~~such~~ *the* person shall be liable for his *or her* care, support, and maintenance in a state institution of which he *or she* is a patient. The liability of ~~such~~ *these* persons and estates shall be a joint and several liability, and ~~such~~ *the* liability shall exist whether the person has become a patient of a state institution pursuant to the provisions of this code or pursuant to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of the Penal Code.

This section does not impose liability for the care of ~~mentally retarded~~ persons *with intellectual disabilities* in state hospitals.

SEC. 77. Section 7351 of the Welfare and Institutions Code is amended to read:

7351. Wherever in any provision of this code heretofore or hereafter enacted the term "parole" is used in relation to the release of a patient from a state hospital, it shall be construed to refer to and mean "leave of absence." ~~Any~~ *A* judicially committed patient or ~~mentally retarded~~ patient *with an intellectual disability* granted a leave of absence on or after July 1, 1969, and ~~any~~ *a* patient on leave of absence as of July 1, 1969, may at any time during the period of the leave of absence be recalled and returned to the hospital.

Upon the release of a judicially committed patient as granted by the medical director of a state hospital, on leave of absence or discharge upon any of the grounds provided in this article, in accordance with the rules and regulations prescribed by the department, the superintendent shall issue to or on behalf of the judicially committed patient a document stating the general terms or limitations of the leave of absence, or a certificate stating the general condition of, or the reason for, the discharge of the judicially committed patient.

SEC. 78. Section 11014 of the Welfare and Institutions Code is amended to read:

11014. To the extent that any provision of this part prohibits the granting of aid to persons confined in a public institution for tuberculosis or mental disease or as a result of the diagnosis of tuberculosis, ~~mental retardation~~ *intellectual disability*, or psychosis permitted by federal law, such provision shall be inoperative.

O

SUBCOMMITTEE #3:
Health & Human Services

Chair, Senator Mark DeSaulnier

Senator Elaine K. Alquist
Senator Bill Emmerson

Outcomes for March 26, 2012 Hearing

Staff: Jennifer Troia

VOTE-ONLY ITEMS

4300 Department of Developmental Services (DDS)

1. Budget Bill Language to Assist with Cash Flow

Approved (3-0) the requested budget bill language to increase the authority for DDS's cash flow borrowing.

2. Financial Management Services for Participant-Directed Services

Approved (3-0) the proposed increase in funding.

3. Capital Outlay Request – Porterville Main Kitchen

Approved (3-0) the proposed reappropriation of funding for construction of the new main kitchen.

4. Capital Outlay Request – Automatic Fire Sprinkler Systems

Approved (3-0) the requested funds for construction costs associated with installation of automatic fire sprinkler systems.

5170 State Independent Living Council (SILC)

1. Proposed Shift of Federal Aging and Disability Resource Connection Grant Funds

Approved (3-0) the shift of federal funds from the 2011-12 to the 2012-13 fiscal year.

DISCUSSION ITEMS

2. Governor's Budget for Developmental Centers

Informational item. No action taken.

2a. Update on Closure of Lanterman Developmental Center

Voted (3-0) to hold open the requested funding to support 33 positions (28 with requested position authority and 5 budgeted separately under temporary help blanket authorization) for enhanced staffing at Lanterman DC.

Also, directed the Administration to work with Subcommittee staff to identify the general timeframes anticipated for the closure process.

2b. New Admissions to Developmental Centers and Alternative Residential Options in the Community

Directed the Department to continue working with stakeholders to identify and build upon ways that the state can safely and appropriately reduce its reliance on and new admissions to DCs.

As one component of this ongoing work, voted (2-1) to adopt placeholder trailer bill language to expand the geographic availability of SB 962 homes statewide.

3. Governor's Budget for Community Services

Informational item. No action taken.

3a. Expiration of the 4.25 Percent Payment Reduction

Voted (3-0) to hold open the restoration of funding tied to expiration of the 4.25 percent rate reduction, pending further discussion related to reductions triggered by less than anticipated revenue in 2011-12.

3b. First 5 Funding for Services Provided to Children from Birth to Five Years Old

Voted (3-0) to hold this item open, pending further discussion with the Administration and First 5.

4. 2011-12 Trigger Reduction

Directed the Administration to provide additional detail, in writing and by April 6, 2012, regarding the reductions expected to comprise the $100 million GF in savings for 2011-12.

5. 2012-13 Trigger Reduction

Voted (3-0) to hold this item open, pending the receipt of proposals from the Administration and additional input from stakeholders.

Also, directed the Administration to work across health and human services departments (including the Departments of Health Care Services, Social Services, and Developmental Services, as necessary) to identify whether there are developmental services that could be funded under the CFCO waiver, and to provide an update to the Subcommittee on its efforts to do so by the end of April.

Finally, to allow for adequate time to review and respond to forthcoming proposals, encouraged the Department and Administration to work toward submitting proposals for how to achieve this $200 million reduction to the Legislature and to stakeholders by May 1, 2012.

6. Governor's Budget for DDS Headquarters

Informational item. No action taken.

6a. Request to Extend and Make Permanent 5 Limited-Term Positions Related to Federal Funding

Approved (3-0) the requested funding and position authority.

8885 Commission on State Mandates

1. Proposed Repeal of Mandate Related to Counsel in Conservatorship Proceedings

Voted (3-0) to hold this issue open.

National Association of
Councils on Developmental Disabilities
Washington Update

April 2, 2012

In this issue:

- ✓ **House Passes Controversial FY 2013 Budget – Undermines Programs for People of Limited Means**
- ✓ **Supreme Court Holds Hearings on the Affordable Care Act: Individual Mandate At Risk with Uncertain Outcome for the ACA**
- ✓ **Centers for Disease Control Finds Dramatic Increase in Autism Spectrum Disorders in US: 1 in 88 Children, 1 in 54 Boys, 1 in 252 Girls**
- ✓ **Senate HELP Committee Hearing on Stay-at-Work and Back-to Work Strategies for People with Disabilities: Lessons from the Private Sector**
- ✓ **NACDD Joins CCD in Letter of Concern to Congress Over Report on Seclusion and Restraints in Schools by the American Association of School Administrators (AASA)**
- ✓ **Senate HELP Committee Hearing on Stay-at-Work and Back-to Work Strategies for People with Disabilities: Lessons from the Private Sector**
- ✓ **National Council on Disability Issues Report and Recommendations on Managed Care for People with Disabilities**
- ✓ **Commonwealth Fund Publishes Scorecard on Local Health System Performance, 2012**
- ✓ **White House Seeks Nominees for Champions of Change in Science, Technology, Engineering and Math relating to People with Disabilities by April 7 Deadline**
- ✓ **Call for Ideas to Improve the Section 508 Program for Accessible Federal Government Electronic and Information Technology by April 9 Deadline**

House Passes Controversial FY 2013 Budget - Undermines Programs for People of Limited Means

On March 29, by a vote of 228-191, the House passed House Concurrent Resolution 111, the FY 2013 Budget proposed by House Budget Committee Chairman Paul Ryan (R-WI) http://budget.house.gov/. The Ryan budget caps discretionary spending at $1.028 trillion which is $19 billion less than agreed to last year in the Balanced Budget Act (PL-112-025). In quick succession, the House rejected several alternative budgets including one proposed by House Democrats http://democrats.budget.house.gov/legislation/fy13-republican-budget and another similar to the Simpson-Bowles report in 2011.

The Center on Budget & Policy Priorities (CBPP) finds that under the Ryan bbudget plan, at least 62 percent of its $5.3 trillion in non-defense budget cuts over ten years (relative to a continuation of current policies) would come from programs that serve people of limited means. The cuts include $2.4 trillion in Medicaid reductions and other health care, including from repeal of the Affordable Care Act. The Ryan Budget also imposes $134 billion in cuts to SNAP (formerly known as the Food Stamp program). For detailed analyses by CBPP, visit http://www.cbpp.org/cms/index.cfm?fa=view&id=3723

Both parties in Congress would prefer to avoid the sequestration called for by last year's Budget Control Act because it imposes severe cuts of $54.7 billion in defense and $54.7 billion in domestic discretionary for FY 2013 through 2021. Sequestration became automatic when the Super Committee last year failed to agree on sufficient cuts prescribed by the Budget Control Act. To avoid the automatic cuts will require Congress to agree on over-riding legislation before the automatic cuts take place in January 2013. There is a great deal of tension as many Members want no increases in taxes or revenues, many Members want no cuts in defense spending, and many Members want no cuts in mandatory and discretionary domestic spending that would have a severe impact on social programs including those impacting people with disabilities.

In the meantime, by an April 27 deadline, six House authorizing Committees (including Ways & Means) are charged with coming up with specific targets to cut $261 billion in spending from mandatory programs over ten years. Ryan's budget blueprint provides that while decisions about what cuts to recommend will be up to the individual committees, "savings could be achieved in the areas of making pensions for federal workers more like those for workers in the private sector, repealing recent expansions of the federal role in financial services, saving money in health care, means-testing entitlements and reforming the medical liability system."

These Committee recommendations are aimed at reconciliation with a Senate-passed Budget, which is not likely to happen. Senate Majority Leader Harry Reid (D-NV) has said he will not bring a Budget resolution to the floor this year because it is unnecessary since last year's debt limit agreement set a discretionary spending level of $1.047 trillion for Fiscal Year 2013.

Supreme Court Hearings on the Affordable Care Act: Individual Mandate At Risk with Uncertain Outcome for the ACA

In U.S. Supreme Court hearings on the Affordable Care Act on March 26, 27, 28, the toughest issue seems to be the constitutionality of the individual mandate for people to purchase health insurance if they are not covered by some other means (e.g. Medicare, Medicaid, VA, employer sponsored health insurance, etc.). If the mandate is found to be unconstitutional, it is uncertain what happens to the rest of the Affordable Care Act. A decision is expected in June.

Audio recordings of the Supreme Court hearings may be accessed at:
http://www.supremecourt.gov/oral_arguments/argument_audio_detail.aspx?argument=11-398-Monday;
http://www.supremecourt.gov/oral_arguments/argument_audio_detail.aspx?argument=11-398-Tuesday;
http://www.supremecourt.gov/oral_arguments/argument_audio_detail.aspx?argument=11-393

Centers for Disease Control Finds Dramatic Increase in Autism Spectrum Disorders in US: 1 in 88 Children; 1 in 54 Boys; 1 in 252 Girls.

CDC's National Center on Birth Defects and Developmental Disabilities recently released estimates that one in 88 children (11.3 per 1,000) has been identified with an autism spectrum disorder (ASD), and findings that Autism Spectrum Disorders are almost 5 times more common among boys (1 in 54) than among girls (1 in 252). More information about this study and report may be found at http://www.cdc.gov/Features/CountingAutism/

The estimates are based on data collected in 14 communities in areas of the U.S., which CDC says comprised over 8% of the US population of 8-year-olds at the time in 2008. CDC explained that the 8-year old group was chosen because previous data has shown that most children with ASDs have been identified for services by this age.

The CDC also found that while more children are being diagnosed at earlier ages, *most* children are not diagnosed until age 4 or later, even though early identification and intervention can help a child access services and learn new skills. CDS recommends its *Learn the Signs. Act Early.* program which provides free tools to help parents track their child's development and free resources for doctors and educators. CDC is also working with states and communities to improve early identification and supports the recommendation of the American Academy of Pediatrics that all children be screened by age 2 in order to improve

NACDD Joins CCD Letter of Concern to Congress Over Report on Seclusion and Restraints in Schools by the American Association of School Administrators (AASA)

NACDD joined other members of the Consortium for Citizens with Disabilities (CCD) in a letter to all Members of Congress expressing concern about a report by the American Association of School Administrators (AASA) entitled, *Keeping Schools Safe, How Seclusion and Restraint Protects Students and School Personnel*. The AASA letter asserts that 99% of school personnel use seclusion and restraint safely and only when needed. The CCD letter points out that this assertion is not supported by data and even if it were true, it would translate into a risk that over 30,000 public school staff (1%) could be using seclusion/restraint inappropriately and wrongly.

The AASA letter may be found at
http://www.aasa.org/uploadedFiles/Resources/Tool Kits/AASA-Keeping-Schools-Safe.pdf

The CCD letter cites several reports showing that hundreds of students have been restrained and secluded, leading to death, injury and psychological trauma, including a 2009 report by the non-partisan Government Accountability Office which may be found at http://1.usa.gov/crdcsum It also calls for enactment of the Keeping All Students Safe Act, S. 2020 and H.R. 1381.

Senate HELP Committee Hearing on Stay-at-Work and Back-to Work Strategies for People with Disabilities: Lessons from the Private Sector

Senator Tom Harkin (D-IA), Chair of Senate Health Education Labor & Pensions (HELP) Committee, presided over a hearing that featured witnesses from the private sector who cited strategies for employers, families and health care professionals that have proven effective in helping people remain employed or return to work after they acquire a disability. Senator Harkin also cited findings that the cost to employers of accommodations for people with disabilities is quite modest.

Witnesses cited effective practices including early intervention and supports when a person first becomes disabled. One witness who illustrated this kind of success was our colleague Eric Buehlmann of the National Disability Rights Network (NDRN). When he was 24, in his last semester of law school and working part-time for Senator Jeffords of Vermont, he had a brain hemorrhage that caused paralysis, vision impairment and other serious conditions. With appropriate rehabilitation and supports he was able to finish law school, and he returned to a successful career first in the Senate and later with NDRN.

Here is the link to the Senate HELP Committee's record on this hearing
http://www.help.senate.gov/hearings/hearing/?id=15e2384e-5056-9502-5dae-0e592cbdcf17

National Council on Disability Issues Report and Recommendations on Managed Care for People with Disabilities

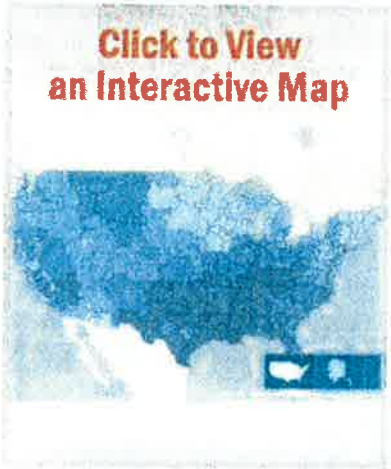
Citing the pressure on states to control costs as propelling states towards Medicaid Managed Care, including integrated care for individuals who are dually eligible for both Medicare and Medicaid, NCD released its *Analysis and Recommendations for the Implementation of Managed Care in Medicaid and Medicare Programs for People with Disabilities.* The NCD report may be found at
http://www.ncd.gov/publications/2012/CMSFebruary272012/

Calling the role of state agencies the lynchpin of success ,NCD calls for stakeholder involvement in the design of the program, contracts with managed care organizations that require clear expectations and reporting requirements, transparency through public reporting and holding contractors accountable through contract monitoring and enforcement. NCD also recommends that CMS clearly communicate expectations, provide guidance and enforcement on an on-going basis.

Commonwealth Fund Publishes Scorecard on Local Health System Performance

The Commonwealth Fund has published a study providing communities with comparative data to assess the performance of each of the 360 local health care areas, known as hospital referral regions, in the U.S. It tracks 43 indicators spanning four dimensions of health system performance: access, prevention and treatment, costs and potentially avoidable hospital use, and health outcomes. The author concludes that the findings show clearly that where you live matters because access, quality, costs, and health outcomes all vary significantly from one local community to another, often with a two- to threefold variation in key indicators between leading and lagging communities.

The report may be found at http://www.commonwealthfund.org/Publications/Fund-Reports/2012/Mar/Local-Scorecard.aspx?omnicid=20 It even provides an interactive map which enables people to find data on health care in their own area:



White House Seeks Nominees for Champions of Change in Science, Technology, Engineering and Math relating to People with Disabilities by April 7 Deadline

The White House Champions of Change program highlights the stories and examples of citizens who represent the vision of out-innovating, out-educating, and out-building the rest of the world through projects and initiatives that move their communities forward. The White House Office of Public Engagement (OPE), the Department of Labor, and the Department of Education are partnering to highlight individuals doing great work to increase **science, technology, engineering and math (STEM)** opportunities for people with disabilities.

The White House suggests the following possible examples of a Champion's work:

- Hiring people with disabilities in STEM fields
- Making STEM materials accessible for people with disabilities
- Advancing educational opportunities for people with disabilities in STEM
- Promoting STEM opportunities for people with disabilities
- Developing programs or initiatives that change attitudes about STEM for people with disabilities Inventing STEM products for people with disabilities.

To submit a nomination follow this link:

http://www.whitehouse.gov/webform/white-house-champions-change-science-technology-engineering-and-math-stem-people-disabilitie

Call for Ideas to Improve the Section 508 Program for Accessible Federal Government Electronic and Information Technology by April 9 Deadline.

The Administration is seeking input into its draft comprehensive strategic plan to improve compliance with Section 508 of the Rehabilitation Act. Section 508 requires that federal agencies' electronic and information technology be accessible to people with disabilities, both inside and outside the government. 12 years after this law was enacted, many technological barriers still exist, limiting the ability of persons with disabilities when they try to interact with the federal government, whether as an employee or as a citizen seeking information or services.

Making electronic and information technology, such as websites, 508 compliant will:

- ensure that applicants have equal access to apply for job opportunities,
- promote increased retention, as federal employees will be able to successfully use technology - whether it be computers, telephones, fax machines, websites and many other technological tools - necessary to perform their duties;
- make the government more open and accessible as people with disabilities will be able to better access all the information the federal government has placed online.

Need help? Accessibility questions? Select this link for help on accessibility

Find more information and submit your ideas by April 9 at http://section508.ideascale.com/
You may also vote on existing ideas or add your comments.

For more information, contact Peggy Hathaway, NACDD Public Policy Manager, phathaway@nacdd.org

SCDD Legislative Update

AB 13 **(Knight R) Public school volunteers.**
Introduced: 12/6/2010
Last Amend: 5/11/2011
Status: 7/8/2011-Failed Deadline pursuant to Rule 61(a)(10). (Last location was ED. on 6/29/2011)
Location: 7/8/2011-S. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law authorizes any person, except a person required to register as a sex offender pursuant to a designated provision, to be permitted by the governing board of a school district to serve as a nonteaching volunteer aide under the immediate supervision and direction of certificated personnel of the district to perform noninstructional work that serves to assist the certificated personnel of the district in their teaching and administrative responsibilities. Existing law authorizes a school district or county office of education to request that a local law enforcement agency conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether the prospective nonteaching volunteer aide has been convicted of a designated sex offense. This bill would specify that each of these provisions applies to charter schools. The bill would also authorize a school district, county office of education, or charter school to request a local law enforcement agency to conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether that person has been convicted of a felony controlled substance offense that involves a minor or a violent or serious felony, as specified. The bill would additionally prohibit persons who have been convicted of violent or serious felonies, specified sex offenses, or felony controlled substance offenses, as specified, from serving as nonteaching volunteer aides , but would provide that a person would not be prohibited from serving as a nonteaching volunteer aide solely because of a conviction of a controlled substance offense that involves a minor or a violent or serious felony 5 years after the date of that conviction . This bill contains other existing laws.

Position

AB 40 **(Yamada D) Elder and dependent adult abuse: reporting.**
Introduced: 12/6/2010
Last Amend: 3/21/2012
Status: 3/21/2012-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HUMAN S.
Location: 3/21/2012-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Elder Abuse and Dependent Adult Civil Protection Act establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. The act requires certain persons, called mandated reporters, to report known or suspected instances of elder or dependent adult abuse. The act requires a mandated reporter, and authorizes any person who is not a mandated reporter, to report the abuse to the local ombudsperson or the local law enforcement agency if the abuse occurs in a long-term care facility. Failure to report physical abuse and financial abuse of an elder or dependent adult under the act is a misdemeanor. This bill would require that a report made by telephone by a mandated reporter to report suspected or alleged physical abuse, as defined, that occured in a long-term care facility, be made to the local law enforcement agency and would require that the written report be made to both the local ombudsperson and the local law enforcement agency. This bill contains other related provisions and other existing laws.

Position
support with
Amendments

AB 43 **(Monning D) Medi-Cal: eligibility.**
Introduced: 12/6/2010
Last Amend: 5/27/2011
Status: 2/2/2012-Referred to Com. on HEALTH.
Location: 2/2/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. This bill would require the department to establish, by January 1, 2014, eligibility for Medi-Cal benefits for any person who meets these eligibility requirements. This bill would permit the department, to the

extent permitted by federal law, to phase in coverage for those individuals. This bill contains other related provisions and other existing laws.

Position

AB 154 **(Beall D) Health care coverage: mental health services.**
Introduced: 1/18/2011
Last Amend: 1/23/2012
Status: 2/16/2012-Referred to Com. on HEALTH.
Location: 2/16/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract and a health insurance policy are required to provide coverage for the diagnosis and treatment of severe mental illnesses of a person of any age. Existing law does not define the term "severe mental illnesses" for this purpose but describes it as including several conditions. This bill would expand this coverage requirement for certain health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2013 , to include the diagnosis and treatment of a mental illness of a person of any age and would define mental illness for this purpose as a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders IV (DSM-IV) , including substance abuse but excluding nicotine dependence and specified diagnoses defined in the manual, subject to regulatory revision, as specified. The bill would specify that this requirement does not apply to a health care benefit plan, contract, or health insurance policy with the Board of Administration of the Public Employees' Retirement System unless the board elects to purchase a plan, contract, or policy that provides mental health coverage. This bill contains other related provisions and other existing laws.

Position
support with
Amendments

AB 171 **(Beall D) Pervasive developmental disorder or autism.**
Introduced: 1/20/2011
Last Amend: 1/23/2012
Status: 2/16/2012-Referred to Com. on HEALTH.
Location: 2/16/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for the regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide coverage for the diagnosis and treatment of severe mental illnesses, including pervasive developmental disorder or autism, under the same terms and conditions applied to other medical conditions, as specified. Commencing July 1, 20 12, and until July 1, 2014, existing law requires health care service plan contracts and health insurance policies to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism. This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment , other than behavioral health treatment, of pervasive developmental disorder or autism . The bill would, however, provide that no benefits are required to be provided that exceed the essential health benefits that will be required under specified federal law. The bill would prohibit health care service plans and health insurers from denying, terminating, or refusing to renew coverage solely because the individual is diagnosed with or has received treatment for pervasive developmental disorder or autism . Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position
support with
Amendments

AB 350 **(Solorio D) Displaced Janitor Opportunity Act.**
Introduced: 2/10/2011
Last Amend: 9/2/2011
Status: 9/10/2011-Read third time. Refused passage. (Ayes 17. Noes 18. Page 2488.).

Location: 9/6/2011-S. THIRD READING

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Displaced Janitor Opportunity Act, requires contractors and subcontractors, that are awarded contracts or subcontracts by an awarding authority to provide janitorial or building maintenance services at a particular job site or sites, to retain, for a period of 60 days, certain employees who were employed at that site by the previous contractor or subcontractor. The act requires the successor contractors and subcontractors to offer continued employment to those employees retained for the 60-day period if their performance during that 60-day period is satisfactory. The act authorizes an employee who was not offered employment or who has been discharged in violation of these provisions by a successor contractor or successor subcontractor, or an agent of the employee, to bring an action against a successor contractor or successor subcontractor in any superior court of the state having jurisdiction over the successor contractor or successor subcontractor, as specified. This bill would rename the act the Displaced Property Service Employee Opportunity Act and make the provisions of the act applicable to property services, which would consist of licensed security, as defined, window cleaning, food cafeteria and dietary services, janitorial services, andbuilding maintenance services. This bill would exclude from the definitions of "contractor" and "subcontractor" specified types of food service providers. The bill also would make conforming changes.

Position

AB 367 **(Smyth R) Board of Behavioral Sciences: reporting.**
Introduced: 2/14/2011
Last Amend: 1/4/2012
Status: 2/16/2012-Referred to Com. on B., P. & E.D.
Location: 2/16/2012-S. B., P. & E.D.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Board of Behavioral Sciences is responsible for the licensure and regulation of marriage and family therapists, licensed educational psychologists, clinical social workers, and licensed professional clinical counselors. Existing law requires certain healing arts boards to report to the State Department of Health Care Services specified licensure information relating to any person whose license has been revoked, suspended, surrendered, or made inactive by the licensee in order to prevent state reimbursement for services provided after the cancellation of a license. This bill would, on and after July 1, 2013, make that reporting requirement applicable to the Board of Behavioral Sciences.

Position

AB 369 **(Huffman D) Health care coverage: prescription drugs.**
Introduced: 2/14/2011
Status: 2/16/2012-Referred to Com. on HEALTH.
Location: 2/16/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Commonly referred to as utilization review, existing law governs the procedures that apply to every health care service plan and health insurer that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based on medical necessity, requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees or insureds, as specified. This bill would impose specified requirements on health care service plans or health insurers that restrict medications for the treatment of pain pursuant to step therapy or fail first protocol. The bill would authorize the duration of any step therapy or fail first protocol to be determined by the prescribing physician and would prohibit a health care service plan or health insurer from requiring that a patient try and fail on more than two pain medications before allowing the patient access to other pain medication prescribed by the physician, as specified. This bill contains other related provisions and other existing laws.

Position

AB 391 **(Pan D) Secondhand dealers and pawnbrokers: electronic reporting.**
Introduced: 2/14/2011
Last Amend: 1/23/2012

Status: 2/2/2012-Re-referred to Com. on PUB. S.
Location: 2/2/2012-S. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law generally requires secondhand dealers and coin dealers, as defined, to report specified transactions to the local law enforcement agency where their businesses are located. Under existing law, secondhand dealers and coin dealers are required to report this information using an electronic reporting system 12 months after the Department of Justice develops that system. This bill would instead require that secondhand dealers and coin dealers report this information using the electronic reporting system on and after the date that the system is implemented. This bill contains other related provisions and other existing laws.

Position

AB 493 **(Perea D) Registered sex offenders: community care facilities.**
Introduced: 2/15/2011
Last Amend: 1/4/2012
Status: 3/27/2012-In committee: Hearing postponed by committee. (Refers to 3/5/2012 hearing)
Location: 1/4/2012-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California. Willful failure to register, as required, is a misdemeanor, or a felony, depending on the underlying offense. Existing law provides for the licensing and regulation of various community care and child care facilities by the State Department of Social Services. This bill would prohibit a person required to register under the act from residing, except as specified, working, or volunteering in specified homes or facilities licensed by the State Department of Social Services or a county child welfare services agency, as specified. Violation of this prohibition would be a misdemeanor. This bill contains other related provisions and other existing laws.

Position

AB 508 **(Swanson D) Displaced public transit, solid waste handling, and recycling services employees.**
Introduced: 2/15/2011
Status: 8/26/2011-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. on 6/23/2011)
Location: 8/26/2011-S. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires a local government agency letting a public transit service contract out to bid to give a bidding preference for contractors and subcontractors who agree to retain, for a period of at least 90 days, certain employees who were employed to perform essentially the same services by the previous contractor or subcontractor. Under this law, contractors or subcontractors who agree to retain employees must offer employment to those employees except for reasonable and substantiated cause. Additionally, the law provides that if a successor contractor or subcontractor determines that fewer employees are needed than under the prior contract, qualified employees must be retained by seniority within the job classification. Further, the existing contractor, when required by the awarding authority, must provide employment information relating to wage rates, benefits, dates of hire, and job classifications of employees under the existing service contract to the awarding authority or a successor contractor. This bill would add employees of solid waste handling and recycling contractors and subcontractors to those provisions. By requiring local agencies to give a bidding preference to such contractors and subcontractors, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 518 **(Wagner R) Elder and dependent adult abuse: mandated reporters.**
Introduced: 2/15/2011
Last Amend: 3/23/2011
Status: 8/26/2011-Failed Deadline pursuant to Rule 61(a)(11). (Last location was B. & F. on 5/26/2011)
Location: 8/26/2011-A. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse, including, but not limited to financial abuse, as defined. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. A violation of the reporting requirements by a mandated reporter is a misdemeanor. Existing law, which will be repealed on January 1, 2013, defines who is a mandated reporter of suspected financial abuse of an elder or dependent adult. A violation of the financial abuse reporting requirements is subject to civil penalties. This bill would delete the January 1, 2013, repeal date and make conforming changes .

Position
Support

AB 519 **(Hernández, Roger D) Pupil discipline: restraint and seclusion.**
Introduced: 2/15/2011
Last Amend: 1/4/2012
Status: 1/13/2012-Failed Deadline pursuant to Rule 61(b)(1). (Last location was ED. on 1/4/2012)
Location: 1/13/2012-A. DEAD

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law prohibits a person employed by or engaged in a public school to inflict, or cause to be inflicted, corporal punishment upon a pupil. This bill would authorize an educational provider, as defined, to use physical or mechanical restraint or seclusion, as defined, if specified conditions are met. The bill would require a seclusion room utilized by an educational provider to fulfill specified safety requirements. The bill would prohibit an educational provider from depriving a pupil of sleep, food, hydration, or access to bathroom facilities and from utilizing specified restraint and seclusion techniques, including, but not limited to, using chemical restraint, as defined, using an improvised mechanical restraint device, and using physical or mechanical restraint techniques that restrict breathing. The bill would require the State Department of Education to establish a mandatory system of data collection regarding the use of physical and mechanical restraint and seclusion that is consistent, timely, and publicly accessible. The bill would require an educational provider to annually report the data required to be collected to the department and would require the reported data to include the name of the educational provider and other specified information. To the extent that the data collection and reporting requirements would impose new duties on local educational agencies not required by federal law, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position
support with
Amendments

AB 733 **(Ma D) Pupil records: privacy rights.**
Introduced: 2/17/2011
Last Amend: 6/16/2011
Status: 7/5/2011-In Senate. Held at Desk.
Location: 7/5/2011-S. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law prohibits a school district from permitting access to pupil records to any person without written parental consent or judicial order, except as provided. This bill would make various changes to these pupil record provisions to conform them to federal law.

Position

AB 784 **(Yamada D) Adult day health care.**
Introduced: 2/17/2011
Last Amend: 8/23/2011
Status: 8/23/2011-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.
Location: 8/23/2011-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the California Adult Day Health Care Act, provides for the licensure and regulation of adult day health care centers, with administrative responsibility for the adult day health care program shared among the State Department of Public Health, the State Department of Health Care Services, and the California Department of Aging pursuant to an interagency agreement . Existing law provides that a negligent, repeated, or willful violation of a provision of the California Adult Day Health Care Act is a misdemeanor . This bill would require an adult day health care center to have a prescribed program plan, as defined. This bill would provide the minimum staffing requirements

for an adult day health care center. This bill contains other related provisions and other existing laws.

Position

AB 889 **(Ammiano D) Domestic work employees.**

Introduced: 2/17/2011

Last Amend: 7/12/2011

Status: 8/26/2011-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. SUSPENSE FILE on 8/16/2011)

Location: 8/26/2011-S. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law regulates the wages, hours, and working conditions of any man, woman, and minor employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except for individuals employed as outside salesmen and individuals participating in specified national service programs. Under existing law, the Industrial Welfare Commission within the Department of Industrial Relations is authorized to adopt rules, regulations, and orders to ensure that employers comply with those provisions of law. This bill would specially regulate the wages, hours, and working conditions of domestic work employees, as defined. Specifically, this bill would, among other things, provide a private right of action for a domestic work employee when those regulations are violated by his or her employer and provide an overtime compensation rate for domestic work employees . This bill would also expressly state that the provisions of Wage Order Number 15 of the Industrial Welfare Commission, with specified exceptions, apply to a domestic work employee, but would provide that these new domestic work provisions shall prevail over protections in that order or any other law that afford less protection to a domestic work employee. This bill contains other related provisions and other existing laws.

Position

Oppose

AB 1224 **(Committee on Veterans Affairs) Employment training panel: 3-year plan: training programs: veterans: National Guard members.**

Introduced: 2/18/2011

Status: 4/4/2012-Author's amendments.

Location: 2/16/2012-S. V. A.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Employment Training Panel (ETP) in the Employment Development Department, and prescribes the membership and functions and duties of the ETP with regard to the development and implementation of specified employment training programs. Existing law requires the ETP, among other things, to establish a 3-year plan, as specified, that is required to be updated annually, as provided, and requires that the updated plan be submitted to the Governor and the Legislature not later than January 1 of each year. Existing law requires the ETP, in carrying out its responsibilities related to the plan, to maintain a system to continuously monitor economic and other data required under the plan, and requires that the plan include specified components to identify and address employment training needs in the state. This bill would additionally require that the plan include a statement describing the employment training goals, objectives, and strategies that may be implemented to support target populations in need of employment training, including military veterans and members of the National Guard.

Position

Support

AB 1244 **(Chesbro D) Developmental services: Self-Determination Program.**

Introduced: 2/18/2011

Last Amend: 7/5/2011

Status: 7/8/2011-Failed Deadline pursuant to Rule 61(a)(10). (Last location was HUM. S. on 7/5/2011)

Location: 7/8/2011-S. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the

program to be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports. This bill would repeal the provisions establishing the Self-Directed Services Program and would, instead, contingent upon approval of federal Medicaid matching funding, establish the Self-Determination Program to be available in every regional center catchment area to enable individuals with developmental disabilities to exercise their rights to make choices in their own lives, and would make conforming changes. This bill would require that program participants be provided with a capitated individual funding allocation, as prescribed, to be used for the purchase of services and supports necessary to implement the participant's individual program plan. This bill would require the department to establish a risk pool fund to meet the unanticipated needs of participants in the program. This bill would require the department to take all steps necessary to ensure federal financial participation is available for all program services and supports by applying for amendments to a specified federal waiver or by applying for a new waiver.

Position
Support

AB 1337 **(Alejo D) Parent and child relationship.**
Introduced: 2/18/2011
Last Amend: 1/11/2012
Status: 2/2/2012-Referred to Com. on JUD.
Location: 2/2/2012-S. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law authorizes any interested party to bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship that is presumed under certain circumstances. This bill would require notice of the proceeding to be given, as specified, to the child's relatives within the second degree and to the person having physical custody of the child, if the child's other parent has died and there are no existing court orders or pending court actions involving custody or guardianship of the child.

Position

AB 1435 **(Dickinson D) Child abuse reporting: athletic personnel.**
Introduced: 1/4/2012
Last Amend: 3/21/2012
Status: 3/28/2012-In committee: Set, first hearing. Referred to APPR. suspense file.
Location: 3/28/2012-A. APPR. SUSPENSE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of up to 6 months, a fine of up to $1,000, or by both that imprisonment and fine. This bill would add athletic coaches, athletic administrators, and athletic directors employed by a public or private organization to the list of individuals who are mandated reporters. The bill would require any public or private organization employing an athletic coach, athletic administrator, or athletic director to have provided initial training, by January 1, 2014, on specified matters relating to child abuse and neglect for those employees. On and after January 1, 2014, the bill would require initial training to be provided within 6 months of the date an individual becomes employed in that capacity. The bill would require these individuals to complete continuing training every 2 years. This bill contains other related provisions and other existing laws.

Position

AB 1438 **(Bradford D) Child abuse reporting.**
Introduced: 1/4/2012
Last Amend: 3/8/2012
Status: 3/29/2012-Read second time. Ordered to third reading.
Location: 3/29/2012-A. THIRD READING

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law generally requires a person who reasonably believes that he or she has observed the commission of a lewd or lascivious act on a child who is under 14 years of age by use of

force, violence, duress, menace, or fear of immediate and unlawful bodily injury to notify a peace officer. A failure to report pursuant to those provisions is a misdemeanor punishable by a fine of not more than $1,500, by imprisonment in a county jail for not more than six months, or by both that fine and imprisonment. This bill would require a person to notify a peace officer when the person believes that he or she has observed the commission of a lewd and lascivious act on a child under 14 years of age, regardless of whether force, violence, duress, menace, or fear of immediate and lawful bodily injury is used. By expanding the scope of a crime, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 1448 **(Furutani D) Home-to-school transportation: funding.**

Introduced: 1/4/2012

Last Amend: 3/19/2012

Status: 3/20/2012-Re-referred to Com. on ED.

Location: 3/20/2012-A. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law authorizes school district governing boards to provide for the transportation of pupils to and from school whenever, in the judgment of the governing board, the transportation is advisable and reasons exist therefor. Existing law also authorizes school district governing boards to purchase or rent and provide for the upkeep, care, and operation of vehicles, or contract and pay for the transportation of pupils to and from school by common carrier or municipally owned transit system, or contract with and pay responsible private parties for the transportation. This bill would , commencing with the 2012-13 fiscal year and each fiscal year thereafter, prohibit the Legislature from reducing funding for home-to-school transportation below the amount established in the Budget Act of 2011. The bill would also express legislative findings and declarations relating to the provision of home-to-school transportation by school districts , and would express legislative intent to fund home-to-school transportation at the level approved in the Budget Act of 2011.

Position

Watch

AB 1452 **(Hill D) Vehicles: child passenger restraints.**

Introduced: 1/5/2012

Status: 3/29/2012-Read second time. Ordered to third reading.

Location: 3/29/2012-A. THIRD READING

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires a public or private hospital, clinic, or birthing center, at the time of discharge of a child, to provide and discuss information on the current law requiring child passenger restraint systems, safety belts, and the transportation of children in rear seats to the parents or the person to whom the child is released if the child is under 8 years of age, but specifies that a public or private hospital, clinic, or birthing center shall not be responsible for the failure of the parent or person to whom the child is released to properly transport the child. This bill would require a public or private hospital, clinic, or birthing center, at the time a child under 8 years of age is discharged, to also provide and discuss contact information relating to obtaining, at no cost or low cost, information and assistance relating to child passenger restraint system requirements, installation, and inspection, including, among other things, the telephone number of the local office of the Department of the California Highway Patrol. Because this bill would expand the definition of an existing crime, it would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 1453 **(Monning D) Essential health benefits.**

Introduced: 1/5/2012

Last Amend: 3/29/2012

Status: 3/29/2012-From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.

Location: 3/29/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Commencing January 1, 2014, existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health insurance issuer that offers coverage in the small group or individual market to ensure that such coverage includes the essential health benefits package, as defined. PPACA requires each state to, by January 1, 2014, establish an American Health Benefit

Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. PPACA defines a qualified health plan as a plan that, among other requirements, provides the essential health benefits package. Existing state law creates the California Health Benefit Exchange (the Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014. This bill would require an individual or small group health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the benefits and services covered by particular plans. The bill would specify that this provision applies regardless of whether the contract or policy is offered inside or outside the Exchange but would provide that it does not apply to grandfathered plans or plans that offer excepted benefits, as specified. The bill would prohibit a health care service plan or health insurer, when offering, issuing, selling, or marketing a plan contract or policy, from indicating or implying that the contract or policy covers essential health benefits unless the contract or policy covers essential health benefits as provided in the bill. This bill contains other related provisions and other existing laws.

Position

AB 1463 **(Blumenfield D) 2012-13 Budget.**
Introduced: 1/10/2012
Status: 3/12/2012-Referred to Com. on BUDGET.
Location: 3/12/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would make appropriations for support of state government for the 2012-13 fiscal year. This bill contains other related provisions.

Position
Watch

AB 1464 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1465 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1466 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1467 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.

Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1468 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1469 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1470 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1471 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1472 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1473 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1474 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1475 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1476 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1477 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1478 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1479 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1480 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1481 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1482 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1483 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1484 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012

Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1485 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1486 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1487 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1488 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1489 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

Watch

AB 1490 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1491 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1492 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1493 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1494 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1495 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered

Dead	1st House	2nd House	Conc.			

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1496 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1497 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1498 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1499 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/22/2012-In Senate. Read first time. To Com. on RLS. for assignment.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1502 **(Committee on Budget) Budget Act of 2012.**
Introduced: 1/10/2012
Status: 3/26/2012-Referred to Com. on B. & F.R.
Location: 3/26/2012-S. BUDGET & F.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1503 **(Committee on Budget) Budget Act of 2012.**

Introduced: 1/10/2012
Status: 3/26/2012-Referred to Com. on B. & F.R.
Location: 3/26/2012-S. BUDGET & F.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position
Watch

AB 1512 (Garrick R) **Medi-Cal.**
Introduced: 1/12/2012
Status: 1/13/2012-From printer. May be heard in committee February 12.
Location: 1/12/2012-A. PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services under which qualified low-income individuals receive health care benefits. Under existing law, the Director of Health Care Services is required to enter into contracts with managed care plans to provide services under the Medi-Cal program. A Medi-Cal participant is given 30 days following the determination of eligibility to indicate his or her choice of health care options. Under existing law, in counties where the conversion to managed care plan enrollment has occurred, and where the default rate, as defined, is 20% or higher in 2 consecutive months occurring after the conversion, the department is required to conduct a survey of beneficiaries, as specified, and to report the results to the appropriate legislative policy and budget committees. This bill would make technical, nonsubstantive changes to the survey and reporting provisions.

Position

AB 1525 (Allen D) **Elder or dependent adult financial abuse: mandated reporters.**
Introduced: 1/19/2012
Last Amend: 3/22/2012
Status: 3/27/2012-In committee: Set, first hearing. Failed passage.
Location: 3/26/2012-A. AGING & L.T.C.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires a mandated reporter of suspected financial abuse of an elder or dependent adult to report the known or suspected instance of financial abuse to specified entities. Existing law defines a mandated reporter for these purposes as an employee or officer of a financial institution, as defined. Existing law imposes civil penalties for the failure to report financial abuse, and requires these civil penalties to be recovered in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. This bill would include a person or entity engaged in money transmission, as defined, in the definition of a mandated reporter of suspected financial abuse of an elder or dependent adult. This bill contains other related provisions.

Position

AB 1553 (Monning D) **Medi-Cal: managed care: exemption from plan enrollment.**
Introduced: 1/26/2012
Status: 2/2/2012-Referred to Com. on HEALTH.
Location: 2/2/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans. This bill would establish a process that would permit an eligible Medi-Cal beneficiary to receive fee-for-service Medi-Cal, if available, as an alternative to plan enrollment if the beneficiary meets specified criteria.

Position

AB 1554 (Jeffries R) **Developmental services: regional centers.**

Introduced: 1/26/2012
Last Amend: 3/8/2012
Status: 3/28/2012-In committee: Set, first hearing. Referred to APPR. suspense file.
Location: 3/28/2012-A. APPR. SUSPENSE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Existing law requires a regional center to include specified information on its Internet Web site for the purpose of promoting transparency and access to public information that includes specified information. This bill would add prescribed information to this requirement.

Position

AB 1564 **(Lara D) Child abuse reporting: mandated reporters: tax-exempt organizations.**
Introduced: 1/30/2012
Status: 3/29/2012-In committee: Hearing postponed by committee. (Refers to 3/27/2012 hearing)
Location: 2/9/2012-A. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of 6 months, a fine of up to $1,000, or by both that imprisonment and fine. Existing law excludes volunteers of public or private organizations whose duties require direct contact with and supervision of children from the list of mandated reporters. Existing law also strongly encourages employers to provide training in child abuse and neglect identification and reporting to their employees who are mandated reporters, and encourages public and private organizations to provide their volunteers whose duties require direct contact with and supervision of children with training in child abuse and neglect identification and reporting. This bill would include volunteers of public or private organizations, including nonprofit organizations, whose duties require direct contact with and supervision of children in the list of individuals who are mandated reporters. The bill would also require employers to provide training in child abuse and neglect identification and reporting to their employees and volunteers who are mandated reporters. This bill contains other related provisions and other existing laws.

Position

AB 1580 **(Bonilla D) Health care: eligibility: enrollment.**
Introduced: 2/2/2012
Status: 3/28/2012-From committee: Do pass and re-refer to Com. on APPR. (Ayes 13. Noes 6.) (March 27). Re-referred to Com. on APPR.
Location: 3/28/2012-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for various programs to provide health care coverage to persons with limited financial resources, including the Medi-Cal program and the Healthy Families Program. Existing law establishes the California Health Benefit Exchange (Exchange), pursuant to the federal Patient Protection and Affordable Care Act (PPACA), and specifies the duties and powers of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and facilitating the purchase of qualified health plans through the Exchange. Existing law, the Health Care Reform Eligibility, Enrollment, and Retention Planning Act, operative as provided, requires the California Health and Human Services Agency, in consultation with specified entities, to establish standardized single, accessible application forms and related renewal procedures for state health subsidy programs, as defined, in accordance with specified requirements. Existing law provides that the application or case of an individual screened as not eligible for Medi-Cal on the basis of household income but who may be eligible for Medi-Cal on another basis shall be forwarded to the Medi-Cal program for an eligibility determination. This bill would make technical and clarifying changes to these provisions.

Position

AB 1610 **(Wagner R) Special access: liability.**
Introduced: 2/7/2012

Status: 2/23/2012-Referred to Com. on JUD.
Location: 2/23/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified. This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 120 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by the alleged aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws.

Position

AB 1628 **(Beall D) Child abuse.**
Introduced: 2/9/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Coms. on PUB. S. and JUD. From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
Location: 3/29/2012-A. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law generally requires an action for recovery of damages against a person suffered as a result of childhood sexual abuse to be commenced within 8 years of the date the plaintiff attains the age of majority or within 3 years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever occurs later. Under existing law, certain actions may not be brought against a person or entity on or after the plaintiff's 26th birthday. This bill would instead provide that any of those actions may be commenced until the plaintiff attains the age of 35 or within 3 years of the date the plaintiff discovers or reasonably should have discovered the psychological injury or illness after the age of majority was caused by the sexual abuse, whichever occurs later, and would delete the provisions prohibiting certain actions from being brought on or after the plaintiff's 26th birthday. This bill contains other related provisions and other existing laws.

Position

AB 1629 **(Halderman R) Medi-Cal: provisional provider status: medically underserved areas.**
Introduced: 2/9/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on HEALTH.
Location: 3/29/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law requires applicants and providers, as defined, to submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location or a change in location and requires the application form for enrollment, the provider agreement, and all attachments or changes to be signed under penalty of perjury. Existing law requires the department to grant provisional provider status to applicants and providers, as specified, and requires the department to grant preferred provisional provider status to an applicant or provider who meets specified criteria. This bill would require the department to grant provisional provider status to an applicant or provider who meets specified criteria as a provider practicing in a medically underserved area. This bill would provide, to the extent permitted by federal law, that an applicant or provider granted provisional provider status as a provider serving a medically underserved area whose application is ultimately denied, or whose

provisional provider status is terminated, shall not be required to reimburse the department for Medi-Cal funds received during the provisional provider period.

Position

AB 1639 **(Hill D) Retirement: public employees.**
Introduced: 2/13/2012
Status: 2/23/2012-Referred to Com. on P.E., R. & S.S.
Location: 2/23/2012-A. P.E.,R. & S.S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Public Employees' Retirement System and the State Teachers' Retirement System for the purpose of providing pension benefits to their members. Existing law also establishes the Judges' Retirement System II, which provides pension benefits to elected judges and the Legislators' Retirement System, which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees. This bill would specify that, in addition to any other benefit limitations prescribed by law, for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system on or after January 1, 2013, to the extent that the benefits payable under the system are subject to the compensation limits prescribed by a specified provision of the Internal Revenue Code, the maximum salary, compensation, or payrate taken into account under the plan for any year shall not exceed the amount permitted to be taken into account under that provision of federal law. The bill would also prohibit a public employer from making contributions to any qualified public retirement plan based on any portion of compensation that exceeds the amount specified in that federal provision.

Position

AB 1641 **(Lowenthal, Bonnie D) Health care coverage: durable medical equipment.**
Introduced: 2/13/2012
Status: 2/23/2012-Referred to Com. on HEALTH.
Location: 2/23/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, health care service plans and health insurers are required to offer specified types of coverage as part of their group plan contracts or group policies. This bill would require a health care service plan and a health insurer to provide coverage for durable medical equipment, as defined, as part of their plan contracts or health insurance policies. This bill contains other related provisions and other existing laws.

Position

AB 1649 **(Smyth R) Public employees' retirement: felony forfeiture.**
Introduced: 2/13/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on P.E., R. & S.S. From committee chair, with author's amendments: Amend, and re-refer to Com. on P.E., R. & S.S. Read second time and amended.
Location: 3/29/2012-A. P.E.,R. & S.S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified. This bill would require that a public employee, as defined, who is convicted of any violent felony, serious felony, or a sex offense, as defined, for conduct arising out of, or in the performance of, his or her official duties in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, forfeit retirement benefits attributable to service performed on and after the earliest date of the commission of the felony, as specified. The bill would also require any contributions to the public retirement system made by the public employee on or after that date to be returned, without interest, to the public employee upon the occurrence of a distribution event, as defined, unless otherwise ordered by a court or determined by the pension

administrator. The bill would also make related, conforming changes.

Position

AB 1653 **(Cook R) Public employees: pensions: forfeiture.**
Introduced: 2/13/2012
Status: 2/23/2012-Referred to Com. on P.E., R. & S.S.
Location: 2/23/2012-A. P.E.,R. & S.S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified. This bill would require any person employed at-will for the purposes of providing services to an elected public officer who takes public office, or is reelected to public office, on or after January 1, 2013, who is convicted of any specified felony arising directly out of his or her official duties, to forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

Position

AB 1654 **(Cook R) Public employment: disqualification from employment.**
Introduced: 2/13/2012
Status: 3/22/2012-Referred to Com. on P.E., R. & S.S.
Location: 3/22/2012-A. P.E.,R. & S.S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The California Constitution provides that a person shall be disqualified from holding office if he or she has been convicted of bribery, and directs the Legislature to enact laws to exclude persons convicted of malfeasance in office or other high crimes from office. Under existing statutory law, a person is disqualified from holding any office upon the conviction of specified crimes designated in the Constitution or statute. Existing law enumerates events causing a vacancy in office, including the conviction of a felony or any offense involving a violation of official duties. This bill would disqualify for 5 years a person who employed at will for the purposes of providing services to an elected public officer from any public employment, including, but not limited to, employment with a city, county, district, or any other public agency of this state, if he or she is convicted of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her duties as a public employee.

Position

AB 1655 **(Dickinson D) Public employees: rights.**
Introduced: 2/13/2012
Last Amend: 3/20/2012
Status: 3/28/2012-From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 1.) (March 28). Re-referred to Com. on APPR.
Location: 3/28/2012-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The existing Bill of Rights for State Excluded Employees prescribes various rights and terms and conditions of employment for excluded employees, defined as certain supervisory, managerial, and confidential state employees. This bill would enact the Public Employees' Bill of Rights Act that would apply to state employees other than excluded employees. The stated purpose of this act would be to inform public employees of their rights and terms of employment in order to promote harmonious personnel relations between public employees and their employers. This bill would, among other things, provide that state employees shall be entitled to priority over contractors in filling permanent, overtime, and on-call positions. This bill would also prescribe certain rights for employees who are required to maintain a professional license and would authorize the formation of a peer review committee for those licensed professionals, if there are no management or supervisory professional staff employed by the employer, to provide input regarding workplace operations. This bill contains other related provisions and other existing laws.

Position

AB 1657 **(Wieckowski D) Traffic offenses: additional penalty: spinal cord injury research.**
Introduced: 2/13/2012
Last Amend: 3/22/2012
Status: 3/29/2012-From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 4. Noes 2.) (March 27). Re-referred to Com. on HEALTH.
Location: 3/29/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires that all fines and forfeitures imposed and collected for crimes other than parking offenses resulting from a filing in a court be deposited with the county treasurer, to be distributed monthly, as required by law. Existing law authorizes the University of California to establish a spinal cord injury research fund, independent of the State Treasury, to accept public and private funds for spinal cord injury research programs and grants. This bill would impose an additional penalty of $1 to be imposed upon every conviction for a violation of state or local traffic laws , except for offenses relating to parking. The bill would require the penalty to be deposited with the county treasurer who would transfer the moneys to the State Treasurer, to be make available, upon appropriation by the Legislature, for allocation to the Roman Reed Spinal Cord Injury Penalty Account, which the bill would authorize the University of California to establish in the Roman Reed Spinal Cord Injury Research Fund. Because the bill would require the county treasurer to perform additional duties, this bill would impose a state-mandated local program . The bill would also provide that, prior to the transfer of funds to the State Treasurer , the county treasurer may withhold a sufficient amount necessary to reimburse the county and the courts for their actual, reasonable, and necessary costs associated with administering these provisions. If those amounts are withheld, the bill would authorize the county to send an accounting report detailing its costs to the Regents of the University of California. This bill contains other related provisions and other existing laws.

Position

AB 1697 **(Perea D) Foster youth: placement.**
Introduced: 2/15/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on HUM. S. From committee chair, with author's amendments: Amend, and re-refer to Com. on HUM. S. Read second time and amended.
Location: 3/29/2012-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the State Department of Social Services to implement a statewide Child Welfare Services Case Management System to protect children and effectively administer and evaluate the state's child welfare services and foster care programs. Existing law requires the department to provide technical assistance to encourage and facilitate a county placement agency's evaluation of placement needs . This bill would require the State Department of Social Services to designate a separate, consistent data entry field in the Child Welfare Services Case Management System for a county welfare agency to record information regarding the reasons for the placement of a child when the child is placed with a foster family agency or group home. It would also require a county welfare agency to file this information with the system when this placement is made. By increasing the duties of local officials, this bill would impose a state- mandated local program . This bill contains other related provisions and other existing laws.

Position

AB 1705 **(Silva R) Pupil assessment: high school exit examination: eligible pupils with disabilities.**
Introduced: 2/15/2012
Status: 3/21/2012-In committee: Set, first hearing. Hearing canceled at the request of author.
Location: 2/23/2012-A. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. Existing law requires by October 1, 2010, that the State Board of Education, taking into consideration specified findings and recommendations, adopt regulations for alternative means by which eligible pupils with disabilities, as defined, may demonstrate that they have achieved the same level of academic achievement in the content standards required for passage of the high school exit examination. This bill would instead define an eligible pupil with a disability as a pupil who has, among other things, an anticipated graduation date and is scheduled to receive a high school diploma on or after July 1, 2015, and the school district or state special school certifies that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma on or after

July 1, 2015. The bill would instead authorize an eligible pupil with a disability, commencing July 1, 2015, to participate in the alternative means of demonstrating the level of academic achievement in the content standards required for passage of the high school exit examination in the manner prescribed by the regulations adopted by the state board. The bill would also make conforming and technical, nonsubstantive changes. This bill contains other existing laws.

Position

AB 1707 **(Ammiano D) Child Abuse Central Index.**
Introduced: 2/15/2012
Last Amend: 3/13/2012
Status: 3/29/2012-From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 1.) (March 27). Re-referred to Com. on APPR.
Location: 3/29/2012-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law designates certain individuals, such as teachers, peace officers, physicians, and clergy members, among others, as mandated reporters and requires them to report suspected child abuse or neglect to certain specified agencies whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law requires agencies receiving reports from mandated reporters to forward a report to the Department of Justice in writing of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated. Existing law requires an agency receiving reports from mandated reporters to notify, in writing, the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI) whenever that agency forwards a report in writing to the Department of Justice. This bill would, if the known or suspected child abuser is either a minor or a nonminor dependant under the jurisdiction of the juvenile court , require the agency to additionally notify the minor's attorney, if any . Because this bill would require a local agency to provide additional notification, it would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 1714 **(Halderman R) In-home supportive services: providers.**
Introduced: 2/16/2012
Last Amend: 3/27/2012
Status: 3/28/2012-Re-referred to Com. on APPR.
Location: 3/28/2012-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law prohibits a new applicant or an applicant whose application has been denied on the basis of a conviction and for whom an appeal of that denial is pending from providing supportive services if he or she has been convicted of specified crimes in the previous 10 years. Existing law requires the State Department of Social Services and the State Department of Health Care Services to develop a provider enrollment form that each person seeking to provide supportive services must complete, sign under penalty of perjury , and submit to the county, containing designated statements relating to the provider's criminal history. Existing law authorizes a recipient of services who wishes to employ a provider applicant who has been convicted of a specified offense to submit to the county a prescribed individual waiver, signed by the recipient, or by the recipient's authorized representative . This bill would add the felony offenses of forgery, embezzlement, extortion, and identity theft to the list of criminal convictions that would preclude anapplicant from providing supportive services. The bill would require the State Department of Social Services to revise the provider enrollment form to account for these additional criminal exclusions. By changing the definition of the crime of perjury, and by increasing the duties of counties in administering the In-Home Supportive Services program, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 1729 **(Ammiano D) Pupil rights: suspension or expulsion.**
Introduced: 2/16/2012
Status: 3/1/2012-Referred to Com. on ED.
Location: 3/1/2012-A. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides that a pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed a specified act. Existing law also authorizes a superintendent of the school district or principal to use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this provision. This bill would instead authorize a superintendent of the school district or principal to use alternatives to suspension or expulsion that are age appropriate and designed to address and correct the root causes of the pupil's specific misbehavior, as specified. The bill would require, if an individual with exceptional needs is subject to discipline under this provision, an individualized education program team to hold a meeting within 3 days to discuss behavior of the individual with exceptional needs and determine if a functional behavioral assessment and behavioral intervention plan are needed to address the behavior. The bill would also provide that an individual with exceptional needs is not subject to suspension, except as specified, expulsion, or other behavioral interventions, but instead will receive an appropriate assessment identifying behavioral needs, proposed behavioral goals to address the identified needs, and appropriate related services. By requiring an individualized education program team meeting, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 1731 **(Block D) Newborn screening program.**

Introduced: 2/16/2012

Status: 4/4/2012-In committee: Hearing postponed by committee. (Refers to 3/27/2012 hearing)

Location: 3/1/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the State Department of Public Health to establish a program for the development, provision, and evaluation of genetic disease testing. Existing law establishes the continuously appropriated Genetic Disease Testing Fund (GDTF), consisting of fees paid for newborn screening and other tests. Existing law states the intent of the Legislature that all costs of the genetic disease testing program be fully supported by fees paid for newborn screening tests, which are deposited in the GDTF. Existing law authorizes moneys in the GDTF to be used for the expansion of the Genetic Disease Branch Screening Information System, as specified, to include cystic fibrosis, biotinidase, and severe combined immunodeficiency. Existing law exempts the expansion of contracts for this purpose from provisions of the Public Contract Code that establish standards for contracts and requires the Department of General Services to approve these contracts. Existing law also exempts the expansion of contracts for this purpose from standards for personal services contracts and from provisions that give the California Technology Agency authority over the application of information technology for state agencies. This bill would require the department to expand statewide screening of newborns as soon as possible to include pulse oximetry screening for critical congenital heart disease, and would exempt the expansion of contracts for this purpose from provisions that establish standards for contracts, require the Department of General Services to approve contracts, and give the California Technology Agency authority over information technology projects, as described above.

Position

AB 1733 **(Logue R) Health care service plans: telehealth.**

Introduced: 2/16/2012

Status: 3/27/2012-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 3/1/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law prohibits a health care service plan from requiring in-person contact between a health care provider and a patient before payment is made for covered services appropriately provided through telehealth, as specified. Existing law specifies that this requirement applies to certain Medi-Cal managed care plans, including county organized health systems and entities contracting with the department to provide services pursuant to 2-plan models and geographic managed care. This bill would specify that the prohibition on requiring in-person contact also applies to other health care service plan contracts with the State Department of Health Care Services for services under the Medi-Cal program publicly supported programs other than Medi-Cal, and for services pursuant to the Program of All-Inclusive Care for the Elderly. By expanding the scope of a crime, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

AB 1787 **(Portantino D) State employment: salary freeze.**
Introduced: 2/21/2012
Last Amend: 3/21/2012
Status: 3/26/2012-In committee: Set, first hearing. Hearing canceled at the request of author.
Location: 3/22/2012-A. P.E.,R. & S.S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits and except as specified. Existing law requires the salary range to be based on the principle that like salaries shall be paid for comparable duties and responsibilities. Existing law allows the state to enter into memoranda of understanding relating to employer-employee relations with employee organizations representing certain state employees. This bill would, until January 1, 2015, prohibit a person employed by the state whose base salary on or after the effective date of the bill is greater than $100,000 per year from receiving a salary increase while employed in the same position or classification. The bill would exempt from this prohibition a person whose compensation is governed by an operative memorandum of understanding, as described above, a person who has been exempted by executive order of the Governor, as specified, or a person whose salary is set pursuant to the California Constitution. The bill would require that an amount equal to the savings to a state agency from not paying a salary increase pursuant to these provisions be credited each fiscal year to the General Fund and, upon appropriation by the Legislature, those moneys would be available for expenditure in connection with administering the AIDS Drug Assistance Program (ADAP) within the Office of AIDS in the State Department of Public Health. The bill would also authorize the Controller to reject a request for disbursement of funds that violates these provisions. The bill would make related legislative findings and declarations regarding the state budget deficit.

Position

AB 1803 **(Mitchell D) Medi-Cal: emergency medical conditions.**
Introduced: 2/21/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on HEALTH.
Location: 3/29/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law requires a hospital to provide appropriate medical screening or treatment to determine whether an emergency medical condition exists if any individual comes to the emergency department and requires an examination or treatment for a medical condition, as specified. This bill would require the State Department of Health Care Services, or its contracting managed care health plans, if applicable, to reimburse providers for emergency services and care provided to a Medi-Cal beneficiary, until the care results in stabilization of the beneficiary, except as provided.

Position

AB 1817 **(Atkins D) Child abuse reporting.**
Introduced: 2/21/2012
Status: 3/27/2012-In committee: Set, first hearing. Hearing canceled at the request of author.
Location: 3/1/2012-A. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of 6 months, a fine of up to $1,000, or by both that imprisonment and fine. This bill would expand the list of persons identified as mandated reporters to include commercial computer technicians, as defined. This bill contains other related provisions and other existing laws.

Position

AB 1841 **(Silva R) In-home supportive services providers: criminal exclusions.**
Introduced: 2/22/2012
Status: 3/5/2012-Referred to Com. on HUM. S.
Location: 3/5/2012-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law prohibits a person from providing supportive services if he or she has been convicted of specified crimes in the previous 10 years, unless the information or accusation against the person has been dismissed, or he or she has obtained a certificate of rehabilitation, as specified. In addition, existing law authorizes a recipient of services who wishes to employ a provider applicant who has been convicted of a specified offense to submit to the county a prescribed individual waiver, signed by the recipient, or by the recipient's authorized representative, and returned to the county welfare department. Existing law also permits a provider applicant who has been convicted of a specified offense to request from the State Department of Social Services a general exception from exclusion as a potential provider. This bill would delete the authority of a recipient to submit a waiver for the purpose of employing a person who has been convicted of one of the specified crimes as the recipient's IHSS provider.

Position

AB 1878 **(Gaines, Beth R) Disability access: liability.**
Introduced: 2/22/2012
Status: 3/5/2012-Referred to Com. on JUD.
Location: 3/5/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities. This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a microbusiness, as defined, for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. Further, this bill would require the owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations. If the owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 120 days to apply for any necessary permits and to remedy the alleged violation. The provisions of the bill would not apply to claims for recovery of special damages for an injury in fact, and the bill would require a court or jury to consider previous or pending actual damage awards received or prayed for by the alleged aggrieved party for the same or similar injury.

Position

AB 1923 **(Mendoza D) Special education: staff development.**
Introduced: 2/22/2012
Status: 2/23/2012-From printer. May be heard in committee March 24.
Location: 2/22/2012-A. PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the Superintendent of Public Instruction, to the extent possible using federal and state funds appropriated for this purpose, to provide staff development to child care center staff and family day care providers to improve child care services to individuals with exceptional needs. This bill would make a nonsubstantive change to this provision.

Position

AB 1994 **(Huber D) Disability access: causes of action.**
Introduced: 2/23/2012
Status: 3/8/2012-Referred to Com. on JUD.
Location: 3/8/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified. This bill would require every county to establish a program that requires an alleged aggrieved party under the state access laws to file a complaint with the county planning department in which an alleged violation occurred. The bill would require the county planning department to refer every complaint received under this act to a certified access specialist to determine what measures are necessary to remedy the alleged violation and the estimated timeframe for remedy. The bill would require the adoption of a compliance schedule and require issuance of building permits to the owner, agent, or responsible party of the alleged violation. The bill would require all complaints to be subject to the compliance schedule prior to a cause of action being filed. The bill would authorize the county to charge a fee to the owner, agent, or responsible party of the alleged violation for the costs of the program and the compliance schedule. This bill contains other related provisions and other existing laws.

Position

AB 1997 **(Huber D) Guardianships and conservatorships: appointment of counsel.**
Introduced: 2/23/2012
Status: 3/8/2012-Referred to Com. on JUD.
Location: 3/8/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law authorizes a court to appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in specified guardianship, conservatorship, and other protective proceedings if the court determines the person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests. This bill would additionally provide that, notwithstanding the fact that the ward, proposed ward, conservatee, or proposed conservatee may also be represented by other legal counsel, the court may appoint private legal counsel if the court determines that the ward, proposed ward, conservatee, or proposed conservatee has not competently retained independent counsel for the proceeding. The bill would provide that the court's determination in this matter is not admissible for any other purposes in any other proceeding.

Position

AB 2002 **(Cedillo D) Medi-Cal: managed care plan assignment: safety net provider.**
Introduced: 2/23/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on HEALTH. From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Location: 3/29/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans. Existing law requires, with certain exceptions, that under certain models of Medi-Cal managed care, a Medi-Cal beneficiary be assigned to, and enrolled in, an appropriate health care plan providing services within the area in which the beneficiary resides if the beneficiary does not make a choice of managed care plans. Existing regulations define safety net provider for the purposes of the 2-plan model of Medi-Cal managed care. This bill, for the purposes of assigning an eligible Medi-Cal beneficiary to a managed care plan when the beneficiary fails to select a plan, would provide that the term safety net provider includes specified types of clinics and medical care providers.

Position

AB 2034 **(Fuentes D) Medical care: genetically handicapping conditions.**
Introduced: 2/23/2012
Last Amend: 3/29/2012

Status: 3/29/2012-From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Location: 3/29/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Holden-Moscone-Garamendi Genetically Handicapped Person's Program (GHPP) , requires the Director of Health Care Services to establish and administer a program for the medical care of persons with specified genetically handicapping conditions and for persons with specified hereditary metabolic disorders. This bill would require the State Department of Health Care Services, in consultation with designa ted entities, to develop a plan for the administration of the GHPP after the implementation of the PPACA. This bill would require the plan to address, among other things, preservation of the availability of wrap-around services that would otherwise not be available through the PPACA and the addition of genetic amyotrophic lateral sclerosis to the list of conditions covered under the GHPP . This bill contains other existing laws.

Position

AB 2041 **(Swanson D) Regulations: adoption: disability access.**
Introduced: 2/23/2012
Status: 3/8/2012-Referred to Com. on B., P. & C.P.
Location: 3/8/2012-A. B.,P. & C.P.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing state and federal law prohibits the exclusion of a qualified individual with a disability, by reason of that disability, from participation in or equal access to the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by a public entity. Federal regulations require a public entity to take appropriate steps to ensure that communications with participants and members of the public with disabilities are as effective as communications with others. These regulations also require a public entity to furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity. This bill would require an agency to include within the notice of proposed action a specified statement regarding the availability of narrative descriptions for persons with visual or other specified disabilities. This bill contains other existing laws.

Position

AB 2074 **(Bradford D) In-Home Supportive Services program: telehealth training program.**
Introduced: 2/23/2012
Status: 3/8/2012-Referred to Com. on HUM. S.
Location: 3/8/2012-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. Existing law requires the department, in consultation with counties, to develop a standardized curriculum, training materials, and work aids, and operate an ongoing statewide training program, on specified matters related to the provision of in-home supportive services. This bill would require the department to develop a training program, as specified, to train IHSS providers on the utilization of telehealth in home-based care.

Position

AB 2097 **(Hill D) Special education: assistive technology devices.**
Introduced: 2/23/2012
Status: 3/28/2012-In committee: Set, first hearing. Hearing canceled at the request of author.
Location: 3/8/2012-A. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires an individualized education program (IEP) team, when developing an IEP, to consider whether an individual with exceptional needs requires assistive technology devices

and services, as defined. Existing law states that a local educational agency is not required to purchase medical equipment, which excludes an assistive technology device, for an individual with exceptional needs but that a local educational agency is responsible for providing other specialized equipment for use at school that is needed to implement the IEP. This bill would authorize a local educational agency or special education local plan area to retain, sell, or otherwise dispose of an assistive technology device, including, but not limited to, giving the assistive technology device to the individual with exceptional needs to whom it was assigned, if specified determinations are made.

Position

AB 2145 **(Alejo D) Pupils: expulsion and suspension.**
Introduced: 2/23/2012
Last Amend: 3/22/2012
Status: 4/3/2012-In committee: Hearing postponed by committee. (Refers to 3/28/2012 hearing)
Location: 3/26/2012-A. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: (1) Existing law establishes the California Longitudinal Pupil Achievement Data System (CALPADS), and requires a local educational agency to retain all data necessary to compile reports required by specified federal laws, including, but not limited to, dropout and graduation rates. Existing law requires the Superintendent of Public Instruction to annually submit to the Governor, the Legislature, and the State Board of Education a report on dropouts using the data produced by CALPADS. Existing law requires that certain data listed in the report be presented, if possible, for specified subgroups, including ethnicity and gender. This bill would additionally require that the behavioral data included in the report, including suspension and expulsion data, be presented for those subgroups, if possible. This bill contains other related provisions and other existing laws.

Position

AB 2206 **(Atkins D) Medi-Cal: dual eligibles: pilot projects.**
Introduced: 2/23/2012
Status: 3/12/2012-Referred to Com. on HEALTH.
Location: 3/12/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing federal law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing law, to the extent that federal financial participation is available, and pursuant to a demonstration project or waiver of federal law, requires the department to establish pilot projects in up to 4 counties, to develop effective health care models to provide services to persons who are dually eligible under both the Medi-Cal and Medicare programs. Under existing law, the department may require persons who are dually eligible to enroll in a Medi-Cal managed care plan that is established or expanded as part of a pilot project. Existing law also provides that a person who is eligible for the California Program of All-Inclusive Care for the Elderly (PACE), which provides specified long-term care services to qualified older individuals, may select a PACE plan if one is available in that county. This bill would require, if a PACE plan is available, that the plan be presented as an enrollment option, included in enrollment materials, enrollment assistance programs, and outreach programs related to the pilot project, and made available to Medi-Cal beneficiaries whenever enrollment choices and options are presented.

Position

AB 2224 **(Smyth R) Public employees' retirement.**
Introduced: 2/24/2012
Status: 3/29/2012-Referred to Com. on P.E., R. & S.S.
Location: 3/29/2012-A. P.E.,R. & S.S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS) for the purpose of providing pension benefits to their employees. Existing law also establishes the Judges' Retirement System II which provides pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees

Retirement Law of 1937 authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees. The Regents of the University of California have established the University of California Retirement System as a trust for this purpose. This bill, on and after January 1, 2013, would prohibit a public retirement system from allowing the purchase of additional retirement service credit, as described above. The bill would except from this prohibition an official application to purchase this type of service credit received by the retirement system prior to January 1, 2013. The bill would prohibit any member who does not have at least 5 years of service credit before the operative date of this bill, or any person hired on or after that date, from purchasing additional retirement service credit. This bill contains other related provisions and other existing laws.

Position

AB 2282 **(Berryhill, Bill R) Personal rights: violations: standing.**
Introduced: 2/24/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on JUD. From committee chair, with author's amendments: Amend, and re-refer to Com. on JUD. Read second time and amended.
Location: 3/29/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides that all persons in this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments without regard to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. Existing law further prohibits a business establishment from, among other things, boycotting, blacklisting, refusing to contract with, sell to, or trade with a person based on the criteria described above, and from discriminating on the price charged for similar or like services on the basis of a person's gender. Existing law provides that all persons within this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of the criteria described above, or position in a labor dispute, or because another person perceives them to have any of those characteristics. A person aggrieved by a violation of any of the above-described provisions may bring a civil action seeking relief, as specified. This bill would authorize a person aggrieved by a violation of any of the above-described provisions to bring an action seeking relief only if that the person has suffered an injury in fact, the injury in fact was caused by the violation, and the violation is redressable. This bill contains other existing laws.

Position

AB 2320 **(Nestande R) Public postsecondary education: distance learning.**
Introduced: 2/24/2012
Last Amend: 3/29/2012
Status: 3/29/2012-Referred to Com. on HIGHER ED. From committee chair, with author's amendments: Amend, and re-refer to Com. on HIGHER ED. Read second time and amended.
Location: 3/29/2012-A. HIGHER ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the various segments of the public postsecondary education system in the state. These segments include the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. This bill would require by January 1, 2016, and every 2 years thereafter, the Trustees of the California State University and the Board of Governors of the California Community Colleges, and request the Regents of the University of California, to report to the Legislature on workload and key performance data on distance learning courses, as defined. This bill would, by February 1, 2014, also require the Legislative Analyst's Office to convene a task force composed of specified members to identify the steps needed to establish the Western Governors University, California, as a degree-granting institution that is self-supporting and does not receive state funding. The task force would be required to consult with representatives of the University of California, the California State University, and the California Community Colleges. The task force would, by February 1, 2015, be required to report their findings and recommendations to the Legislature.

Position

AB 2325 **(Norby R) Special access: liability.**
Introduced: 2/24/2012

Status: 3/15/2012-Referred to Com. on JUD.
Location: 3/15/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified. This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 120 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by the alleged aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws. This bill contains other related provisions.

Position

AB 2338 **(Chesbro D) Developmental services: Employment First Policy.**
Introduced: 2/24/2012
Status: 3/15/2012-Referred to Com. on HUM. S.
Location: 3/15/2012-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy. This bill contains other existing laws.

Position

AB 2370 **(Mansoor R) Mental retardation: change of term to intellectual disabilities.**
Introduced: 2/24/2012
Status: 3/26/2012-Re-referred to Com. on JUD. pursuant to Assembly Rule 96.
Location: 3/26/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing federal Medicaid provisions require a state to describe its Medicaid program in its state plan, which is required by federal law to provide for, among other things, a public process for determination of rates of payment under the plan for hospital services, nursing facility services, and services of intermediate care facilities for the mentally retarded. This bill would revise various statutes to, instead, refer to a person with an intellectual disability. The bill would also state the intent of the Legislature not to make a change to services or the eligibility for services. This bill contains other existing laws.

Position

AB 2392 **(John A. Pérez D) Medi-Cal: interpreter services.**
Introduced: 2/24/2012

Status: 3/12/2012-Referred to Com. on HEALTH.
Location: 3/12/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law provides for increased administrative funding for translation and interpretation services provided in connection with the enrollment of, retention of, and use of services under the Medicaid Program. This bill would require the department to seek federal funding to establish a program to provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient (LEP), as prescribed.

Position

AB 2472 **(Butler D) Medi-Cal: managed care.**
Introduced: 2/24/2012
Status: 3/15/2012-Referred to Com. on HEALTH.
Location: 3/15/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the State Department of Health Care Services to pay capitation rates to health plans participating in the Medi-Cal managed care program using actuarial methods and authorizes the department to establish health-plan- and county-specific rates. Existing law requires the department to utilize a county- and model-specific rate methodology to develop Medi-Cal managed care capitation rates for contracts entered into between the department and any entity pursuant to specified provisions that govern certain managed health care models. This bill would require the department to utilize fee-for-service data in setting rates for an entity that has contracted with the department as a primary care case management organization pursuant to specified provisions of law, including provisions that authorize the department to contract with primary care providers that serve persons infected with human immunodeficiency virus (HIV), in the same manner and for the same purposes as it used this data to establish rates for other specified managed care health care models. This bill contains other related provisions.

Position

AB 2502 **(Blumenfield D) Vehicles: conditional sales contracts.**
Introduced: 2/24/2012
Last Amend: 3/22/2012
Status: 3/29/2012-From committee: Be re-referred to Com. on JUD. Re-referred. (Ayes 10. Noes 0.) (March 29). Re-referred to Com. on JUD.
Location: 3/29/2012-A. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law imposes various licensing and regulatory requirements on dealers of motor vehicles and requires that certain fees and charges be disclosed in a conditional sales contract for the purchase of a motor vehicle. This bill would additionally require the disclosure and labeling, as specified, of any charge for an electrical vehicle charging station, which may include materials, wiring, and equipment installation.

Position

AB 2538 **(John A. Pérez D) In-home supportive services: criminal exclusions.**
Introduced: 2/24/2012
Status: 3/19/2012-Referred to Com. on HUM. S.
Location: 3/19/2012-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. This bill would instead require the department to request a copy of the applicant's criminal offender record

information search response from the applicable county welfare department or public authority. This bill contains other related provisions and other existing laws.

Position

AB 2545 **(Logue R) Medi-Cal: nonemergency medical transportation.**
Introduced: 2/24/2012
Status: 3/19/2012-Referred to Com. on HEALTH.
Location: 3/19/2012-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides for a schedule of health care benefits under the Medi-Cal program, including medical transportation services, subject to utilization controls. This bill would require nonemergency medical transportation services provided to Medi-Cal beneficiaries by managed care organizations directly or under contractual arrangements to be subject to the same personnel, equipment, and inspection requirements as nonemergency medical transportation services provided by fee-for-service enrolled providers.

Position

AB 2585 **(Nestande R) Vehicles: child passenger restraints.**
Introduced: 2/24/2012
Status: 3/19/2012-Referred to Com. on TRANS.
Location: 3/19/2012-A. TRANS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law prohibits the operator of a limousine for hire or authorized emergency vehicle or the operator of a taxicab, from operating the limousine for hire, authorized emergency vehicle, or taxicab unless the operator and any passengers 8 years of age or older in the front seat are properly restrained by a safety belt. This bill would instead prohibit the operator of a limosine for hire or authorized emergency vehicle or the operator of a taxicab, from operating the limosine for hire, authorized emergency vehicle, or taxicab unless the operator and any passengers 6 years of age or over or weighing 60 pounds or more in the front seat are properly restrained by a safety belt. This bill contains other related provisions and other existing laws.

Position

AB 2623 **(Allen D) State hospitals: peace officers.**
Introduced: 2/24/2012
Status: 3/19/2012-Referred to Com. on PUB. S.
Location: 3/19/2012-A. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, peace officers of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services are authorized to carry firearms only as authorized and under terms and conditions specified by their employing agency. This bill would instead require peace officers of those state hospitals to carry a firearm while performing assigned functions outside of the secure treatment area of the hospital.

Position

ACA 22 **(Smyth R) Public employees' retirement.**
Introduced: 2/22/2012
Status: 2/23/2012-From printer. May be heard in committee March 24.
Location: 2/22/2012-A. PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes various public agency retirement systems, including the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937, among others, and these systems provide defined pension benefits to public

employees based on age, service credit, and amount of final compensation. The California Constitution permits a city or county to adopt a charter for purposes of its governance that supersedes general laws of the state in regard to specified subjects, including compensation of city or county employees. The California Constitution also establishes the University of California as a public trust with full powers of organization and government, subject only to specified limitations. Charter cities and the University of California may establish pension plans under their respective independent constitutional authority. These pension systems are funded by employee and employer contributions and investment returns. Existing law provides that public employee pension benefits are a form of deferred compensation, the right to which vests in the employee on contractual principles and is protected from impairment by the California Constitution and the United States Constitution. This measure would require each public retirement system, as defined in statute, to provide one or more hybrid pension plans meeting the requirements of this measure to each public employer that provides its employees a defined benefit pension plan administered by the public retirement system. The measure would require that a hybrid pension plan consist of a defined benefit component and a defined contribution or alternative plan design component, as specified. The measure would require, among other things, that a hybrid pension plan be designed with a goal of providing annually during retirement, based on a full career in public service, as defined, replacement income of 75% of a public employee's final compensation. The measure would require the Director of Finance, on or before January 1, 2013, to establish initial criteria and requirements for one or more hybrid pension plans, as specified. The measure would require, on and after July 1, 2013, each public retirement system to administer, and make available to each public employer that provides a defined benefit pension plan, one or more hybrid pension plans, except as specified, for public employees hired in each member classification in the public retirement system. This bill contains other existing laws.

Position

ACA 25 **(Mansoor R) State budget.**

Introduced: 2/24/2012

Status: 2/27/2012-Read first time.

Location: 2/24/2012-A. PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing provisions of the California Constitution generally require a bill containing a General Fund appropriation to be passed by a 2/3 vote of both houses of the Legislature. The Budget Bill and other bills providing for appropriations related to the Budget Bill, as defined, are exempt from this requirement and may be passed by a majority vote, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. This measure would repeal both those provisions exempting the Budget Bill and other bills providing for appropriations related to the Budget Bill from the 2/3-vote requirement, and the provisions specifying that those bills take effect immediately. This bill contains other related provisions and other existing laws.

Position

SB 60 **(Evans D) Mental health: state hospitals.**

Introduced: 12/22/2010

Last Amend: 5/31/2011

Status: 8/26/2011-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. on 7/6/2011)

Location: 8/26/2011-A. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for state mental hospitals for the care, treatment, and education of the mentally disordered, including Napa State Hospital and Metropolitan State Hospital. These hospitals are under the jurisdiction of the State Department of Mental Health. This bill would delete these provisions governing evaluation and treatment, and instead require a risk evaluation, as specified, upon commitment to any state hospital, of a patient who is being committed pursuant to any provision of the Penal Code. This bill contains other existing laws.

Position

SB 71 **(Committee on Budget and Fiscal Review) Budget Act of 2011.**

Introduced: 1/10/2011

Last Amend: 6/14/2011

Status: 6/14/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on BUDGET.

Location: 6/14/2011-A. BUDGET

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered

Dead	1st House	2nd House	Conc.			

Summary: SB 69, as proposed by Conference Report No. 1 on March 7, 2011, would make appropriations for the support of state government for the 2011-12 fiscal year. This bill would make revisions to those appropriations in SB 69 for the 2011-12 fiscal year. This bill contains other related provisions.

Position

SB 75 **(Committee on Budget and Fiscal Review) California Children and Families Act of 1998: use of funds.**

Introduced: 1/10/2011

Last Amend: 3/14/2011

Status: 3/14/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on BUDGET.

Location: 3/14/2011-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The California Children and Families Act of 1998, an initiative measure, requires that the California Children and Families Program, established by the act, be funded by certain taxes imposed on the sale and distribution of cigarettes and tobacco products that are deposited into the continuously appropriated California Children and Families Trust Fund. Existing law requires the fund to be used for the implementation of comprehensive early childhood development and smoking prevention programs. Under existing law, prescribed percentages of moneys allocated and appropriated from the trust fund are required to be deposited into various accounts for expenditure by the California Children and Families Commission, also known as First 5 California, and to local children and families trust funds, to be expended for various subjects relating to and furthering the goals and purposes of the act. This bill would establish the Children and Families Health and Human Services Fund. The bill would require specified amounts of state and local children and families commission funds to be deposited in the fund for the 2011-12 fiscal year, as specified. Upon appropriation by the Legislature, moneys deposited in the Children and Families Health and Human Services Fund would be used to provide health and human services, including direct health care services, to children from birth through 5 years of age. This bill contains other related provisions and other existing laws.

Position

SB 76 **(Committee on Budget and Fiscal Review) Mental Health Services Act.**

Introduced: 1/10/2011

Last Amend: 3/14/2011

Status: 3/14/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on BUDGET.

Location: 3/14/2011-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, funds a system of county mental health plans for the provision of mental health services, as specified. The act provides that it may be amended by the Legislature by a 2/3 vote of each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote. This bill would delete the requirement for these annual reviews and would authorize the commission, instead of the department, to provide technical assistance to the county mental health plans. This bill contains other related provisions and other existing laws.

Position

SB 85 **(Committee on Budget and Fiscal Review) Education finance.**

Introduced: 1/10/2011

Last Amend: 6/14/2011

Status: 6/23/2011-Returned by the Governor at the request of the Senate. Held at desk.

Location: 6/23/2011-S. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires a revenue limit to be calculated for each county superintendent of schools, adjusted for various factors, and reduced, as specified. Existing law reduces the revenue limit for each county superintendent of schools for the 2011-12 fiscal year by a deficit factor of 19.892%. This bill instead would set the deficit factor for each county superintendent of schools for the 2011-12 fiscal year at 20.041%. This bill contains other related provisions and other existing laws.

Position

SB 96 **(Committee on Budget and Fiscal Review) Budget Act of 2011.**
Introduced: 1/10/2011
Last Amend: 6/28/2011
Status: 6/28/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on BUDGET.
Location: 6/28/2011-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the Legislature to pass a Budget Bill making appropriations for the support of state government for the ensuing fiscal year. This bill would amend the Budget Act of 2011 to require the Director of Finance to forecast General Fund revenues for the 2011-12 fiscal year by December 15, 2011, and to determine whether that revenue forecast or the Legislative Analyst's November 2011 General Fund revenue forecast is higher. Under this bill, the Director of Finance would be required to make reductions to specified items of appropriation if the higher revenue forecast is less than $87,452,500,000 and to make additional reductions to specified items of appropriation if the higher revenue forecast is less than $86,452,500,000. This bill contains other related provisions.

Position

SB 97 **(Committee on Budget and Fiscal Review) Adult day health care.**
Introduced: 1/10/2011
Last Amend: 7/14/2011
Status: 7/14/2011-In Senate. Concurrence in Assembly amendments pending.
Location: 7/14/2011-S. UNFINISHED BUSINESS

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides, to the extent permitted by federal law, that adult day health care (ADHC) be excluded from coverage under the Medi-Cal program on the first day of the first calendar month following 90 days after the effective date of the act that added that provision or on the first day of the first calendar month following 60 days after the date the department secures all necessary federal approvals to implement that provision, whichever is later. This bill would, instead, require that ADHC be excluded from coverage under the Medi-Cal program on November 1, 2011. This bill contains other related provisions.

Position

SB 99 **(Committee on Budget and Fiscal Review) Budget Act of 2011.**
Introduced: 1/10/2011
Status: 2/24/2011-Referred to Com. on APPR.
Location: 2/24/2011-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.

Position

SB 121 **(Liu D) Pupils: foster children: special education.**
Introduced: 1/24/2011
Last Amend: 3/14/2012
Status: 3/14/2012-From committee with author's amendments. Read second time and amended. Re-referred to Com. on HUM. S.
Location: 3/14/2012-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires a pupil who is placed in a licensed children' s institution or foster family home to attend programs operated by the local educational agency unless the pupil is entitled to remain in his or her school of origin, the pupil has an individualized education program requiring placement elsewhere, or the pupil's parent or guardian, or other person holding the right to make educational decisions for the pupil, determines that it is in the best interests of the pupil to be placed in another educational program. This bill would require that, if the pupil's parent or guardian, or other person holding the right to make educational decisions for the pupil, makes that determination, he or she shall provide a written statement to that effect to the local educational agency , as specified. This bill contains other related provisions and other existing laws.

Position
Watch

SB 345 **(Wolk D) Office of the State Long-Term Care Ombudsman.**
Introduced: 2/15/2011
Last Amend: 1/12/2012
Status: 1/23/2012-In Assembly. Read first time. Held at Desk.
Location: 1/23/2012-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, as part of the Mello-Granlund Older Californians Act, establishes the Office of the State Long-Term Care Ombudsman, under the direction of the State Long-Term Care Ombudsman, in the California Department of Aging. Existing law provides for the Long-Term Care Ombudsman Program under which funds are allocated to local ombudsman programs to assist elderly persons in long-term health care facilities and residential care facilities by, among other things, investigating and seeking to resolve complaints against these facilities. This bill would, among other things, require the office to submit an annual advocacy plan to the Legislature, which includes a prospective plan and results of advocacy efforts during the prior year, would require the office to comply with specified provisions of federal law, and would require the office to maintain an Internet Web presence, as prescribed. This bill would also make technical, nonsubstantive changes to these provisions.

Position

SB 382 **(Liu D) Developmental services: regional centers: complaints.**
Introduced: 2/15/2011
Last Amend: 5/31/2011
Status: 7/8/2011-Failed Deadline pursuant to Rule 61(a)(10). (Last location was HUM. S. on 6/9/2011)
Location: 7/8/2011-A. 2 YEAR

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. That law authorizes the department to enter into 5-year contracts with regional centers, subject to an annual appropriation of funds by the Legislature. The act requires the contracts to specify that each regional center include annual performance objectives that will meet certain standards and allows the department to specify additional areas of support that require development or enhancement. The act requires corrective action if a regional center fails to meet the performance standards. This bill would authorize the department to specify additional areas of support requiring development or enhancement, as specified. This bill contains other related provisions and other existing laws.

Position
Support in Concept

SB 411 **(Price D) Home Care Services Act of 2011.**
Introduced: 2/16/2011
Last Amend: 8/30/2011
Status: 9/6/2011-Ordered to inactive file on request of Assembly Member Charles Calderon.
Location: 9/6/2011-A. INACTIVE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the In-Home Supportive Services (IHSS) program, a county-administered program under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. The IHSS program includes various eligibility

requirements for individuals who provide services to recipients under the program. Under existing law, a private provider of in-home care services is not subject to the requirements of the IHSS program. This bill would enact the Home Care Services Act of 2011, which would provide , on and after July 1, 2012, for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services , and the certification of home care aides. The bill would exclude specified entities from the definition of a home care organization. The bill would impose various licensure requirements on a home care organization . The bill would also impose a civil penalty on an individual or entity that operates a home care organization without a license, except as specified. The bill would require a home care organization to provide a client with specified information before arranging for the provision of home care services, as defined, to that client, including, but not limited to, the types and hours of available home care services, and the extent to which payment may be expected from specified sources. In addition, this bill would require a home care organization, among other things, to distribute to the client its advance directive policy and provide a written notice to the client of certain rights. The bill would also prohibit a home care organization from hiring an individual as a home care aide unless that individual meets certain requirements, including, but not limited to, demonstrating that he or she has specified language skills and completing a minimum of 5 hours of training as specified. This bill contains other related provisions and other existing laws.

Position
Support

SB 558 **(Simitian D) Elder and dependent adults: abuse or neglect: damages.**
Introduced: 2/17/2011
Last Amend: 5/3/2011
Status: 8/25/2011-Set, second hearing. Held in committee and under submission.
Location: 7/13/2011-A. APPR. SUSPENSE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the award of attorney's fees and costs to, and the recovery of damages by a plaintiff when it is proven by clear and convincing evidence that a defendant is liable for physical abuse or neglect of an elder or dependent adult and the defendant has also been guilty of recklessness, oppression, fraud, or malice in the commission of the abuse. This bill would revise these provisions to change the standard of proof to a preponderance of the evidence. This bill contains other related provisions and other existing laws.

Position

SB 677 **(Hernandez D) Medi-Cal: eligibility.**
Introduced: 2/18/2011
Last Amend: 5/23/2011
Status: 1/26/2012-In Assembly. Read first time. Held at Desk.
Location: 1/26/2012-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. This bill would provide, to the extent required by federal law, that the department shall not apply an assets or resources test for purposes of determining eligibility for Medi-Cal or under a Medi-Cal waiver, except as specified. This bill would also require, to the extent required by federal law, the department to use the modified adjusted gross income of an individual, or the household income of a family, if applicable, for the purposes of determining income eligibility for Medi-Cal or under a Medi-Cal waiver, except as specified. The bill would provide that these provisions shall become operative on January 1, 2014. Because each county is responsible for making Medi-Cal eligibility determinations, the bill would increase the duties of county officials and would thereby impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

SB 764 **(Steinberg D) Developmental services: telehealth systems program.**
Introduced: 2/18/2011
Last Amend: 1/12/2012
Status: 1/30/2012-In Assembly. Read first time. Held at Desk.
Location: 1/30/2012-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. This bill would require the department to , on a demonstration pilot project basis, authorize a provider who is currently vendorized with a regional center to provide applied behavioral analysis (ABA) services, intensive behavioral intervention (IBI) services, or both, to provide these services through the use of telehealth systems (THS), as defined, as part of a consumer's individual program plan upon approval of a regional center and the voluntary approval of the consumer or specified persons . This bill contains other related provisions.

Position
Watch

SB 770 **(Steinberg D) Health care coverage: mental illness: developmental disorder and autism.**
Introduced: 2/18/2011
Last Amend: 8/31/2011
Status: 8/31/2011-From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.
Location: 8/31/2011-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions. This bill would require those health care service plan contracts and health insurance policies to also provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism. The bill would provide, however, that no benefits are required to be provided that exceed the essential health benefits required under specified federal law. Because a violation of these provisions with respect to health care service plans would be a crime, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

SB 804 **(Corbett D) Health care districts: transfers of assets.**
Introduced: 2/18/2011
Last Amend: 1/4/2012
Status: 1/19/2012-In Assembly. Read first time. Held at Desk.
Location: 1/19/2012-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law authorizes a health care district to transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district to one or more nonprofit corporations to operate and maintain the assets. Existing law deems a transfer of 50% or more of the district' s assets to be for the benefit of the communities served only upon the occurrence of specified conditions. This bill would include among the above-described conditions the inclusion within the transfer agreement of the appraised fair market value of any asset transferred to the nonprofit corporation, as specified. This bill contains other related provisions and other existing laws.

Position

SB 951 **(Hernandez D) Health care coverage: essential health benefits.**
Introduced: 1/5/2012
Last Amend: 3/26/2012
Status: 3/29/2012-Re-referred to Com. on HEALTH.
Location: 3/29/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Commencing January 1, 2014, existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health insurance issuer that offers coverage in the small group or individual market to ensure that such coverage includes the essential health benefits package, as defined. PPACA requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. PPACA defines a qualified health plan as a plan that, among other requirements,

provides an essential health benefits package. Existing state law creates the California Health Benefit Exchange (the Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014. This bill would require an individual or small group health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the benefits and services covered by particular plans. The bill would specify that this provision applies regardless of whether the contract or policy is offered inside or outside the Exchange but would provide that it does not apply to grandfathered plans or plans that offer excepted benefits, as specified. The bill would prohibit a health care service plan or health insurer, when offering, issuing, selling, or marketing a plan contract or policy, from indicating or implying that the contract or policy covers essential health benefits unless the contract or policy covers essential health benefits as provided in the bill. This bill contains other related provisions and other existing laws.

Position

SB 957 **(Leno D) 2012-13 Budget.**
Introduced: 1/10/2012
Status: 1/10/2012-Introduced. Read first time. Referred to Com. on B. & F.R.
Location: 1/10/2012-S. BUDGET & F.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would make appropriations for support of state government for the 2012-13 fiscal year. This bill contains other related provisions.

Position
Watch

SB 1011 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1012 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1013 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1014 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1015 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1016 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1017 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1018 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1019 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1020 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1021 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1022 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1023 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1024 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1025 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to

the Budget Act of 2012.

Position

SB 1026 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1027 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1028 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1029 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1030 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1031 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.

Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1032 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1033 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1034 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1035 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1036 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1037 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1038 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1039 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1040 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1041 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1042 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1043 **(Committee on Budget and Fiscal Review) Budget Act of 2012.**
Introduced: 2/6/2012
Status: 3/26/2012-Referred to Com. on BUDGET.
Location: 3/26/2012-A. BUDGET

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

Position

SB 1050 **(Alquist D) Autism screening: pilot program.**
Introduced: 2/8/2012
Status: 2/16/2012-Referred to Com. on RLS.
Location: 2/16/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the State Department of Developmental Services to develop evaluation and diagnostic procedures for the diagnosis of autism disorder and other autistic spectrum disorders, as specified. Existing law also requires the Superintendent of Public Instruction to convene, with input from the University of California, the California State University, the department, and other appropriate entities, an advisory committee to develop recommendations identifying the means by which public and nonpublic schools, including charter schools, can better serve pupils with autism spectrum disorders and their parents. This bill would declare the intent of the Legislature to enact legislation to establish a pilot program to promote the use of technology and telehealth systems for the screening, diagnosis, and evaluation of children with autism spectrum disorders. The pilot program would be established by an academic institution, in collaboration with school districts and regional centers, and would be funded through private-public partnerships, as specified.

Position

SB 1070 **(Steinberg D) Career Technical Education Pathways Program.**
Introduced: 2/13/2012
Last Amend: 3/26/2012
Status: 3/29/2012-Re-referred to Coms. on ED. and B., P. & E.D.
Location: 3/29/2012-S. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, until January 1, 2013, establishes the California Community Colleges Economic and Workforce Development Program. Existing law requires the Board of Governors of the California Community Colleges, as part of the program, to assist economic and workforce regional development centers and consortia to improve, among other things, career-technical education pathways between high schools and community colleges, as specified. This bill would establish the Career Technical Education Pathways Program until June 30, 2018, which would require the Chancellor of the California Community Colleges and the Superintendent of Public Instruction to assist economic and workforce regional development centers and consortia, middle schools, high schools, and regional occupational centers and programs to improve linkages and career technical education pathways between high schools and community colleges to accomplish specified objectives. This assistance would be required to be provided in the form of contracts and competitive grants administered jointly by the chancellor and the Superintendent for programs and initiatives that demonstrate a plan for close collaboration among regional institutions and entities to jointly accomplish specified goals. This bill contains other related provisions.

Position

SB 1072 **(Strickland R) Newborn screening program.**
Introduced: 2/14/2012
Status: 3/14/2012-Set for hearing April 18.
Location: 3/1/2012-S. HEALTH

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered

Dead	1st House	2nd House	Conc.			

Summary: Existing law requires the State Department of Public Health to establish a program for the development, provision, and evaluation of genetic disease testing. Existing law establishes the continuously appropriated Genetic Disease Testing Fund (GDTF), consisting of fees paid for newborn screening tests. Existing law states the intent of the Legislature that all costs of the genetic disease testing program be fully supported by fees paid for newborn screening tests, which are deposited in the GDTF. Existing law authorizes moneys in the GDTF to be used for the expansion of the Genetic Disease Branch Screening Information System, as specified, to include cystic fibrosis, biotinidase, and severe combined immunodeficiency. Existing law exempts the amendment of contracts for this purpose from provisions of the Public Contract Code that establish standards for contracts and require the Department of General Services to approve these contracts. Existing law also exempts the amendment of contracts for this purpose from standards for personal services contracts and from provisions that give the California Technology Agency authority over the application of information technology for state agencies. This bill would require the department to expand statewide screening of newborns to include screening for 6 types of lysosomal storage diseases, and would exempt the amendment of contracts for this purpose from provisions that establish standards for contracts, require the Department of General Services to approve contracts, and give the California Technology Agency authority over information technology projects, as described above.

Position

SB 1081 **(Fuller R) Public health care: Medi-Cal: demonstration projects.**
Introduced: 2/14/2012
Status: 3/28/2012-Do pass as amended, and re-refer to the Committee on Appropriations
Location: 3/28/2012-S. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides for the Health Care Coverage Initiative, which is a federal waiver demonstration project established to expand health care coverage to low-income uninsured individuals who are not currently eligible for the Medi-Cal program and other specified public health coverage programs. Existing law requires the department, pursuant to federal approval of a successor demonstration project, to authorize local Low Income Health Programs (LIHP) to provide health care services to eligible low-income individuals under certain circumstances. Under existing law, a county, city and county, consortium of counties serving a region of more than one county, or a health authority may be eligible to operate an approved LIHP. Existing law establishes the continuously appropriated LIHP Fund, which consists of moneys transferred to the fund from a participating entity to meet the nonfederal share of estimated payments to the LIHP. This bill would provide that a nondesignated public hospital may be eligible to operate an approved LIHP if it is located in a county that does not have a county hospital and does not intend to operate a LIHP. By increasing the number of entities that may transfer funds into the LIHP Fund, this bill would make an appropriation. This bill contains other related provisions.

Position

SB 1123 **(De León D) Distinguishing placards: renewal.**
Introduced: 2/17/2012
Status: 3/6/2012-Set for hearing April 10.
Location: 3/1/2012-S. T. & H.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law authorizes the Department of Motor Vehicles to issue and renew distinguishing placards to disabled persons or disabled veterans to be used for parking purposes, as described. Prior to issuing an original distinguishing placard, existing law requires the submission of a certificate, signed by an authorized health care professional, providing a full description substantiating the applicant's disability, unless the disability is readily observable and uncontested. This bill would additionally require that submission prior to renewing a distinguishing placard.

Position

SB 1136 **(Steinberg D) Health: mental health: health equity.**
Introduced: 2/21/2012
Status: 3/1/2012-Referred to Com. on HEALTH.
Location: 3/1/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the State Department of Mental Health is authorized and required to perform various functions relating to the care and treatment of persons with mental disorders. This bill would transfer various functions of the State Department of Mental Health to the State Department of Health Care Services. This bill would make various technical and conforming changes to reflect the transfer of state mental health responsibilities. This bill contains other related provisions and other existing laws.

Position

SB 1141 **(Walters R) Public employees: postemployment health care benefits.**
Introduced: 2/21/2012
Status: 3/1/2012-Referred to Com. on P.E. & R.
Location: 3/1/2012-S. P.E. & R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, establishes provisions governing postemployment health care benefits for members and their families, upon meeting vesting requirements and subject to various limitations. Existing law also establishes various postemployment health care benefits under other benefit systems, including those offered by counties, districts, cities, and the University of California. This bill would prohibit a public employer, for employees first hired on or after January 1, 2013, from entering into a memorandum of understanding or other collective bargaining agreement that provides for defined postemployment health care benefits unless each employee pays at least 50 percent of the actuarially required contributions to fund those health care benefits. The bill would also declare that ensuring the statewide integrity and security of state and local government health care plans is a matter of statewide concern and not a municipal affair, and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill. The bill would also declare that these provisions apply to the University of California to ensure the financial security of the university.

Position

SB 1163 **(Walters R) Special access: liability.**
Introduced: 2/22/2012
Status: 3/1/2012-Referred to Com. on JUD.
Location: 3/1/2012-S. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified. This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 120 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by the alleged aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws. This bill contains other related provisions.

Position

SB 1176 **(Huff R) Public employees' retirement.**
Introduced: 2/22/2012
Status: 3/1/2012-Referred to Com. on P.E. & R.
Location: 3/1/2012-S. P.E. & R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS) for the purpose of providing pension benefits to their employees. Existing law also establishes the Judges' Retirement System II which provides pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees. The Regents of the University of California have established the University of California Retirement System as a trust for this purpose. This bill, on and after January 1, 2013, would prohibit a public retirement system from allowing the purchase of additional retirement service credit, as described above. The bill would except from this prohibition an official application to purchase this type of service credit received by the retirement system prior to January 1, 2013. The bill would prohibit any member who does not have at least 5 years of service credit before the operative date of this bill, or any person hired on or after that date, from purchasing additional retirement service credit. This bill contains other related provisions and other existing laws.

Position

SB 1186 **(Dutton R) Special access: liability.**
Introduced: 2/22/2012
Status: 3/1/2012-Referred to Com. on JUD.
Location: 3/1/2012-S. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than $1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified. This bill would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violation of the above-described provisions. The bill would require that party to provide specified notice to the owner of the property, agent, or other responsible party where the alleged violation occurred. The bill would require that owner, agent, or other responsible party to respond within 30 days with a description of the improvements to be made or with a rebuttal to the allegations, as specified. If that owner, agent, or other responsible party elects to fix the alleged violation, the bill would provide 90 days to do so. The bill would provide that its provisions do not apply to claims for recovery of special damages for an injury in fact, and would authorize the court to consider previous or pending actual damage awards received or prayed for by the alleged aggrieved party for the same or similar injury. The bill would further state the intent of the Legislature to institute certain educational programs related to special access laws. This bill contains other related provisions.

Position

SB 1259 **(Emmerson R) Developmental disabilities: regional centers.**
Introduced: 2/23/2012
Last Amend: 3/29/2012
Status: 3/29/2012-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Location: 3/29/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to enter into 5-year contracts with regional centers to render specified services. The act requires an entity receiving payments of $250,000 or more, but not more than $500,000, from a regional center to obtain either an independent audit or independent review report of its financial statements for the period. An entity receiving payments of $500,000 or more is required to obtain an independent audit. Existing law requires a copy of the audit or report to be provided to the vendoring regional center within 30 days of completion of the audit or review. This bill would instead require, for fiscal years ending on or after July 1, 2011, that an entity that receives payments of at least $2,000,000 obtain an independent audit of its financial statements and provide a copy to the vendoring regional center within 9 months of the end of the entity's fiscal year. The bill would also require the department to randomly select entities that are subject to, but fail to meet, the audit requirements and perform a billing audit of the selected entities .

Position

SB 1264 **(Vargas D) Child abuse reporting: mandated reporters.**
Introduced: 2/23/2012
Status: 3/27/2012-Set for hearing April 17.
Location: 3/8/2012-S. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of up to 6 months, a fine of $1,000, or by both. Except as provided, any supervisor or administrator who impedes or inhibits an individual's reporting duties shall be punished by not more than 6 months in a county jail, by a fine of not more than $1,000, or by both. Any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of reporting requirements, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than $5,000, or by both. This bill would include in the list of individuals who are mandated reporters any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching at a public or private postsecondary institution. The bill would increase the penalty for failure to report an incident to up to 12 months in a county jail, a fine of $5,000, or both. The bill would increase the penalty for a supervisor or administrator who impedes or inhibits an individual's reporting duties to not more than 12 months in a county jail, a fine of not more than $10,000, or both. The bill would also require that any mandated reporter convicted of willfully failing to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of reporting requirements, where that abuse or neglect results in death or great bodily injury, be guilty of a felony, punishable by a minimum of one year and a maximum of 5 years in state prison, by a fine of not more than $25,000, or by both. This bill contains other related provisions and other existing laws.

Position

SB 1349 **(Yee D) The Social Media Privacy Act: postsecondary education and employment.**
Introduced: 2/24/2012
Last Amend: 3/27/2012
Status: 3/27/2012-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Location: 3/27/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes and sets forth the missions and functions of the public and independent institutions of postsecondary education in the state. This bill would prohibit a postsecondary educational institution and an employer, whether public or private, from requiring, or formally requesting in writing, a student or an employee, or a prospective student or employee, to disclose the user name or account password for a personal social media account, or to otherwise provide the institution or employer with access to any content of that account. This bill contains other existing laws.

Position

SB 1352 **(Corbett D) Child abuse: investigation and prosecution: child advocacy centers.**
Introduced: 2/24/2012
Last Amend: 3/26/2012
Status: 3/29/2012-Re-referred to Coms. on PUB. S. and APPR.
Location: 3/29/2012-S. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law states the intent of the Legislature that the law enforcement agencies and the county welfare or probation department of each county develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases. Existing law requires a local law enforcement agency having jurisdiction over a reported case of child abuse to report to the county welfare or probation department that it is investigating the case, and requires the county welfare department or probation department, in certain cases, to evaluate what action or actions would be in the best interest of the child and to submit its findings to the district attorney, as specified. This bill would authorize each county to establish a child advocacy center to coordinate the investigation and prosecution of child abuse. The bill would provide that if a county establishes a child advocacy center , the center shall consist of a

representative from the district attorney's office, the sheriff's department or police department, or both those departments, and child protective services and may also include representatives from medical and mental health, victim advocacy, and any other agency relevant to the identification, investigation, prosecution, and treatment of child abuse. The bill would authorize each county to develop an interagency protocol agreement for the collaborative investigation of child abuse and neglect and would require any member of the child advocacy center to sign the protocol. The bill would require the protocol to define the multidisciplinary team, and to detail how the team will work together, as provided. The bill would require the Senate Office of Research to submit a report on or before January 1, 2015, regarding the counties that have established a child advocacy center, as provided.

Position

SB 1377 **(Corbett D) Protection and advocacy agencies.**
Introduced: 2/24/2012
Status: 3/8/2012-Referred to Com. on JUD.
Location: 3/8/2012-S. JUD.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law prescribes, in accordance with federal law, the powers of the protection and advocacy agency, which is a private, nonprofit corporation charged with protecting and advocating for the rights of persons with developmental disabilities and mental disorders. Under existing law, a protection and advocacy agency's powers include the authority to investigate any incident of abuse or neglect of persons with developmental disabilities or persons with mental illness if the complaints are reported to the protection and advocacy agency or if probable cause exists to believe that abuse or neglect has occurred. This authority includes the authorization to examine all relevant records and interview any facility or program service recipient, employee, or other person who might have knowledge of the alleged abuse or neglect. Existing law requires the agency to have access to the records of specified people with disabilities, including reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death occurring at the program, facility, or service. This bill would provide that the authority to access these records includes access to an unredacted citation, licensing, or survey report prepared by a department responsible for issuing a license or certificate to a program, facility, or service serving an individual with a disability. This bill contains other related provisions and other existing laws.

Position

SB 1381 **(Pavley D) Mental retardation: change of term to intellectual disability.**
Introduced: 2/24/2012
Status: 3/28/2012-Do pass as amended.
Location: 3/28/2012-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, refers to mental retardation or a mentally retarded person in provisions relating to, among other things, educational and social services, commitment to state facilities, and criminal punishment. This bill would revise these provisions to refer instead to intellectual disability or a person with an intellectual disability. This bill would express the intent of the Legislature to not make a substantive change in law or a change to services or the eligibility for services in revising this terminology.

Position

SB 1392 **(Pavley D) Developmental services.**
Introduced: 2/24/2012
Status: 3/8/2012-Referred to Com. on RLS.
Location: 3/8/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Lanterman Developmental Disabilities Services Act, authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. This bill would declare the intent of the Legislature to enact legislation relating to the delivery of services to Californians with developmental disabilities.

Position

SB 1432 **(Steinberg D) Adoption assistance.**
Introduced: 2/24/2012
Status: 3/22/2012-Referred to Com. on RLS.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefitting children residing in foster homes by providing the stability and security of permanent homes. This bill would make technical, nonsubstantive changes to a provision relating to adoption assistance.

Position

SB 1503 **(Steinberg D) In-Home Supportive Services program.**
Introduced: 2/24/2012
Status: 3/22/2012-Referred to Com. on RLS.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services to permit them to remain in their own homes and avoid institutionalization. Under the Medi-Cal program, similar services are provided to eligible individuals, with these services known as personal care option services. Under existing law, home and facility care services that are subject to Medi-Cal reimbursement include nursing facility care services and home- or community-based care services, as specified. This bill would state that it is the intent of the Legislature to enact legislation that would integrate the IHSS program with other long-term care services, including nursing facility care and community-based services, to increase timely access to adequate long-term care services and enhance care coordination across long-term care settings.

Position

SB 1516 **(Leno D) Medi-Cal: physician office and clinic visits.**
Introduced: 2/24/2012
Status: 3/22/2012-Referred to Com. on RLS.
Location: 3/22/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income individuals. Existing law states that there is a limit on the total number of physician office and clinic visits for physician services provided by a physician, or under the direction of a physician, that are a covered benefit under the Medi-Cal program of 7 visits per beneficiary per fiscal year, except as specified. This bill would make a technical, nonsubstantive change to these provisions.

Position

SB 1551 **(Vargas D) Child sexual abuse: mandated reporting.**
Introduced: 2/24/2012
Last Amend: 3/29/2012
Status: 3/29/2012-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Location: 3/29/2012-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Child Abuse Neglect and Reporting Act, makes certain persons mandated reporters. Under existing law, mandated reporters are required to report whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure of a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor. This bill would require any competent adult, as defined, to report a reasonable suspicion of child sexual abuse and would make failure to report punishable by a range of fines and imprisonment based on the level of the failure. By creating a new crime, this bill would impose a state-mandated local program. This bill contains other

related provisions and other existing laws.

Position

SCA 7 **(Yee D) Public bodies: meetings.**
Introduced: 1/10/2011
Last Amend: 4/13/2011
Status: 8/25/2011-Set, second hearing. Held in committee and under submission.
Location: 8/17/2011-A. APPR. SUSPENSE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The California Constitution requires meetings of public bodies to be open to public scrutiny. This measure would also include in the California Constitution the requirement that each public body provide public notice of its meetings and disclose any action taken.

Position

SCR 69 **(Payley D) California Autism Awareness Month.**
Introduced: 2/23/2012
Last Amend: 3/26/2012
Status: 3/29/2012-In Assembly. Held at Desk.
Location: 3/29/2012-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This measure would designate April 2012 as California Autism Awareness Month, would affirm the Legislature's commitment to the important issues related to autism spectrum disorders (ASDs), and would emphasize that each and every individual with an ASD is a valued and important member of our society.

Position

SJR 18 **(Payley D) Individuals with disabilities: tax exempt accounts.**
Introduced: 2/23/2012
Status: 3/28/2012-Set for hearing May 9.
Location: 3/22/2012-S. G. & F.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This measure would urge the President and the Congress of the United States to immediately enact the Achieving a Better Life Experience Act of 2011.

Position

Total Measures: 192
Total Tracking Forms: 192