

Introduced by Senators Pavley and Leno

(Coauthors: Senators Block, DeSaulnier, Lieu, and Yee)

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February 22, 2013

An act to add Section 1424.6 to the Health and Safety Code, and to amend Section 4427.5 of, and to add Sections 4313.5 and 4427.7 to, the Welfare and Institutions Code, relating to health and human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 651, as introduced, Pavley. Developmental centers and state hospitals.

Existing law establishes the State Department of Developmental Services and sets forth its powers and duties relating to the administration of the state developmental centers. Existing law establishes the State Department of State Hospitals and sets forth its powers and duties relating to the administration of state hospitals.

This bill would require designated investigators of developmental centers and state hospitals to ensure that a resident of a developmental center or a resident of a state hospital, as applicable, who is a victim or suspected victim of sexual assault, as defined, is provided a medical evidentiary examination performed at an appropriate facility off the grounds of the developmental center or state hospital in accordance with specified provisions.

Existing law requires a developmental center to immediately report specified incidents involving a resident to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located. Existing law provides for the licensure and regulation of health facilities, including long-term care facilities,

as defined, by the State Department of Public Health. Existing law provides for a citation system for the imposition of civil penalties against long-term care facilities, including penalties specifically applicable to certain skilled nursing facilities and intermediate care facilities, in violation of applicable laws and regulations.

This bill would deem a developmental center’s failure to report to local law enforcement a class B violation, as specified, and subject to the penalties applicable to those certain skilled nursing and intermediate care facilities, as specified.

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 1424.6 is added to the Health and Safety
2 Code, to read:

3 1424.6. Failure by a developmental center to report incidents
4 as required under subdivision (a) of Section 4427.5 of the Welfare
5 and Institutions Code shall be deemed a class B violation and shall
6 be subject to the penalties specified in Section 1424.5.

7 SEC. 2. Section 4313.5 is added to the Welfare and Institutions
8 Code, to read:

9 4313.5. Designated investigators of state hospitals shall ensure
10 that a resident of a state hospital who is a victim or suspected
11 victim of sexual assault, as defined in Section 15610.63, is provided
12 a medical evidentiary examination performed at an appropriate
13 facility off the grounds of a state hospital in accordance with
14 Sections 13823.5 to 13823.12, inclusive, of the Penal Code.

15 SEC. 3. Section 4427.5 of the Welfare and Institutions Code
16 is amended to read:

17 4427.5. (a) (1) A developmental center shall immediately
18 report the following incidents involving a resident to the local law
19 enforcement agency having jurisdiction over the city or county in
20 which the developmental center is located, regardless of whether
21 the Office of Protective Services has investigated the facts and
22 circumstances relating to the incident:

23 (A) A death.

24 (B) A sexual assault, as defined in Section 15610.63.

1 (C) An assault with a deadly weapon, as described in Section
2 245 of the Penal Code, by a nonresident of the developmental
3 center.

4 (D) An assault with force likely to produce great bodily injury,
5 as described in Section 245 of the Penal Code.

6 (E) An injury to the genitals when the cause of the injury is
7 undetermined.

8 (F) A broken bone, when the cause of the break is undetermined.

9 (2) If the incident is reported to the law enforcement agency by
10 telephone, a written report of the incident shall also be submitted
11 to the agency, within two working days.

12 (3) The reporting requirements of this subdivision are in addition
13 to, and do not substitute for, the reporting requirements of
14 mandated reporters, and any other reporting and investigative
15 duties of the developmental center and the department as required
16 by law.

17 (4) Nothing in this subdivision shall be interpreted to prevent
18 the developmental center from reporting any other criminal act
19 constituting a danger to the health or safety of the residents of the
20 developmental center to the local law enforcement agency.

21 (b) (1) The department shall report to the agency described in
22 subdivision (i) of Section 4900 any of the following incidents
23 involving a resident of a developmental center:

24 (A) Any unexpected or suspicious death, regardless of whether
25 the cause is immediately known.

26 (B) Any allegation of sexual assault, as defined in Section
27 15610.63, in which the alleged perpetrator is a developmental
28 center or department employee or contractor.

29 (C) Any report made to the local law enforcement agency in
30 the jurisdiction in which the facility is located that involves
31 physical abuse, as defined in Section 15610.63, in which a staff
32 member is implicated.

33 (2) A report pursuant to this subdivision shall be made no later
34 than the close of the first business day following the discovery of
35 the reportable incident.

36 (c) The department shall do both of the following:

37 (1) Annually provide written information to every developmental
38 center employee regarding all of the following:

39 (A) The statutory and departmental requirements for mandatory
40 reporting of suspected or known abuse.

1 (B) The rights and protections afforded to individuals' reporting
2 of suspected or known abuse.

3 (C) The penalties for failure to report suspected or known abuse.

4 (D) The telephone numbers for reporting suspected or known
5 abuse or neglect to designated investigators of the department and
6 to local law enforcement agencies.

7 (2) On or before August 1, 2001, in consultation with employee
8 organizations, advocates, consumers, and family members, develop
9 a poster that encourages staff, residents, and visitors to report
10 suspected or known abuse and provides information on how to
11 make these reports.

12 (d) *A failure to report under subdivision (a) shall be deemed a*
13 *class B violation as provided in Section 1424.6 of the Health and*
14 *Safety Code.*

15 SEC. 4. Section 4427.7 is added to the Welfare and Institutions
16 Code, to read:

17 4427.7. Designated investigators of developmental centers
18 shall ensure that a resident of a developmental center who is a
19 victim or suspected victim of sexual assault, as defined in Section
20 15610.63, is provided a medical evidentiary examination performed
21 at an appropriate facility off the grounds of the developmental
22 center in accordance with Sections 13823.5 to 13823.12, inclusive,
23 of the Penal Code.