

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 9, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE APRIL 17, 2006

**SENATE BILL**

**No. 1616**

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**Introduced by Senator Kuehl**

February 24, 2006

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An act to add Sections 1764.7, ~~1764.8, and 14011.92~~ and 1764.8 to the Welfare and Institutions Code, relating to incarcerated juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1616, as amended, Kuehl. Juveniles: incarceration: Medi-Cal: SSI: SSDI.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health 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 law excludes from coverage under the Medi-Cal program care or services for any individual who is an inmate of an institution, except as specified.

~~This bill would require the department, with respect to an incarcerated youth with a disability who was enrolled in the Medi-Cal program prior to incarceration, to ensure that the youth's eligibility for Medi-Cal is suspended rather than terminated during the period of his or her incarceration, and that his or her eligibility remains suspended rather than terminated for as long as is permitted by federal law, except as specified and subject to the availability of federal financial~~

participation. The bill would also require the department to ensure that, when the youth is released from incarceration, his or her Medi-Cal eligibility is fully restored on the day of release, and that he or she remains eligible unless and until the department determines that he or she is no longer eligible for Medi-Cal.

~~The bill would require the department, with respect to an incarcerated youth with a disability who applies for the Medi-Cal program while incarcerated, to review the application within a specified period of its receipt. The bill would require the department, if the review is not completed prior to the youth's release and other specified conditions occur, to issue a temporary Medi-Cal eligibility document to the youth.~~

~~The bill would require a county welfare department that determines that a youth described above is ineligible for the Medi-Cal program to forward the youth's information to the appropriate entity to determine eligibility for another appropriate health coverage program. By imposing new duties on county welfare departments, the bill would result in a state-mandated local program.~~

The bill would require the Department of Corrections and Rehabilitation, Division of Juvenile Justice, to identify any ward with a disability who is likely to be eligible for the Medi-Cal program upon release, and ensure that he or she files an application for Medi-Cal within a specified period prior to his or her release. The bill would also require the division to notify ~~the State Department of Health Services~~ *county welfare department of the county where the ward is likely to be released* of each ward with a disability who is determined by the division to be likely to be eligible for Medi-Cal benefits upon release from incarceration. These provisions would not apply if the ward is legally entitled to withhold consent, and does so, or if the parent or guardian of the ward opts out of the eligibility determination. The bill would require the division to ensure that each ward with a disability who has been determined to be eligible, *or likely to be eligible*, for Medi-Cal benefits, ~~or who has been determined to be temporarily eligible to receive Medi-Cal benefits upon release of incarceration~~, possesses a ~~Medi-Cal card or temporary Medi-Cal eligibility document~~ at the time of his or her release.

Existing federal law provides for the Supplemental Security Income (SSI) program, administered by the federal Social Security Administration, pursuant to which benefits are provided to low-income aged, blind, and disabled persons.

Existing federal law provides for the Social Security Disability Insurance (SSDI) program, administered by the federal Social Security Administration, pursuant to which benefits are provided to persons with disabilities who have paid the requisite social security taxes.

This bill would require the ~~Department of Corrections and Rehabilitation, Division of Juvenile Justice, division~~ to request the Social Security Administration to suspend rather than terminate the benefits of an incarcerated youth during his or her incarceration, and to ensure that when an incarcerated youth's SSI or SSDI benefits are suspended due to his or her incarceration, an application for reinstatement of those benefits is filed on the youth's behalf within a specified period before his or her release. It would also require the division to ensure that if a youth's SSI or SSDI benefits are terminated during his or her incarceration, a new application for those benefits is filed on his or her behalf, and to ensure that each youth on whose behalf an application for reinstatement or a new application for SSI or SSDI benefits is filed, and who has not received an eligibility determination prior to his or her release, possesses a copy of the application at the time of that release.

The bill would require the division to identify each youth with a disability who is likely to be eligible for SSI or SSDI benefits upon release, but has not previously been determined to be eligible, and to ensure that an application is filed on the ward's behalf and that the ward possesses a copy of the application at the time of his or her release.

The bill would impose certain other requirements on the division with respect to facilitating the provision of SSI and SSDI benefits to youths released from incarceration.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. (a) The Legislature finds and declares all of the  
2 following:

3 (1) When released from incarceration from the Department of  
4 Corrections and Rehabilitation, Division of Juvenile Justice,  
5 youth with disabilities often lack access to mental health  
6 services, stable housing, employment or other income, and  
7 education. Without basic supports, many needlessly become  
8 trapped in a cycle of destitution, deterioration, rearrest, and  
9 reincarceration.

10 (2) Upon release from incarceration, youth with disabilities  
11 need basic services and supports to enable them to transition  
12 successfully to community life. Existing federal and state  
13 programs, such as Medi-Cal, Supplemental Security Income  
14 (SSI) and Social Security Disability Insurance (SSDI), provide  
15 health care coverage and income support to people with  
16 disabilities. Often, however, youth with disabilities released from  
17 incarceration are not enrolled in these programs, or the  
18 commencement of benefits is unreasonably delayed.

19 (3) Seventy-six percent of youth that are released from  
20 incarceration are rearrested within 42 months.

21 (4) Incarcerated youth have substantially higher rates of  
22 mental health disorders and disabilities than youth in the general  
23 population.

24 (b) It is the intent of the Legislature, in enacting this act, to do  
25 the following:

26 (1) Assist youth with disabilities in maintaining their  
27 eligibility for federal and state benefit programs while they are  
28 incarcerated in the Department of Corrections and Rehabilitation,  
29 Division of Juvenile Justice, and in applying for federal and state  
30 benefit programs so that, upon release, all eligible youth with  
31 disabilities immediately begin to receive federal and state  
32 benefits for which they are eligible.

33 (2) Promote the successful reentry into the community of  
34 youth with disabilities, enhance public safety, and provide relief  
35 to taxpayers from fiscal burdens imposed by avoidable  
36 recidivism.

37 (3) Direct the Department of Corrections and Rehabilitation,  
38 Division of Juvenile Justice, and the State Department of Health

1 Services to adopt policies and procedures that enable youth with  
2 disabilities, upon release from incarceration, to participate  
3 immediately in federal and state benefit programs for which they  
4 qualify, and to be expeditiously reinstated or enrolled in federal  
5 and state benefit programs for which they are eligible.

6 SEC. 2. Section 1764.7 is added to the Welfare and  
7 Institutions Code, to read:

8 1764.7. (a) The division shall identify any ward with a  
9 disability who is likely to be eligible for the Medi-Cal program  
10 upon release, and ensure that he or she files an application for  
11 Medi-Cal no less than 90 days before the date of his or her  
12 scheduled release. The division shall ensure that the application  
13 includes, with the ward's consent, medical and other information  
14 required to support the application.

15 (b) The division shall notify the ~~State Department of Health~~  
16 ~~Services~~ *county welfare department of the county where the ward*  
17 *is likely to be released* of each ward with a disability who is  
18 determined by the division to be likely to be eligible for  
19 Medi-Cal benefits upon release from incarceration. The notice  
20 shall be provided no less than 90 days prior to the date of the  
21 ward's scheduled release.

22 (c) *With respect to an incarcerated youth with a disability who*  
23 *applies for the Medi-Cal program while incarcerated, the county*  
24 *welfare department shall review the application to determine*  
25 *eligibility or likely eligibility upon release from incarceration*  
26 *within 14 days of the receipt of the application.*

27 (d) *If the county welfare department determines that the youth*  
28 *is not eligible or not likely to be eligible for the Medi-Cal*  
29 *program upon release from incarceration, the county welfare*  
30 *department, with the consent of the youth's parent or guardian, if*  
31 *the youth is a minor, shall forward the youth's information to the*  
32 *appropriate entity to determine eligibility for the Healthy*  
33 *Families Program, or another appropriate health coverage*  
34 *program, as determined by the county welfare department.*

35 (e)

36 (e) The division shall notify the parent or guardian, in writing,  
37 of its intention to ensure the submission of the information  
38 required by subdivision (a) to the county welfare department, and  
39 shall provide the parent or guardian with a reasonable amount of  
40 time to opt out of the Medi-Cal eligibility determination.

1 Subdivisions (a), (b), and (d) shall not apply with respect to any  
2 ward who is legally entitled to withhold consent, and chooses to  
3 withhold consent, or whose parent or guardian has opted out of  
4 the Medi-Cal eligibility determination.

5 ~~(d) The division shall ensure that each ward with a disability~~  
6 ~~who has been determined to be eligible for Medi-Cal benefits by~~  
7 ~~the State Department of Health Services, or who has been~~  
8 ~~determined by that department to be temporarily eligible to~~  
9 ~~receive Medi-Cal benefits, possesses a Medi-Cal document that~~  
10 ~~establishes eligibility or temporary Medi-Cal card, as applicable,~~  
11 ~~at the time of his or her release from incarceration.~~

12 *(f) The division shall ensure that each ward with a disability*  
13 *who has been determined by the county welfare department to be*  
14 *either eligible for Medi-Cal benefits or likely to be eligible for*  
15 *Medi-Cal benefits upon release from incarceration, possesses a*  
16 *Medi-Cal document that establishes eligibility at the time of his*  
17 *or her release from incarceration. A youth who is provided a*  
18 *Medi-Cal document that establishes eligibility and who is*  
19 *subsequently found to be ineligible for Medi-Cal benefits, shall*  
20 *not be required to reimburse the department or a provider for*  
21 *any services received by using his or her Medi-Cal document*  
22 *that establishes eligibility.*

23 ~~(e)~~

24 *(g) Nothing in this section shall authorize the continued*  
25 *incarceration of a ward who has not received the appropriate*  
26 *Medi-Cal documentation.*

27 ~~(f) The division may adopt regulations to implement this~~  
28 ~~section.~~

29 *(h) The Department of Corrections and Rehabilitation and the*  
30 *State Department of Health Services may adopt regulations to*  
31 *implement this section.*

32 *(i) As an alternative to the adoption of regulations, and*  
33 *notwithstanding the rulemaking provisions of Chapter 3.5*  
34 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
35 *2 of the Government Code, or any other provision of law, the*  
36 *Department of Corrections and Rehabilitation and the State*  
37 *Department of Health Services may implement and administer*  
38 *this section by means of provider bulletins, county letters,*  
39 *manuals, or other similar instructions, without taking regulatory*  
40 *action. The departments shall notify the fiscal and appropriate*

1 *policy committees of the Legislature of its intent to issue a*  
2 *provider bulletin, manual, or similar instruction, at least five*  
3 *days prior to issuance. In addition, the departments shall provide*  
4 *a copy of any provider bulletin, manual, or similar instruction*  
5 *issued under this paragraph to the fiscal and appropriate policy*  
6 *committees of the Legislature. The departments shall consult with*  
7 *interested parties and appropriate stakeholders regarding the*  
8 *implementation and ongoing administration of this section.*

9 ~~(g)~~

10 (j) The division shall collaborate with the State Department of  
11 Health Services *and county welfare departments* in the  
12 development of the regulations, policies, and procedures  
13 necessary to implement this section.

14 (k) *The division shall convene a group of stakeholders,*  
15 *including counties, the State Department of Health Services, and*  
16 *other interested parties to identify methods to facilitate the*  
17 *implementation of this section and Section 1764.8.*

18 (l) *This section shall apply only to the extent that federal*  
19 *financial participation is available.*

20 ~~(h)~~

21 (m) (1) For purposes of this section, a ward is “likely to be  
22 eligible for Medi-Cal benefits” if any of the following applies:

23 (A) The ward’s enrollment in the Medi-Cal program was  
24 terminated during his or her incarceration.

25 (B) The ward was enrolled in the Medi-Cal program at any  
26 time during the five years prior to his or her incarceration.

27 (C) The ward was not previously enrolled, but is likely to meet  
28 eligibility criteria for the Medi-Cal program upon his or her  
29 release from incarceration.

30 (2) For purposes of this section, “ward” means a person in the  
31 custody of the division.

32 SEC. 3. Section 1764.8 is added to the Welfare and  
33 Institutions Code, to read:

34 1764.8. (a) The division shall do all of the following:

35 (1) If a ward is enrolled in the SSI or SSDI program, request  
36 the federal Social Security Administration to suspend rather than  
37 terminate the ward’s benefits while he or she is incarcerated, and  
38 notify the Social Security Administration of his or her scheduled  
39 release date.

1 (2) Ensure that when a ward's SSI or SSDI benefits are  
2 suspended due to his or her incarceration, an application for  
3 reinstatement of those benefits is filed on the ward's behalf no  
4 less than 90 days before the date of his or her scheduled release.

5 (3) Ensure that if a ward's SSI or SSDI benefits are terminated  
6 during his or her incarceration, a new application for those  
7 benefits is filed on his or her behalf no less than 90 days before  
8 his or her scheduled release. The division shall ensure that an  
9 application includes, with the youth's consent, medical and other  
10 information required to support the application.

11 (4) Ensure that each ward on whose behalf an application for  
12 reinstatement or a new application for SSI or SSDI benefits is  
13 filed, and who has not received an eligibility determination prior  
14 to his or her release from incarceration, possesses a copy of the  
15 application at the time of his or her release.

16 (5) Identify each ward with a disability who is likely to be  
17 eligible for SSI or SSDI benefits upon release, but has not  
18 previously been determined to be eligible, and ensure that each of  
19 the following occurs:

20 (A) An application is filed on the ward's behalf no less than 90  
21 days before his or her scheduled release from incarceration. The  
22 division shall ensure that the application includes, with the  
23 youth's consent, medical and other information required to  
24 support the application.

25 (B) The ward possesses a copy of the application at the time of  
26 his or her release from incarceration.

27 (6) With the applicant's permission, provide a copy of each  
28 application required to be filed pursuant to this section to a  
29 family member designated by the applicant and to any mental  
30 health case manager who will work with the youth upon release.  
31 Permission to provide a copy to a parent, guardian, or individual  
32 acting in the role of a parent shall not be required in the case of a  
33 minor under 16 years of age.

34 (7) Use its best efforts to negotiate prerelease agreements with  
35 the federal Social Security Administration that will ensure that all  
36 of the following occur:

37 (A) Expedient consideration by the Social Security  
38 Administration of new applications and applications for  
39 reinstatement of SSI or SSDI benefits on behalf of wards with  
40 disabilities.

1 (B) Information is conveyed to the Social Security  
2 Administration regarding the expected and actual release dates of  
3 wards with disabilities whose applications have been approved or  
4 are pending.

5 (8) Ensure that, once negotiated, each agreement described in  
6 paragraph (7) is implemented as soon as practicable.

7 (b) For purposes of this section, the following definitions  
8 apply:

9 (1) “Enrolled in the SSI program” means currently eligible, as  
10 determined by the Social Security Administration pursuant to SSI  
11 program rules, and on eligibility rolls, even if cash benefits are  
12 currently suspended.

13 (2) “Enrolled in the SSDI program” means currently eligible,  
14 as determined by the Social Security Administration pursuant to  
15 SSDI program rules, and on eligibility rolls, even if cash benefits  
16 are currently suspended.

17 (3) A ward is “likely to be eligible for SSI or SSDI benefits” if  
18 any of the following applies:

19 (A) The ward’s enrollment in the SSI or SSDI program was  
20 terminated during his or her incarceration.

21 (B) The ward was enrolled in the SSI or SSDI program at any  
22 time during the five years prior to his or her incarceration.

23 (C) The ward was not previously enrolled, but is likely to meet  
24 eligibility criteria for the SSI or SSDI program upon his or her  
25 release from incarceration.

26 (4) “SSI benefits” means federal supplemental security income  
27 benefits pursuant to Title XVI of the federal Social Security Act  
28 (42 U.S.C. Sec. 1381 et seq.).

29 (5) “SSDI benefits” means federal social security disability  
30 insurance benefits pursuant to Title II of the federal Social  
31 Security Act (42 U.S.C. Sec. 401 et seq.).

32 (6) “Ward” means a person in the custody of the division.

33 (c) The division may adopt regulations establishing procedures  
34 to implement this section.

35 ~~SEC. 4. Section 14011.92 is added to the Welfare and~~  
36 ~~Institutions Code, to read:~~

37 ~~14011.92. (a) With respect to an incarcerated youth with a~~  
38 ~~disability who was enrolled in the Medi-Cal program prior to~~  
39 ~~incarceration, the department shall do both of the following:~~

1     ~~(1) (A) Ensure that, except as provided in subparagraph (B),~~  
2     ~~the youth's eligibility for Medi-Cal is suspended rather than~~  
3     ~~terminated during the period of his or her incarceration, and that~~  
4     ~~his or her eligibility remains suspended rather than terminated for~~  
5     ~~as long as is permitted by federal law.~~

6     ~~(B) The eligibility of the youth may be terminated only upon a~~  
7     ~~determination of both of the following:~~

8     ~~(i) The youth no longer meets the Medi-Cal eligibility criteria~~  
9     ~~under which he or she had qualified prior to incarceration.~~

10    ~~(ii) The youth is not eligible for Medi-Cal under any other~~  
11    ~~Medi-Cal eligibility criteria.~~

12    ~~(2) Ensure that, when the youth is released from incarceration,~~  
13    ~~his or her Medi-Cal eligibility is fully restored on the day of~~  
14    ~~release and that he or she remains eligible unless and until the~~  
15    ~~department determines that he or she is no longer eligible for~~  
16    ~~Medi-Cal.~~

17    ~~(b) (1) With respect to an incarcerated youth with a disability~~  
18    ~~who applies for the Medi-Cal program while incarcerated, the~~  
19    ~~department shall review the application in anticipation of his or~~  
20    ~~her release from incarceration within 14 days of the receipt of the~~  
21    ~~application.~~

22    ~~(2) If the department has not completed a review of the~~  
23    ~~application of a youth described in paragraph (1) prior to his or~~  
24    ~~her release from incarceration, and if the Department of~~  
25    ~~Corrections and Rehabilitation, Division of Juvenile Justice, has~~  
26    ~~determined that the youth is likely to be eligible for Medi-Cal~~  
27    ~~benefits, the department shall issue a temporary Medi-Cal~~  
28    ~~document that establishes eligibility to the youth prior to his or~~  
29    ~~her release. A youth who is granted a temporary Medi-Cal card,~~  
30    ~~and who is subsequently found to be ineligible for Medi-Cal~~  
31    ~~benefits, shall not be required to reimburse the department or a~~  
32    ~~provider for any services received by using his or her temporary~~  
33    ~~Medi-Cal document that establishes eligibility.~~

34    ~~(3) If the county welfare department determines that the youth~~  
35    ~~is not eligible for the Medi-Cal program, the county welfare~~  
36    ~~department, with the consent of the youth's parent or guardian, if~~  
37    ~~the youth is a minor, shall forward the youth's information to the~~  
38    ~~appropriate entity to determine eligibility for the Healthy~~  
39    ~~Families Program, or another appropriate health coverage~~  
40    ~~program, as determined by the county welfare department.~~

1 ~~(e) The department may adopt regulations establishing~~  
2 ~~procedures to implement this section.~~

3 ~~(d) As an alternative to the adoption of regulations, and~~  
4 ~~notwithstanding the rulemaking provisions of Chapter 3.5~~  
5 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
6 ~~2 of the Government Code, or any other provision of law, the~~  
7 ~~department may implement and administer this article by means~~  
8 ~~of provider bulletins, county letters, manuals, or other similar~~  
9 ~~instructions, without taking regulatory action. The department~~  
10 ~~shall notify the fiscal and appropriate policy committees of the~~  
11 ~~Legislature of its intent to issue a provider bulletin, manual, or~~  
12 ~~similar instruction, at least five days prior to issuance. In~~  
13 ~~addition, the department shall provide a copy of any provider~~  
14 ~~bulletin, manual, or similar instruction issued under this~~  
15 ~~paragraph to the fiscal and appropriate policy committees of the~~  
16 ~~Legislature. The department shall consult with interested parties~~  
17 ~~and appropriate stakeholders regarding the implementation and~~  
18 ~~ongoing administration of this section.~~

19 ~~(e) The department shall convene a group of stakeholders,~~  
20 ~~including counties, the Department of Corrections and~~  
21 ~~Rehabilitation, Division of Juvenile Justice, and other interested~~  
22 ~~parties to identify methods to facilitate the implementation of this~~  
23 ~~section, Section 1764.7, and Section 1764.8.~~

24 ~~(f) The department shall collaborate with the Department of~~  
25 ~~Corrections and Rehabilitation, Division of Juvenile Justice, in~~  
26 ~~the development of the regulations, policies, and procedures~~  
27 ~~necessary to implement this section.~~

28 ~~(g) The department shall use its best efforts to obtain any~~  
29 ~~amendment to the Medicaid state plan that is necessary to~~  
30 ~~implement this section. This section shall apply only to the extent~~  
31 ~~that federal financial participation is available.~~

32 ~~(h) For purposes of this section, “incarcerated youth” means a~~  
33 ~~person in the custody of the Department of Corrections and~~  
34 ~~Rehabilitation, Division of Juvenile Justice.~~

35 ~~SEC. 5.~~

36 ~~SEC. 4. If the Commission on State Mandates determines that~~  
37 ~~this act contains costs mandated by the state, reimbursement to~~  
38 ~~local agencies and school districts for those costs shall be made~~

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O