

AMENDED IN ASSEMBLY AUGUST 24, 2006  
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 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.

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 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, *and would require the county welfare department to review the application to determine eligibility*. 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 upon release of incarceration, possesses a 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 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 bill would also provide that its provisions shall become operative on July 1, 2007.*

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.

1 (4) Incarcerated youth have substantially higher rates of  
2 mental health disorders and disabilities than youth in the general  
3 population.

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

6 (1) Assist youth with disabilities in maintaining their  
7 eligibility for federal and state benefit programs while they are  
8 incarcerated in the Department of Corrections and Rehabilitation,  
9 Division of Juvenile Justice, and in applying for federal and state  
10 benefit programs so that, upon release, all eligible youth with  
11 disabilities immediately begin to receive federal and state  
12 benefits for which they are eligible.

13 (2) Promote the successful reentry into the community of  
14 youth with disabilities, enhance public safety, and provide relief  
15 to taxpayers from fiscal burdens imposed by avoidable  
16 recidivism.

17 (3) Direct the Department of Corrections and Rehabilitation,  
18 Division of Juvenile Justice, and the State Department of Health  
19 Services to adopt policies and procedures that enable youth with  
20 disabilities, upon release from incarceration, to participate  
21 immediately in federal and state benefit programs for which they  
22 qualify, and to be expeditiously reinstated or enrolled in federal  
23 and state benefit programs for which they are eligible.

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

26 1764.7. (a) The division shall identify any ward with a  
27 disability who is likely to be eligible for the Medi-Cal program  
28 upon release, and ensure that he or she files an application for  
29 Medi-Cal no less than 90 days before the date of his or her  
30 scheduled release. The division shall ensure that the application  
31 includes, with the ward's consent, medical and other information  
32 required to support the application.

33 (b) The division shall notify the county welfare department of  
34 the county where the ward is likely to be released of each ward  
35 with a disability who is determined by the division to be likely to  
36 be eligible for Medi-Cal benefits upon release from incarceration.  
37 The notice shall be provided no less than 90 days prior to the date  
38 of the ward's scheduled release.

39 (c) With respect to an incarcerated youth with a disability who  
40 applies for the Medi-Cal program while incarcerated, the county

1 welfare department shall review the application to determine  
2 eligibility or likely eligibility upon release from incarceration  
3 ~~within 14 days of the receipt of the application. as quickly as~~  
4 *possible upon the receipt of the application, in accordance with*  
5 *standard processing timeframes.*

6 (d) If the county welfare department determines that the youth  
7 is not eligible or not likely to be eligible for the Medi-Cal  
8 program upon release from incarceration, the county welfare  
9 department, with the consent of the youth's parent or guardian, if  
10 the youth is a minor, shall forward the youth's information to the  
11 appropriate entity to determine eligibility for the Healthy  
12 Families Program, or another appropriate health coverage  
13 program, as determined by the county welfare department.

14 (e) The division shall notify the parent or guardian, in writing,  
15 of its intention to ensure the submission of the information  
16 required by subdivision (a) to the county welfare department, and  
17 shall provide the parent or guardian with a reasonable amount of  
18 time to opt out of the Medi-Cal eligibility determination.  
19 Subdivisions (a), (b), and (d) shall not apply with respect to any  
20 ward who is legally entitled to withhold consent, and chooses to  
21 withhold consent, or whose parent or guardian has opted out of  
22 the Medi-Cal eligibility determination.

23 (f) The division shall ensure that each ward with a disability  
24 who has been determined by the county welfare department to be  
25 either eligible for Medi-Cal benefits or likely to be eligible for  
26 Medi-Cal benefits upon release from incarceration, possesses a  
27 Medi-Cal document that establishes eligibility at the time of his  
28 or her release from incarceration. A youth who is provided a  
29 Medi-Cal document that establishes eligibility and who is  
30 subsequently found to be ineligible for Medi-Cal benefits, shall  
31 not be required to reimburse the department or a provider for any  
32 services received by using his or her Medi-Cal document that  
33 establishes eligibility.

34 (g) Nothing in this section shall authorize the continued  
35 incarceration of a ward who has not received the appropriate  
36 Medi-Cal documentation.

37 (h) The Department of Corrections and Rehabilitation and the  
38 State Department of Health Services may adopt regulations to  
39 implement this section.

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

18 (j) The division shall collaborate with the State Department of  
19 Health Services and county welfare departments in the  
20 development of the regulations, policies, and procedures  
21 necessary to implement this section.

22 (k) The division shall convene a group of stakeholders,  
23 including counties, the State Department of Health Services, and  
24 other interested parties to identify methods to facilitate the  
25 implementation of this section and Section 1764.8.

26 (l) This section shall apply only to the extent that federal  
27 financial participation is available.

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

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

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

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

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

39 (n) *This section shall become operative on July 1, 2007.*

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

3 1764.8. (a) The division shall do all of the following:

4 (1) If a ward is enrolled in the SSI or SSDI program, request  
5 the federal Social Security Administration to suspend rather than  
6 terminate the ward's benefits while he or she is incarcerated, and  
7 notify the Social Security Administration of his or her scheduled  
8 release date.

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

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

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

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

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

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

35 (6) With the applicant's permission, provide a copy of each  
36 application required to be filed pursuant to this section to a  
37 family member designated by the applicant and to any mental  
38 health case manager who will work with the youth upon release.  
39 Permission to provide a copy to a parent, guardian, or individual

1 acting in the role of a parent shall not be required in the case of a  
2 minor under 16 years of age.

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

6 (A) Expeditious consideration by the Social Security  
7 Administration of new applications and applications for  
8 reinstatement of SSI or SSDI benefits on behalf of wards with  
9 disabilities.

10 (B) Information is conveyed to the Social Security  
11 Administration regarding the expected and actual release dates of  
12 wards with disabilities whose applications have been approved or  
13 are pending.

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

16 (b) For purposes of this section, the following definitions  
17 apply:

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

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

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

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

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

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

35 (4) “SSI benefits” means federal supplemental security income  
36 benefits pursuant to Title XVI of the federal Social Security Act  
37 (42 U.S.C. Sec. 1381 et seq.).

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

- 1 (6) “Ward” means a person in the custody of the division.  
2 (c) The division may adopt regulations establishing procedures  
3 to implement this section.  
4 (d) *This section shall become operative on July 1, 2007.*  
5 SEC. 4. If the Commission on State Mandates determines that  
6 this act contains costs mandated by the state, reimbursement to  
7 local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.