

AMENDED IN SENATE MAY 5, 2010

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 438**

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**Introduced by Assembly Member Beall**  
**(Coauthors: ~~Assembly Members Chesbro and Fuentes~~)**  
**(Coauthor: ~~Senator DeSaulnier~~)**

February 24, 2009

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~~An act to amend Section 1001.21 of the Penal Code, and to add and repeal Section 4418.8 of the Welfare and Institutions Code, relating to developmental services.—An act relating to Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 438, as amended, Beall. ~~Persons with developmental disabilities: criminal proceedings: diversion.—Medi-Cal: treatment authorization requests.~~

*Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and pursuant to which, health care services are provided to qualified low-income persons.*

*Under existing law, one of the utilization controls to which services are subject under the Medi-Cal program is the treatment authorization request (TAR) process, under which approval is required by a department consultant in advance of the rendering of that service, based upon a determination of medical necessity. Existing law requires the department to pursue means to improve and streamline the TAR process.*

*This bill would state the intent of the Legislature to enact legislation that would implement reforms to the Medi-Cal TAR process, as specified.*

~~Existing law, the Lanterman Developmental Disabilities Services Act, grants persons with developmental disabilities the right to receive treatment and services to meet their needs, regardless of age or degree of disability, at each stage of life. Existing law requires that the state pay for these services through contracts with various private nonprofit corporations for the operation of regional centers for the developmentally disabled, and requires regional centers to develop an individual program plan for each consumer that sets forth the treatment and services to be provided for the consumer.~~

~~Existing law establishes a process for diversion of defendants with cognitive developmental disabilities in criminal proceedings for an offense which is charged as, or reduced to, a misdemeanor, but excludes persons who have been previously diverted.~~

~~This bill would make these procedures also applicable for an offense that is charged or reduced to a nonviolent felony, as defined, or a serious felony, as defined, and would delete the exclusion for those previously diverted.~~

~~This bill would also require the department, by July 1, 2010, to convene a task force to identify strategies and best practices for local interagency coordination and cooperation in addressing the needs of adults and juveniles with developmental disabilities in the criminal and juvenile justice systems. The bill would require the task force to issue its interim reports to the Legislature on the progress of its work by July 1, 2011, and July 1, 2012, and to issue its final report to the Legislature by July 1, 2013.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.~~

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

- 1 *SECTION 1. It is the intent of the Legislature to enact*
- 2 *legislation that would implement reforms to the Medi-Cal treatment*
- 3 *authorization request process administered by the State*
- 4 *Department of Health Care Services in the manner suggested in*
- 5 *report number 2009-112 by the Bureau of State Audits, that is due*
- 6 *to be released in May 2010.*
- 7 ~~SECTION 1. Section 1001.21 of the Penal Code is amended~~
- 8 ~~to read:~~
- 9 ~~1001.21. (a) This chapter shall apply whenever a case is before~~
- 10 ~~a court upon an accusatory pleading at any stage of the criminal~~

1 proceedings, for any person who has been evaluated by a regional  
2 center for the developmentally disabled and who is determined to  
3 be a person with a cognitive developmental disability by the  
4 regional center, and who therefore is eligible for its services.

5 (b) This chapter applies to any offense that is charged as or  
6 reduced to a misdemeanor or nonviolent felony. For the purposes  
7 of this section, “nonviolent felony” is any felony that is not a  
8 “violent felony” as that term is defined in subdivision (c) of Section  
9 667.5 or a “serious felony,” as that term is defined in subdivision  
10 (e) of Section 1192.7 or Section 1192.8.

11 SEC. 2. Section 4418.8 is added to the Welfare and Institutions  
12 Code, to read:

13 4418.8. (a) By July 1, 2010, the department shall convene a  
14 task force to identify strategies and best practices for local  
15 interagency coordination and cooperation in addressing the needs  
16 of adults and juveniles with developmental disabilities in the  
17 criminal and juvenile justice systems. The task force shall include  
18 representation from regional centers, the Judicial Council,  
19 probation offices, public defenders, district attorneys, school  
20 districts, local law enforcement, county mental health, community  
21 service providers, regional center clients and their families, and  
22 disability and juvenile justice advocacy organizations. The task  
23 force, overall, shall include geographically diverse participation  
24 from both large and small counties. The task force may form  
25 separate subcommittees, focusing on adults and juveniles. The  
26 task force shall meet in a manner and as often as the department  
27 determines to be appropriate, consistent with the goals of the task  
28 force and the availability of funds.

29 (b) The task force shall address issues including, but not limited  
30 to, strategies and best practices related to the accomplishment of  
31 all of the following:

32 (1) Early identification and assessment of people with  
33 developmental disabilities in the criminal and juvenile justice  
34 process.

35 (2) Development of protocols and procedures for ongoing  
36 communication and cooperation between regional centers and  
37 other local agencies, including law enforcement and the courts.

38 (3) Training of jail and court personnel, including judges, public  
39 defenders, district attorneys, and probation officers, on issues

1 related to people with developmental disabilities and available  
2 community resources.

3 (e) ~~The task force shall also identify systemic barriers to serving  
4 people with developmental disabilities in community-based settings  
5 instead of jails and prisons, including licensing barriers and  
6 community resource and service needs, and recommendations for  
7 addressing identified systemic barriers.~~

8 (d) ~~The task force shall identify barriers to, and needed services  
9 for, serving, in community settings, individuals who have been  
10 determined to be incompetent to stand trial. This shall include  
11 exploring approaches used in other states, assessing the need for  
12 new licensing categories, and recommending, as appropriate,  
13 alternative and innovative service delivery models, including, but  
14 not limited to, secure community treatment options, for individuals  
15 arrested for serious or violent felonies.~~

16 (e) ~~As appropriate, the task force shall develop model training  
17 curricula and model memoranda of understanding between regional  
18 centers and the courts and other local agencies.~~

19 (f) ~~The task force shall issue interim reports to the Legislature  
20 on the progress of its work by July 1, 2011, and July 1, 2012. The  
21 task force shall complete its work and issue a final report to the  
22 Legislature by June 30, 2013. The final report shall include a  
23 description of best practices and strategies identified by the task  
24 force, any sample training curricula, materials, and memoranda of  
25 understanding developed by the task force, and recommendations  
26 for future action, including legislative recommendations related  
27 to adults and youth in the criminal and juvenile justice systems.~~

28 (g) ~~This section shall become inoperative on July 1, 2013, and,  
29 as of January 1, 2014, is repealed, unless a later enacted statute,  
30 that becomes operative on or before January 1, 2014, deletes or  
31 extends the dates on which it becomes inoperative and is repealed.~~