

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 386**

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**Introduced by Assembly Member Galgiani**

February 14, 2011

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~~An act relating to telemedicine.~~ *An act to add Section 5023.3 to the Penal Code, relating to prisoners.*

LEGISLATIVE COUNSEL'S DIGEST

AB 386, as amended, Galgiani. ~~Telemedicine-Prisons: telemedicine systems.~~

*Existing law, the Telemedicine Development Act of 1996, regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications, by a health care practitioner, as defined. Existing law establishes that it is the intent of the Legislature that the Department of Corrections and Rehabilitation operate in the most cost-effective and efficient manner possible when purchasing health care services for inmates.*

*This bill would state the Legislature's findings and declarations on the use of telemedicine in the state's prisons. This bill would require the department, by January 1, 2013, to include protocols within its existing guidelines for determining when telemedicine services are appropriate, and would require the department to require an operational telemedicine services program at all adult institutions by January 1, 2016. The bill would require the department to schedule a patient for an evaluation with a distant physician when it is determined to be medically necessary, and would allow the department to use telemedicine only when it is in the best interest of the health and safety*

of the inmate patient. The bill would require the department to ensure that telemedicine shall not be used to supplant civil service physicians and dentists, and also to permit the department to contract with San Joaquin General Hospital for telemedicine services.

The bill would require the department to report to the Legislature, as provided, by March 1, 2013, and every year thereafter, regarding the department's implementation of statewide telemedicine services. This bill would render this reporting requirement inoperative on March 1, 2018.

~~Existing law provides that it is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider. Existing law defines telemedicine as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Existing law sets forth procedures a health care practitioner must follow prior to providing health care through telemedicine.~~

~~This bill would declare the intent of the Legislature to enact legislation that would encourage and streamline the state's telemedicine efforts.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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) It is the intent of the Legislature to require the Department
- 4     of Corrections and Rehabilitation to implement and maintain the
- 5     use of telemedicine in state prisons.
- 6     (b) Telemedicine improves inmates' access to health care by
- 7     enabling correctional systems to expand their provider network
- 8     to include physicians located outside the immediate vicinity of
- 9     prisons, particularly for inmates housed in remote areas of the
- 10    state with shortages of health care.
- 11    (c) The department's prison telemedicine program began in
- 12    1997 as a pilot project for mental health inmates at Pelican Bay
- 13    State Prison and was successful at improving inmates' access to
- 14    mental health care. Accordingly, the department decided to expand
- 15    the program to provide mental health as well as medical specialty

1 *services at other prisons. Currently, all of the state prisons are*  
2 *equipped to provide basic telemedicine services.*

3 *SEC. 2. Section 5023.3 is added to the Penal Code, to read:*

4 *5023.3. (a) In order to maximize the benefits that come with*  
5 *the use of telemedicine in the state's prisons, the department shall*  
6 *do all of the following:*

7 *(1) By January 1, 2013, include within the department's existing*  
8 *guidelines protocols for determining when telemedicine services*  
9 *are medically appropriate and in the best interest of the health*  
10 *and safety of the inmate patient.*

11 *(2) Require, by January 1, 2016, an operational telemedicine*  
12 *services program at all adult institutions within the department.*  
13 *The program shall include all of the following:*

14 *(A) Specific goals and objectives for maintaining and expanding*  
15 *services and encounters provided by the telemedicine services*  
16 *program, including store and forward telemedicine technology.*

17 *(B) An information technology support infrastructure that will*  
18 *allow telemedicine to be used at each adult prison.*

19 *(C) Specific guidelines for determining when and where*  
20 *telemedicine would be the preferred delivery method for health*  
21 *care.*

22 *(D) Guidelines and protocols for appropriate use and expansion*  
23 *of store and forward telemedicine technology in state prisons. For*  
24 *purposes of this section, "store and forward telemedicine" means*  
25 *the transmission of medical information to be reviewed at a later*  
26 *time and at a distant site by a physician without the patient being*  
27 *present.*

28 *(3) Schedule a patient for evaluation with a distant physician*  
29 *via telemedicine if and when it is determined that it is medically*  
30 *necessary.*

31 *(4) Utilize telemedicine only when it is in the best interest of*  
32 *the health and safety of the inmate patient.*

33 *(5) Ensure that telemedicine shall not be used to supplant civil*  
34 *service physician and dental positions.*

35 *(b) The department is authorized to contract with the San*  
36 *Joaquin General Hospital for telemedicine services.*

37 *(c) (1) On March 1, 2013, and each March 1 thereafter, the*  
38 *department shall report all of the following to the Joint Legislative*  
39 *Budget Committee, the Assembly Committee on Appropriations,*  
40 *the Assembly Committee on Budget, the Assembly Committee on*

1 *Health, the Assembly Committee on Public Safety, the Senate*  
2 *Committee on Appropriations, the Senate Committee on Budget*  
3 *and Fiscal Review, the Senate Committee on Health, and the Senate*  
4 *Committee on Public Safety:*

5 (A) *The extent to which the department achieved the objectives*  
6 *set forth in this section, as well as the most significant reasons for*  
7 *achieving or not achieving those objectives.*

8 (B) *The extent to which the department is operating a statewide*  
9 *telemedicine services program, as set forth in this section, that*  
10 *provides telemedicine services to every adult prison within the*  
11 *department, as well as the most significant reasons for achieving*  
12 *or not achieving those objectives.*

13 (C) *A description of planned and implemented initiatives*  
14 *necessary to accomplish the next 12 months' objectives for*  
15 *achieving the goals set forth in this section.*

16 (2) *The requirement for submitting a report imposed under this*  
17 *subdivision is inoperative on March 1, 2018, pursuant to Section*  
18 *10231.5 of the Government Code.*

19 ~~SECTION 1. It is the intent of the Legislature to enact~~  
20 ~~legislation that would encourage and streamline the state's~~  
21 ~~telemedicine efforts.~~