

AMENDED IN ASSEMBLY APRIL 27, 2011

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 to add Section 5023.3 to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 386, as amended, Galgiani. Prisons: ~~telemedicine~~ *telehealth* 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~~ *telehealth* 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~~ *telehealth* services are appropriate, and would require the department to require an operational ~~telemedicine~~ *telehealth* 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~~ *telehealth* 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~~ *telehealth* 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~~ *telehealth* services. This bill would render this reporting requirement inoperative on March 1, 2018.

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. 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~~ *telehealth* in state prisons.
- 6 (b) ~~Telemedicine~~ *Telehealth* improves inmates’ access to health
- 7 care by enabling correctional systems to expand their provider
- 8 network to include physicians located outside the immediate
- 9 vicinity of prisons, particularly for inmates housed in remote areas
- 10 of the state with shortages of health care.
- 11 (c) The department’s prison ~~telemedicine~~ *telehealth* program
- 12 began in 1997 as a pilot project for mental health inmates at Pelican
- 13 Bay State Prison and was successful at improving inmates’ access
- 14 to mental health care. Accordingly, the department decided to
- 15 expand the program to provide mental health as well as medical
- 16 specialty services at other prisons. Currently, all of the state prisons
- 17 are equipped to provide basic ~~telemedicine~~ *telehealth* services.
- 18 SEC. 2. Section 5023.3 is added to the Penal Code, to read:
- 19 5023.3. (a) In order to maximize the benefits that come with
- 20 the use of ~~telemedicine~~ *telehealth* in the state’s prisons, the
- 21 department shall do all of the following:
- 22 (1) By January 1, 2013, include within the department’s existing
- 23 guidelines, protocols for determining when ~~telemedicine~~ *telehealth*

1 services are medically appropriate and in the best interest of the  
2 health and safety of the inmate patient.

3 (2) Require, by January 1, 2016, an operational ~~telemedicine~~  
4 *telehealth* services program at all adult institutions within the  
5 department. The program shall include all of the following:

6 (A) Specific goals and objectives for maintaining and expanding  
7 services and encounters provided by the ~~telemedicine~~ *telehealth*  
8 services program, including store and forward ~~telemedicine~~  
9 *telehealth* technology.

10 (B) An information technology support infrastructure that will  
11 allow ~~telemedicine~~ *telehealth* to be used at each adult prison.

12 (C) Specific guidelines for determining when and where  
13 ~~telemedicine~~ *telehealth* would be the preferred delivery method  
14 for health care.

15 (D) Guidelines and protocols for appropriate use and expansion  
16 of store and forward ~~telemedicine~~ *telehealth* technology in state  
17 prisons. For purposes of this section, “store and forward  
18 ~~telemedicine~~” *telehealth*” means the transmission of medical  
19 information to be reviewed at a later time and at a distant site by  
20 a physician without the patient being present.

21 (3) Schedule a patient for evaluation with a distant physician  
22 via ~~telemedicine~~ *telehealth* if and when it is determined that it is  
23 medically necessary.

24 (4) Utilize ~~telemedicine~~ *telehealth* only when it is in the best  
25 interest of the health and safety of the inmate patient.

26 (5) Ensure that ~~telemedicine~~ *telehealth* shall not be used to  
27 supplant civil service physician and dental positions.

28 ~~(b) The department is authorized to contract with the San~~  
29 ~~Joaquin General Hospital for telemedicine services.~~

30 ~~(e)~~

31 ~~(b) (1) On March 1, 2013, and each March 1 thereafter, the~~  
32 ~~department shall report all of the following to the Joint Legislative~~  
33 ~~Budget Committee, the Assembly Committee on Appropriations,~~  
34 ~~the Assembly Committee on Budget, the Assembly Committee on~~  
35 ~~Health, the Assembly Committee on Public Safety, the Senate~~  
36 ~~Committee on Appropriations, the Senate Committee on Budget~~  
37 ~~and Fiscal Review, the Senate Committee on Health, and the Senate~~  
38 ~~Committee on Public Safety:~~

- 1 (A) The extent to which the department achieved the objectives  
2 ~~set forth in~~ *developed pursuant to* this section, as well as the most  
3 significant reasons for achieving or not achieving those objectives.
- 4 (B) The extent to which the department is operating a statewide  
5 ~~telemedicine~~ *telehealth* services program, as set forth in this  
6 section, that provides ~~telemedicine~~ *telehealth* services to every  
7 adult prison within the department, as well as the most significant  
8 reasons for achieving or not achieving ~~those objectives that~~  
9 *objective*.
- 10 (C) A description of planned and implemented initiatives  
11 necessary to accomplish the next 12 months' objectives for  
12 achieving the goals ~~set forth in~~ *developed pursuant to* this section.
- 13 (2) The requirement for submitting a report imposed under this  
14 subdivision is inoperative on March 1, 2018, pursuant to Section  
15 10231.5 of the Government Code.