

Assembly Bill No. 1472

CHAPTER 25

An act to amend Section 95004 of the Government Code, to amend Section 1531.1 of, and to add Sections 1267.75 and 1531.15 to, the Health and Safety Code, to amend Sections 4418.25, 4418.7, 4507, 4519, 4640.6, 4648, 4684.53, 4684.65, 4684.74, 4689, 4791, 6000, 6500, 6501, 6502, 6504, 6504.5, 6506, 6507, 6508, 6509, 6511, 6512, 7502.5, and 7507 of, and to add Sections 4519.5, 4792.1, 6510.5, and 7505 to, the Welfare and Institutions Code, and to amend Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, relating to developmental services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2012. Filed with
Secretary of State June 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1472, Committee on Budget. Developmental services.

Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families. The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act, and further requires the regional centers to comply with that act and its implementing regulations, as specified.

This bill would provide that the use of private health insurance or a health care service plan to pay for early intervention services may not result in the loss of specified benefits for the covered individual or family, may not negatively affect the availability of health coverage for the covered individual or family, and may not be the basis for increasing health insurance or health care service plan premiums for the covered individual or family, as specified.

Existing law authorizes a residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency, that serves individuals with developmental disabilities, to install and utilize delayed egress devices, as defined.

This bill would additionally authorize a licensee of an adult residential facility or group home, that is utilizing delayed egress devices, and that serves individuals with developmental disabilities, to install and utilize secured perimeters, as defined, in accordance with specified provisions. This bill would also authorize a licensee of an intermediate care

facility/developmentally disabled habilitative, as defined, and an intermediate care facility/developmentally disabled, as defined, to utilize delayed egress devices, as defined, in combination with secured perimeters, as defined, in accordance with specified provisions.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law vests in the department jurisdiction over state hospitals referred to as developmental centers for the provision of residential care to persons with developmental disabilities.

This bill would revise the provisions governing admission and stay in developmental centers, including limiting developmental center admissions for an acute crisis, as defined, to the Fairview Developmental Center, and limiting admission, generally, to persons meeting specified criteria. This bill would make related, conforming, and technical changes.

This bill would require the department to establish a statewide specialized resource service for the purposes of tracking available services, and would require regional centers to complete comprehensive assessments, as specified. This bill would revise certain provisions relating to out-of-state placements, including limiting the purchase of out-of-state services to no more than 6 months, except as specified.

This bill would require the department and the regional centers to annually compile and post specified data on their respective Internet Web sites. This bill, commencing July 1, 2012, would prohibit a regional center from purchasing new residential services from institutions for mental disease, as defined, except as specified.

Existing law requires the department and regional centers to ensure that supported living arrangements for adults with developmental disabilities are made available, as specified. Existing law requires an independent assessment for consumers receiving supported living who have supported living service costs that exceed 125% of the annual statewide average cost of supported living services, as specified.

This bill would delete the latter provision and would instead require the IPP team to complete a standardized assessment questionnaire at the time of development, review, or modification of a consumer's IPP. The bill would require the department to develop this questionnaire, post it on its Internet Web site, and provide it to the regional centers by June 30, 2012. The bill would require, upon a determination of a reduction in services pursuant to these provisions, that the regional center inform the consumer of the reason for the determination and provide a written notice of fair hearing rights, as specified.

Existing law requires regional centers, in order to implement changes in the level of funding for regional center purchase of services, to reduce certain payments for services and supports by 4.25% from July 1, 2010, to June

30, 2012, except as specified, and authorizes the temporary modification of personnel requirements, functions, or qualifications, or staff training requirements, and suspends prescribed annual review and reporting requirements for affected providers, until June 30, 2012.

This bill would require regional centers, commencing July 1, 2012, until June 30, 2013, to reduce certain payments for services and supports by 1.25%. The bill would extend the authorization of temporary modification of personnel requirements, functions, or qualifications, or staff training requirements, as well as the suspension of the prescribed annual review and reporting requirements for affected providers, until June 30, 2013.

Under existing law, regional center contracts require certain specified staffing levels and expertise, which are suspended from July 1, 2010, to June 30, 2012.

This bill would suspend those staffing requirements until June 30, 2013.

This bill would, if a condition set forth in a specified provision of the Budget Act of 2012 is satisfied, state the intent of the Legislature for the department to identify up to \$50,000,000 in General Fund savings from the developmental services system, as prescribed. This bill would require the department to consider input from prescribed stakeholders. This bill would require, as prescribed, the department to report to the Joint Legislative Budget Committee within 10 days of the specified reduction as directed within the Budget Act of 2012.

This bill would appropriate \$1,000 from the General Fund to the State Department of Developmental Services for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 95004 of the Government Code, as amended by Section 1 of Chapter 9 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

95004. The early intervention services specified in this title shall be provided as follows:

(a) Direct services for eligible infants and toddlers and their families shall be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the existing local education agency system under appropriate sections of Part 30 (commencing with Section 56000) of the Education Code and regulations adopted pursuant thereto, and Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

(b) (1) In providing services under this title, regional centers shall comply with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, and

its implementing regulations (Division 2 (commencing with Section 50201) of Title 17 of the California Code of Regulations) including, but not limited to, those provisions relating to vendorization and ratesetting, and the Family Cost Participation Program, except where compliance with those provisions would result in any delays in, the provision of early intervention, or otherwise conflict with this title and the regulations implementing this title (Chapter 2 (commencing with Section 52000) of Division 2 of Title 17 of the California Code of Regulations), or Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.), and applicable federal regulations contained in Part 303 (commencing with Section 303.1) of Title 34 of the Code of Federal Regulations. Notwithstanding any other law or regulation to the contrary, private health insurance for medical services or a health care service plan identified in the individualized family service plan, other than for evaluation and assessment, shall be used in compliance with applicable federal and state law and regulation.

(2) When compliance with this subdivision would result in any delays in the provision of early intervention services for the provision of any of these services, the department may authorize a regional center to use a special service code that allows immediate procurement of the service.

(c) The use of private health insurance or a health care service plan to pay for early intervention services under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) shall not:

(1) Count towards or result in a loss of benefits due to the annual or lifetime health insurance or health care service plan coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy or health care service plan contract.

(2) Negatively affect the availability of health coverage for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy or health care service plan contract, or result in a discontinuance of the health insurance policy or the health care service plan contract or coverage under the health insurance policy or health care service plan contract for these individuals.

(3) Be the basis for increasing the health insurance or health care service plan premium of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy or health care service plan contract.

(d) Services shall be provided by family resource centers that provide, but are not limited to, parent-to-parent support, information dissemination and referral, public awareness, family professional collaboration activities, and transition assistance for families.

(e) Existing obligations of the state to provide these services at state expense shall not be expanded.

(f) It is the intent of the Legislature that services be provided in accordance with Sections 303.124, 303.126, and 303.527 of Title 34 of the Code of Federal Regulations.

SEC. 2. Section 1267.75 is added to the Health and Safety Code, to read:

1267.75. (a) A licensee of an intermediate care facility/developmentally disabled habitative, as defined in subdivision (e) of Section 1250, or of an intermediate care facility/developmentally disabled, as defined in subdivision (g) of Section 1250, for no more than 15 residents, that is eligible for and serving clients eligible for federal Medicaid funding may, with the approval of the State Department of Public Health and contingent upon continued eligibility for federal Medicaid funding, install and utilize delayed egress devices of the time delay type in combination with secured perimeters in accordance with the provisions of this section.

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

(1) “Delayed egress device” means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident’s departure from the facility for longer than 30 seconds.

(2) “Secured perimeters” means fences that meet the requirements prescribed by this section.

(c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing delayed egress devices of the time delay type in combination with secured perimeters:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) (A) The person shall be 14 years of age or older.

(B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed facility described in subdivision (a) using delayed egress devices of the time delay type in combination with secured perimeters only if both of the following occur:

(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services’ statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

(ii) The regional center requests placement of the child in a facility described in subdivision (a) using delayed egress devices of the time delay type in combination with secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting and the State Department of Developmental Services approves the request.

(4) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse

control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with delayed egress devices of the time delay type in combination with secured perimeters and that, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall determine the continued appropriateness of the placement at least annually.

(d) The licensee shall be subject to all applicable fire and building codes, regulations, and standards, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed devices and secured perimeters.

(e) The licensee shall provide staff training regarding the use and operation of the delayed egress devices of the time delay type and secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(f) The licensee shall revise its facility plan of operation. These revisions shall first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Public Health unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:

(1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.

(2) A description of how the facility will provide training for staff.

(3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior.

(5) A description of the facility's emergency evacuation procedures.

(g) Delayed egress devices of the time delay type in combination with secured perimeters shall not substitute for adequate staff.

(h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

(i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

(j) For the purposes of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

(k) This section shall become operative only upon the filing of emergency regulations by the State Department of Developmental Services. These regulations shall be developed with stakeholders, including the State Department of Public Health, consumer advocates, and regional centers. The regulations shall establish program standards for homes that include

delayed egress devices of the time delay type in combination with secured perimeters, including requirements and timelines for the completion and updating of a comprehensive assessment of the consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The regulations shall establish a statewide limit on the total number of beds in homes with delayed egress devices of the time delay type in combination with secured perimeters. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(l) This section shall not apply to developmental centers and state-operated community facilities.

SEC. 3. Section 1531.1 of the Health and Safety Code is amended to read:

1531.1. (a) A residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(c) Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

(d) Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) An interdisciplinary team, through the Individual Program Plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. Except for facilities operating in accordance with Section 1531.15, the capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift.

SEC. 4. Section 1531.15 is added to the Health and Safety Code, to read:

1531.15. (a) A licensee of an adult residential facility or group home for no more than 15 residents, that is eligible for and serving clients eligible for federal Medicaid funding and utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

(b) As used in this section, "secured perimeters" means fences that meet the requirements prescribed by this section.

(c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing secured perimeters:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) (A) The person shall be 14 years of age or older, except as specified in subparagraph (B).

(B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed group home described in subdivision (a) using secured perimeters only if both of the following occur:

(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

(ii) The regional center requests placement of the child in a licensed group home described in subdivision (a) using secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting and the State Department of Developmental Services approves the request.

(4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 301, or 602 of the Welfare and Institutions Code.

(5) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall determine the continued appropriateness of the placement at least annually.

(d) The licensee shall be subject to all applicable fire and building codes, regulations, and standards, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed secured perimeters.

(e) The licensee shall provide staff training regarding the use and operation of the secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(f) The licensee shall revise its facility plan of operation. These revisions shall be first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Social Services unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:

(1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.

(2) A description of how the facility will provide training for staff.

(3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior.

(5) A description of the facility's emergency evacuation procedures.

(g) Secured perimeters shall not substitute for adequate staff.

(h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

(i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

(k) This section shall become operative only upon the filing of emergency regulations by the State Department of Developmental Services. These regulations shall be developed with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers. The regulations shall establish program standards for homes that include secured perimeters, including requirements and timelines for the completion and updating of a comprehensive assessment of each consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The regulations shall establish a statewide limit on the total number of beds in homes with secured perimeters. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 5. Section 4418.25 of the Welfare and Institutions Code is amended to read:

4418.25. (a) The department shall establish policies and procedures for the development of an annual community placement plan by regional centers. The community placement plan shall be based upon an individual program plan process as referred to in subdivision (a) of Section 4418.3 and shall be linked to the development of the annual state budget. The department's policies shall address statewide priorities, plan requirements, and the statutory roles of regional centers, developmental centers, and regional resource development projects in the process of assessing consumers for community living and in the development of community resources.

(b) (1) To reduce reliance on developmental centers and mental health facilities, including institutions for mental disease as described in Part 5 (commencing with Section 5900) of Division 5, for which federal funding is not available, and out-of-state placements, the department shall establish a statewide specialized resource service that does all of the following:

(A) Tracks the availability of specialty residential beds and services.

(B) Tracks the availability of specialty clinical services.

(C) Coordinates the need for specialty services and supports in conjunction with regional centers.

(D) Identifies, subject to federal reimbursement, developmental center services and supports that can be made available to consumers residing in the community, when no other community resource has been identified.

(2) By September 1, 2012, regional centers shall provide the department with information about all specialty resources developed with the use of community placement plan funds and shall make these resources available to other regional centers.

(3) When allocating funding for community placement plans, priority shall be given to the development of needed statewide specialty services and supports, including regional community crisis homes.

(4) If approved by the director, funding may be allocated to facilities that meet the criteria of Sections 1267.75 and 1531.15 of the Health and Safety Code.

(5) The department shall not provide community placement plan funds to develop programs that are ineligible for federal funding participation unless approved by the director.

(c) (1) The community placement plan shall provide for dedicated funding for comprehensive assessments of developmental center residents, for identified costs of moving individuals from developmental centers to the community, and for deflection of individuals from developmental center admission. The plans shall, where appropriate, include budget requests for regional center operations, assessments, resource development, and ongoing placement costs. These budget requests are intended to provide supplemental funding to regional centers. The plan is not intended to limit the department's or regional centers' responsibility to otherwise conduct assessments and individualized program planning, and to provide needed services and supports in the least restrictive, most integrated setting in accord with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(2) (A) Regional centers shall complete a comprehensive assessment of any consumer residing in a developmental center on July 1, 2012, who meets both of the following criteria:

(i) The consumer is not committed pursuant to Section 1370.1 of the Penal Code.

(ii) The consumer has not had such an assessment in the prior two years.

(B) The assessment shall include input from the regional center, the consumer, and, when appropriate, the consumer's family, legal guardian, conservator, or authorized representative, and shall identify the types of community-based services and supports available to the consumer.

(C) Regional centers shall specify in the annual community placement plan how they will complete the required assessment and the timeframe for completing the assessment for each consumer. Initial assessments pursuant to this paragraph for individuals residing in a developmental center on July 1, 2012, shall be completed by December 31, 2015, unless a regional center demonstrates to the department that an extension of time is necessary and the department grants such an extension.

(D) The assessment completed in the prior two years, or the assessment completed pursuant to the requirements of this section shall be provided to the individual program planning team in order to assist the planning team in determining the least restrictive environment for the consumer. These assessments shall be updated annually as part of the individual program planning process for as long as the consumer resides in the developmental center.

(d) The department shall review, negotiate, and approve regional center community placement plans for feasibility and reasonableness, including recognition of each regional centers' current developmental center population and their corresponding placement level, as well as each regional centers' need to develop new and innovative service models. The department shall hold regional centers accountable for the development and implementation of their approved plans. The regional centers shall report, as required by the department, on the outcomes of their plans. The department shall make aggregate performance data for each regional center available, upon request, as well as data on admissions to, and placements from, each developmental center.

(e) Funds allocated by the department to a regional center for a community placement plan developed under this section shall be controlled through the regional center contract to ensure that the funds are expended for the purposes allocated. Funds allocated for community placement plans that are not used for that purpose may be transferred to Item 4300-003-0001 for expenditure in the state developmental centers if their population exceeds the budgeted level. Any unspent funds shall revert to the General Fund.

(f) Commencing May 1, 2013, and then on April 1, 2014, and on April 1 annually thereafter, the department shall provide to the fiscal and appropriate policy committees of the Legislature information on efforts to serve consumers with challenging service needs, including, but not limited to, all of the following:

(1) For each regional center, the number of consumers admitted to each developmental center, including the legal basis for the admissions.

(2) For each regional center, the number of consumers described in paragraph (2) of subdivision (a) of Section 7505 who were admitted to Fairview Developmental Center by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6, and the number and lengths of stay of consumers, including those who have transitioned back to a community living arrangement.

(3) Outcome data related to the assessment process set forth in Section 4418.7, including the number of consumers who received assessments pursuant to Section 4418.7 and the outcomes of the assessments. Each regional center, commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter, shall provide the department with information on alternative community services and supports provided to those consumers who were able to remain in the community following the assessments, and the unmet service needs that resulted in any consumers being admitted to Fairview Developmental Center.

(4) Progress in the development of needed statewide specialty services and supports, including regional community crisis options, as provided in paragraph (3) of subdivision (b). Each regional center shall provide the department with a report containing the information described in this paragraph commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter.

(5) Progress in reducing reliance on mental health facilities ineligible for federal Medicaid funding, and out-of-state placements.

(6) Information on the utilization of facilities serving consumers with challenging service needs that utilize delayed egress devices and secured perimeters, pursuant to Section 1267.75 or 1531.15 of the Health and Safety Code, including the number of admissions, reasons for admissions, and lengths of stay of consumers, including those who have transitioned to less restrictive living arrangements.

(7) If applicable, any recommendations regarding additional rate exceptions or modifications beyond those allowed for under existing law that the department identifies as necessary to meet the needs of consumers with challenging service needs.

(g) Each regional center, commencing March 1, 2013, and then on February 1, 2014, and on February 1 annually thereafter, shall provide information to the department regarding the facilities described in paragraph (6) of subdivision (f), including, but not limited to, the number of admissions, reasons for admissions, and lengths of stay of consumers, including those who have transitioned to less restrictive living arrangements.

SEC. 6. Section 4418.7 of the Welfare and Institutions Code is amended to read:

4418.7. (a) If the regional center determines, or is informed by the consumer's parents, legal guardian, conservator, or authorized representative that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, or the regional center is notified by a court of a potential admission to a developmental center consistent with Section 7505, the regional center shall immediately notify the appropriate regional resource development project, the consumer, and the consumer's parents, legal guardian, or conservator.

(b) In these cases, the regional resource development project shall immediately arrange for an assessment of the situation, including, visiting the consumer, if appropriate, determining barriers to successful integration, and recommending the most appropriate means necessary to assist the consumer to remain in the community. The regional center shall request assistance from the statewide specialized resource service pursuant to Section 4418.25 as necessary in order to determine the most appropriate means necessary to assist the consumer to remain in the community and shall provide the information obtained from the statewide specialized resource service to the regional resource developmental project. If, based on the assessment, the regional resource development project determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports

on an emergency basis. An individual program plan meeting, including the regional resource development project's representative, shall be convened as soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports. The regional resource development project shall follow up with the regional center as to the success of the recommended interventions until the consumer's living arrangement is stable.

(c) (1) If the regional resource development project determines, based on the assessment conducted pursuant to subdivision (b), that the consumer referred to the regional resource development project by the court cannot be safely served in the developmental center, the department shall notify the court in writing.

(2) (A) If the regional resource development project, in consultation with the regional center, the consumer, and the consumer's parents, legal guardian, or conservator, when appropriate, determines that admittance to a state developmental center is necessary due to an acute crisis, as defined in paragraph (1) of subdivision (d), the regional center shall immediately pursue the obtainment of a court order for short-term admission and crisis stabilization.

(B) (i) The regional resource development project, in consultation with the regional center, the consumer, and, when appropriate, the consumer's parents, legal guardian, conservator, or authorized representative, shall not make a determination that admittance to a state developmental center is necessary due to an acute crisis as defined in paragraph (1) of subdivision (d) unless the determination includes a regional center report detailing all considered community-based services and supports and an explanation of why those options could not meet the consumer's needs at the time of such a determination.

(ii) For purposes of complying with clause (i), the regional center shall not be required to consider out-of-state placements or mental health facilities, including institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, that are ineligible for federal Medicaid funding.

(d) (1) For purposes of this section, an "acute crisis" means a situation in which the consumer meets the criteria of Section 6500 and, as a result of the consumer's behavior, all of the following are met:

(A) There is imminent risk for substantial harm to self or others.

(B) The service and support needs of the consumer cannot be met in the community, including with supplemental services as set forth in subparagraph (E) of paragraph (9) of subdivision (a) of Section 4648 and emergency and crisis intervention services as set forth in paragraph (10) of subdivision (a) of Section 4648.

(C) Due to serious and potentially life-threatening conditions, the consumer requires a more restrictive environment for crisis stabilization.

(2) For purposes of paragraph (1), out-of-state placements or mental health facilities and other facilities, including institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for

which federal Medicaid funding is not available, shall not be deemed to be supplemental services or emergency and crisis intervention services.

(e) When an admission occurs due to an acute crisis, all of the following shall apply:

(1) As soon as possible following admission to a developmental center, a comprehensive assessment shall be completed by the regional center in coordination with the developmental center. The comprehensive assessment shall include the identification of the services and supports needed for crisis stabilization and the timeline for identifying or developing the services and supports needed to transition the consumer back to the community. The regional center shall immediately submit a copy of the comprehensive assessment to the committing court. Immediately following the assessment, and not later than 30 days following admission, the regional center and the developmental center shall jointly convene an individual program plan meeting to determine the services and supports needed for crisis stabilization and to develop a plan to transition the consumer into community living pursuant to Section 4418.3. The clients' rights advocate for the regional center shall be notified of the admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(2) If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of crisis stabilization. If crisis services continue to be necessary, the regional center shall submit to the department an updated transition plan and a request for an extension of stay at the developmental center of up to 90 days.

(3) (A) A consumer shall reside in the developmental center no longer than six months before being placed into a community living arrangement pursuant to Section 4418.3, unless, prior to the end of the six months, all of the following have occurred:

(i) The regional center has conducted an additional comprehensive assessment based on information provided by the regional center, and the department determines that the consumer continues to be in an acute crisis.

(ii) The individual program planning team has developed a plan that identifies the specific services and supports necessary to transition the consumer into the community, and the plan includes a timeline to obtain or develop those services and supports.

(iii) The committing court has reviewed and, if appropriate, extended the commitment.

(B) The clients' rights advocate for the regional center shall be notified of the proposed extension pursuant to clause (iii) of subparagraph (A) and the individual program plan meeting to consider the extension, and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(C) (i) In no event shall a consumer's placement at the developmental center exceed one year unless both of the following occur:

(I) The regional center demonstrates significant progress toward implementing the plan specified in clause (ii) of subparagraph (A) identifying the specific services and supports necessary to transition the consumer into the community.

(II) Extraordinary circumstances exist beyond the regional center's control that have prevented the regional center from obtaining those services and supports within the timeline based on the plan.

(ii) If both of the circumstances described in subclauses (I) and (II) exist, the regional center may request, and the committing court may grant, an additional extension of the commitment, not to exceed 30 days.

(D) Consumers placed in the community after admission to a developmental center pursuant to this section shall be considered to have moved from a developmental center for purposes of Section 4640.6.

(f) The department shall collect data on the outcomes of efforts to assist at-risk consumers to remain in the community. The department shall make aggregate data on the implementation of the requirements of this section available, upon request.

(g) Notwithstanding any other law or regulation, commencing July 1, 2012, Fairview Developmental Center shall be the only developmental center authorized to admit a consumer pursuant to a court order for an acute crisis as described in this section.

SEC. 7. Section 4507 of the Welfare and Institutions Code is amended to read:

4507. Developmental disabilities alone shall not constitute sufficient justification for judicial commitment. Instead, persons with developmental disabilities shall receive services pursuant to this division. Persons who constitute a danger to themselves or others may be judicially committed pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 if evidence of such danger is proven in court.

SEC. 8. Section 4519 of the Welfare and Institutions Code is amended to read:

4519. (a) The department shall not expend funds, and a regional center shall not expend funds allocated to it by the department, for the purchase of any service outside the state unless the Director of Developmental Services or the director's designee has received, reviewed, and approved a plan for out-of-state service in the client's individual program plan developed pursuant to Sections 4646 to 4648, inclusive. Prior to submitting a request for out-of-state services, the regional center shall conduct a comprehensive assessment and convene an individual program plan meeting to determine the services and supports needed for the consumer to receive services in California and shall request assistance from the department's statewide specialized resource service in identifying options to serve the consumer in California. The request shall include details regarding all options considered and an explanation of why these options cannot meet the consumer's needs. The department shall authorize for no more than six months the purchase of out-of-state services when the director determines the proposed service or an appropriate alternative, as determined by the director, is not available

from resources and facilities within the state. Any extension beyond six months shall be based on a new and complete comprehensive assessment of the consumer's needs, review of available options, and determination that the consumer's needs cannot be met in California. An extension shall not exceed six months. For the purposes of this section, the department shall be considered a service agency under Chapter 7 (commencing with Section 4700).

(b) No funds shall be expended for the cost of interstate travel or transportation by regional center staff in connection with the purchase of any service outside the state unless authorized by the director or the director's designee.

(c) When a regional center places a client out of state pursuant to subdivision (a), it shall prepare a report for inclusion in the client's individual program plan. This report shall summarize the regional center's efforts to locate, develop, or adapt an appropriate program for the client within the state. This report shall be reviewed and updated every three months and a copy sent to the director. Each comprehensive assessment and report shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to California.

(d) Notwithstanding subdivisions (a), (b), and (c), the State Department of Developmental Services or a regional center may expend funds allocated to it for the purchase of services for residents of this state and administrative costs incurred in providing services in the border areas of a state adjacent to California when the purchase is approved by the regional center director.

(e) Each regional center shall submit to the department by December 31, 2012, a transition plan for all consumers residing out of state as of June 30, 2012, for whom the regional center is purchasing services.

SEC. 9. Section 4519.5 is added to the Welfare and Institutions Code, to read:

4519.5. (a) The department and the regional centers shall annually collaborate to compile data relating to purchase of service authorization, utilization, and expenditure by each regional center with respect to all of the following:

(1) The age of consumer, categorized by the following:

- (A) Birth to age two, inclusive.
- (B) Three to 21, inclusive.
- (C) Twenty-two and older.

(2) Race or ethnicity of the consumer.

(3) Primary language spoken by the consumer, and other related details, as feasible.

(4) Disability detail, in accordance with the categories established by subdivision (a) of Section 4512, and, if applicable, a category specifying that the disability is unknown.

(b) The data reported pursuant to subdivision (a) shall also include the number and percentage of individuals, categorized by age, race or ethnicity,

and disability, who have been determined to be eligible for regional center services but are not receiving purchase of service funds.

(c) By March 31, 2013, each regional center shall post the data described in this section that is specific to the regional center on its Internet Web site. Commencing on December 31, 2013, each regional center shall annually post this data by December 31.

(d) By March 31, 2013, the department shall post the information described in this section on a statewide basis on its Internet Web site. Commencing December 31, 2013, the department shall annually post this information by December 31.

(e) Within three months of compiling the data with the department, and annually thereafter, each regional center shall meet with stakeholders in a public meeting regarding the data.

SEC. 10. Section 4640.6 of the Welfare and Institutions Code is amended to read:

4640.6. (a) In approving regional center contracts, the department shall ensure that regional center staffing patterns demonstrate that direct service coordination are the highest priority.

(b) Contracts between the department and regional centers shall require that regional centers implement an emergency response system that ensures that a regional center staff person will respond to a consumer, or individual acting on behalf of a consumer, within two hours of the time an emergency call is placed. This emergency response system shall be operational 24 hours per day, 365 days per year.

(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows:

(1) An average service coordinator-to-consumer ratio of 1 to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.

(2) An average service coordinator-to-consumer ratio of 1 to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.

(3) Commencing January 1, 2004, the following coordinator-to-consumer ratios shall apply:

(A) All consumers three years of age and younger and for consumers enrolled in the Home and Community-based Services Waiver program for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.

(B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.

(C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.

(4) For purposes of paragraph (3), service coordinators may have a mixed caseload of consumers three years of age and younger, consumers enrolled in the Home and Community-based Services Waiver program for persons with developmental disabilities, and other consumers if the overall average caseload is weighted proportionately to ensure that overall regional center average service coordinator-to-consumer ratios as specified in paragraph (3) are met. For purposes of paragraph (3), in no case shall a service coordinator have an assigned caseload in excess of 84 for more than 60 days.

(d) For purposes of this section, “service coordinator” means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers’ individual program plans, securing and coordinating consumer services and supports, and providing placement and monitoring activities.

(e) In order to ensure that caseload ratios are maintained pursuant to this section, each regional center shall provide service coordinator caseload data to the department, annually for each fiscal year. The data shall be submitted in the format, including the content, prescribed by the department. Within 30 days of receipt of data submitted pursuant to this subdivision, the department shall make a summary of the data available to the public upon request. The department shall verify the accuracy of the data when conducting regional center fiscal audits. Data submitted by regional centers pursuant to this subdivision shall:

(1) Only include data on service coordinator positions as defined in subdivision (d). Regional centers shall identify the number of positions that perform service coordinator duties on less than a full-time basis. Staffing ratios reported pursuant to this subdivision shall reflect the appropriate proportionality of these staff to consumers served.

(2) Be reported separately for service coordinators whose caseload includes any of the following:

(A) Consumers who are three years of age and older and who have not moved from the developmental center to the community since April 14, 1993.

(B) Consumers who have moved from a developmental center to the community since April 14, 1993.

(C) Consumers who are younger than three years of age.

(D) Consumers enrolled in the Home and Community-based Services Waiver program.

(3) Not include positions that are vacant for more than 60 days or new positions established within 60 days of the reporting month that are still vacant.

(4) For purposes of calculating caseload ratios for consumers enrolled in the Home and Community-based Services Waiver program, vacancies shall not be included in the calculations.

(f) The department shall provide technical assistance and require a plan of correction for any regional center that, for two consecutive reporting periods, fails to maintain service coordinator caseload ratios required by this section or otherwise demonstrates an inability to maintain appropriate staffing patterns pursuant to this section. Plans of correction shall be developed following input from the local area board, local organizations representing consumers, family members, regional center employees, including recognized labor organizations, and service providers, and other interested parties.

(g) Contracts between the department and regional center shall require the regional center to have, or contract for, all of the following areas:

(1) Criminal justice expertise to assist the regional center in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate, or parolee.

(2) Special education expertise to assist the regional center in providing advocacy and support to families seeking appropriate educational services from a school district.

(3) Family support expertise to assist the regional center in maximizing the effectiveness of support and services provided to families.

(4) Housing expertise to assist the regional center in accessing affordable housing for consumers in independent or supportive living arrangements.

(5) Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life.

(6) Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinating the regional center quality assurance efforts.

(7) Each regional center shall employ at least one consumer advocate who is a person with developmental disabilities.

(8) Other staffing arrangements related to the delivery of services that the department determines are necessary to ensure maximum cost-effectiveness and to ensure that the service needs of consumers and families are met.

(h) Any regional center proposing a staffing arrangement that substantially deviates from the requirements of this section shall request a waiver from the department. Prior to granting a waiver, the department shall require a detailed staffing proposal, including, but not limited to, how the proposed staffing arrangement will benefit consumers and families served, and shall demonstrate clear and convincing support for the proposed staffing arrangement from constituencies served and impacted, that include, but are not limited to, consumers, families, providers, advocates, and recognized labor organizations. In addition, the regional center shall submit to the department any written opposition to the proposal from organizations or

individuals, including, but not limited to, consumers, families, providers, and advocates, including recognized labor organizations. The department may grant waivers to regional centers that sufficiently demonstrate that the proposed staffing arrangement is in the best interest of consumers and families served, complies with the requirements of this chapter, and does not violate any contractual requirements. A waiver shall be approved by the department for up to 12 months, at which time a regional center may submit a new request pursuant to this subdivision.

(i) From February 1, 2009, to June 30, 2010, inclusive, the following shall not apply:

(1) The service coordinator-to-consumer ratio requirements of paragraph (1), and subparagraph (C) of paragraph (3), of subdivision (c).

(2) The requirements of subdivision (e). The regional centers shall, instead, maintain sufficient service coordinator caseload data to document compliance with the service coordinator-to-consumer ratio requirements in effect pursuant to this section.

(3) The requirements of paragraphs (1) to (6), inclusive, of subdivision (g).

(j) From July 1, 2010, until June 30, 2013, the following shall not apply:

(1) The service coordinator-to-consumer ratio requirements of paragraph (1), and subparagraph (C) of paragraph (3), of subdivision (c).

(2) The requirements of paragraphs (1) to (6), inclusive, of subdivision (g).

(k) (1) Any contract between the department and a regional center entered into on and after January 1, 2003, shall require that all employment contracts entered into with regional center staff or contractors be available to the public for review, upon request. For purposes of this subdivision, an employment contract or portion thereof may not be deemed confidential nor unavailable for public review.

(2) Notwithstanding paragraph (1), the social security number of the contracting party may not be disclosed.

(3) The term of the employment contract between the regional center and an employee or contractor shall not exceed the term of the state's contract with the regional center.

SEC. 11. Section 4648 of the Welfare and Institutions Code is amended to read:

4648. In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities, including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with

developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.

(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or any part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendorized or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department, regional centers, vendors and the individual or agency requesting vendorization.

(C) Regulations shall include, but not be limited to: the vendor application process, and the basis for accepting or denying an application; the qualification and requirements for each category of services that may be provided to a regional center consumer through a vendor; requirements for emergency vendorization; procedures for termination of vendorization; the procedure for an individual or an agency to appeal any vendorization decision made by the department or regional center.

(D) A regional center may vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity. A facility already licensed on January 1, 1999, shall continue to be vendorized at their full licensed capacity until the facility agrees to vendorization at a reduced capacity.

(E) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not newly vendor a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, unless the facility qualifies for receipt of federal funds under the Medicaid Program.

(4) Notwithstanding subparagraph (B), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, any provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

(5) In order to ensure the maximum flexibility and availability of appropriate services and supports for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of services and supports identified as necessary to the implementation of a consumers' individual program plan. The system of payment shall include provision for a rate to ensure that the provider can meet the special needs of consumers and provide quality services and supports in the least restrictive setting as required by law.

(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548, subdivision (b) of Section 4701.6, or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) Where appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available, shall be reviewed, and the least costly available provider of comparable service, including the cost of transportation, who is able to accomplish all or part of the consumer's individual program plan, consistent with the particular needs of the consumer and family as identified in the individual program plan, shall be selected. In determining the least costly provider, the availability of federal financial participation shall be considered. The consumer shall not be required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

(E) The consumer's choice of providers, or, where appropriate, the consumer's parent's, legal guardian's, authorized representative's, or conservator's choice of providers.

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548, subdivision (b) of

Section 4701.6, or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

(8) Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

(9) (A) A regional center may, directly or through an agency acting on behalf of the center, provide placement in, purchase of, or follow-along services to persons with developmental disabilities in, appropriate community living arrangements, including, but not limited to, support service for consumers in homes they own or lease, foster family placements, health care facilities, and licensed community care facilities. In considering appropriate placement alternatives for children with developmental disabilities, approval by the child's parent or guardian shall be obtained before placement is made.

(B) Effective July 1, 2012, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not purchase residential services from a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds. This prohibition on regional center purchase of residential services shall not apply to any of the following:

(i) A residential facility with a licensed capacity of 16 or more beds that has been approved to participate in the department's Home and Community Based Services Waiver or another existing waiver program or certified to participate in the Medi-Cal program.

(ii) A residential facility service provider that has a written agreement and specific plan prior to July 1, 2012, with the vendoring regional center to downsize the existing facility by transitioning its residential services to living arrangements of 15 beds or less or restructure the large facility to meet federal Medicaid eligibility requirements on or before June 30, 2013.

(iii) A residential facility licensed as a mental health rehabilitation center by the State Department of Mental Health or successor agency under any of the following circumstances:

(I) The facility is eligible for Medicaid reimbursement.

(II) The facility has a department-approved plan in place by June 30, 2013, to transition to a program structure eligible for federal Medicaid funding, and this transition will be completed by June 30, 2014. The department may grant an extension for the date by which the transition will be completed if the facility demonstrates that it has made significant progress toward transition, and states with specificity the timeframe by which the transition will be completed and the specified steps that will be taken to accomplish the transition. A regional center may pay for the costs of care and treatment of a consumer residing in the facility on June 30, 2012, until June 30, 2013, inclusive, and, if the facility has a department-approved plan in place by June 30, 2013, may continue to pay the costs under this

subparagraph until June 30, 2014, or until the end of any period during which the department has granted an extension.

(III) There is an emergency circumstance in which the regional center determines that it cannot locate alternate federally eligible services to meet the consumer's needs. Under such an emergency circumstance, an assessment shall be completed by the regional center as soon as possible and within 30 days of admission. An individual program plan meeting shall be convened immediately following the assessment to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility into the community. If transition is not expected within 90 days of admission, an individual program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of placement in the facility. Commencing October 1, 2012, this determination shall be made after also considering resource options identified by the statewide specialized resource service. If it is determined that emergency services continue to be necessary, the regional center shall submit an updated transition plan that can cover a period of up to 90 days. In no event shall placements under these emergency circumstances exceed 180 days.

(C) (i) Effective July 1, 2012, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not purchase new residential services from institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding is not available.

(ii) The prohibition described in clause (i) shall not apply to emergencies, as determined by the regional center, when a regional center cannot locate alternate federally eligible services to meet the consumer's needs. As soon as possible within 30 days of admission due to an emergency, an assessment shall be completed by the regional center. An individual program plan meeting shall be convened immediately following the assessment, to determine the services and supports needed for stabilization and to develop a plan to transition the consumer from the facility to the community. If transition is not expected within 90 days of admission, an emergency, program plan meeting shall be held to discuss the status of transition and to determine if the consumer is still in need of placement in the facility. If emergency services continue to be necessary, the regional center shall submit an updated transition plan to the department for an extension of up to 90 days. Placement shall not exceed 180 days.

(iii) Regional centers shall complete a comprehensive assessment of any consumer residing in an institution for mental disease as of July 1, 2012, for which federal Medicaid funding is not available. The comprehensive assessment shall be completed prior to the consumer's next scheduled individual program plan meeting and shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to the community. Effective October 1, 2012, the regional center shall also consider resource options identified by the statewide specialized resource service. For each

individual program plan meeting convened pursuant to this subparagraph, the clients' rights advocate for the regional center shall be notified of the meeting and may participate in the meeting unless the consumer objects on his or her own behalf.

(D) Each person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audio tapes, when necessary to meet the communication needs of consumers.

(E) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with developmental disabilities in the living arrangement of their own choice. Crisis services shall first be provided without disrupting a person's living arrangement. If crisis intervention services are unsuccessful, emergency housing shall be available in the person's home community. If dislocation cannot be avoided, every effort shall be made to return the person to his or her living arrangement of choice, with all necessary supports, as soon as possible.

(11) Among other service and support options, planning teams shall consider the use of paid roommates or neighbors, personal assistance, technical and financial assistance, and all other service and support options which would result in greater self-sufficiency for the consumer and cost-effectiveness to the state.

(12) When facilitation as specified in an individual program plan requires the services of an individual, the facilitator shall be of the consumer's choosing.

(13) The community support may be provided to assist individuals with developmental disabilities to fully participate in community and civic life, including, but not limited to, programs, services, work opportunities, business, and activities available to persons without disabilities. This facilitation shall include, but not be limited to, any of the following:

(A) Outreach and education to programs and services within the community.

(B) Direct support to individuals which would enable them to more fully participate in their community.

(C) Developing unpaid natural supports when possible.

(14) When feasible and recommended by the individual program planning team, for purposes of facilitating better and cost-effective services for consumers or family members, technology, including telecommunication technology, may be used in conjunction with other services and supports. Technology in lieu of a consumer's in-person appearances at judicial proceedings or administrative due process hearings may be used only if the consumer or, when appropriate, the consumer's parent, legal guardian, conservator, or authorized representative, gives informed consent. Technology may be used in lieu of, or in conjunction with, in-person training for providers, as appropriate.

(15) Other services and supports may be provided as set forth in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

(16) Notwithstanding any other provision of law or regulation to the contrary, effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice. For regional center consumers receiving these services as part of their individual program plan (IPP) or individualized family service plan (IFSP) on July 1, 2009, this prohibition shall apply on August 1, 2009.

(b) (1) Advocacy for, and protection of, the civil, legal, and service rights of persons with developmental disabilities as established in this division.

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, when appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that agency or individual provider in upgrading the quality of services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority, or request the area board to investigate the possible noncompliance.

(e) When necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) Where there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

(h) At least annually, regional centers shall provide the consumer, his or her parents, legal guardian, conservator, or authorized representative a statement of services and supports the regional center purchased for the purpose of ensuring that they are delivered. The statement shall include the type, unit, month, and cost of services and supports purchased.

SEC. 12. Section 4684.53 of the Welfare and Institutions Code is amended to read:

4684.53. (a) The State Department of Developmental Services and the State Department of Social Services shall jointly implement a licensing program to provide special health care and intensive support services to adults in homelike community settings.

(b) The program shall be implemented through approved community placement plans as follows:

(1) For closure of Agnews Developmental Center, through the following regional centers:

(A) The San Andreas Regional Center.

(B) The Regional Center of the East Bay.

(C) The Golden Gate Regional Center.

(2) All regional centers involved in the closure of the Lanterman Developmental Center, as determined by the State Department of Developmental Services.

(3) All regional centers transitioning developmental center residents to placements in the community.

(c) Each ARFPSHN shall possess a community care facility license issued pursuant to Article 9 (commencing with Section 1567.50) of Chapter 3 of Division 2 of the Health and Safety Code, and shall be subject to the requirements of Chapter 1 (commencing with Section 80000) of Division 6 of Title 22 of the California Code of Regulations, except for Article 8 (commencing with Section 80090).

(d) For purposes of this article, a health facility licensed pursuant to subdivision (e) or (h) of Section 1250 may place its licensed bed capacity in voluntary suspension for the purpose of licensing the facility to operate an ARFPSHN if the facility is selected to participate pursuant to Section 4684.58. Consistent with subdivision (a) of Section 4684.50, any facility licensed pursuant to this section shall serve up to five adults. A facility's bed capacity shall not be placed in voluntary suspension until all consumers residing in the facility under the license to be suspended have been relocated. No consumer may be relocated unless it is reflected in the consumer's individual program plan developed pursuant to Sections 4646 and 4646.5.

(e) Each ARFPSHN shall be subject to the requirements of Subchapters 5 through 9 of Chapter 1 of, and Subchapters 2 and 4 of Chapter 3 of, Division 2 of Title 17 of the California Code of Regulations.

(f) Each ARFPSHN shall ensure that an operable automatic fire sprinkler system is installed and maintained.

(g) Each ARFPSHN shall have an operable automatic fire sprinkler system that is approved by the State Fire Marshal and that meets the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes. A local jurisdiction shall not require a sprinkler system exceeding this standard by amending the standard or by applying standards other than NFPA 13D. A public water agency shall not interpret this section as changing the status of a facility from a residence entitled to residential water rates, nor shall a new meter or larger connection pipe be required of the facility.

(h) Each ARFPSHN shall provide an alternative power source to operate all functions of the facility for a minimum of six hours in the event the primary power source is interrupted. The alternative power source shall comply with the manufacturer's recommendations for installation and operation. The alternative power source shall be maintained in safe operating condition, and shall be tested every 14 days under the full load condition for a minimum of 10 minutes. Written records of inspection, performance, exercising period, and repair of the alternative power source shall be regularly maintained on the premises and available for inspection by the State Department of Developmental Services.

SEC. 13. Section 4684.65 of the Welfare and Institutions Code is amended to read:

4684.65. (a) A regional center shall not place, or fund the placement for, any consumer in an ARFPSHN until the individual health care plan team has prepared a written individual health care plan that can be fully and immediately implemented upon the consumer's placement.

(b) (1) An ARFPSHN shall only accept, for initial admission, consumers who meet both of the following requirements:

(A) Reside in a developmental center at the time of the proposed placement.

(B) Have an individual program plan that specifies special health care and intensive support needs that indicate the appropriateness of placement in an ARFPSHN.

(2) Except as provided in paragraph (3), when a vacancy in an ARFPSHN occurs due to the permanent relocation or death of a resident, the vacancy may be filled by a consumer who meets the requirements of paragraph (1).

(3) If there is no resident residing in a developmental center from any regional center who meets the requirements of subparagraph (B) of paragraph (1), a vacancy may be filled by a consumer of any regional center who does not reside in a developmental center if the consumer otherwise meets the requirements of subparagraph (B) of paragraph (1), the regional center demonstrates that the placement is necessary to protect the consumer's health or safety, and the department has granted prior written authorization.

(c) The ARFPSHN shall not admit a consumer if the individual health care plan team determines that the consumer is likely to exhibit behaviors posing a threat of substantial harm to others, or has a serious health condition that is unpredictable or unstable. A determination that the individual is a threat to others may only be based on objective evidence or recent behavior and a determination that the threat cannot be mitigated by reasonable interventions.

SEC. 14. Section 4684.74 of the Welfare and Institutions Code is amended to read:

4684.74. The State Department of Developmental Services shall only approve the development of Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHNs) that are directly associated with the community placement of developmental center residents.

SEC. 15. Section 4689 of the Welfare and Institutions Code is amended to read:

4689. Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the individual program plan. In order to provide opportunities for adults to live in their own homes, the following procedures shall be adopted:

(a) The department and regional centers shall ensure that supported living arrangements adhere to the following principles:

(1) Consumers shall be supported in living arrangements which are typical of those in which persons without disabilities reside.

(2) The services or supports that a consumer receives shall change as his or her needs change without the consumer having to move elsewhere.

(3) The consumer's preference shall guide decisions concerning where and with whom he or she lives.

(4) Consumers shall have control over the environment within their own home.

(5) The purpose of furnishing services and supports to a consumer shall be to assist that individual to exercise choice in his or her life while building critical and durable relationships with other individuals.

(6) The services or supports shall be flexible and tailored to a consumer's needs and preferences.

(7) Services and supports are most effective when furnished where a person lives and within the context of his or her day-to-day activities.

(8) Consumers shall not be excluded from supported living arrangements based solely on the nature and severity of their disabilities.

(b) Regional centers may contract with agencies or individuals to assist consumers in securing their own homes and to provide consumers with the supports needed to live in their own homes.

(c) The range of supported living services and supports available include, but are not limited to, assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support; development and provision of 24-hour emergency response systems; securing and maintaining adaptive equipment and supplies; recruiting, training, and hiring individuals to provide personal care and other assistance, including in-home supportive services workers, paid neighbors, and paid roommates; providing respite and emergency relief for personal care attendants; and facilitating community participation. Assessment of consumer needs may begin before 18 years of age to enable the consumer to move to his or her own home when he or she reaches 18 years of age.

(d) Regional centers shall provide information and education to consumers and their families about supported living principles and services.

(e) Regional centers shall monitor and ensure the quality of services and supports provided to individuals living in homes that they own or lease. Monitoring shall take into account all of the following:

(1) Adherence to the principles set forth in this section.

(2) Whether the services and supports outlined in the consumer's individual program plan are congruent with the choices and needs of the individual.

(3) Whether services and supports described in the consumer's individual program plan are being delivered.

(4) Whether services and supports are having the desired effects.

(5) Whether the consumer is satisfied with the services and supports.

(f) The planning team, established pursuant to subdivision (j) of Section 4512, for a consumer receiving supported living services shall confirm that

all appropriate and available sources of natural and generic supports have been utilized to the fullest extent possible for that consumer.

(g) Regional centers shall utilize the same supported living provider for consumers who reside in the same domicile, provided that each individual consumer's particular needs can still be met pursuant to his or her individual program plans.

(h) Rent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.

(i) A regional center shall not make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving supported living services, except under the following circumstances:

(1) If all of the following conditions are met, a regional center may make rent, mortgage, or lease payments as follows:

(A) The regional center executive director verifies in writing that making the rent, mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another.

(B) During the time period that a regional center is making rent, mortgage, or lease payments, or paying for household expenses, the supported living services vendor shall assist the consumer in accessing all sources of generic and natural supports consistent with the needs of the consumer.

(C) The regional center shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for more than six months, unless the regional center finds that it is necessary to meet the individual consumer's particular needs pursuant to the consumer's individual program plan. The regional center shall review a finding of necessity on a quarterly basis and the regional center executive director shall annually verify in an addendum to the consumer's individual program plan that the requirements set forth in subparagraph (A) continue to be met.

(2) A regional center that has been contributing to rent, mortgage, or lease payments or paying for household expenses prior to July 1, 2009, shall at the time of development, review, or modification of a consumer's individual program plan determine if the conditions in paragraph (1) are met. If the planning team determines that these contributions are no longer appropriate under this section, a reasonable time for transition, not to exceed six months, shall be permitted.

(j) All paid roommates and live-in support staff in supported living arrangements in which regional centers have made rent, mortgage, or lease payments, or have paid for household expenses pursuant to subdivision (i) shall pay their share of the rent, mortgage, or lease payments or household expenses for the supported living home, subject to the requirements of Industrial Welfare Commission Order No. 15-2001 and the Housing Choice

Voucher Program, as set forth in Section 1437f of Title 42 of the United States Code.

(k) Regional centers shall ensure that the supported living services vendors' administrative costs are necessary and reasonable, given the particular services that they are providing and the number of consumers to whom the vendor provides services. Administrative costs shall be limited to allowable costs for community-based day programs, as defined in Section 57434 of Title 17 of the California Code of Regulations, or its successor.

(l) Regional centers shall ensure that the most cost effective of the rate methodologies is utilized to determine the negotiated rate for vendors of supported living services, consistent with Section 4689.8 and Title 17 of the California Code of Regulations.

(m) For purposes of this section, "household expenses" means general living expenses and includes, but is not limited to, utilities paid and food consumed within the home.

(n) A supported living services provider shall provide assistance to a consumer who is a Medi-Cal beneficiary in applying for in-home supportive services, as set forth in Section 12300, within five days of the consumer moving into a supported living services arrangement.

(o) For consumers receiving supported living services who share a household with one or more adults receiving supported living services, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. These tasks shall only be shared to the extent they are permitted under the Labor Code and related regulations, including, but not limited to, Industrial Welfare Commission Minimum Wage Order No. 15. The planning team, as defined in subdivision (j) of Section 4512, at the time of development, review, or modification of a consumer's individual program plan (IPP), for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving supported living services who is responsible for the task, shall consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, the regional center shall purchase the prorated share of the activity. Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

(p) (1) To ensure that consumers in or entering into supported living arrangements receive the appropriate amount and type of supports to meet the person's choice and needs as determined by the IPP team, and that generic resources are utilized to the fullest extent possible, the IPP team shall complete a standardized assessment questionnaire at the time of development, review, or modification of a consumer's IPP. The questionnaire shall be used during the individual program plan meetings, in addition to

the provider's assessment, to assist in determining whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of supported living services are utilized. With input from stakeholders, including regional centers, the department shall develop and post the questionnaire on its Internet Web site, and, by June 30, 2012, shall provide it to the regional centers.

(2) Supported living service providers shall conduct comprehensive assessments for the purpose of getting to know the consumer they will be supporting and developing a support plan congruent with the choices and needs of the individual and consistent with the principles of supported living set forth in this section and in Subchapter 19 (commencing with Section 58600) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations. The independent assessment required by this paragraph is not intended to take the place of or repeat the service provider's comprehensive assessment.

(3) Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

(4) Nothing in this section precludes the completion of an independent assessment.

SEC. 16. Section 4791 of the Welfare and Institutions Code is amended to read:

4791. (a) Notwithstanding any other provision of law or regulation, from July 1, 2010, until June 30, 2013, regional centers may temporarily modify personnel requirements, functions, or qualifications, or staff training requirements for providers, except for licensed or certified residential providers, whose payments are reduced by 1.25 percent pursuant to the amendments to Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by the act amending this section.

(b) A temporary modification pursuant to subdivision (a), effective during any agreed upon period of time from July 1, 2010, until June 30, 2013, may only be approved when the regional center determines that the change will not do any of the following:

(1) Adversely affect the health and safety of a consumer receiving services or supports from the provider.

(2) Result in a consumer receiving services in a more restrictive environment.

(3) Negatively impact the availability of federal financial participation.

(4) Violate any state licensing or labor laws or other provisions of Title 17 of the California Code of Regulations not eligible for modification pursuant to this section.

(c) A temporary modification pursuant to subdivision (a) shall be described in a written services contract between the regional center purchasing the services and the provider, and a copy of the written services contract and any related documentation shall be retained by the provider and the regional center purchasing the services from the provider.

(d) Notwithstanding any other provision of law or regulation, the department shall suspend, from July 1, 2010, until June 30, 2013, the requirements described in Sections 56732 and 56800 of Title 17 of the California Code of Regulations requiring community-based day programs and in-home respite agencies to conduct annual reviews and to submit written reports to vendoring regional centers, user regional centers, and the department.

(e) Notwithstanding any other provision of law or regulation, from July 1, 2010, until June 30, 2013, a residential service provider, vendored by a regional center and whose payment is reduced by 1.25 percent pursuant to the amendments to Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by the act amending this section, shall not be required to complete quarterly and semiannual progress reports required in subdivisions (b) and (c) of Section 56026 of Title 17 of the California Code of Regulations. During program review, the provider shall inform the regional center case manager of the consumer's progress and any barrier to the implementation of the individual program plan for each consumer residing in the residence.

SEC. 17. Section 4792.1 is added to the Welfare and Institutions Code, to read:

4792.1. (a) This section shall only be operative if the condition set forth in subdivision (a) of Section 3.62 of the Budget Act of 2012 is satisfied. It is the intent of the Legislature for the department to identify up to fifty million dollars (\$50,000,000) in General Fund savings from within the overall developmental services system, including any savings or reductions within state administrative support, operation of the developmental centers, and operation of the regional centers, including administration and the purchase of services where applicable.

(b) It is the intent of the Legislature to keep the reductions made pursuant to this section as far away as feasible from consumer's direct needs, services, and supports, including health, safety, and quality of life.

(c) A variety of strategies, including, but not limited to, all of the following, may be used to achieve this reduction:

(1) Savings attributable to caseload adjustments, changes in expenditure trends, unexpended contract funds, or other administrative savings or restructuring.

(2) Savings attributable to the establishment of best practices for the administrative management of regional centers and for regional centers to use when purchasing services for consumers and families. In order to achieve these savings, the department shall review and submit to the Legislature best practices pursuant to subdivisions (b) to (g), inclusive, of Section 4620.3. The department shall submit the proposed best practices to the fiscal and applicable policy committees of the Legislature. This submission shall include a description of the process that was followed to collaborate with system stakeholders, the anticipated impact of the best practices coupled with prior reductions on consumers, families, and providers, estimated cost savings associated with each practice, and draft statutory language necessary

to implement the best practices. Consistent with subdivision (h) of Section 4620.3, implementation of the best practices shall take effect only upon subsequent legislative enactment.

(d) The department shall consider input from stakeholders, including consumers and family members, consumer-focused advocacy groups, service provider representatives, regional center representatives, developmental center representatives, other stakeholders, and staff of the Legislature, to develop General Fund savings proposals as necessary.

(e) If the condition set forth in subdivision (a) of Section 3.62 of the Budget Act of 2012 is satisfied, and the department is directed to identify up to fifty million dollars (\$50,000,000) in General Fund savings from within the developmental services system, any savings or reductions identified shall be reported to the Joint Legislative Budget Committee within 10 days of the reduction as directed by subdivision (e) of Section 3.62 of the Budget Act of 2012.

SEC. 18. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. (a) Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(1) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5358 to place his conservatee in a state hospital, by his conservator.

(2) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, conservator, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of

birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

(b) The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

(c) Commencing July 1, 2012, the department shall not admit any person to a developmental center pursuant to this section.

SEC. 19. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. (a) For purposes of this article, the following definitions shall apply:

(1) "Dangerousness to self or others" shall include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of

subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

(2) "Developmental disability" shall have the same meaning as defined in subdivision (a) of Section 4512.

(b) (1) A person with a developmental disability shall not be committed to the State Department of Developmental Services pursuant to this article unless he or she is a person described in paragraph (2) or (3) of subdivision (a) of Section 7505 and is dangerous to self or others.

(2) If the person with a developmental disability is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

(3) In any proceedings conducted under the authority of this article, the person alleged to have a developmental disability shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person has a developmental disability and is dangerous to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel. The clients' rights advocate for the regional center may attend any judicial proceedings to assist in protecting the individual's rights.

(c) (1) Any order of commitment made pursuant to this article with respect to a person described in paragraph (3) of subdivision (a) of Section 7505 shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

(2) Any order of commitment made pursuant to this article with respect to a person described in paragraph (2) of subdivision (a) of Section 7505 shall expire automatically six months after the earlier of the order of commitment pursuant to this section or the order of a placement in a developmental center pursuant to Section 6506, unless the regional center, prior to the expiration of the order of commitment, notifies the court in writing of the need for an extension. The required notice shall state facts

demonstrating that the individual continues to be in acute crisis as defined in paragraph (1) of subdivision (d) of Section 4418.7 and the justification for the requested extension, and shall be accompanied by the comprehensive assessment and plan described in subdivision (e) of Section 4418.7. An order granting an extension shall not extend the total period of commitment beyond one year, including any placement in a developmental center pursuant to Section 6506. If, prior to expiration of one year, the regional center notifies the court in writing of facts demonstrating that, due to circumstances beyond the regional center's control, the placement cannot be made prior to expiration of the extension, and the court determines that good cause exists, the court may grant one further extension of up to 30 days. The court may also issue any orders the court deems appropriate to ensure that necessary steps are taken to ensure that the individual can be safely and appropriately transitioned to the community in a timely manner. The required notice shall state facts demonstrating that the regional center has made significant progress implementing the plan described in subdivision (e) of Section 4418.7 and that extraordinary circumstances exist beyond the regional center's control that have prevented the plan's implementation. Nothing in this paragraph precludes the individual or any person acting on his or her behalf from making a request for release pursuant to Section 4800, or counsel for the individual from filing a petition for habeas corpus pursuant to Section 4801. Notwithstanding subdivision (a) of Section 4801, for purposes of this paragraph, judicial review shall be in the superior court of the county that issued the order of commitment pursuant to this section.

SEC. 20. Section 6501 of the Welfare and Institutions Code is amended to read:

6501. If a person is charged with a violent felony, as described in Section 667.5 of the Penal Code, and the individual has been committed to the State Department of Developmental Services pursuant to Section 1370.1 of the Penal Code or Section 6500 for placement in a secure treatment facility, as described in subdivision (e) of Section 1370.1 of the Penal Code, the department shall give priority to placing the individual at Porterville Developmental Center prior to placing the individual at any other secure treatment facility.

SEC. 21. Section 6502 of the Welfare and Institutions Code is amended to read:

6502. A petition for the commitment of a person with a developmental disability to the State Department of Developmental Services who has been found incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with one or more of the offenses identified or described in Section 6500, may be filed in the superior court of the county that determined the question of mental competence of the defendant. All other petitions may be filed in the county in which that person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

(a) The parent, guardian, conservator, or other person charged with the support of the person with a developmental disability.

(b) The probation officer.

(c) The Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(d) Any person designated for that purpose by the judge of the court.

(e) The Secretary of the Department of Corrections and Rehabilitation.

(f) The regional center director or his or her designee.

The request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

SEC. 22. Section 6504 of the Welfare and Institutions Code is amended to read:

6504. In all cases the court shall require due notice of the hearing of the petition to be given to the person alleged to have a developmental disability. Whenever a petition is filed, the court shall require such notice of the hearing of the petition as it deems proper to be given to any parent, guardian, conservator, or other person charged with the support of the person mentioned in the petition.

SEC. 23. Section 6504.5 of the Welfare and Institutions Code is amended to read:

6504.5. Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500), or the designee of the director, to examine the person alleged to have a developmental disability.

Within 15 judicial days after his or her appointment, the regional center director or designee shall submit to the court in writing a report containing his or her evaluation of the person alleged to have a developmental disability. If the person is an individual described in paragraph (2) of subdivision (a) of Section 7505, the report shall include the results of the assessment conducted pursuant to subdivision (b) of Section 4418.7. The report shall contain a recommendation of a facility or facilities in which the alleged developmentally disabled person may be placed.

The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment. In determining the least restrictive residential placement, consideration shall be given to public safety. If placement into or out of a developmental center is recommended, the regional center director or designee simultaneously shall submit the report to the executive director of the developmental center or his or her designee. The executive director of the developmental center or his or her designee may, within 15 days of receiving the regional center report, submit to the court a written report evaluating the ability of the developmental center to achieve the purposes of treatment for this person and whether the developmental center placement can adequately provide the security measures or systems required to protect the public health and safety from the potential dangers posed by the person's known behaviors.

The reports prepared by the regional center director and developmental center director, if applicable, shall also address suitable interim placements for the person as provided for in Section 6506.

SEC. 24. Section 6506 of the Welfare and Institutions Code is amended to read:

6506. Pending the hearing, the court may order that the alleged dangerous person alleged to have a developmental disability may be left in the charge of his or her parent, guardian, conservator, or other suitable person, or placed in a state developmental center, in the county psychiatric hospital, or in any other suitable placement as determined by the court. Prior to the issuance of an order under this section, the regional center and developmental center, if applicable, shall recommend to the court a suitable person or facility to care for the person alleged to have a developmental disability. The determination of a suitable person or facility shall be the least restrictive option that provides for the person's treatment needs and that has existing security systems or measures in place to adequately protect the public safety from any known dangers posed by the person. In determining whether the public safety will be adequately protected, the court shall make the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code.

Pending the hearing, the court may order that the person receive necessary habilitation, care, and treatment, including medical and dental treatment.

Orders made pursuant to this section shall expire at the time set for the hearing pursuant to Section 6503. If the court upon a showing of good cause grants a continuance of the hearing on the matter, it shall order that the person be detained pursuant to this section until the hearing on the petition is held.

SEC. 25. Section 6507 of the Welfare and Institutions Code is amended to read:

6507. The court shall inquire into the condition or status of the person alleged to have a developmental disability. For this purpose it may by subpoena require the attendance before it of a physician who has made a special study of developmental disabilities and is qualified as a medical examiner, and of a clinical psychologist, or of two such physicians, or of two such psychologists, to examine the person and testify concerning his or her developmental disability. The court may also by subpoena require the attendance of such other persons as it deems advisable, to give evidence.

SEC. 26. Section 6508 of the Welfare and Institutions Code is amended to read:

6508. Each psychologist and physician shall receive for each attendance mentioned in Section 6507 the sum of five dollars (\$5) for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall receive for such attendance such fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, physician, or witness as provided in this section and all expenses connected with the

execution of any process under the provisions of this article, which are not paid by the parent, guardian, conservator, or person charged with the support of the person with the supposed developmental disability, shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the judge that the claimant is entitled thereto.

SEC. 27. Section 6509 of the Welfare and Institutions Code is amended to read:

6509. (a) If the court finds that the person has a developmental disability, and that he or she is a person described in paragraph (2) or (3) of subdivision (a) of Section 7505 and is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in Fairview Developmental Center if the person is an individual described in paragraph (2) of subdivision (a) of Section 7505, the secure treatment program at Porterville Developmental Center if the person is an individual described in paragraph (3) of subdivision (a) of Section 7505, any licensed community care facility, as defined in Section 1504, or any health facility, as defined in Section 1250, or any other appropriate placement permitted by law. The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to that placement that the court finds to be the most appropriate and least restrictive alternative. If the court finds that release of the person can be made subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

The court, however, may commit a person with a developmental disability who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(b) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code, the court shall order the State Department of Developmental Services to give notice of that finding to the designated placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(c) If the Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment,

the district attorney, and the attorney of record for the person and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

SEC. 28. Section 6510.5 is added to the Welfare and Institutions Code, to read:

6510.5. Under no circumstances shall the court order placement of a person described in this article or a dangerous person committed pursuant to Section 1370.1 of the Penal Code to a developmental center if the department has specifically notified the court in writing that the individual cannot be safely served in that developmental center.

SEC. 29. Section 6511 of the Welfare and Institutions Code is amended to read:

6511. Any person who knowingly contrives to have any person adjudged to have a developmental disability under the provisions of this article, unlawfully or improperly, is guilty of a misdemeanor.

SEC. 30. Section 6512 of the Welfare and Institutions Code is amended to read:

6512. If, when a boy or girl is brought before a juvenile court under the juvenile court law, it appears to the court, either before or after adjudication, that the person has a developmental disability, or if, on the conviction of any person of a crime by any court, it appears to the court that the person has a developmental disability, the court may adjourn the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this article against the person before the court, and the court may order that, pending the preparation, filing, and hearing of the petition, the person before the court be detained in a place of safety, or be placed under the guardianship of some suitable person, on his entering into a recognizance for the appearance of the person upon trial or under conviction when required. If, upon the hearing of the petition, or upon a subsequent hearing, the person upon trial or under conviction is not found to have a developmental disability, the court may proceed with the trial or impose sentence, as the case may be.

SEC. 31. Section 7502.5 of the Welfare and Institutions Code is amended to read:

7502.5. (a) The total number of developmental center residents in the secure treatment facility at Porterville Developmental Center, including those residents receiving services in the Porterville Developmental Center transition treatment program, shall not exceed 230.

(b) As of the effective date of this subdivision, the State Department of Developmental Services shall not admit any persons into the secure treatment facility at Porterville Developmental Center unless the population of the secure treatment facility is less than 230 persons, including 60 residents receiving services in the transition treatment program.

SEC. 32. Section 7505 is added to the Welfare and Institutions Code, to read:

7505. (a) Notwithstanding any other provision of law, commencing July 1, 2012, the State Department of Developmental Services shall not admit anyone to a developmental center unless the person has been determined eligible for services under Division 4.5 (commencing with Section 4500) and the person is:

(1) Committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Section 1370.1 of the Penal Code.

(2) Committed by a court to Fairview Developmental Center pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 due to an acute crisis, pursuant to Section 4418.7.

(3) Committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 as a result of involvement with the criminal justice system, and the court has determined the person is mentally incompetent to stand trial.

(4) A person described in Section 4508.

(5) A juvenile committed to Porterville Developmental Center, secure treatment program, pursuant to Section 709.

(b) Under no circumstances shall the State Department of Developmental Services admit a person to a developmental center after July 1, 2012, as a result of a criminal conviction or where the person is competent to stand trial for the criminal offense and the admission is ordered in lieu of trial.

SEC. 33. Section 7507 of the Welfare and Institutions Code is amended to read:

7507. Subject to the provisions of Sections 6509 and 7505, each developmental center shall admit persons duly committed or transferred thereto in accordance with law.

SEC. 34. Section 10 of Chapter 13 of the Statutes of 2009, Third Extraordinary Session, as amended by Section 24 of Chapter 37 of the Statutes of 2011, is amended to read:

Sec. 10. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for regional center purchase of services, regional centers shall reduce payments for services and supports provided pursuant to Title 14 (commencing with Section 95000) of the Government Code and Division 4.1 (commencing with Section 4400) and Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code. From February 1, 2009, to June 30, 2010, inclusive, regional centers shall reduce all payments for these services and supports paid from purchase of services funds for services delivered on or after February 1, 2009, by 3 percent, from July 1, 2010, to June 30, 2012, inclusive, by 4.25 percent, and, commencing July 1, 2012, until June 30, 2013, by 1.25 percent, unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the State Department of Developmental Services has granted prior written approval.

(b) Regional centers shall not reduce payments pursuant to subdivision (a) for the following:

(1) Supported employment services with rates set by Section 4860 of the Welfare and Institutions Code.

(2) Services with “usual and customary” rates established pursuant to Section 57210 of Title 17 of the California Code of Regulations, except as provided in subdivision (c).

(3) Payments to offset reductions in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits for consumers receiving supported and independent living services.

(c) The exemption provided for in paragraph (2) of subdivision (b) shall not apply to payments for any of the following services:

(1) Crisis and behavioral services provided by a nationally certified or state-licensed professional, consistent with the professional’s scope of practice, as set forth in the Business and Professions Code.

(2) Services of group practices providing behavioral intervention.

(3) Parent-coordinator home-based behavioral intervention for children with autism.

(4) Individual or family training.

(5) Registered nurse services.

(6) Therapy services, including physical, speech, occupational, recreational, and music therapy.

(7) Audiology services.

(8) Independent living specialist services.

(9) Translator and interpreter services.

(10) Mobility training, socialization training, or community integration training services.

(11) Community activities support, program support, or parenting support services.

(12) Personal assistance services.

(13) Tutoring services.

(14) Creative arts services.

(15) Early start specialized therapeutic services.

(d) Notwithstanding any other provision of law, in order to implement changes in the level of funding appropriated for regional centers, the department shall amend regional center contracts to adjust regional center budgets accordingly. The contract amendments and budget adjustments shall be exempt from the provisions of Article 1 (commencing with Section 4620) of Chapter 5 of Division 4.5 of the Welfare and Institutions Code.

SEC. 35. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the State Department of Developmental Services for administration.

SEC. 36. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article

IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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