

Assembly Bill No. 89

Passed the Assembly June 14, 2013

Chief Clerk of the Assembly

Passed the Senate June 14, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 4418.25, 4474.2, 4519.5, 4648, 4785, 4801, 6500, and 6509 of, to add Sections 4519.6, 4659.1, and 4806 to, and to add and repeal Section 4648.01 of, the Welfare and Institutions Code, relating to developmental services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 89, Committee on Budget. Developmental services.

(1) Existing law vests the State Department of Developmental Services with jurisdiction over state hospitals, referred to as developmental centers, for the provision of care to persons with developmental disabilities. Existing law, the Lanterman Developmental Disabilities Services Act, requires that treatment, services, and supports be provided in natural community settings to the maximum extent possible, and authorizes the department to contract with regional centers to provide services and supports to individuals with developmental disabilities.

This bill would require the California Health and Human Services Agency to submit to the Legislature a master plan for the future of developmental centers by November 15, 2013. The bill would also require the agency to submit, by January 10, 2014, a report to the Legislature regarding, among other things, the ability of community resources to meet the specialized needs of residents now living in developmental centers.

(2) Under existing law, every developmentally disabled person who is admitted or committed to a state hospital, developmental center, community care facility, health facility, or other placement has a right to a hearing by writ of habeas corpus for his or her release after a request for release is made to any employee of the center or facility. Existing law requires that at the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court transmit a copy of the petition, together with notification as to the time and place of an evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom

release is sought and to the director of the appropriate regional center.

This bill would require the clerk of the court to provide the above-described notice and petition to the clients' rights advocate of the appropriate regional center, and would authorize that advocate to attend these hearings to assist in protecting the individual's rights.

By imposing this additional duty on court clerks, this bill would impose a state-mandated local program.

(3) Under existing law, the services and supports to be provided to a regional center consumer are contained in an individual program plan, developed in accordance with prescribed requirements.

This bill would authorize a regional center to pay any applicable copayment or coinsurance for a service and support required by a consumer's individual program plan if the service is paid for by the health care service plan or health insurance policy of the consumer or his or her parent, guardian, or caregiver and specified conditions are met. The bill would prohibit a regional center from paying health care service plan or health insurance policy deductibles.

(4) Existing law requires the State Department of Developmental Services and the regional centers to annually collaborate to compile data relating to purchase of service authorization, utilization, and expenditure by each regional center, as specified. Under existing law, the department and each regional center is required to post this data on their respective Internet Web sites by December 31 of each year, and requires each regional center to hold a public meeting with stakeholders regarding the data within 3 months of its compilation.

This bill would require each regional center to inform the department regarding the scheduling of those public meetings, and to post a notice of a meeting on its Internet Web site 30 days prior to the meeting. The bill would also require the department to post a notice of the meeting on its Internet Web site. The bill would further require the department and the regional centers to annually collaborate to determine the most appropriate methods to collect and compile data related to the payment of copayments and coinsurance by each regional center.

(5) Existing law requires the State Department of Developmental Services to establish policies and procedures for the development of an annual community placement plan by regional centers. Existing law also requires the department to establish a statewide specialized resource service to reduce reliance on out-of-state placements and developmental centers and mental health facilities for which federal funding is not available. Existing law requires regional centers to complete a comprehensive assessment of specified consumers residing in developmental centers, and requires that this assessment be provided to the individual program planning team in order to assist the planning team in determining the least restrictive environment for the consumer.

This bill would require the regional center to also provide, to the extent appropriate, relevant information from the statewide specialized resource service to the individual program planning team. The bill would also require that the clients' rights advocate for the regional center be notified of each individual program plan meeting that includes discussion of the results of the assessment, and would authorize the advocate to participate in the meeting unless the consumer objects on his or her own behalf.

(6) Existing law prohibits a regional center from purchasing new residential services from institutions for mental disease for which federal Medicaid funding is not available, except in emergencies, as specified. Existing law limits these emergency placements to 180 days.

This bill would additionally prohibit the placement of a consumer in an institution for mental disease regardless of the availability of federal funding, subject to specified exceptions. The bill would require that the clients' rights advocate for the regional center be notified of each admission to an institution for mental disease, as specified. The bill would authorize, until July 1, 2014, the placement of consumers who are under 21 years of age for a period that exceeds 180 days if specified conditions are satisfied.

(7) Existing law, until June 30, 2013, establishes a family program fee, as specified, for families with an adjusted gross family income, as defined, at or above 400% of the federal poverty level and who have a child meeting prescribed requirements, including receiving specified services from a regional center.

This bill would extend the operation of these provisions indefinitely.

(8) Existing law prohibits the commitment of a person with a developmental disability to the department unless the person is a danger to self or others and is being committed due to an acute crisis or because he or she is mentally incompetent to stand trial, or the person currently is a resident of a state developmental center or state-operated community facility pursuant to an order of commitment made prior to July 1, 2012, as specified.

This bill would instead permit a person with a developmental disability to be committed to the department for residential placement other than in a state developmental center or state-operated community facility, as prescribed, if the person is found to be a danger to self or others, as specified.

(9) Existing law provides for the closure of the Lanterman Developmental Center, including authorization for the State Department of Developmental Services to contract with any entity for the use of the department's employees to provide services in furtherance of the orderly closure of Lanterman Developmental Center, and specifies that the services of these employees may be used for up to 2 years following the transfer of the last resident of the Lanterman Developmental Center, as specified.

This bill would require the department to complete closure of the Lanterman Developmental Center no later than December 31, 2014. The bill would also delete that 2-year limitation on the use of employees of the State Department of Developmental Services.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(11) The Budget Act of 2010 appropriates \$300,370,000 for the support of the State Department of Developmental Services.

This bill would extend the period to liquidate encumbrances of that appropriation to June 30, 2014, thereby making an appropriation.

(12) 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 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 that would enable the consumer to move to a community setting. Necessary services and supports not currently available in the community setting shall be considered for development pursuant to community placement planning and funding.

(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. To the extent appropriate, the regional center shall also provide relevant information from the statewide specialized resource service. For each individual program plan meeting that includes discussion of the results of the assessment, 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) 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. 2. Section 4474.2 of the Welfare and Institutions Code is amended to read:

4474.2. (a) Notwithstanding any law to the contrary, the department may operate any facility, provide its employees to assist in the operation of any facility, or provide other necessary services and supports if, in the discretion of the department, it determines that the activity will assist in meeting the goal of the orderly closures of Agnews Developmental Center and Lanterman Developmental Center. The department may contract with any entity for the use of the department's employees to provide services in furtherance of the orderly closures of Agnews Developmental Center and Lanterman Developmental Center.

(b) The department shall prepare a report on the use of the department's employees in providing services in the community to assist in the orderly closures of Agnews Developmental Center and Lanterman Developmental Center. The report shall include data on the number and classification of state employees working in the community program. The report shall be submitted with the Governor's proposed budget for the 2012–13 fiscal year to the fiscal committees of both houses of the Legislature and annually thereafter.

SEC. 3. Section 4519.5 of the Welfare and Institutions Code is amended to read:

4519.5. (a) The department and the regional centers shall annually collaborate to compile data in a uniform manner 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. The department shall also post notice of any regional center stakeholder meetings on its Internet Web site.
 - (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. Regional centers shall inform the department of the scheduling of those public meetings 30 days prior to the meeting. Notice of the meetings shall also be posted on the regional center's Internet Web site 30 days prior to the meeting and shall be sent to individual stakeholders and groups representing underserved communities in a timely manner.

SEC. 4. Section 4519.6 is added to the Welfare and Institutions Code, to read:

4519.6. The department and the regional centers shall annually collaborate to determine the most appropriate methods to collect and compile meaningful data in a uniform manner, as specified in

Section 4519.5, related to the payment of copayments and coinsurance by each regional center.

SEC. 5. 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 vendored 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) of paragraph (3), 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 that 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 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 law or regulation to the contrary, a regional center shall not purchase new residential services from, or place a consumer in, institutions for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for which federal Medicaid funding

is not available. Effective July 1, 2013, this prohibition applies regardless of the availability of federal funding.

(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 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 the 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) To the extent feasible, prior to any admission, the regional center shall consider resource options identified by the statewide specialized resource service established pursuant to subdivision (b) of Section 4418.25.

(iv) The clients' rights advocate shall be notified of each admission and individual program planning meeting pursuant to this subparagraph and may participate in all individual program planning meetings unless the consumer objects on his or her own behalf.

(v) 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, and for any consumer residing in an institution for mental disease as of July 1, 2013, without regard to federal funding. 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. 6. Section 4648.01 is added to the Welfare and Institutions Code, immediately following Section 4648, to read:

4648.01. (a) Notwithstanding the prohibition on placements longer than 180 days contained in clause (ii) of subparagraph (C) of paragraph (9) of subdivision (a) of Section 4648, a consumer who is under 21 years of age may be placed in an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5, for a period that exceeds 180 days if all of the following conditions are satisfied prior to the end of the 180-day period or, if the consumer is placed in the institution prior to July 1, 2013, if the conditions are satisfied within 30 days of the consumer's placement reaching 180 days or by July 31, 2013, whichever is later:

(1) The regional center has conducted an updated comprehensive assessment and based on that assessment the individual program planning team determines that due to the nature and extent of the consumer's disability, he or she requires the services provided at the institution for mental disease and there is no less restrictive setting currently available for the consumer.

(2) 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.

(b) A consumer described in this section shall not be placed in an institution for mental disease for a period that exceeds one year unless the regional center demonstrates significant progress toward implementing the plan to transition the consumer into the community, as required by paragraph (2) of subdivision (a), and extraordinary circumstances that are beyond the regional center's control have prevented the regional center from obtaining necessary services and supports within the timeline established in the plan. In this case, the regional center may request, and the department may approve, an additional extension of the placement for a period not to exceed 30 days.

(c) In addition to the notifications required by clause (iv) of subparagraph (C) of paragraph (9) of subdivision (a) of Section 4648, the clients' rights advocate for the regional center shall be notified of the proposed extension described in subdivision (b) 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.

(d) The department and regional centers shall work together to identify services and supports needed to serve individuals under 21 years of age with both developmental and mental health disabilities, facilitate the development of a community-based statewide network of crisis stabilization resources for children, and, if appropriate, target the use of community placement plan funds for these consumers.

(e) This section shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed, unless a later enacted statute that is enacted before January 1, 2015, deletes or extends the dates on which it comes inoperative and is repealed.

SEC. 7. Section 4659.1 is added to the Welfare and Institutions Code, to read:

4659.1. (a) If a service or support provided pursuant to a consumer's individual program plan under this division or individualized family service plan pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) is paid for, in whole or in part, by the health care service plan or health insurance policy of the consumer's parent, guardian, or caregiver, the regional center may,

when necessary to ensure that the consumer receives the service or support, pay any applicable copayment or coinsurance associated with the service or support for which the parent, guardian, or caregiver is responsible if all of the following conditions are met:

(1) The consumer is covered by his or her parent's, guardian's, or caregiver's health care service plan or health insurance policy.

(2) The family has an annual gross income that does not exceed 400 percent of the federal poverty level.

(3) There is no other third party having liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10).

(b) If a service or support provided to a consumer 18 years of age or older, pursuant to his or her individual program plan, is paid for in whole or in part by the consumer's health care service plan or health insurance policy, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment or coinsurance associated with the service or support for which the consumer is responsible if both of the following conditions are met:

(1) The consumer has an annual gross income that does not exceed 400 percent of the federal poverty level.

(2) There is no other third party having liability for the cost of the service or support, as provided in subdivision (a) of Section 4659 and Article 2.6 (commencing with Section 4659.10).

(c) Notwithstanding paragraph (2) of subdivision (a) or paragraph (1) of subdivision (b), a regional center may pay a copayment or coinsurance associated with the health care service plan or health insurance policy for a service or support provided pursuant to a consumer's individual program plan or individualized family service plan if the family's or consumer's income exceeds 400 percent of the federal poverty level, the service or support is necessary to successfully maintain the child at home or the adult consumer in the least-restrictive setting, and the parents or consumer demonstrate one or more of the following:

(1) The existence of an extraordinary event that impacts the ability of the parent, guardian, or caregiver to meet the care and supervision needs of the child or impacts the ability of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy, to pay the copayment or coinsurance.

(2) The existence of catastrophic loss that temporarily limits the ability to pay of the parent, guardian, or caregiver, or adult consumer with a health care service plan or health insurance policy and creates a direct economic impact on the family or adult consumer. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters and accidents involving major injuries to an immediate family member.

(3) Significant unreimbursed medical costs associated with the care of the consumer or another child who is also a regional center consumer.

(d) The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy shall self-certify the family's gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income.

(e) The parent, guardian, or caregiver of a consumer or an adult consumer with a health care service plan or health insurance policy is responsible for notifying the regional center when a change in income occurs that would result in a change in eligibility for coverage of the health care service plan or health insurance policy copayments or coinsurance.

(f) Documentation submitted pursuant to this section shall be considered records obtained in the course of providing intake, assessment, and services and shall be confidential pursuant to Section 4514.

(g) Regional centers shall not pay health care service plan or health insurance policy deductibles.

(h) This section shall not be implemented in a manner that is inconsistent with the requirements of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

SEC. 8. Section 4785 of the Welfare and Institutions Code is amended to read:

4785. (a) (1) Effective July 1, 2011, a regional center shall assess an annual family program fee, as described in subdivision (b), from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code).

(B) The child is less than 18 years of age.

(C) The child lives with his or her parent.

(D) The child or family receives services beyond eligibility determination, needs assessment, and service coordination.

(E) The child does not receive services through the Medi-Cal program.

(2) An annual family program fee shall not be assessed or collected pursuant to this section if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program.

(3) The annual family program fee shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the individual program plan (IPP) pursuant to Sections 4646 and 4646.5, or the individualized family services plan (IFSP) pursuant to Section 95020 of the Government Code, but no later than June 30, 2012, and annually thereafter.

(4) Application of this section to children zero through two years of age, inclusive, shall be contingent upon necessary approval by the United States Department of Education.

(b) (1) The annual family program fee for parents described in paragraph (1) of subdivision (a) shall be two hundred dollars (\$200) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(2) Notwithstanding paragraph (1), parents described in paragraph (1) of subdivision (a) who demonstrate to the regional center that their adjusted gross family income is less than 800 percent of the federal poverty level shall be required to pay an annual family program fee of one hundred fifty dollars (\$150) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(c) At the time of intake or at the time of development, scheduled review, or modification of a consumer's IPP or IFSP, but no later than June 30, 2012, the regional center shall provide to parents described in paragraph (1) of subdivision (a) a form and

an envelope for the mailing of the annual family program fee to the department. The form, which shall include the name of the children in the family currently being served by a regional center and their unique client identifiers, shall be sent, with the family's annual program fee, to the department.

(d) The department shall notify each regional center at least quarterly of the annual family program fees collected.

(e) The regional center shall, within 30 days after notification from the department pursuant to subdivision (d), provide a written notification to the parents from whom the department has not received the annual family program fees. Regional centers shall notify the department if a family receiving notification pursuant to this section has failed to pay its annual family program fees based on the subsequent notice pursuant to subdivision (d). For these families, the department shall pursue collection pursuant to the Accounts Receivable Management Act (Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code).

(f) A regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate any of the following:

(1) That the exemption is necessary to maintain the child in the family home.

(2) The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.

(3) The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

(g) Services shall not be delayed or denied for a consumer or child based upon the lack of payment of the annual family program fee.

(h) For purposes of this section, "parents" means the parents, whether natural, adoptive, or both, of a child with developmental disabilities under 18 years of age.

(i) Parents described in paragraph (1) of subdivision (a) shall be jointly and severally responsible for the annual family program fee, unless a court order directs otherwise.

(j) (1) “Total adjusted gross family income” means income acquired, earned, or received by parents as payment for labor or services, support, gift, or inheritance, or parents’ return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent.

(2) The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the annual family program fee.

SEC. 9. Section 4801 of the Welfare and Institutions Code is amended to read:

4801. (a) Judicial review shall be in the superior court for the county in which the state hospital, developmental center, community care facility, or health facility is located, except that, if the adult has been found incompetent to stand trial and has been committed pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, judicial review shall be in the superior court of the county that determined the question of the mental competence of the defendant. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, developmental center, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in the preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The person shall pay the costs of those legal services if he or she is able.

(b) At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of an evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to

the director and clients' rights advocate of the appropriate regional center. Notice shall also be provided to the director of the appropriate developmental center if the person seeking release or for whom release is sought resides in a developmental center. The notice shall be sent by registered or certified mail with proper postage prepaid, addressed to the addressee's last known address, and with a return receipt requested. The clients' rights advocate of the appropriate regional center may attend any hearing pursuant to this section to assist in protecting the person's rights.

(c) The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice described in subdivision (b) are deposited in the United States mail pursuant to this section.

(1) If the person seeking release or for whom release is sought resides in a developmental center or institution for mental disease, the regional center director or designee shall submit to the court, the person's attorney, and all parties required to be noticed pursuant to subdivision (b) a copy of the most recent completed assessment required by subdivision (c) of Section 4418.25, subdivision (e) of Section 4418.7, or paragraph (9) of subdivision (a) of Section 4648. The regional center shall submit copies of these assessments within two working days of receiving the notice required pursuant to subdivision (b).

(2) Except as provided in paragraph (3), if the court finds (A) that the adult requesting release or for whom release is requested is not developmentally disabled, or (B) that he or she is developmentally disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be released within 72 hours. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a regional center or a willing responsible person or other public or private agency is able to provide for him or her, the court shall release the developmentally disabled adult to the responsible person, regional center, or other public or private agency, as the case may be, subject to any conditions that the court deems proper for the welfare of the developmentally disabled adult and that are consistent with the purposes of this division.

(3) If the person is charged with a violent felony and has been committed to his or her current placement pursuant to Section 1370.1 of the Penal Code or Section 6500, and the court finds (A) that the adult requesting release or for whom release is requested is not a person with a developmental or intellectual disability, or (B) that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, the court shall, before releasing the person, determine that the release will not pose a danger to the health or safety of others due to the person's known behavior. If the court finds there is no danger pursuant to the finding required by subparagraph (D) of paragraph (1) of subdivision (a) of Section 1370.1 of the Penal Code, the person shall be released within 72 hours. If the person's release poses a danger to the health or safety of others, the court may grant or deny the request, taking into account the danger to the health or safety of others posed by the person. If the court finds that release of the person can be made subject to conditions that the court deems proper for the preservation of public health and safety and the welfare of the person, the person shall be released subject to those conditions.

(d) If in a proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

(e) This section shall become operative January 1, 1988.

SEC. 10. Section 4806 is added to the Welfare and Institutions Code, to read:

4806. This chapter shall be construed in a manner that affords the adult requesting release all rights under Section 4502, including the right to treatment and habilitation services and supports in the least restrictive environment, and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), including the right to receive services in the most integrated setting appropriate.

SEC. 11. 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 may be committed to the State Department of Developmental Services for residential placement other than in a state developmental center or state-operated community facility, as provided in subdivision (a) of Section 6509, if he or she is found to be a danger to himself, herself, or others.

(A) Any order of commitment made pursuant to this paragraph shall expire automatically one year after the order of commitment is made.

(B) This paragraph 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 the initial petition for commitment.

(2) A person with a developmental disability shall not be committed to the State Department of Developmental Services for placement in a state developmental center or state-operated community facility pursuant to this article unless he or she meets the criteria for admission to a developmental center pursuant to paragraph (2) or (3) of subdivision (a) of Section 7505 and is dangerous to self or others or he or she currently is a resident of a state developmental center or state-operated community facility pursuant to an order of commitment made pursuant to this article prior to July 1, 2012, and is being recommitted pursuant to paragraph (4) of this subdivision.

(3) 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.

(4) In the event subsequent petitions are filed with respect to a resident of a state developmental center or a state-operated community facility committed prior to July 1, 2012, the procedures followed and criteria for recommitment shall be the same as with the initial petition for commitment.

(5) 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 on or after July 1, 2012, with respect to the admission to a developmental center of 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. 12. 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 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 any of the following:

(1) Any licensed community care facility, as defined in Section 1504, or any health facility, as defined in Section 1250, other than a developmental center or state-operated facility.

(2) Fairview Developmental Center if the person meets the criteria for admission pursuant to paragraph (2) of subdivision (a) of Section 7505.

(3) The secure treatment program at Porterville Developmental Center if the person meets the criteria for admission pursuant to paragraph (3) of subdivision (a) of Section 7505.

(4) Any other appropriate placement permitted by law.

(b) (1) 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.

(2) 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.

(c) 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.

(d) 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. 13. The State Department of Developmental Services shall, pursuant to the closure plan developed in accordance with Section 4474.1 of the Welfare and Institutions Code, complete closure of the Lanterman Developmental Center by the fall of 2014, and no later than December 31, 2014.

SEC. 14. (a) The California Health and Human Services Agency shall, on or before November 15, 2013, submit to the appropriate policy and fiscal committees of the Legislature a master plan for the future of developmental centers. In the preparation of this plan, the agency shall consult with a cross-section of consumers, family members, regional centers, consumer advocates, community service providers, organized labor, the State Department of Developmental Services, and representatives of the Legislature.

(b) The California Health and Human Services Agency shall, on or before January 10, 2014, submit to the appropriate policy and fiscal committees of the Legislature a report regarding the agency's plans to address the service needs of all developmental center residents, the fiscal and budget implications of the declining developmental center population and the aging infrastructure, staffing, and resource constraints, the availability of community resources to meet the specialized needs of residents now living in the developmental centers, a timeline for future closures, and the statutory and regulatory changes that may be needed to ensure the delivery of cost-effective, integrated, quality services for this population.

SEC. 15. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 16. Notwithstanding any other law, the period to liquidate encumbrances of the amount appropriated in Item 4300-003-0001 of Section 2.00 of the Budget Act of 2010 (Chapter 712, Statutes of 2010) is extended by one year to June 30, 2014.

SEC. 17. 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.

Approved _____, 2013

Governor