

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 998

Introduced by Assembly Member Fong
(Principal coauthor: Assembly Member Atkins)

February 22, 2013

An act to amend Section 15657.3 of the Welfare and Institutions Code, relating to elderly and dependent adults: add Chapter 7 (commencing with Section 8260) to Division 8 of the Welfare and Institutions Code, relating to homelessness.

LEGISLATIVE COUNSEL'S DIGEST

AB 998, as amended, Fong. Elderly and dependent adults: civil actions.

Under existing law, several agencies have prescribed responsibilities relating to homeless persons.

This bill would create the California Interagency Council on Homelessness. This bill would provide that the council be composed of specified members and would authorize the council to perform various duties, including providing a state plan to end homelessness. This bill would authorize the council to seek all available federal funding for purposes of funding the council and its activities.

~~Existing law provides that the department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abduction or abuse of an elderly or dependent adult. Existing law provides that after the death of the elder or dependent adult, the right to commence or maintain an action passes to the personal representative, and if there is no personal representative, to an intestate~~

~~heir whose interest may be affected by the action, to the decedent's successor in interest, as defined, or an interested person, as defined, subject to specified conditions.~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (i) *California has the highest rate of homelessness and the*
- 4 *highest ratio of homeless people per resident, with 135,000 people*
- 5 *sleeping on the streets or in shelters on any given night.*
- 6 (ii) *Homelessness is traumatic for those who suffer it, often*
- 7 *leading to separated families, exacerbation of health conditions,*
- 8 *a rise in avoidable emergency room use, social and academic*
- 9 *delays among children, and greater likelihood of incarceration.*
- 10 (iii) *Many people who lack permanent shelter and the ability to*
- 11 *access regular support ricochet through separate and expensive*
- 12 *public systems: overburdened corrections systems, overcrowded*
- 13 *hospital emergency rooms, mental health programs, substance*
- 14 *abuse treatment and detox facilities, shelters, and emergency*
- 15 *housing. As a result, people experiencing chronic homelessness*
- 16 *use a disproportionate share of state and local services.*
- 17 (iv) *Innovative approaches across the nation and within*
- 18 *California show promise for reducing homelessness and the*
- 19 *resulting impact on state services.*
- 20 (v) *Changing the system and reducing homelessness requires*
- 21 *coordination and cooperation among federal, state, and local*
- 22 *governments, as well as private sector organizations.*
- 23 (vi) *Creation of a statewide coordinating council is an important*
- 24 *and effective tool in supporting initiatives to end homelessness in*
- 25 *California.*
- 26 (vii) *Creation of a statewide coordinating council will stem*
- 27 *avoidable costs of maintaining the number of homeless persons*
- 28 *and will, therefore, result in reducing avoidable costs to multiple*
- 29 *programs.*

1 (h) Homelessness affects multiple systems in California at a
2 very high public cost, including housing, mental health and
3 substance abuse, education, corrections, foster care, health care,
4 and veterans services. Reducing homelessness would produce cost
5 savings for all these systems. The state adopted a Ten-Year Chronic
6 Homelessness Action Plan in February 2010, but has no
7 mechanism in place to assess progress or hold state agencies
8 accountable to the action steps in the plan. A codified, structured
9 interagency council on homelessness would help fill this gap.

10 (i) In November 2005, Governor Schwarzenegger created the
11 Governor’s Chronic Homelessness Initiative, which included plans
12 to form an interagency coordinating council to reduce
13 homelessness. The Business, Transportation and Housing Agency’s
14 2005–10 Consolidated Plan further indicates the importance of
15 an interagency council on homelessness. Despite these intentions,
16 a council has not met regularly or publicly since the Governor
17 adopted his Chronic Homelessness Initiative.

18 (j) California must give priority to developing consolidated,
19 coordinated, and cooperative approaches to issues of
20 homelessness, including, but not limited to, specific issues
21 addressing homeless youth, families, veterans, parolees, victims
22 of domestic violence, people with mental health and substance use
23 disorders, people experiencing chronic homelessness, seniors, and
24 disabled people.

25 (k) Working within current costs, a revitalized Interagency
26 Council on Homelessness will reduce duplication of efforts and
27 the costs of homelessness and will redirect resources to more
28 effective approaches, developing a more integrated system and
29 eliminating fragmentation. Other states have created interagency
30 councils without initial investment of resources.

31 (l) California is not accessing all of the federal funds for
32 homelessness that it should due to a lack of coordination among
33 some agencies. For example, 30 other states apply for funds
34 through the federal McKinney-Vento Homeless Assistance Act
35 programs. Application for these funds could total millions of
36 dollars, and requires state agency collaboration.

37 SEC. 2. Chapter 7 (commencing with Section 8260) is added
38 to Division 8 of the Welfare and Institutions Code, to read:

CHAPTER 7. CALIFORNIA INTERAGENCY COUNCIL ON HOMELESSNESS

8260. For purposes of this chapter, the following definitions shall apply:

(a) "Council" means the California Interagency Council on Homelessness.

(b) "Stakeholder organization" means a nonprofit or faith-based organization whose primary mission is to prevent or end homelessness, to provide services or health care to people who are homeless, or to create housing for people who are homeless.

8261. (a) There is hereby created in state government the California Interagency Council on Homelessness with a mission to construct cross-agency and community cooperation in responding to homelessness, and to identify and apply for increased federal funding to respond to homelessness.

(b) The Governor shall designate a lead agency or representative from the Governor's staff to direct the work of the council.

(c) The council shall seek all available federal funding, including, but not limited to, grant and technical assistance funds under the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), for purposes of funding the council and its activities.

(d) Membership of the council shall include all of the following:

(1) At least one representative with decisionmaking authority from each of the following:

- (A) The Department of Corrections and Rehabilitation.
(B) The Department of Housing and Community Development.
(C) The California Health and Human Services Agency.
(D) The State Department of Social Services.
(E) The Department of Veterans Affairs.

(2) Two representatives among local law enforcement, county or city government, or organizations representing these interests. One representative appointed by the Senate Committee on Rules, and one representative appointed by the Speaker of the Assembly.

(3) Representatives of two stakeholder organizations, with one to be appointed by the Speaker of the Assembly and the other to be appointed by the Senate Committee on Rules.

1 (4) Two people who have experienced homelessness, with one
2 to be appointed by the Speaker of the Assembly and the other to
3 be appointed by the Senate Committee on Rules.

4 (e) The council may, at its discretion, invite stakeholders, people
5 who have experienced homelessness, members of philanthropic
6 communities, and experts to participate in meetings or provide
7 information to the council.

8 (f) The Governor shall appoint a chairperson and vice
9 chairperson from among, or in addition to, the members of the
10 council specified in subdivision (d). Within current costs, the
11 council may establish working groups, task forces, or other
12 structures from within its membership or with outside members to
13 assist it in its work. Working groups, task forces, or other structures
14 established by the council shall determine their own meeting
15 schedules.

16 (g) Members of the council shall serve without compensation,
17 except that consumer representatives shall receive minimal
18 compensation if private funds are available. State funds shall not
19 be used to compensate members of the council.

20 8262. (a) The council shall hold public meetings at least once
21 every quarter.

22 (b) The council may, but is not required to, do all of the
23 following:

24 (1) Act as the lead for coordinating and planning the state's
25 response to homelessness, including identifying federal funding
26 sources and determining how the state should apply for these
27 resources.

28 (2) Engage or accept the services of agency personnel and
29 nonprofit organizations, or employ council staff to operate,
30 manage, or conduct the business of the council, only if these
31 services are provided by private, philanthropic, or other nonstate
32 funding resources available for that purpose or the Legislature
33 makes a future appropriation for that purpose.

34 8263. Except as otherwise provided in this chapter, the council
35 shall operate within the current budget of each department and
36 agency represented. Each department and agency shall cooperate
37 with the council and furnish it with information and assistance
38 that is necessary or useful to further the purposes of this chapter.

39 ~~SECTION 1. Section 15657.3 of the Welfare and Institutions~~
40 ~~Code is amended to read:~~

1 ~~15657.3.— (a) The department of the superior court having~~
2 ~~jurisdiction over probate conservatorships shall also have~~
3 ~~concurrent jurisdiction over civil actions and proceedings involving~~
4 ~~a claim for relief arising out of the abduction, as defined in Section~~
5 ~~15610.06, or the abuse of an elderly or dependent adult, if a~~
6 ~~conservator has been appointed for the plaintiff prior to the~~
7 ~~initiation of the action for abuse.~~

8 ~~(b) The department of the superior court having jurisdiction~~
9 ~~over probate conservatorships shall not grant relief under this~~
10 ~~article if the court determines that the matter should be determined~~
11 ~~in a civil action, but shall instead transfer the matter to the general~~
12 ~~civil calendar of the superior court. The court need not abate a~~
13 ~~proceeding for relief pursuant to this article if the court determines~~
14 ~~that the civil action was filed for the purpose of delay.~~

15 ~~(c) The death of the elder or dependent adult does not cause the~~
16 ~~court to lose jurisdiction of a claim for relief for abuse of that elder~~
17 ~~or dependent adult.~~

18 ~~(d) (1) Subject to paragraph (2) and subdivision (c), after the~~
19 ~~death of the elder or dependent adult, the right to commence or~~
20 ~~maintain an action shall pass to the personal representative of the~~
21 ~~decedent. If there is no personal representative, the right to~~
22 ~~commence or maintain an action shall pass to any of the following,~~
23 ~~if the requirements of Section 377.32 of the Code of Civil~~
24 ~~Procedure are met:~~

25 ~~(A) An intestate heir whose interest is affected by the action.~~

26 ~~(B) The decedent's successor in interest, as defined in Section~~
27 ~~377.11 of the Code of Civil Procedure.~~

28 ~~(C) An interested person, as defined in Section 48 of the Probate~~
29 ~~Code, as limited in this subparagraph. As used in this subparagraph,~~
30 ~~“an interested person” does not include a creditor or a person who~~
31 ~~has a claim against the estate and who is not an heir or beneficiary~~
32 ~~of the decedent's estate.~~

33 ~~(2) If the personal representative refuses to commence or~~
34 ~~maintain an action or if the personal representative's family or an~~
35 ~~affiliate, as those terms are defined in subdivision (c) of Section~~
36 ~~1064 of the Probate Code, is alleged to have committed abuse of~~
37 ~~the elder or dependent adult, the persons described in~~
38 ~~subparagraphs (A), (B), and (C) of paragraph (1) shall have~~
39 ~~standing to commence or maintain an action for elder abuse. This~~
40 ~~paragraph does not require the court to resolve the merits of an~~

1 elder abuse action for purposes of finding that a plaintiff who meets
2 the qualifications of subparagraphs (A), (B), and (C) of paragraph
3 (1) has standing to commence or maintain such an action.

4 ~~(e) If two or more individuals who are either described in~~
5 ~~subparagraph (A), (B), or (C) of paragraph (1) of subdivision (d)~~
6 ~~or a personal representative claim to have standing to commence~~
7 ~~or maintain an action for elder abuse, upon petition or motion, the~~
8 ~~court in which the action or proceeding is pending, may make any~~
9 ~~order concerning the parties that is appropriate to ensure the proper~~
10 ~~administration of justice in the case pursuant to Section 377.33 of~~
11 ~~the Code of Civil Procedure.~~

12 ~~(f) This section does not affect the applicable statute of~~
13 ~~limitations for commencing an action for relief for abuse of an~~
14 ~~elderly or dependent adult.~~