

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 651

Introduced by Senators Pavley and Leno

(Coauthors: Senators Block, De León, DeSaulnier, Lieu, and Yee)

(Coauthors: Assembly Members Ammiano, Bloom, Blumenfield, Brown, Chesbro, Fox, Frazier, Garcia, Quirk-Silva, Rendon, Ting, and Williams)

February 22, 2013

An act to add Section 1424.6 to the Health and Safety Code, and to amend Section 4427.5 of, and to add Sections 4313.5 and 4427.7 to, the Welfare and Institutions Code, relating to health and human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 651, as amended, Pavley. Developmental centers and state hospitals.

Existing law establishes the State Department of Developmental Services and sets forth its powers and duties relating to the administration of the state developmental centers. Existing law establishes the State Department of State Hospitals and sets forth its powers and duties relating to the administration of state hospitals.

This bill would require designated investigators of developmental centers and state hospitals to authorize a sexual assault forensic medical examination for any resident of a developmental center or any resident of a state hospital, as applicable, who is a victim or suspected victim of sexual assault, as defined, performed at an appropriate facility off the grounds of the developmental center or state hospital in accordance with specified provisions.

Existing law requires a developmental center to immediately report specified incidents involving a resident to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located. Existing law provides for the licensure and regulation of health facilities, including long-term care facilities, as defined, by the State Department of Public Health. Existing law provides for a citation system for the imposition of civil penalties against long-term care facilities, including penalties specifically applicable to certain skilled nursing facilities and intermediate care facilities, in violation of applicable laws and regulations.

This bill would deem a developmental center's failure to report to local law enforcement a class B violation, as specified, and subject to the penalties applicable to those certain skilled nursing and intermediate care facilities, as specified.

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

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

1 SECTION 1. Section 1424.6 is added to the Health and Safety
2 Code, to read:

3 1424.6. Failure by a developmental center to report incidents
4 as required under subdivision (a) of Section 4427.5 of the Welfare
5 and Institutions Code shall be deemed a class B violation and shall
6 be subject to the penalties specified in Section 1424.5.

7 SEC. 2. Section 4313.5 is added to the Welfare and Institutions
8 Code, to read:

9 4313.5. Designated investigators of state hospitals shall
10 authorize a sexual assault forensic medical examination for any
11 resident of a state hospital who is a victim or suspected victim of
12 sexual assault, as defined in Section 15610.63, performed at an
13 appropriate facility off the grounds of a state hospital in accordance
14 with Sections 13823.5 to 13823.12, inclusive, of the Penal Code,
15 *which includes, but is not limited to, the requirement that the law*
16 *enforcement agency having jurisdiction over the city or county in*
17 *which the state hospital is located be notified by the person*
18 *performing the sexual assault forensic medical examination as*
19 *required by subdivision (a) of Section 13823.11 of the Penal Code.*

20 SEC. 3. Section 4427.5 of the Welfare and Institutions Code
21 is amended to read:

1 4427.5. (a) (1) A developmental center shall immediately
2 report the following incidents involving a resident to the local law
3 enforcement agency having jurisdiction over the city or county in
4 which the developmental center is located, regardless of whether
5 the Office of Protective Services has investigated the facts and
6 circumstances relating to the incident:

7 (A) A death.

8 (B) A sexual assault, as defined in Section 15610.63.

9 (C) An assault with a deadly weapon, as described in Section
10 245 of the Penal Code, by a nonresident of the developmental
11 center.

12 (D) An assault with force likely to produce great bodily injury,
13 as described in Section 245 of the Penal Code.

14 (E) An injury to the genitals when the cause of the injury is
15 undetermined.

16 (F) A broken bone, when the cause of the break is undetermined.

17 (2) If the incident is reported to the law enforcement agency by
18 telephone, a written report of the incident shall also be submitted
19 to the agency, within two working days.

20 (3) The reporting requirements of this subdivision are in addition
21 to, and do not substitute for, the reporting requirements of
22 mandated reporters, and any other reporting and investigative
23 duties of the developmental center and the department as required
24 by law.

25 (4) Nothing in this subdivision shall be interpreted to prevent
26 the developmental center from reporting any other criminal act
27 constituting a danger to the health or safety of the residents of the
28 developmental center to the local law enforcement agency.

29 (b) (1) The department shall report to the agency described in
30 subdivision (i) of Section 4900 any of the following incidents
31 involving a resident of a developmental center:

32 (A) Any unexpected or suspicious death, regardless of whether
33 the cause is immediately known.

34 (B) Any allegation of sexual assault, as defined in Section
35 15610.63, in which the alleged perpetrator is a developmental
36 center or department employee or contractor.

37 (C) Any report made to the local law enforcement agency in
38 the jurisdiction in which the facility is located that involves
39 physical abuse, as defined in Section 15610.63, in which a staff
40 member is implicated.

1 (2) A report pursuant to this subdivision shall be made no later
2 than the close of the first business day following the discovery of
3 the reportable incident.

4 (c) The department shall do both of the following:

5 (1) Annually provide written information to every developmental
6 center employee regarding all of the following:

7 (A) The statutory and departmental requirements for mandatory
8 reporting of suspected or known abuse.

9 (B) The rights and protections afforded to individuals' reporting
10 of suspected or known abuse.

11 (C) The penalties for failure to report suspected or known abuse.

12 (D) The telephone numbers for reporting suspected or known
13 abuse or neglect to designated investigators of the department and
14 to local law enforcement agencies.

15 (2) On or before August 1, 2001, in consultation with employee
16 organizations, advocates, consumers, and family members, develop
17 a poster that encourages staff, residents, and visitors to report
18 suspected or known abuse and provides information on how to
19 make these reports.

20 (d) A failure to report under subdivision (a) shall be deemed a
21 class B violation as provided in Section 1424.6 of the Health and
22 Safety Code.

23 SEC. 4. Section 4427.7 is added to the Welfare and Institutions
24 Code, to read:

25 4427.7. Designated investigators of developmental centers
26 shall authorize a sexual assault forensic medical examination for
27 any resident of a developmental center who is a victim or suspected
28 victim of sexual assault, as defined in Section 15610.63, performed
29 at an appropriate facility off the grounds of the developmental
30 center in accordance with Sections 13823.5 to 13823.12, inclusive,
31 of the Penal Code, *which includes, but is not limited to, the*
32 *requirement that the law enforcement agency having jurisdiction*
33 *over the city or county in which the developmental center is located*
34 *be notified by the person performing the sexual assault forensic*
35 *medical examination as required by subdivision (a) of Section*
36 *13823.11 of the Penal Code.*