

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1161

Introduced by Senator Beall

February 20, 2014

An act to amend Section 224.71 of the Welfare and Institutions Code, relating to juveniles; add Section 14124.27 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Beall. ~~Juveniles: Youth Bill of Rights. Drug Medi-Cal.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law prohibits federal financial participation for care or services provided to patients in an institution for mental diseases (IMD). Existing law establishes the Drug Medi-Cal Treatment Program (Drug Medi-Cal) under which the department is authorized to enter into contracts with counties for various drug treatment services for Medi-Cal recipients, or is required to directly arrange for these services if a county elects not to do so.

This bill would require the department to seek a specified waiver of the IMD exclusion under Drug Medi-Cal to provide short-term residential treatment in facilities with a bed capacity in excess of 16 beds and short-term inpatient medical detoxification in a hospital setting.

Existing law, the Youth Bill of Rights, enumerates various specific rights for youth confined in a facility of the Division of Juvenile

Facilities, including, among others, the right to live in a safe, healthy, and clean environment conducive to treatment and rehabilitation and where he or she is treated with dignity and respect.

~~This bill would make technical, nonsubstantive changes to those 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. (a) *The Legislature finds and declares all of the*
2 *following:*
3 (1) *The federal Patient Protection and Affordable Care Act*
4 *(PPACA) (Public Law 111-148), as amended by the federal Health*
5 *Care and Education Reconciliation Act of 2010 (Public Law*
6 *111-152), offers previously uninsured Californians unprecedented*
7 *access to health services, including mental health and substance*
8 *use disorder services.*
9 (2) *In 2013, the Legislature passed Assembly Bill 1 and Senate*
10 *Bill 1 in the 2013–14 First Extraordinary Session, which expanded*
11 *Medi-Cal coverage to low-income adults with incomes at or below*
12 *138 percent of the federal poverty level who were not previously*
13 *eligible, established the Medi-Cal benefit package for this*
14 *expansion population, and required the Medi-Cal program to*
15 *cover essential health benefits contained in PPACA, which are*
16 *now included in the state plan.*
17 (3) *It is estimated that 250,000 Californians newly eligible for*
18 *Medi-Cal are in need of, or are seeking, substance use disorder*
19 *treatment.*
20 (4) *Substance use disorder treatment often requires medical*
21 *detoxification and residential treatment services, services that*
22 *have been approved under California’s Medi-Cal expansion under*
23 *PPACA.*
24 (5) *The federal exclusion for institutions for mental diseases*
25 *(IMD) only permits residential care for substance use disorder in*
26 *facilities with 16 beds or fewer and medical detoxification only in*
27 *a general acute hospital, making both services inaccessible to*
28 *Medi-Cal and Drug Medi-Cal beneficiaries.*

1 (6) Capacity for both medical detoxification and residential
2 treatment is severely limited in California in settings in compliance
3 with the federal exclusion for IMD.

4 (7) Medical detoxification in a general acute care hospital is,
5 by far, the most expensive method to provide detoxification
6 treatment.

7 (8) According to a letter from the Director of Health Care
8 Services to the federal Centers for Medicare and Medicaid
9 Services, only 21 percent of California's beds are in facilities with
10 a capacity of 16 and under. Furthermore, other than 11 perinatal
11 programs, there are no Drug Medi-Cal licensed residential
12 substance use disorder facilities in California. Therefore,
13 California is severely limited in providing the expanded substance
14 use disorder residential treatment benefits as provided for by the
15 Medi-Cal expansion.

16 (9) The Commonwealth of Massachusetts successfully included
17 IMD expenditure authority in its Section 1115 waiver. California
18 has a similar need for IMD expenditure authority.

19 (10) The State Department of Health Care Services has the
20 authority, subject to federal approval, to seek a Section 1115
21 waiver.

22 (b) It is the intent of the Legislature to expeditiously expand
23 statewide capacity for mental health and substance use disorder
24 treatment services for all Californians newly eligible for health
25 care services under the expansion of Medi-Cal eligibility who are
26 in need of or currently seeking treatment.

27 SEC. 2. Section 14124.27 is added to the Welfare and
28 Institutions Code, immediately following Section 14124.26, to
29 read:

30 14124.27. (a) The department shall seek a waiver of federal
31 law under Section 1115 of the federal Social Security Act (42
32 U.S.C. Sec. 1315) to receive enhanced federal financial
33 participation under the Drug Medi-Cal program in accordance
34 with this section.

35 (b) The department shall seek a waiver of the institution for
36 mental diseases (IMD) exclusion in Section 1396d(a)(29)(B) of
37 Title 42 of the United States Code to provide short-term residential
38 treatment in facilities with bed capacities in excess of 16 beds, 30
39 to 90 days maximum, with an average length of stay of 60 days,
40 and short-term inpatient medical detoxification in a hospital

1 *setting, including, but not limited to, free-standing psychiatric and*
 2 *chemical dependency recovery hospitals, for three to seven days*
 3 *maximum, with an average length of stay of five days.*

4 *(c) This section shall be implemented only to the extent federal*
 5 *approval is obtained and to the extent that federal financial*
 6 *participation is available.*

7 ~~SECTION 1. Section 224.71 of the Welfare and Institutions~~
 8 ~~Code is amended to read:~~

9 ~~224.71. It is the policy of the state that a youth confined in a~~
 10 ~~facility of the Division of Juvenile Facilities, Department of~~
 11 ~~Corrections and Rehabilitation, shall have all of the following~~
 12 ~~rights:~~

13 ~~(a) To live in a safe, healthy, and clean environment conducive~~
 14 ~~to treatment and rehabilitation and where he or she is treated with~~
 15 ~~dignity and respect.~~

16 ~~(b) To be free from physical, sexual, emotional, or other abuse,~~
 17 ~~or corporal punishment.~~

18 ~~(c) To receive adequate and healthy food and water, sufficient~~
 19 ~~personal hygiene items, and clothing that is adequate and clean.~~

20 ~~(d) To receive adequate and appropriate medical, dental, vision,~~
 21 ~~and mental health services.~~

22 ~~(e) To refuse the administration of psychotropic and other~~
 23 ~~medications consistent with applicable law or unless immediately~~
 24 ~~necessary for the preservation of life or the prevention of serious~~
 25 ~~bodily harm.~~

26 ~~(f) To not be searched for the purpose of harassment or~~
 27 ~~humiliation or as a form of discipline or punishment.~~

28 ~~(g) To maintain frequent and continuing contact with parents,~~
 29 ~~guardians, siblings, children, and extended family members,~~
 30 ~~through visits, telephone calls, and mail.~~

31 ~~(h) To make and receive confidential telephone calls, send and~~
 32 ~~receive confidential mail, and have confidential visits with~~
 33 ~~attorneys and their authorized representatives, ombudspersons and~~
 34 ~~other advocates, holders of public office, state and federal court~~
 35 ~~personnel, and legal service organizations.~~

36 ~~(i) To have fair and equal access to all available services,~~
 37 ~~placement, care, treatment, and benefits, and to not be subjected~~
 38 ~~to discrimination or harassment on the basis of actual or perceived~~
 39 ~~race, ethnic group identification, ancestry, national origin, color,~~

- 1 religion, sex, sexual orientation, gender identity, mental or physical
2 disability, or HIV status.
- 3 ~~(j) To have regular opportunity for age-appropriate physical~~
4 ~~exercise and recreation, including time spent outdoors.~~
- 5 ~~(k) To contact attorneys, ombudspersons and other advocates,~~
6 ~~and representatives of state or local agencies, regarding conditions~~
7 ~~of confinement or violations of rights, and to be free from~~
8 ~~retaliation for making these contacts or complaints.~~
- 9 ~~(l) To participate in religious services and activities of their~~
10 ~~choice.~~
- 11 ~~(m) To not be deprived of any of the following as a disciplinary~~
12 ~~measure: food, contact with parents, guardians, or attorneys, sleep,~~
13 ~~exercise, education, bedding, access to religious services, a daily~~
14 ~~shower, a drinking fountain, a toilet, medical services, reading~~
15 ~~material, or the right to send and receive mail.~~
- 16 ~~(n) To receive a quality education that complies with state law,~~
17 ~~to attend age-appropriate school classes and vocational training,~~
18 ~~and to continue to receive educational services while on~~
19 ~~disciplinary or medical status.~~
- 20 ~~(o) To attend all court hearings pertaining to them.~~
- 21 ~~(p) To have counsel and a prompt probable cause hearing when~~
22 ~~detained on probation or parole violations.~~
- 23 ~~(q) To make at least two free telephone calls within an hour~~
24 ~~after initially being placed in a facility of the Division of Juvenile~~
25 ~~Facilities following an arrest.~~