AMENDED IN SENATE JUNE 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 109

Introduced by Committee on Budget (Weber (Chair), Bloom, Bonta, Campos, Chiu, Cooper, Gordon, Jones-Sawyer, McCarty, Mullin, Nazarian, O'Donnell, Rodriguez, Thurmond, Ting, and Williams)

January 9, 2015

~~An act relating to the Budget Act of 2015.~~ *An act to add Section 14670.36 to the Government Code, to amend Sections 1267.75 and 1531.15 of the Health and Safety Code, to amend Sections 4418.25, 4474.1, 4519.5, 4629, 4646.5, 4648, 4681.6, 4684.81, 4685.8, 4691.6, 4691.9, and 7505, of, to add Section 4474.11 to, and to repeal and add Section 7502.5 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 109, as amended, Committee on Budget. ~~Budget Act of 2015.~~ *Developmental Services.*

(1) Existing law authorizes the Director of General Services, with the consent of the State Department of Developmental Services, to lease up to 60 acres located within the grounds of Fairview Developmental Center for a period of up to 55 years, for the purpose of developing affordable housing for the employees of, and transitional housing for patient-clients of, Fairview Developmental Center.

This bill would additionally authorize the Director of General Services, with the consent of the Director of Developmental Services, to lease up to 20 acres located within the grounds of Fairview Developmental Center for a period of up to 55 years, at a price that

will permit the development of affordable housing for people with developmental disabilities. The bill would require the proceeds of this housing project and the housing project described above to be deposited in Department of Developmental Services Trust Fund, which the bill would create. The bill would require that money in the fund be used, upon appropriation by the Legislature, to provide housing and transitional services for people with developmental disabilities, and would require that any funds not needed to support individuals with developmental disabilities be transferred to the General Fund.

(2) Under existing law, the State Department of Public Health licenses and regulates various types of health facilities, including specified facilities for people with developmental disabilities. Under existing law the State Department of Social Services licenses community care facilities, including adult residential facilities or group homes that serve persons with developmental disabilities. Existing law authorizes a licensee of certain facilities to utilize secured perimeters, as defined. Existing law requires a person's individual program planning team to meet annually and determine that placement in a facility with secured perimeters is appropriate. These facilities are required to serve no more than 15 residents and be eligible for, and serve clients eligible for, federal Medicaid funding.

This bill would remove the requirement that facilities with secured perimeters be eligible for, and serve clients eligible for, Medicaid funding. The bill would also limit the facilities to serving no more than 6 residents, except as specified. This bill would require the individual program planning team to meet every 90 days after admission of an individual to a facility with secured perimeters to determine the appropriateness of the placement. This bill would prohibit the state from authorizing more than a combined total of 150 beds statewide in facilities with secured perimeters.

(3) Existing law vests in the State Department of Developmental Services jurisdiction over state hospitals, referred to as developmental centers, for the provision of residential care to individuals with developmental disabilities. Existing law requires the department, when closing a developmental center, to comply with procedural requirements that include the submission of a detailed plan to the Legislature. Existing law specifies required information to be included in a plan, including the fiscal impact of the closure, the impact on residents and their families, and anticipated alternative placements for residents.

This bill would require the department to submit to the Legislature, on or before October 1, 2015, a plan or plans to close one or more developmental centers, as specified. The bill would provide that implementation of that plan would be contingent upon legislative approval of the plan as part of the legislative budget process during the 2016–17 Regular Session of the Legislature. The bill would require the department, following approval of a closure plan, to provide quarterly briefings to specified legislative staff on progress related to the plan, as specified.

Existing law limits the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center to 230, including residents receiving services in the Porterville Developmental Center transition treatment program. Existing law prohibits the admission of a person to a developmental center except under certain circumstances, including when the person is a juvenile committed by a court to the secure treatment program at Porterville Developmental Center.

This bill would instead authorize an individual to be admitted to the secure treatment facility at Porterville Developmental Center only when specified conditions are satisfied, including, among others, that the individual is at least 18 years of age. The bill would also provide that an individual may be admitted to the transitional treatment facility at Porterville Developmental Center when specified conditions are satisfied, and would prohibit the placement of an individual in the transitional treatment program for longer than necessary to procure a less restrictive placement. The bill would require the department to report to the Legislature on or before March 1, 2016, regarding transitional program residents who are placed in the program for more than one year.

This bill would declare the intent of the Legislature that General Fund savings derived from the closure of developmental centers benefit persons with developmental disabilities living in the community. The bill would require the department to display annually in its budget estimates specified information related to the downsizing or closure of developmental centers, as specified.

(4) Under existing law, the Lanterman Developmental Disabilities Services Act, the department is responsible for providing various services and supports to persons with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Existing law authorizes the department to contract with

regional centers to provide these services and supports. Existing law requires a regional center to develop an individual program plan for a person who, following intake and assessment, is found to be eligible for regional center services. Existing law specifies requirements related to the process of developing an individual program plan. Existing law requires a regional center to complete a plan within 60 days of the completion of the assessment.

This bill would require a regional center to offer, and upon request provide, a written copy of the individual program plan to the consumer of services or other specified individuals in a threshold language, as defined, within 45 days of the request.

Existing law requires the department and regional centers to annually collaborate to compile specified data relating to purchase of service authorization, utilization, and expenditure by each regional center. Existing law requires each regional center to annually report to the department regarding the regional center's implementation of these requirements.

This bill would require the department and regional centers to include in that data the number of instances when a written copy of an individual program plan is provided at the request of the consumer or other specified individuals in a language other than a threshold language, as defined, and that written copy was provided more than 60 days after the request. The bill would require the department to consult with stakeholders to achieve specified objectives related to reducing disparities and promoting equity in connection with providing the services and supports described above, and to report progress on those objectives to the Legislature during the 2016–17 annual legislative budget subcommittee hearing process.

Existing law also requires the department to establish a statewide specialized resource service to reduce reliance on out-of-state placements, developmental centers, and mental health facilities for which federal funding is not available. Existing law requires the department to also annually provide to the fiscal and appropriate policy committees of the Legislature information on efforts to serve those consumers, as specified.

This bill would require the department and each institution for mental disease that has admitted a regional center consumer to report annually to the contractor for regional center clients' rights advocacy services, information related to those consumers served. The bill would also

expand the information the department is required to report to the policy committees and the contractor, as specified.

Existing law requires that contracts entered into with regional centers include annual performance objectives, including annual performance objectives that are specific, measurable, and designed to, among other things, develop services and supports identified as necessary to meet identified needs.

This bill would include measuring progress in reducing disparities and improving equity in purchase of service expenditures in those annual performance objectives.

(5) Existing law prohibits a regional center from purchasing new residential services from, or placing a consumer in, institutions for mental disease, regardless of the availability of federal funding. Existing law provides that the prohibition does not apply to emergencies, as determined by the regional center, and as otherwise specified. Under those circumstances, existing law requires the regional center to complete a comprehensive assessment, as specified.

This bill would require an institution for mental disease that receives placement of a regional center consumer from another entity to inform the regional center of the placement, as specified. After notice is provided to the regional center, the bill would require the regional center to complete an assessment.

(6) Existing law sets forth the department's and the regional center's authority to establish provider rates. Existing law prohibits certain provider rate increases, but authorizes increases to those rates as necessary to adjust employee wages to meet the state minimum wage law.

Existing law generally provides that employees who, on or after July 1, 2015, work in California for 30 or more days within a year are entitled to a specified number of paid sick days.

This bill would authorize adjustment in prescribed provider rates commencing July 1, 2015, if the adjustment is necessary to implement the requirement that employees be provided paid sick days.

(7) Existing law requires the department to establish a pilot program, until January 1, 2020, for the operation of up to 6 enhanced behavioral supports homes for adults and children with developmental disabilities who need intensive services and supports due to challenging behaviors that cannot be managed in a community setting without the availability of enhanced behavioral services and supports.

This bill would delete the restriction on the number of enhanced behavioral supports homes that the department may approve as part of the pilot project.

(8) Existing law requires the department, contingent upon approval of federal funding, to establish and implement a state Self-Determination Program, as defined, that would be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. The statewide program would be phased in over 3 years, serving up to 2,500 regional center consumers during the phase-in period, and thereafter, available on a voluntary basis to all eligible regional center consumers. Existing law requires the department to annually provide specified information to the appropriate policy and fiscal committees of the Legislature, including the number and characteristics of participants, by regional center.

This bill would authorize the Department of Finance to approve, as specified, an increase to the number of consumers served by the Self-Determination Program before the end of the 3-year phase-in period. The bill would specify that following the phase-in period, the regional center consumers that the program is made available to would include residents in developmental centers who are moving to the community, and would require that the annual information provided by the department to the appropriate policy and fiscal committees of the Legislature include the number of participants who entered the program upon movement from a developmental center.

(9) Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing federal law, the Fair Labor Standards Act (FLSA), and regulations promulgated under the FLSA, generally require that an employee covered by the act receive overtime pay for hours worked in excess of 40 hours in a workweek at a rate not less than 1½ times the employee's regular rate of pay, unless specifically exempted.

The bill would require the department, when federal FLSA regulations regarding payment of overtime compensation are implemented in the state, to consult with specified entities to evaluate the impact of those

regulations on consumers and providers of supported living services, in-home respite services, and personal assistants to persons with developmental disabilities. The bill would require the department to report on the progress of that evaluation and specified resulting actions or recommendations to the Legislature during the 2016–17 legislative budget subcommittee hearing process.

(10) This bill would appropriate $61,554,000 from the General Fund to the department to fund expenditures for services provided by regional centers, as specified. The bill would provide that those funds shall be available for encumbrance and expenditure until June 30, 2016.

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

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2015.~~

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

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

SECTION 1. Section 14670.36 is added to the Government Code, immediately following Section 14670.35, to read:

14670.36. (a) Notwithstanding any other law, the Director of General Services, with the consent of the Director of Developmental Services, may, in the best interests of the state, let to any person or entity real property not exceeding 20 acres located within the grounds of the Fairview Developmental Center for a period not to exceed 55 years, at a price that will permit the development of affordable housing for people with developmental disabilities.

(b) Notwithstanding any other law, the lease authorized by this section may be assignable subject to approval by the Director of General Services, with the consent of the Director of Developmental Services. The lease shall do all of the following:

(1) Provide housing for individuals who qualify based upon criteria established by the Department of Developmental Services. A minimum of 20 percent of the housing units developed shall be available and affordable to individuals with developmental disabilities served by a regional center pursuant to the Lanterman Developmental Disabilities Services Act (Chapter 1 (commencing with Section 4500) of Division 4.5 of the Welfare and Institutions

Code). When filling vacancies, priority for housing shall be given to individuals transitioning from a developmental center or at risk for admission to a developmental center.

(2) Allow for lease revenues or other proceeds received by the state under the leases for projects authorized by this section and Section 14670.35, to be utilized by the Department of Developmental Services to support individuals with developmental disabilities, including subsidizing rents for those individuals.

(3) Include provisions authorizing the Department of Developmental Services, or its designee, to provide management oversight and administration over the housing for individuals with developmental disabilities and the general operations of the project sufficient to assure the purposes of the lease are being carried out and to protect the financial interests of the state.

(c) The Department of Developmental Services may share in proceeds, if any, generated from the overall operation of the project developed pursuant to this section. All proceeds received from the project authorized by this section and the project authorized by Section 14670.35, in accordance with the terms of the lease, shall be deposited in the Department of Developmental Services Trust Fund, which is hereby created in the State Treasury. Moneys in the Department of Developmental Services Trust Fund shall be used, upon appropriation by the Legislature, for the purpose of providing housing and transitional services for people with developmental disabilities. Any funds not needed to support individuals with developmental disabilities shall be transferred to the General Fund upon the order of the Director of Finance.

(d) The Director of General Services, with the consent of the Director of Developmental Services, may enter into a lease pursuant to this section at less than market value, provided that the cost of administering the lease is recovered.

(e) The project and lease, including off-site improvements directly related to the housing project authorized by this section, shall not be deemed a "public works contract" as defined by Section 1101 of the Public Contract Code. However, construction projects contemplated by the lease authorized by this section shall be considered "public works," as defined by paragraph (1) of subdivision (a) of Section 1720 of the Labor Code, for the purpose of prevailing wage requirements.

SEC. 2. Section 1267.75 of the Health and Safety Code is amended to read:

1267.75. (a) A licensee of an intermediate care facility/developmentally disabled habilitative, as defined in subdivision (e) of Section 1250, or of an intermediate care facility/developmentally disabled, as defined in subdivision (g) of Section 1250, for no more than ~~15~~ *six* residents, ~~that is eligible~~ *except* for ~~and serving clients eligible for federal Medicaid funding may, with~~ the ~~approval of the State Department of Public Health and contingent upon continued eligibility for federal Medicaid funding,~~ *larger facilities provided for in paragraph (1) of subdivision (k), may* install and utilize delayed egress devices of the time delay type in combination with secured perimeters in accordance with the provisions of this section.

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

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

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

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

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

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

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

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

(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and

supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

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

(4) *(A)* An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with delayed egress devices of the time delay type in combination with secured perimeters and that, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall *convene every 90 days after admission to* determine *and document* the continued appropriateness of the *current* placement ~~at least annually.~~ *and progress in implementing the transition plan.*

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

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

(e) The licensee shall provide staff training regarding the use and operation of the delayed egress devices of the time delay type and secured perimeters, protection of residents' personal rights,

lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

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

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

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

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

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control ~~behavior.~~ *behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.*

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

(6) A description of how the facility will comply with applicable health and safety standards.

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

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

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

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

(k) Except as provided in subdivision (k) of Section 4684.81 of the Welfare and Institutions Code, the state shall not authorize or fund more than a combined total of 150 beds statewide in facilities with secured perimeters under this section and under Section 1531.15. The department shall notify the appropriate fiscal and policy committees of the Legislature through the January and May budget estimates prior to authorizing an increase above a combined total of 100 beds statewide in facilities with secured perimeters under this section and under Section 1531.15.

(1) A minimum of 50 beds shall be available within programs designed for individuals who are designated incompetent to stand trial pursuant to Section 1370.1 of the Penal Code. These beds shall be within facilities that are exclusively used to provide care for individuals who are placed and participating in forensic competency training pursuant to Section 1370.1 of the Penal Code, except as provided in paragraph (2). No more than half of these facilities may have more than six beds and no facility may have more than 15 beds.

(2) When, in the joint determination of the regional center and the facility administrator, an individual would be most appropriately served in a specific program, regardless of whether the facility meets the criteria established in paragraph (1), individuals who are not similarly designated may be placed in the same facility. That placement may occur only when the individual's planning team determines that the placement and the facility plan of operation meet the individual's needs and that placement is not incompatible with the needs and safety of other facility residents.

~~(k)~~

(l) This section shall become operative only upon the filing of emergency regulations by the State Department of Developmental Services. These regulations shall be developed with stakeholders, including the State Department of Public Health, consumer advocates, and regional centers. The regulations shall establish program standards for homes that include delayed egress devices of the time delay type in combination with secured perimeters, including requirements and timelines for the completion and updating of a comprehensive assessment of the consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline

for identifying or developing those services and supports. The regulations shall establish a statewide limit on the total number of beds in homes with delayed egress devices of the time delay type in combination with secured perimeters. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

~~(l)~~

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

SEC. 3. Section 1531.15 of the Health and Safety Code is amended to read:

1531.15. (a) A licensee of an adult residential facility or group home for no more than ~~15~~ *six* residents, ~~that is eligible for and serving clients eligible for federal Medicaid funding and~~ *except for the larger facilities provided for in paragraph (1) of subdivision (k), that is* utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

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

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

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

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

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

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

(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center

requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

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

(4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code.

(5) *(A)* An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall *convene every 90 days after admission to* determine *and document* the continued appropriateness of the *current* placement ~~at least annually.~~ *and progress in implementing the transition plan.*

(B) The clients' rights advocate for the regional center shall be notified of the proposed admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

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

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

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

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

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

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

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control ~~behavior.~~ *behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.*

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

(6) A description of how the facility will comply with applicable health and safety standards.

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

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

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

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

(k) Except as provided in subdivision (k) of Section 4684.81 of the Welfare and Institutions Code, the state shall not authorize or fund more than a combined total of 150 beds statewide in facilities

with secured perimeters under this section and under Section 1267.75. The department shall notify the appropriate fiscal and policy committees of the Legislature through the January and May budget estimates prior to authorizing an increase above a combined total of 100 beds statewide in facilities with secured perimeters under this section and under Section 1267.75.

(1) A minimum of 50 beds shall be available within programs designed for individuals who are designated incompetent to stand trial pursuant to Section 1370.1 of the Penal Code. These beds shall be within facilities that are exclusively used to provide care for individuals who are placed and participating in forensic competency training pursuant to Section 1370.1 of the Penal Code, except as provided in paragraph (2). No more than half of these facilities may have more than six beds and no facility may have more than 15 beds.

(2) When, in the joint determination of the regional center and the facility administrator, an individual would be most appropriately served in a specific program, regardless of whether the facility meets the criteria established in paragraph (1), individuals who are not similarly designated may be placed in the same facility. That placement may occur only when the individual's planning team determines that the placement and the facility plan of operation meet the individual's needs and that placement is not incompatible with the needs and safety of other facility residents.

~~(k)~~

(l) This section shall become operative only upon the publication in Title 17 of the California Code of Regulations of emergency regulations filed by the State Department of Developmental Services. These regulations shall be developed with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers. The regulations shall establish program standards for homes that include secured perimeters, including requirements and timelines for the completion and updating of a comprehensive assessment of each consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The regulations shall establish a statewide limit on the total number of beds in homes with secured perimeters. The adoption of these

regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 4. 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, including any updates pursuant to subparagraph (E), shall be provided to both of the following:

(i) The individual program planning team and clients' rights advocate for the regional center in order to assist the planning team in determining the least restrictive environment for the consumer.

(ii) The superior court with jurisdiction over the consumer's placement at the developmental center, including the consumer's attorney of record and other parties known to the regional center. For judicial proceedings pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6, the comprehensive assessment shall be included in the regional center's written report required by Section 6504.5. For all other proceedings, the regional center shall provide the comprehensive assessment to the court and parties to the case at least 14 days in advance of any regularly scheduled judicial review. This clause shall not apply to consumers committed pursuant to Section 1370.1 of the Penal Code.

(E) The assessments described in subparagraph (D) 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. The regional center shall notify the clients' rights advocate for the regional center of the time, date, and location of each individual program plan meeting that includes discussion of the results of the comprehensive assessment and updates to that assessment. The regional center shall provide this notice as soon as practicable following the completion of the comprehensive assessment or update and not less than 30 calendar days prior to the meeting. The clients' rights advocate 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~~ *Legislature, and to the contractor for regional center clients' rights advocacy services under Section 4433,* 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.~~ *placements, including information on the utilization of those facilities, which shall include, by regional center, all of the following:*

(A) The total number and age range of consumers placed in those facilities.

(B) The number of admissions.

(C) The reasons for admissions by category, including, but not limited to, incompetent-to-stand-trial (IST) commitment, Section 6500 commitment, crisis stabilization, and lack of appropriate community placement.

(D) The lengths of stay of consumers.

(E) The type of facility.

(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.

(h) Each institution for mental disease that has admitted a regional center consumer in the preceding year shall report on February 1, 2016, and on February 1 annually thereafter, to the contractor for regional center clients' rights advocacy services under Section 4433, all of the following:

(A) The total number and age of consumers placed in that facility.

(B) The number of admissions.

(C) The reasons for admissions by category.

(D) The lengths of stay of consumers.

(E) The funding source.

SEC. 5. Section 4474.1 of the Welfare and Institutions Code is amended to read:

4474.1. (a) Whenever the State Department of Developmental Services proposes the closure of a state developmental center, the department shall be required to submit a detailed plan to the Legislature not later than April 1 immediately prior to the fiscal year in which the plan is to be implemented, and as a part of the Governor's proposed budget. A plan submitted to the Legislature pursuant to this section, including any modifications made pursuant to subdivision (b), shall not be implemented without the approval of the Legislature.

(b) A plan submitted on or before April 1 immediately prior to the fiscal year in which the plan is to be implemented may be subsequently modified during the legislative review process.

(c) Prior to submission of the plan to the Legislature, the department shall solicit input from the State Council on Developmental Disabilities, the Association of Regional Center Agencies, the protection and advocacy agency specified in Section 4901, the local regional center, consumers living in the developmental center, parents, family members, guardians, and conservators of persons living in the developmental centers or their representative organizations, persons with developmental disabilities living in the community, developmental center employees and employee organizations, community care providers, the affected city and county governments, and business and civic

organizations, as may be recommended by local state Senate and Assembly representatives.

(d) Prior to the submission of the plan to the Legislature, the department shall confer with the county in which the developmental center is located, the regional centers served by the developmental center, and other state departments using similar occupational classifications, to develop a program for the placement of staff of the developmental center planned for closure in other developmental centers, as positions become vacant, or in similar positions in programs operated by, or through contract with, the county, regional centers, or other state ~~departments.~~ *departments, including, but not limited to, the Community State Staff Program, use of state staff for mobile health and crisis teams in the community, and use of state staff in new state-operated models that may be developed as a component of the closure plan.*

(e) Prior to the submission of the plan to the Legislature, the department shall confer with the county in which the development center is located, and shall consider recommendations for the use of the developmental center property.

~~(e)~~

(f) Prior to the submission of the plan to the Legislature, the department shall hold at least one public hearing in the community in which the developmental center is located, with public comment from that hearing summarized in the plan.

~~(f)~~

(g) The plan submitted to the Legislature pursuant to this section shall include all of the following:

(1) A description of the land and buildings ~~affected.~~ *at the developmental center.*

(2) A description of existing lease arrangements at the developmental center.

(3) A description of resident characteristics, including, but not limited to, age, gender, ethnicity, family involvement, years of developmental center residency, developmental disability, and other factors that will determine service and support needs.

(4) A description of stakeholder input provided pursuant to subdivisions (c), (d), and (e), including a description of local issues, concerns, and recommendations regarding the proposed closure, and alternative uses of the developmental center property.

~~(3)~~

(5) The impact on residents and their families.

(6) A description of the unique and specialized services provided by the developmental center, including, but not limited to, crisis facilities, health and dental clinics, and adaptive technology services.

(7) A description of the assessment process and community placement decision process that will ensure necessary services and supports are in place prior to a resident transitioning into the community.

~~(4)~~

(8) Anticipated alternative placements for residents.

(9) A description of how the department will transition the clients' rights advocacy contract provided at the developmental center pursuant to Section 4433 to the community.

(10) A description of how the well-being of the residents will be monitored during and following their transition into the community.

~~(5)~~

(11) The impact on regional center services.

~~(6)~~

(12) Where services will be obtained that, upon closure of the developmental center, will no longer be provided by that facility.

~~(7)~~

(13) ~~Potential~~ *A description of the potential* job opportunities for developmental center *employees, activities the department will undertake to support* employees *through the closure process,* and other efforts made to mitigate the effect of the closure on employees.

~~(8)~~

(14) The fiscal impact of the closure.

~~(9)~~

(15) The timeframe in which closure will be accomplished.

SEC. 6. Section 4474.11 is added to the Welfare and Institutions Code, immediately following Section 4474.1, to read:

4474.11. (a) Notwithstanding any other law, on or before October 1, 2015, the Department of Developmental Services shall submit to the Legislature a plan or plans to close one or more developmental centers. The plan or plans shall meet the requirements of subdivisions (c) to (g), inclusive of Section 4474.1, and shall be posted on the department's Internet Web site. The

department may develop community resources and otherwise engage in activities for transitioning developmental center residents into the community, and utilize funds allocated for that purpose as part of the annual Budget Act that is enacted at the 2015–16 Regular Session of the Legislature. Implementation of a plan following the 2015–16 fiscal year is contingent upon legislative approval of the plan as part of the legislative budget process during the 2016–17 Regular Session of the Legislature.

(b) A plan submitted to the Legislature pursuant to this section may subsequently be modified during the legislative review process. Modifications may include changes based on stakeholder and county-designated advisory group comments, as well as recommendations made by the county in which the developmental center is located.

SEC. 7. 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.

(5) Residence type, subcategorized by age, race or ethnicity, and primary language.

(6) Number of instances when the written copy of the individual program plan was provided at the request of the consumer and, when appropriate, his or her parents, legal guardian or conservator, or authorized representative, in a language other than a threshold language, as defined by paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of the California Code of Regulations, if that written copy was provided more than 60 days after the request.

(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, and by residence type, as set forth in paragraph (5) of subdivision (a), 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. Each regional center shall maintain all previous years' data on its Internet Web site.

(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 maintain all previous years' data on its Internet Web site. 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 one or more public meetings regarding the data. The meeting or meetings shall be held separately from any meetings held pursuant to Section 4660. The regional center shall provide participants of these meetings with the data and any associated information, and shall conduct a discussion of the data and the associated information in a manner that is culturally and linguistically appropriate for that community, including providing alternative communication services, as required by Sections 11135 to 11139.7, inclusive, of the Government Code and implementing regulations. 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. Each regional center shall, in holding the meetings required by this subdivision, consider the language needs of the community and shall schedule the meetings at times and locations designed to result in a high turnout by the public and underserved communities.

(f) (1) Each regional center shall annually report to the department regarding its implementation of the requirements of this section. The report shall include, but shall not be limited to, all of the following:

(A) Actions the regional center took to improve public attendance and participation at stakeholder meetings, including, but not limited to, attendance and participation by underserved communities.

(B) Copies of minutes from the meeting and attendee comments.

(C) Whether the data described in this section indicates a need to reduce disparities in the purchase of services among consumers in the regional center's catchment area. If the data does indicate that need, the regional center's recommendations and plan to promote equity, and reduce disparities, in the purchase of services.

(2) Each regional center and the department shall annually post the reports required by paragraph (1) on its Internet Web site by August 31.

(g) (1) The department shall consult with stakeholders, including consumers and families that reflect the ethnic and language diversity of regional center consumers, regional centers, advocates, providers, the protection and advocacy agency described in Section 4901, and those entities designated as University Centers for Excellence in Developmental Disabilities Education, Research, and Service pursuant to Section 15061 of Title 42 of the United States Code, to achieve the following objectives:

(A) Review the data compiled pursuant to subdivision (a).

(B) Identify barriers to equitable access to services and supports among consumers and develop recommendations to help reduce disparities in purchase of service expenditures.

(C) Encourage the development and expansion of culturally appropriate services, service delivery, and service coordination.

(D) Identify best practices to reduce disparity and promote equity.

(2) The department shall report the status of its efforts to satisfy the requirements of paragraph (1) during the 2016–17 legislative budget subcommittee hearing process.

SEC. 8. Section 4629 of the Welfare and Institutions Code is amended to read:

4629. (a) The state shall enter into five-year contracts with regional centers, subject to the annual appropriation of funds by the Legislature.

(b) The contracts shall include a provision requiring each regional center to render services in accordance with applicable provision of state laws and regulations.

(c) (1) The contracts shall include annual performance objectives that shall do both of the following:

(A) Be specific, measurable, and designed to do all of the following:

(i) Assist consumers to achieve life quality outcomes.

(ii) Achieve meaningful progress above the current baselines.

(iii) Develop services and supports identified as necessary to meet identified needs, including culturally and linguistically appropriate services and supports.

(iv) Measure progress in reducing disparities and improving equity in purchase of service expenditures.

(B) Be developed through a public process as described in the department's guidelines that includes, but is not limited to, all of the following:

(i) Providing information, in an understandable form, to the community about regional center services and supports, including budget information and baseline data on services and supports and regional center operations.

(ii) Conducting a public meeting where participants can provide input on performance objectives and using focus groups or surveys to collect information from the community.

(iii) Circulating a draft of the performance objectives to the community for input prior to presentation at a regional center board meeting where additional public input will be taken and considered before adoption of the objectives.

(2) In addition to the performance objectives developed pursuant to this section, the department may specify in the performance contract additional areas of service and support that require development or enhancement by the regional center. In determining those areas, the department shall consider public comments from individuals and organizations within the regional center catchment area, the distribution of services and supports within the regional center catchment area, and review how the availability of services

and supports in the regional area catchment area compares with other regional center catchment areas.

(d) Each contract with a regional center shall specify steps to be taken to ensure contract compliance, including, but not limited to, all of the following:

(1) Incentives that encourage regional centers to meet or exceed performance standards.

(2) Levels of probationary status for regional centers that do not meet, or are at risk of not meeting, performance standards. The department shall require that corrective action be taken by any regional center which is placed on probation. Corrective action may include, but is not limited to, mandated consultation with designated representatives of the Association of Regional Center Agencies or a management team designated by the department, or both. The department shall establish the specific timeline for the implementation of corrective action and monitor its implementation. When a regional center is placed on probation, the department shall provide the state council and the clients' rights advocacy contractor identified in Section 4433 with a copy of the correction plan, timeline, and any other action taken by the department relating to the probationary status of the regional center.

(e) In order to evaluate the regional center's compliance with its contract performance objectives and legal obligations related to those objectives, the department shall do both of the following:

(1) Annually assess each regional center's achievement of its previous year's objectives and make the assessment, including baseline data and performance objectives of the individual regional centers, available to the public. The department may make a special commendation of the regional centers that have best engaged the community in the development of contract performance objectives and have made the most meaningful progress in meeting or exceeding contract performance objectives.

(2) Monitor the activities of the regional center to ensure compliance with the provisions of its contracts, including, but not limited to, reviewing all of the following:

(A) The regional center's public process for compliance with the procedures set forth in paragraph (2) of subdivision (c).

(B) Each regional center's performance objectives for compliance with the criteria set forth in paragraphs (1) and (2) of subdivision (c).

(C) Any public comments on regional center performance objectives sent to the department or to the regional centers, and soliciting public input on the public process and final performance standards.

(f) The renewal of each contract shall be contingent upon compliance with the contract including, but not limited to, the performance objectives, as determined through the department's evaluation.

SEC. 9. Section 4646.5 of the Welfare and Institutions Code is amended to read:

4646.5. (a) The planning process for the individual program plan described in Section 4646 shall include all of the following:

(1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. For children with developmental disabilities, this process should include a review of the strengths, preferences, and needs of the child and the family unit as a whole. Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer, his or her parents and other family members, his or her friends, advocates, authorized representative, if applicable, providers of services and supports, and other agencies. The assessment process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.

(2) A statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities, and a statement of specific, time-limited objectives for implementing the person's goals and addressing his or her needs. These objectives shall be stated in terms that allow measurement of progress or monitoring of service delivery. These goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life in the areas of community participation, housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals.

(3) When developing individual program plans for children, regional centers shall be guided by the principles, process, and services and support parameters set forth in Section 4685.

(4) When developing an individual program plan for a transition age youth or working age adult, the planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).

(5) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The individual program plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services. *In addition to the requirements of subdivision (h) of Section 4646, each regional center shall offer, and upon request provide, a written copy of the individual program plan to the consumer, and, when appropriate, his or her parents, legal guardian or conservator, or authorized representative within 45 days of their request in a threshold language, as defined by paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of the California Code of Regulations.*

(6) When agreed to by the consumer, the parents, legally appointed guardian, or authorized representative of a minor consumer, or the legally appointed conservator of an adult consumer or the authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, subdivision (b) of Section 4701.6, and subdivision (e) of Section 4705, a review of the general health status of the adult or child, including medical, dental, and mental health needs, shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of the last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator.

(7) (A) The development of a transportation access plan for a consumer when all of the following conditions are met:

(i) The regional center is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services.

(ii) The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation services.

(iii) The planning team has determined that generic transportation services are available and accessible.

(B) To maximize independence and community integration and participation, the transportation access plan shall identify the services and supports necessary to assist the consumer in accessing public transportation and shall comply with Section 4648.35. These services and supports may include, but are not limited to, mobility training services and the use of transportation aides. Regional centers are encouraged to coordinate with local public transportation agencies.

(8) A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled within the times specified, and that consumers and families are satisfied with the individual program plan and its implementation.

(b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, authorized representative, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted.

(c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the state council shall prepare training material and a standard format and instructions for the preparation of individual program plans, which embody an approach centered on the person and family.

(2) Each regional center shall use the training materials and format prepared by the department pursuant to paragraph (1).

(3) The department shall biennially review a random sample of individual program plans at each regional center to ensure that these plans are being developed and modified in compliance with Section 4646 and this section.

SEC. 10. 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 that the regional center and consumer or, when 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 law or regulation, 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 a 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 when appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, 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 that 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, when 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, when appropriate, his

or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to subdivision (a) of Section 4541, 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, 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, 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. For purposes of this clause, notification to the clients' rights advocate shall include a copy of the most recent comprehensive assessment or updated assessment and the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(v) If a consumer is placed in an institution for mental disease by another entity, the institution for mental disease shall inform the regional center of the placement within five days of the date the consumer is admitted. If an individual's records indicate that he or she is a regional center consumer, the institution for mental disease shall make every effort to contact the local regional center

or department to determine which regional center to provide notice. As soon as possible within 30 days of admission to an institution for mental disease due to an emergency pursuant to clause (ii), or within 30 days of notification of admission to an institution for mental disease by an entity other than a regional center, an assessment shall be completed by the regional center.

~~(v)~~

(vi) 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. For purposes of this clause, notification to the clients' rights advocate shall include the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(D) A 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 intellectual 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 audiotapes, 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 that 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 law or regulation, 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 advocacy assistance from the state council.

(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 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) When there are identified gaps in the system of services and supports or when 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. 11. Section 4681.6 of the Welfare and Institutions Code is amended to read:

4681.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(2) A regional center shall not negotiate a rate with a new residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the department its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific

to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) Notwithstanding subdivision (a), commencing July 1, 2015, regional centers may negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

~~(c)~~

(d) For purposes of this section, "residential service provider" includes Adult Residential Facilities for Persons with Special Health Care Needs, as described in Section 4684.50.

~~(d)~~

(e) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 12. Section 4684.81 of the Welfare and Institutions Code is amended to read:

4684.81. (a) The department shall implement a pilot project using community placement plan funds, as appropriated in the State Department of Developmental Services' annual budget, to test the effectiveness of providing enhanced behavioral supports in homelike community settings. The enhanced behavioral supports homes shall be for purposes of providing intensive behavioral services and supports to adults and children with developmental disabilities who need intensive services and supports due to challenging behaviors that cannot be managed in a community setting without the availability of enhanced behavioral services

and supports, and who are at risk of institutionalization or out-of-state placement, or are transitioning to the community from a developmental center, other state-operated residential facility, institution for mental disease, or out-of-state placement.

(b) An enhanced behavioral supports home may only be established in an adult residential facility or a group home approved through a regional center community placement plan pursuant to Section 4418.25.

(c) ~~No more than six enhanced~~ *Enhanced* behavioral supports homes may be approved by the State Department of Developmental Services each fiscal year in which the pilot program is in effect and to the extent funding is available for this purpose, each for no more than four individuals with developmental disabilities. The homes shall be located throughout the state, as determined by the State Department of Developmental Services, based on regional center requests.

(d) Each enhanced behavioral supports home shall be licensed as an adult residential facility or a group home pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) and certified by the State Department of Developmental Services, shall exceed the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013 of Title 17 of the California Code of Regulations, and shall meet all applicable statutory and regulatory requirements applicable to a facility licensed as an adult residential facility or a group home for facility licensing, seclusion, and restraint, including Division 1.5 (commencing with Section 1180) of the Health and Safety Code, and the use of behavior modification interventions, subject to any additional requirements applicable to enhanced behavioral supports homes established by statute or by regulation promulgated pursuant to this article and Article 9.5 (commencing with Section 1567.61) of Chapter 3 of Division 2 of the Health and Safety Code.

(e) A regional center shall not place a consumer in an enhanced behavioral supports home unless the program is certified by the State Department of Developmental Services and the facility is licensed by the State Department of Social Services.

(f) The State Department of Developmental Services shall be responsible for granting the certificate of program approval for an enhanced behavioral supports home.

(g) The State Department of Developmental Services may, pursuant to Section 4684.85, decertify any enhanced behavioral supports home that does not comply with program requirements. Upon decertification of an enhanced behavioral supports home, the State Department of Developmental Services shall report the decertification to the State Department of Social Services. The State Department of Social Services shall revoke the license of the enhanced behavioral supports home that has been decertified pursuant to Section 1550 of the Health and Safety Code.

(h) If the State Department of Developmental Services determines that urgent action is necessary to protect a consumer residing in an enhanced behavioral supports home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the State Department of Developmental Services may request that the regional center or centers remove the consumer from the enhanced behavioral supports home or direct the regional center or centers to obtain alternative or additional services for the consumers within 24 hours of that determination. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section.

(i) Enhanced behavioral supports homes shall have a facility program plan approved by the State Department of Developmental Services.

(1) The facility program plan approved by the State Department of Developmental Services shall be submitted to the State Department of Social Services for inclusion in the facility plan of operation.

(2) The vendoring regional center and each consumer's regional center shall have joint responsibility for monitoring and evaluating the services provided in the enhanced behavioral supports home. Monitoring shall include at least quarterly, or more frequently if specified in the consumer's individual program plan, face-to-face, onsite case management visits with each consumer by his or her regional center and at least quarterly quality assurance visits by the vendoring regional center. The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with their monitoring responsibilities.

(j) The State Department of Developmental Services shall establish by regulation a rate methodology for enhanced behavioral supports homes that includes a fixed facility component for residential services and an individualized services and supports component based on each consumer's needs as determined through the individual program plan process, which may include assistance with transitioning to a less restrictive community residential setting.

(k) (1) The established facility rate for a full month of service, as defined in regulations adopted pursuant to this article, shall be paid based on the licensed capacity of the facility once the facility reaches maximum capacity, despite the temporary absence of one or more consumers from the facility or subsequent temporary vacancies created by consumers moving from the facility. Prior to the facility reaching licensed capacity, the facility rate shall be prorated based on the number of consumers residing in the facility.

When a consumer is temporarily absent from the facility, including when a consumer is in need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center may, based on consumer need, continue to fund individual services, in addition to paying the facility rate. Individual consumer services funded by the regional center during a consumer's absence from the facility shall be approved by the regional center director and shall only be approved in 14-day increments. The regional center shall maintain documentation of the need for these services and the regional center director's approval.

(2) An enhanced behavioral supports home using delayed egress devices, in compliance with Section 1531.1 of the Health and Safety Code, may utilize secured perimeters, in compliance with Section 1531.15 of the Health and Safety Code and applicable regulations. No more than two enhanced behavioral supports homes using delayed egress devices in combination with secured perimeters may be certified by the State Department of Developmental Services during the first year of the pilot program, one in northern California and one in southern California, and no more than one additional home using delayed egress devices in combination with a secured perimeter may be certified by the State Department of Developmental Services in each subsequent year of the pilot program. No more than six enhanced behavioral supports homes that use delayed egress devices in combination

with a secured perimeter shall be certified during the pilot program. Enhanced behavioral supports homes shall not be counted for purposes of the statewide limit established in regulations on the total number of beds permitted in homes with delayed egress devices in combination with secured perimeters pursuant to subdivision (k) of Section 1531.15 of the Health and Safety Code. The department shall make reasonable efforts to include enhanced behavioral supports homes within the statewide limit.

SEC. 13. Section 4685.8 of the Welfare and Institutions Code is amended to read:

4685.8. (a) The department shall implement a statewide Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. The statewide Self-Determination Program shall be phased in over three years, and during this phase-in period, shall serve up to 2,500 regional center consumers, inclusive of the remaining participants in the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, and Article 4 (commencing with Section 4669.2) of Chapter 5. Following the phase-in period, the program shall be available on a voluntary basis to all regional center ~~consumers~~ *consumers, including residents in developmental centers* who are *moving to the community, who are* eligible for the Self-Determination Program. The program shall be available to individuals who reflect the disability, ethnic, and geographic diversity of the state. *The Department of Finance may approve, upon a request from the department and no sooner than 30 days following notification to the Joint Legislative Budget Committee, an increase to the number of consumers served by the Self-Determination Program before the end of the three-year phase-in period.*

(b) The ~~department~~ *department,* in establishing the statewide ~~program~~ *program,* shall do both of the following:

(1) For the first three years of the Self-Determination Program, determine, as part of the contracting process described in Sections 4620 and 4629, the number of participants each regional center shall serve in its Self-Determination Program. To ensure that the

program is available on an equitable basis to participants in all regional center catchment areas, the number of Self-Determination Program participants in each regional center shall be based on the relative percentage of total consumers served by the regional centers minus any remaining participants in the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, and Article 4 (commencing with Section 4669.2) of Chapter 5 or another equitable basis.

(2) Ensure all of the following:

(A) Oversight of expenditure of self-determined funds and the achievement of participant outcomes over time.

(B) Increased participant control over which services and supports best meet his or her needs and the IPP objectives. A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring his or her own support workers, or negotiating unique service arrangements with local community resources.

(C) Comprehensive person-centered planning, including an individual budget and services that are outcome based.

(D) Consumer and family training to ensure understanding of the principles of self-determination, the planning process, and the management of budgets, services, and staff.

(E) Choice of independent facilitators who can assist with the person-centered planning process and choice of financial management services providers vendored by regional centers who can assist with payments and provide employee-related services.

(F) Innovation that will more effectively allow participants to achieve their goals.

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

(1) "Financial management services" means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement his or her IPP throughout the year. These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying provider qualifications, including criminal background checks, and expenditure reports. The financial management services

provider shall meet the requirements of Sections 58884, 58886, and 58887 of Title 17 of the California Code of Regulations and other specific qualifications established by the department. The costs of financial management services shall be paid by the participant out of his or her individual budget, except for the cost of obtaining the criminal background check specified in subdivision (w).

(2) "Independent facilitator" means a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to his or her IPP and is not employed by a person providing services to the participant. The independent facilitator may assist the participant in making informed decisions about the individual budget, and in locating, accessing, and coordinating services and supports consistent with the participant's IPP. He or she is available to assist in identifying immediate and long-term needs, developing options to meet those needs, leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP, and obtaining identified services and supports. The cost of the independent facilitator, if any, shall be paid by the participant out of his or her individual budget. An independent facilitator shall receive training in the principles of self-determination, the person-centered planning process, and the other responsibilities described in this paragraph at his or her own cost.

(3) "Individual budget" means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. The individual budget shall be determined using a fair, equitable, and transparent methodology.

(4) "IPP" means individual program plan, as described in Section 4646.

(5) "Participant" means an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and has voluntarily agreed to participate in, the Self-Determination Program.

(6) "Self-determination" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in his or

her IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion. The Self-Determination Program shall only fund services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation.

(d) Participation in the Self-Determination Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time. A regional center shall not require or prohibit participation in the Self-Determination Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division. Participation in the Self-Determination Program shall be available to any regional center consumer who meets the following eligibility requirements:

(1) The participant has a developmental disability, as defined in Section 4512, and is receiving services pursuant to this division.

(2) The consumer does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations. An individual, and when appropriate his or her parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the Self-Determination Program pursuant to this paragraph may request that the regional center provide person-centered planning services in order to make arrangements for transition to the Self-Determination Program, provided that he or she is reasonably expected to transition to the community within 90 days. In that case, the regional center shall initiate person-centered planning services within 60 days of that request.

(3) The participant agrees to all of the following terms and conditions:

(A) The participant shall receive an orientation to the Self-Determination Program prior to enrollment, which includes the principles of self-determination, the role of the independent facilitator and the financial management services provider, person-centered planning, and development of a budget.

(B) The participant shall utilize the services and supports available within the Self-Determination Program only when generic services and supports are not available.

(C) The participant shall only purchase services and supports necessary to implement his or her IPP and shall comply with any and all other terms and conditions for participation in the Self-Determination Program described in this section.

(D) The participant shall manage Self-Determination Program services and supports within his or her individual budget.

(E) The participant shall utilize the services of a financial management services provider of his or her own choosing and who is vendored by a regional center.

(F) The participant may utilize the services of an independent facilitator of his or her own choosing for the purpose of providing services and functions as described in paragraph (2) of subdivision (c). If the participant elects not to use an independent facilitator, he or she may use his or her regional center service coordinator to provide the services and functions described in paragraph (2) of subdivision (c).

(e) A participant who is not Medi-Cal eligible may participate in the Self-Determination Program and receive self-determination services and supports if all other program eligibility requirements are met and the services and supports are otherwise eligible for federal financial participation.

(f) An individual receiving services and supports under a self-determination pilot project authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant to Article 4 (commencing with Section 4669.2) of Chapter 5, may elect to continue to receive self-determination services and supports pursuant to this section or the regional center shall provide for the participant's transition from the self-determination pilot program to other services and supports. This transition shall include the development of a new IPP that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(g) The additional federal financial participation funds generated by the former participants of the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant to Article 4 (commencing with Section 4669.2) of Chapter 5, shall be used as follows:

(1) First, to offset the cost to the department for the criminal background check conducted pursuant to subdivision ~~(w),~~ *(w)* and

other administrative costs incurred by the department in implementing the Self-Determination Program.

(2) With the remaining funds, to offset the costs to the regional centers in implementing the Self-Determination Program, including, but not limited to, operations costs for caseload ratio enhancement, training for regional center staff, costs associated with the participant's initial person-centered planning meeting, the development of the participant's initial individual budget, and the costs associated with training consumers and family members.

(h) If at any time during participation in the Self-Determination Program a regional center determines that a participant is no longer eligible to continue in, or a participant voluntarily chooses to exit, the Self-Determination Program, the regional center shall provide for the participant's transition from the Self-Determination Program to other services and supports. This transition shall include the development of a new IPP that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(i) An individual determined to be ineligible for or who voluntarily exits the Self-Determination Program shall be permitted to return to the Self-Determination Program upon meeting all applicable eligibility criteria and upon approval of the participant's planning team, as described in subdivision (j) of Section 4512. An individual who has voluntarily exited the Self-Determination Program shall not return to the program for at least 12 months. During the first three years of the program, the individual's right to return to the program is conditioned on his or her regional center not having reached the participant cap imposed by paragraph (1) of subdivision (b).

(j) An individual who participates in the Self-Determination Program may elect to continue to receive self-determination services and supports if he or she transfers to another regional center catchment area, provided that he or she remains eligible for the Self-Determination Program pursuant to subdivision (d). The balance of the participant's individual budget shall be reallocated to the regional center to which he or she transfers.

(k) The IPP team shall utilize the person-centered planning process to develop the IPP for a participant. The IPP shall detail the goals and objectives of the participant that are to be met through

the purchase of participant-selected services and supports. The IPP team shall determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in his or her IPP and ensures his or her health and safety. The completed individual budget shall be attached to the IPP.

(*l*) The participant shall implement his or her IPP, including choosing and purchasing the services and supports allowable under this section necessary to implement the plan. A participant is exempt from the cost control restrictions regarding the purchases of services and supports pursuant to Sections 4648.5 and 4686.5. A regional center shall not prohibit the purchase of any service or support that is otherwise allowable under this section.

(m) A participant shall have all the rights established in Sections 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section 4700).

(n) (1) Except as provided in paragraph (4), the IPP team shall determine the initial and any revised individual budget for the participant using the following methodology:

(A) (i) Except as specified in clause (ii), for a participant who is a current consumer of the regional center, his or her individual budget shall be the total amount of the most recently available 12 months of purchase of service expenditures for the participant.

(ii) An adjustment may be made to the amount specified in clause (i) if both of the following occur:

(I) The IPP team determines that an adjustment to this amount is necessary due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in purchase of service expenditures.

(II) The regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator or the financial management services.

(B) For a participant who is either newly eligible for regional center services or who does not have 12 months of purchase service

expenditures, his or her individual budget shall be calculated as follows:

(i) The IPP team shall identify the services and supports needed by the participant and available resources, as required by Section 4646.

(ii) The regional center shall calculate the cost of providing the services and supports to be purchased by the regional center by using the average cost paid by the regional center for each service or support unless the regional center determines that the consumer has a unique need that requires a higher or lower cost. The regional center shall certify on the individual budget document that this amount would have been expended using regional center purchase of service funds regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator or the financial management services.

(2) The amount of the individual budget shall be available to the participant each year for the purchase of program services and supports. An individual budget shall be calculated no more than once in a 12-month period, unless revised to reflect a change in circumstances, needs, or resources of the participant using the process specified in clause (ii) of subparagraph (A) of paragraph (1).

(3) The individual budget shall be assigned to uniform budget categories developed by the department in consultation with stakeholders and distributed according to the timing of the anticipated expenditures in the IPP and in a manner that ensures that the participant has the financial resources to implement his or her IPP throughout the year.

(4) The department, in consultation with stakeholders, may develop alternative methodologies for individual budgets that are computed in a fair, transparent, and equitable manner and are based on consumer characteristics and needs, and that include a method for adjusting individual budgets to address a participant's change in circumstances or needs.

(o) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3) of subdivision (n) to another budget category or categories. Transfers in excess of 10 percent of the original amount

allocated to any budget category may be made upon the approval of the regional center or the participant's IPP team.

(p) Consistent with the implementation date of the IPP, the IPP team shall annually ascertain from the participant whether there are any circumstances or needs that require a change to the annual individual budget. Based on that review, the IPP team shall calculate a new individual budget consistent with the methodology identified in subdivision (n).

(q) (1) On or before December 31, 2014, the department shall apply for federal Medicaid funding for the Self-Determination Program by doing one or more of the following:

(A) Applying for a state plan amendment.

(B) Applying for an amendment to a current home- and community-based waiver for individuals with developmental disabilities.

(C) Applying for a new waiver.

(D) Seeking to maximize federal financial participation through other means.

(2) To the extent feasible, the state plan amendment, waiver, or other federal request described in paragraph (1) shall incorporate the eligibility requirements, benefits, and operational requirements set forth in this section. Except for the provisions of subdivisions (k), (m), (p), and this subdivision, the department may modify eligibility requirements, benefits, and operational requirements as needed to secure approval of federal funding.

(3) Contingent upon approval of federal funding, the Self-Determination Program shall be established.

(r) (1) The department, as it determines necessary, may adopt regulations to implement the procedures set forth in this section. Any regulations shall be adopted in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as

necessary to implement program changes only until completion of the regulatory process.

(s) The department, in consultation with stakeholders, shall develop informational materials about the Self-Determination Program. The department shall ensure that regional centers are trained in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families as candidates for, and participants in, the Self-Determination Program.

(t) Each regional center shall be responsible for implementing the Self-Determination Program as a term of its contract under Section 4629. As part of implementing the program, the regional center shall do both of the following:

(1) Contract with local consumer or family-run organizations to conduct outreach through local meetings or forums to consumers and their families to provide information about the Self-Determination Program and to help ensure that the program is available to a diverse group of participants, with special outreach to underserved communities.

(2) Collaborate with the local consumer or family-run organizations identified in paragraph (1) to jointly conduct training about the Self-Determination Program.

(u) The financial management services provider shall provide the participant and the regional center service coordinator with a monthly individual budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(v) Only the financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Division 2 of Title 17 of the California Code of ~~Regulations,~~ *Regulations* for the Self-Determination Program. All other service and support providers shall not be on the federal debarment list and shall have applicable state licenses, certifications, or other state required documentation, including documentation of any other qualifications required by the department, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations when serving participants in the Self-Determination Program.

(w) To protect the health and safety of participants in the Self-Determination Program, the department shall require a criminal background check in accordance with all of the following:

(1) The department shall issue a program directive that identifies nonvendored providers of services and supports who shall obtain a criminal background check pursuant to this subdivision. At a minimum, these staff shall include both of the following:

(A) Individuals who provide direct personal care services to a participant.

(B) Other nonvendored providers of services and supports for whom a criminal background check is requested by a participant or the participant's financial management service.

(2) Subject to the procedures and requirements of this subdivision, the department shall administer criminal background checks consistent with the department's authority and the process described in Sections 4689.2 to 4689.6, inclusive.

(3) The department shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of nonvendored providers of services and supports, as specified in paragraph (1), for purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(4) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(5) The Department of Justice shall provide a state or federal response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(6) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(7) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision.

(8) The fingerprints of any provider of services and supports who is required to obtain a criminal background check shall be submitted to the Department of Justice prior to employment. The costs of the fingerprints and the financial management service's administrative cost authorized by the department shall be paid by the services and supports provider or his or her employing agency. Any administrative costs incurred by the department pursuant to this subdivision shall be offset by the funds specified in subdivision (g).

(9) If the criminal record information report shows a criminal history, the department shall take the steps specified in Section 4689.2. The department may prohibit a provider of services and supports from becoming employed, or continuing to be employed, based on the criminal background check, as authorized in Section 4689.6. The provider of services and supports who has been denied employment shall have the rights set forth in Section 4689.6.

(10) The department may utilize a current department-issued criminal record clearance to enable a provider to serve more than one participant, as long as the criminal record clearance has been processed through the department and no subsequent arrest notifications have been received relative to the cleared applicant.

(11) Consistent with subdivision (h) of Section 4689.2, the participant or financial management service that denies or terminates employment based on written notification from the department shall not incur civil liability or unemployment insurance liability.

(x) To ensure the effective implementation of the Self-Determination Program and facilitate the sharing of best practices and training materials commencing with the implementation of the Self-Determination Program, local and statewide advisory committees shall be established as follows:

(1) Each regional center shall establish a local volunteer advisory committee to provide oversight of the Self-Determination Program. The regional center and the State Council on Developmental Disabilities shall each appoint one-half of the membership of the committee. The committee shall consist of the regional center clients' rights advocate, consumers, family members, and other

advocates, and community leaders. A majority of the committee shall be consumers and their family members. The committee shall reflect the multicultural diversity and geographic profile of the catchment area. The committee shall review the development and ongoing progress of the Self-Determination Program, including whether the program advances the principles of self-determination and is operating consistent with the requirements of this section, and may make ongoing recommendations for improvement to the regional center and the department.

(2) The State Council on Developmental Disabilities shall form a volunteer committee, to be known as the Statewide Self-Determination Advisory Committee, comprised of the chairs of the 21 local advisory committees or their designees. The council shall convene the Statewide Self-Determination Advisory Committee twice annually, or more frequently in the sole discretion of the council. The Statewide Self-Determination Advisory Committee shall meet by teleconference or other means established by the ~~council,~~ *council* to identify self-determination best practices, effective consumer and family training materials, implementation concerns, systemic issues, ways to enhance the program, and recommendations regarding the most effective method for participants to learn of individuals who are available to provide services and supports. The council shall synthesize information received from the Statewide Self-Determination Advisory Committee, local advisory committees, and other sources, ~~shall~~ share the information with consumers, families, regional centers, and the department, and ~~shall~~ make recommendations, as appropriate, to increase the program's effectiveness in furthering the principles of self-determination.

(y) Commencing January 10, 2017, the department shall annually provide the following information to the appropriate policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional *center, including the number of participants who entered the program upon movement from a developmental* center.

(2) Types and amount of services and supports purchased under the Self-Determination Program, by regional center.

(3) Range and average of individual budgets, by regional center, including adjustments to the budget to address the adjustments

permitted in clause (ii) of subparagraph (A) of paragraph (1) of subdivision (n).

(4) The number and outcome of appeals concerning individual budgets, by regional center.

(5) The number and outcome of fair hearing appeals, by regional center.

(6) The number of participants who voluntarily withdraw from the Self-Determination Program and a summary of the reasons why, by regional center.

(7) The number of participants who are subsequently determined to no longer be eligible for the Self-Determination Program and a summary of the reasons why, by regional center.

(z) (1) The State Council on Developmental Disabilities, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, may work with regional centers to survey participants regarding participant satisfaction under the Self-Determination Program and, when data is available, the traditional service delivery system, including the proportion of participants who report that their choices and decisions are respected and supported and who report that they are able to recruit and hire qualified service providers, and to identify barriers to participation and recommendations for improvement.

(2) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, shall issue a report to the Legislature, in compliance with Section 9795 of the Government Code, no later than three years following the approval of the federal funding on the status of the Self-Determination Program authorized by this section, and provide recommendations to enhance the effectiveness of the program. This review shall include the program's effectiveness in furthering the principles of self-determination, including all of the following:

(A) Freedom, which includes the ability of adults with developmental disabilities to exercise the same rights as all citizens to establish, with freely chosen supporters, family and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them; and for families to

have the freedom to receive unbiased assistance of their own choosing when developing a plan and to select all personnel and supports to further the life goals of a minor child.

(B) Authority, which includes the ability of a person with a disability, or family, to control a certain sum of dollars in order to purchase services and supports of their choosing.

(C) Support, which includes the ability to arrange resources and personnel, both formal and informal, that will assist a person with a disability to live a life in his or her community that is rich in community participation and contributions.

(D) Responsibility, which includes the ability of participants to take responsibility for decisions in their own lives and to be accountable for the use of public dollars, and to accept a valued role in their community through, for example, competitive employment, organizational affiliations, spiritual development, and general caring of others in their community.

(E) Confirmation, which includes confirmation of the critical role of participants and their families in making decisions in their own lives and designing and operating the system that they rely on.

SEC. 14. Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), (e), (f), (g), *(h), (i),* and ~~(h),~~ *(j),* and Section 4691.9.

(b) Notwithstanding any other law or regulation, the department shall not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2008, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008, unless the regional center demonstrates to the department that the

permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other law or regulation, neither the department nor any regional center shall approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other law or regulation, the department shall not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other law or regulation, except as set forth in ~~subdivision (f),~~ *subdivisions (f) and (i),* the department shall not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

(f) Notwithstanding any other law or regulation, commencing July 1, 2014, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary in order to pay employees who, prior to July 1, 2014, were being compensated at a wage that is less than the minimum wage established on and after July 1, 2014, by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment pursuant to this subdivision shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(g) Notwithstanding any other law or regulation, commencing July 1, 2014, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department due to the impacts of the increased minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(h) Notwithstanding any other law or regulation, commencing January 1, 2015, the in-home respite service agency rate schedule authorized by the department and in operation December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers.

(i) Notwithstanding any other law or regulation, commencing July 1, 2015, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(j) Notwithstanding any other law or regulation, commencing July 1, 2015, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of

2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

SEC. 15. Section 4691.9 of the Welfare and Institutions Code is amended to read:

4691.9. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(2) A regional center shall not negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with providers regarding rates if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation

that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the increased minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) Notwithstanding any other law or regulation, commencing January 1, 2015, rates for personal assistance and supported living services in effect on December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers. As used in this subdivision, both of the following definitions shall apply:

(1) "Personal assistance" is limited only to those services provided by vendors classified by the regional center as personal assistance providers, pursuant to the miscellaneous services provisions contained in Title 17 of the California Code of Regulations.

(2) "Supported living services" are limited only to those services defined as supported living services in Title 17 of the California Code of Regulations.

(d) Notwithstanding subdivision (a), commencing July 1, 2015, regional centers may negotiate a rate adjustment with existing service providers for services for which rates are determined through negotiation between the regional center and the provider, if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

~~(d)~~

(e) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 16. Section 7502.5 of the Welfare and Institutions Code is repealed.

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

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

SEC. 17. Section 7502.5 is added to the Welfare and Institutions Code, to read:

7502.5. (a) An individual may be admitted to the secure treatment facility at Porterville Developmental Center, as provided in paragraphs (1) and (3) of subdivision (a) of Section 7505, only when all of the following conditions are satisfied:

(1) The unit to which the individual will be admitted is approved for occupancy and licensed.

(2) The population of the secure treatment facility is no more than 211 persons.

(3) The individual is at least 18 years of age.

(b) An individual may be admitted to the transitional treatment program at Porterville Developmental Center when all of the following conditions are satisfied:

(1) The individual was admitted to the Porterville Developmental Center pursuant to paragraphs (1) and (3) of subdivision (a) of Section 7505.

(2) The individual remains eligible for commitment pursuant to paragraph (3) of subdivision (a) of Section 7505.

(3) The unit to which the individual will be admitted is approved for occupancy and licensed.

(4) The population of the transitional treatment program is no more than 60 persons.

(c) As soon as possible, but no later than 30 days following admission to the transitional treatment program, the regional center, in coordination with the developmental center, shall do both of the following:

(1) Complete a comprehensive assessment that shall include the identification of services and supports needed to transition the individual to the community.

(2) Jointly convene an individual program plan meeting to discuss the comprehensive assessment and develop a plan to transition the individual to the community pursuant to Section 4418.3. The clients' rights advocate for the regional center shall be notified of the individual program plan meeting and may participate in the meeting unless the consumer objects on his or her own behalf.

(d) An individual described in this section shall not be placed in the transitional treatment program for longer than necessary to procure a less restrictive placement. Each year, pursuant to Section 4418.25, an individual in the transitional treatment program at Porterville Developmental Center shall receive an updated comprehensive assessment that shall include all of the following:

(1) The reason or reasons for placement in the program for longer than one year.

(2) A description of the issue or issues preventing community placement.

(3) The estimated timeframe for placement in the community and the plan for that placement.

(e) On or before March 1, 2016, the department shall provide the following information to the appropriate policy and fiscal committees of the Legislature:

(1) For each regional center, the number of transitional program residents who are placed in the program for more than one year.

(2) A description of reasons for placement in the program beyond one year.

(3) The steps undertaken to resolve the issue or issues prohibiting community placement.

(4) The additional steps necessary before community placement can be made.

SEC. 18. Section 7505 of the Welfare and Institutions Code is amended to read:

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

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

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

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

(4) A person described in Section 4508.

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

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

~~(c) This section shall become operative on January 1, 2015.~~

SEC. 19. Following the approval of a closure plan submitted pursuant to Section 4474.11 of the Welfare and Institutions Code, and continuing until one year after the last developmental center consumer has transitioned into the community, the State Department of Developmental Services shall provide quarterly briefings on progress related to the plan's milestones and timelines to legislative staff, including staff to fiscal and policy committees, and staff for legislators who represent the area in which the developmental center is located.

SEC. 20. (a) It is the intent of the Legislature that General Fund savings derived from the closure of state developmental centers benefit persons with developmental disabilities living in the community.

(b) The State Department of Developmental Services shall display annually in its January and May budget estimate documents, for any year in which it is applicable, all of the following:

(1) All General Fund savings or gains reasonably associated with the downsizing or closure of a developmental center.

(2) All community development funds reasonably associated with the downsizing or closure of a developmental center, including the costs associated with the development and provision of services and supports for persons moving from a developmental center or at risk of institutionalization.

SEC. 21. (a) Upon the implementation, pursuant to Section 12300.4 of the Welfare and Institutions Code, of federal regulations regarding payment of overtime compensation adopted pursuant to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), the State Department of Developmental Services shall consult with the Association of Regional Center Agencies, legislative staff, consumers, providers, and advocacy organizations to evaluate the impact of those regulations on consumers and providers of supported living services, in-home respite services, and personal assistants to persons with developmental disabilities.

(b) The State Department of Developmental Services shall report on the progress of the following to the Legislature during the 2016–17 legislative budget subcommittee hearing process:

(1) Results of the initial evaluation performed pursuant to subdivision (a).

(2) Steps taken to minimize a negative impact on consumers and providers.

(3) Recommendations to address future negative impacts on consumers and providers.

SEC. 22. The amount of sixty-one million five hundred fifty-four thousand dollars ($61,554,000) is hereby appropriated from the General Fund to the State Department of Developmental Services to fund expenditures pursuant to Schedule (1) 10.10.010-Operations and Schedule (2) 10.10.020-Purchase of Services as provided for in Item 4300-101-0001 of Section 2.00

of the Budget Act of 2011 (Chapter 33 of the Statutes of 2011) and the Budget Act of 2012 (Chapters 21 and 29 of the Statutes of 2012). These funds shall be available for encumbrance and expenditure until June 30, 2016.

SEC. 23. 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.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2015.~~

O