

AMENDED IN SENATE AUGUST 26, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 25, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 918

Introduced by Assembly Member Mark Stone
(Coauthor: Senator McGuire)

February 26, 2015

An act to add Sections 4436.5 and 4659.2 to the Welfare and Institutions Code, relating to seclusion and restraint.

LEGISLATIVE COUNSEL'S DIGEST

AB 918, as amended, Mark Stone. Seclusion and restraint: developmental services: health facilities.

Existing law requires the Secretary of California Health and Human Services to develop technical assistance and training programs to support the efforts of community care facilities, group homes, skilled nursing facilities, intermediate care facilities, and mental health rehabilitation centers, among others, to reduce or eliminate the use of seclusion and behavioral restraints in these facilities. Existing law requires specified entities within the California Health and Human Services Agency to take steps to establish a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of seclusion and behavioral restraints in state hospitals operated by the State Department

of State Hospitals, facilities operated by the State Department of Developmental Services, and other specified facilities that utilize seclusion or behavioral restraints.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services contracts with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires all vendors and long-term health care facilities, as defined, to report special incidents to a regional center, including, among other things, incidents of physical and chemical restraint. Existing law requires a regional center that receives information from a special incident report regarding the use of physical or chemical restraint, to report that information to the department, as specified.

This bill would require the department to ensure the consistent, timely, and public reporting of data it receives from regional centers and other specified facilities regarding the use of physical or chemical restraint and to publish that information on its Internet Web site.

This bill would also require regional center vendors that provide residential services or supported living services, long-term health care facilities, as defined, and acute psychiatric hospitals, as defined, to report each death or serious injury of a person occurring during, or related to, the use of seclusion, physical restraint, or chemical restraint, as specified.

This bill would make related findings and declarations.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The President’s New Freedom Commission on Mental Health
- 4 (2003) reported that the use of behavioral restraint and seclusion
- 5 poses significant risks for adults and children, including serious
- 6 injury or death, retraumatizing people with a history of trauma or
- 7 abuse, *the* loss of dignity, and other psychological harm.
- 8 (b) Although California currently requires the tracking and
- 9 public reporting of the use of seclusion and restraint in state
- 10 developmental centers and collects data regarding the use of
- 11 restraint through the department’s special incident reporting system,

1 the data concerning the use of restraint in community residential
2 and other long-term care facilities and acute psychiatric hospitals
3 serving individuals with developmental disabilities is not publicly
4 reported.

5 (c) One of the best methods to achieve the goal of a reduction
6 in the use of restraint is to ensure consistent data collection and
7 analysis and public access to this data.

8 (d) It is the intent of the Legislature in enacting this act to ensure
9 that data regarding the use of restraint in community residential
10 and other long-term care facilities and acute psychiatric hospitals
11 is publicly available as a means of ensuring quality services to
12 individuals with developmental disabilities and a reduction in the
13 use of restraint.

14 SEC. 2. Section 4436.5 is added to the Welfare and Institutions
15 Code, to read:

16 4436.5. (a) For the purposes of this section, the following
17 definitions apply:

18 (1) “Physical restraint” means any behavioral or mechanical
19 restraint as defined in Section 1180.1 of the Health and Safety
20 Code.

21 (2) “Chemical restraint” means a drug that is used to control
22 behavior and that is used in a manner not required to treat the
23 patient’s medical conditions.

24 (3) “Long-term health care facility” means a facility, as defined
25 in Section 1418 of the Health and Safety Code, that is required to
26 report to a regional center pursuant to Section 54327 of Title 17
27 of the California Code of Regulations.

28 (4) “Acute psychiatric hospital” means a facility, as defined in
29 subdivision (b) of Section 1250 of the Health and Safety Code,
30 including an institution for mental disease, that is a regional center
31 vendor.

32 (5) “Regional center vendor” means an agency, individual, or
33 service provider that a regional center has approved to provide
34 vendored or contracted services or supports pursuant to paragraph
35 (3) of subdivision (a) of Section 4648.

36 (b) The department shall ensure the consistent, timely, and
37 public reporting of data it receives from regional centers pursuant
38 to Section 54327 of Title 17 of the California Code of Regulations
39 regarding the use of physical restraint, chemical restraint, or both,
40 by all regional center vendors who provide residential services or

1 supported living services pursuant to Section 4689, and by
2 long-term health care facilities and acute psychiatric hospitals
3 serving individuals with developmental disabilities.

4 (c) The department shall publish quarterly on its Internet Web
5 site the following data, segregated by individual regional center
6 vendor that provides residential services or supported living
7 services and each individual long-term health care facility and
8 acute psychiatric hospital that serves persons with developmental
9 disabilities:

10 (1) The number of incidents of physical restraint.

11 (2) The number of incidents of chemical restraint.

12 SEC. 3. Section 4659.2 is added to the Welfare and Institutions
13 Code, to read:

14 4659.2. (a) For the purposes of this section, the following
15 definitions apply:

16 (1) "Physical restraint" means any behavioral or mechanical
17 restraint, as defined in Section 1180.1 of the Health and Safety
18 Code.

19 (2) "Chemical restraint" means a drug that is used to control
20 behavior and that is used in a manner not required to treat the
21 patient's medical conditions.

22 (3) "Seclusion" means involuntary confinement of a person
23 alone in a room or an area as defined in subdivision (e) of Section
24 1180.1 of the Health and Safety Code.

25 (4) "Long-term health care facility" means a facility, as defined
26 in Section 1418 of the Health and Safety Code, that is required to
27 report to a regional center pursuant to Section 54327 of Title 17
28 of the California Code of Regulations.

29 (5) "Acute psychiatric hospital" means a facility, as defined in
30 subdivision (b) of Section 1250 of the Health and Safety Code,
31 including an institution for mental disease, that is a regional center
32 vendor.

33 (6) "Regional center vendor" means an agency, individual, or
34 service provider that a regional center has approved to provide
35 vendored or contracted services or supports pursuant to paragraph
36 (3) of subdivision (a) of Section 4648.

37 (b) All regional center vendors that provide residential services
38 or supported living services, long-term health care facilities, and
39 acute psychiatric hospitals shall report each death or serious injury
40 of a person occurring during, or related to, the use of seclusion,

1 physical restraint, or chemical restraint, or any combination thereof,
2 to the agency designated pursuant to subdivision (i) of Section
3 4900 no later than the close of the business day following the death
4 or serious injury. The report shall include the encrypted identifier
5 of the person involved, and the name, street address, and telephone
6 number of the facility.

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