

AMENDED IN SENATE JULY 5, 2012

AMENDED IN ASSEMBLY MAY 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2338

Introduced by Assembly Members Chesbro and Beall

February 24, 2012

An act to amend Sections 4646.5 and 4868 of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, as amended, Chesbro. Developmental services: Employment First Policy.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

Existing law requires the State Council on Developmental Disabilities to, among other responsibilities, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, as defined, self-employment, and microenterprises for persons with developmental disabilities, as specified.

This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each regional center planning team, when developing an individual program

plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy.

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

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

1 SECTION 1. Section 4646.5 of the Welfare and Institutions
2 Code is amended to read:
3 4646.5. (a) The planning process for the individual program
4 plan described in Section 4646 shall include all of the following:
5 (1) Gathering information and conducting assessments to
6 determine the life goals, capabilities and strengths, preferences,
7 barriers, and concerns or problems of the person with
8 developmental disabilities. For children with developmental
9 disabilities, this process should include a review of the strengths,
10 preferences, and needs of the child and the family unit as a whole.
11 Assessments shall be conducted by qualified individuals and
12 performed in natural environments whenever possible. Information
13 shall be taken from the consumer, his or her parents and other
14 family members, his or her friends, advocates, authorized
15 representative, if applicable, providers of services and supports,
16 and other agencies. The assessment process shall reflect awareness
17 of, and sensitivity to, the lifestyle and cultural background of the
18 consumer and the family.
19 (2) A statement of goals, based on the needs, preferences, and
20 life choices of the individual with developmental disabilities, and
21 a statement of specific, time-limited objectives for implementing
22 the person's goals and addressing his or her needs. These objectives
23 shall be stated in terms that allow measurement of progress or

1 monitoring of service delivery. These goals and objectives should
2 maximize opportunities for the consumer to develop relationships,
3 be part of community life in the areas of community participation,
4 housing, work, school, and leisure, increase control over his or her
5 life, acquire increasingly positive roles in community life, and
6 develop competencies to help accomplish these goals.

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

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

14 (5) A schedule of the type and amount of services and supports
15 to be purchased by the regional center or obtained from generic
16 agencies or other resources in order to achieve the individual
17 program plan goals and objectives, and identification of the
18 provider or providers of service responsible for attaining each
19 objective, including, but not limited to, vendors, contracted
20 providers, generic service agencies, and natural supports. The
21 individual program plan shall specify the approximate scheduled
22 start date for services and supports and shall contain timelines for
23 actions necessary to begin services and supports, including generic
24 services.

25 (6) When agreed to by the consumer, the parents, legally
26 appointed guardian, or authorized representative of a minor
27 consumer, or the legally appointed conservator of an adult
28 consumer or the authorized representative, including those
29 appointed pursuant to subdivision (d) of Section 4548, subdivision
30 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
31 of the general health status of the adult or child including a medical,
32 dental, and mental health needs shall be conducted. This review
33 shall include a discussion of current medications, any observed
34 side effects, and the date of the last review of the medication.
35 Service providers shall cooperate with the planning team to provide
36 any information necessary to complete the health status review. If
37 any concerns are noted during the review, referrals shall be made
38 to regional center clinicians or to the consumer's physician, as
39 appropriate. Documentation of health status and referrals shall be
40 made in the consumer's record by the service coordinator.

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

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

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

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

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

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

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

33 (c) (1) The department, with the participation of representatives
34 of a statewide consumer organization, the Association of Regional
35 Center Agencies, an organized labor organization representing
36 service coordination staff, and the Organization of Area Boards
37 shall prepare training material and a standard format and
38 instructions for the preparation of individual program plans, which
39 embodies an approach centered on the person and family.

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

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

7 SEC. 2. Section 4868 of the Welfare and Institutions Code is
8 amended to read:

9 4868. (a) The State Council on Developmental Disabilities
10 shall form a standing Employment First Committee consisting of
11 the following members:

12 (1) One designee of each of the members of the state council
13 specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph
14 (2) of subdivision (b) of Section 4521.

15 (2) A member of the consumer advisory committee of the state
16 council.

17 (b) In carrying out the requirements of this section, the
18 committee shall meet and consult, as appropriate, with other state
19 and local agencies and organizations, including, but not limited
20 to, the Employment Development Department, the Association of
21 Regional Center Agencies, one or more supported employment
22 provider organizations, an organized labor organization
23 representing service coordination staff, and one or more consumer
24 family member organizations.

25 (c) The responsibilities of the committee shall include, but need
26 not be limited to, all of the following:

27 (1) Identifying the respective roles and responsibilities of state
28 and local agencies in enhancing integrated and gainful employment
29 opportunities for people with developmental disabilities.

30 (2) Identifying strategies, best practices, and incentives for
31 increasing integrated employment and gainful employment
32 opportunities for people with developmental disabilities, including,
33 but not limited to, ways to improve the transition planning process
34 for students 14 years of age or older, and to develop partnerships
35 with, and increase participation by, public and private employers
36 and job developers.

37 (3) Identifying existing sources of employment data and
38 recommending goals for, and approaches to measuring progress
39 in, increasing integrated employment and gainful employment of
40 people with developmental disabilities.

(4) Recommending legislative, regulatory, and policy changes for increasing the number of individuals with developmental disabilities in integrated employment, self-employment, and microenterprises, and who earn wages at or above minimum wage, including, but not limited to, recommendations for improving transition planning and services for students with developmental disabilities who are 14 years of age or older. This shall include, but shall not be limited to, the development of a policy with the intended outcome of significantly increasing the number of individuals with developmental disabilities who engage in integrated employment, self-employment, and microenterprises, and in the number of individuals who earn wages at or above minimum wage. This proposed policy shall be in furtherance of the intent of this division that services and supports be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age and that support their integration into the mainstream life of the community, and that those services and supports result in more independent, productive, and normal lives for the persons served. The proposed policy shall not limit service and support options otherwise available to consumers, or the rights of consumers, or, where appropriate, parents, legal guardians, or conservators to make choices in their own lives.

(d) For purposes of this chapter, the following definitions shall apply:

(1) "Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(2) "Integrated employment" means "integrated work" as defined in subdivision (o) of Section 4851.

(3) "Microenterprises" means small businesses owned by individuals with developmental disabilities who have control and responsibility for decisionmaking and overseeing of the business, with accompanying business licenses, taxpayer identification numbers other than social security numbers, and separate business bank accounts. Microenterprises may be considered integrated competitive employment.

1 (4) "Self-employment" means an employment setting in which
2 an individual works in a chosen occupation, for profit or fee, in
3 his or her own small business, with control and responsibility for
4 decisions affecting the conduct of the business.

5 (e) The committee, by July 1, 2011, and annually thereafter,
6 shall provide a report to the appropriate policy committees of the
7 Legislature and to the Governor describing its work and
8 recommendations. The report due by July 1, 2011, shall include
9 the proposed policy described in paragraph (4) of subdivision (c).

10 SEC. 3. Section 4869 is added to the Welfare and Institutions
11 Code, to read:

12 4869. (a) (1) In furtherance of the intent of this division to
13 make services and supports available to enable persons with
14 developmental disabilities to approximate the pattern of everyday
15 living available to people without disabilities of the same age, to
16 support the integration of persons with developmental disabilities
17 into the mainstream life of the community, and to bring about more
18 independent, productive, and normal lives for the persons served,
19 it is the policy of the state that opportunities for integrated,
20 competitive employment shall be given the highest priority for
21 working age individuals with development disabilities, regardless
22 of the severity of their disabilities. This policy shall be known as
23 the Employment First Policy.

24 (2) Implementation of the policy shall be consistent with, and
25 shall not infringe upon, the rights established pursuant to this
26 division, including the right of people with developmental
27 disabilities to make informed choices with respect to services and
28 supports through the individual program planning process.

29 (3) Integrated competitive employment is intended to be the
30 first option considered by planning teams for working age
31 individuals, but individuals may choose goals other than integrated
32 competitive employment.

33 (4) This chapter shall not be construed to expand the existing
34 entitlement to services for persons with developmental disabilities
35 described in this division.

36 (5) *This chapter shall not alleviate schools of their responsibility*
37 *to provide transition services to individuals with developmental*
38 *disabilities.*

39 (b) Regional centers shall ensure that consumers, beginning at
40 16 years of age, and, where appropriate, their parents, legal

1 guardians, or conservators, are provided with information, in a
2 language that the consumer and, as appropriate, the consumer's
3 representative understand, about the Employment First Policy,
4 about options for integrated competitive employment, and about
5 services and supports, including postsecondary education, available
6 to enable the consumer to transition from school to work, and to
7 achieve the outcomes of obtaining and maintaining integrated
8 competitive employment.
9 (c) The department may request information from regional
10 centers on current and planned activities related to the Employment
11 First Policy.