

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

February 26, 2015

An act to add ~~Section 1180.7 to the Health and Safety Code, relating to health and care facilities; Sections 4436.5 and 4659.2 to the Welfare and Institutions Code, relating to developmental services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 918, as amended, Mark Stone. ~~Health and care facilities: seclusion and behavioral restraints; Developmental services: reporting: seclusion and restraint.~~

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.

~~The bill would require, on or before January 1, 2017, the secretary 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 additional facilities, including adult residential facilities, that utilize seclusion or behavioral restraints. The bill would require these facilities to report to the protection and advocacy agency designated by the Governor each death or serious injury of a person occurring during, or related to, the use of 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, physical or chemical restraint, or both. Existing law requires a regional center that receives information from a special incident report regarding the use of physical or chemical restraint, or both, 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 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 and long-term health care facilities 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

1 *injury or death, retraumatizing people with a history of trauma or*
2 *abuse, loss of dignity, and other psychological harm.*

3 *(b) Although California currently requires the tracking and*
4 *public reporting of the use of seclusion and restraint in state*
5 *developmental centers and collects data regarding the use of*
6 *restraint through the department’s special incident reporting*
7 *system, the data concerning the use of restraint in community*
8 *residential and other long-term care facilities serving individuals*
9 *with developmental disabilities is not publicly reported.*

10 *(c) One of the best methods to achieve the goal of a reduction*
11 *in the use of restraint is to ensure consistent data collection and*
12 *analysis and public access to this data.*

13 *(d) It is the intent of the Legislature in enacting this act to ensure*
14 *that data regarding the use of restraint in community residential*
15 *and other long-term care facilities is publicly available as a means*
16 *of ensuring quality services to individuals with developmental*
17 *disabilities and a reduction in the use of restraint.*

18 *SEC. 2. Section 4436.5 is added to the Welfare and Institutions*
19 *Code, to read:*

20 *4436.5. (a) For the purposes of this section, the following*
21 *definitions apply:*

22 *(1) “Physical restraint” means any behavioral or mechanical*
23 *restraint as defined in Section 1180.1 of the Health and Safety*
24 *Code.*

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

28 *(3) “Long-term health care facility” means a facility, as defined*
29 *in Section 1418 of the Health and Safety Code, or an acute*
30 *psychiatric hospital, as defined in subdivision (b) of Section 1250*
31 *of the Health and Safety Code, including an institution for mental*
32 *disease.*

33 *(b) The department shall ensure the consistent, timely, and*
34 *public reporting of data it receives from regional centers pursuant*
35 *to Section 54327 of Title 17 of the California Code of Regulations*
36 *regarding the use of physical restraint, chemical restraint, or both,*
37 *by all regional center vendors who provide residential services or*
38 *supported living services pursuant to Section 4689, and by*
39 *long-term health care facilities serving individuals with*
40 *developmental disabilities.*

1 (c) The department shall publish quarterly on its Internet Web
2 site of the following data, segregated by individual regional center
3 vendor that provides residential services or supported living
4 services and individual long-term health care facility that serves
5 persons with developmental disabilities:

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

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

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

10 4659.2. (a) For the purposes of this section, the following
11 definitions apply:

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

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

18 (3) "Seclusion" means involuntary confinement of a person
19 alone in a room or an area as defined in subdivision (e) of Section
20 1180.1 of the Health and Safety Code.

21 (4) "Long-term health care facility" means a facility, as defined
22 in Section 1418 of the Health and Safety Code, or an acute
23 psychiatric hospital, as defined in subdivision (b) of Section 1250
24 of the Health and Safety Code, including an institution for mental
25 disease.

26 (b) All regional center vendors that provide residential services
27 or supported living services and long-term health care facilities
28 shall report each death or serious injury of a person occurring
29 during, or related to, the use of seclusion, physical restraint, or
30 chemical restraint, or any combination thereof, to the agency
31 designated pursuant to subdivision (i) of Section 4900 no later
32 than the close of the business day following the death or serious
33 injury. The report shall include the encrypted identifier of the
34 person involved, and the name, street address, and telephone
35 number of the facility.

36 SECTION 1. ~~Section 1180.7 is added to the Health and Safety~~
37 ~~Code, to read:~~

38 ~~1180.7. (a) This section shall apply to intermediate care~~
39 ~~facilities, intermediate care facilities/developmentally~~
40 ~~disabled-nursing, intermediate care facilities for the~~

1 ~~developmentally disabled, intermediate care~~
2 ~~facilities/developmentally disabled-habilitative, group homes, adult~~
3 ~~residential facilities, and mental health rehabilitation centers.~~

4 ~~(b) (1) Notwithstanding subdivision (d) of Section 1180.3, on~~
5 ~~or before January 1, 2017, the secretary or his or her designee shall~~
6 ~~take steps to establish a system of mandatory, consistent, timely,~~
7 ~~and publicly accessible data collection regarding the use of~~
8 ~~seclusion and behavioral restraints in all facilities described in~~
9 ~~subdivision (a) that utilize seclusion and behavioral restraints.~~

10 ~~(2) Data collected pursuant to this subdivision shall include all~~
11 ~~of the data described in paragraph (3) of subdivision (d) of Section~~
12 ~~1180.2.~~

13 ~~(e) A facility described in subdivision (a) shall report each death~~
14 ~~or serious injury of a person occurring during, or related to, the~~
15 ~~use of seclusion or behavioral restraints. This report shall be made~~
16 ~~to the agency designated in subdivision (i) of Section 4900 of the~~
17 ~~Welfare and Institutions Code no later than the close of the business~~
18 ~~day following the death or injury. The report shall include the~~
19 ~~encrypted identifier of the person involved, and the name, street~~
20 ~~address, and telephone number of the facility.~~

21

22

23 **CORRECTIONS:**

24 **Text—Page 4.**

25

O