

AMENDED IN SENATE APRIL 26, 2016

SENATE BILL

No. 980

Introduced by Senator Nielsen

February 10, 2016

An act to amend Sections 1010, 1012, 1012.1, 1012.2, 1012.3, 1023, 1031, 1034, 1035.3, 1038, and 1044 of, to repeal Sections 1012.4, 1012.6, 1014, 1015, 1024, 1033.2, and 1051 of, to repeal and add Section 1011 of, and to add Sections 1011.1, 1011.2, 1011.3, and 1011.4 to, the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 980, as amended, Nielsen. Veterans' homes.

Existing law provides for the establishment and operation of veterans' homes at various sites, and provides for an administrator of each home, as specified. Existing law establishes the duties of the Department of Veterans Affairs with regard to the establishment and regulation of veterans' homes.

This bill would revise and recast those provisions. Among other things, the bill would provide that the administrator is the senior executive appointed to oversee the operations of a veterans' home. The bill would specify which veterans' homes are administered by the Department of Veterans Affairs. The bill would require the Secretary of Veterans Affairs to adopt uniform statewide policies and procedures, by regulation, for the operation of those veterans' homes, as specified. The bill would require the department to establish a quality of care assessment team, by a specified date, to conduct periodic reviews of each veterans' home. The bill would require the secretary to implement a statewide electronic medical record system for veterans' homes by a

specified date. The bill would require the secretary to annually report to the veterans policy committees of the Legislature, as specified.

Existing law establishes the criteria for admission to a veterans' home, as specified. Existing law establishes the fees and charges for residency, as established by each administrator of a home, and requires each administrator to adopt rules and regulations for the administration of the homes.

This bill would instead require that the fees and charges be established by the secretary, rather than by each administrator, and that the secretary adopt rules and regulations that apply to the homes and the criteria for admission. The bill would authorize the secretary to establish needs-based criteria for admission to veterans' homes, as specified.

Existing law authorizes a resident spouse to continue his or her residency after a veteran spouse's death.

This bill would require a resident spouse who continues residency after a veteran spouse's death to continue to pay all applicable fees and to comply with all department regulations.

Existing law authorizes the department to investigate a veteran's financial status for admission purposes.

This bill would further authorize the department to determine the total worth of any member's property or assets for purposes of admission, including to validate income levels for purposes of establishing fees.

Existing law requires 100% of the moneys received by a veterans' home from veterans receiving federal aid to be placed to the credit of the home to augment the current appropriation for the support of the home.

This bill would delete that provision, and would instead require moneys received by a veterans' home from those veterans to be deposited into the Federal Trust Fund, a continuously appropriated fund, to be used for the operating costs of the home. Because the moneys would be continuously appropriated for those purposes, the bill would make an appropriation.

Existing law requires members of a veterans' home to pay fees and charges as determined by the department, subject to a specified fee schedule.

This bill would prohibit the fees paid by a member from exceeding the average costs of care for the level of care in which the member currently resides.

Existing law, upon the death of a veteran in a home, requires any moneys not in excess of \$3,000 held by the home for the veteran to be

paid to the home’s Morale, Welfare, and Recreation Fund, if no will or heir or other family member is discovered within a specified number of years after his or her death.

This bill would increase the amount that may be transferred to \$15,000.

Existing law, upon the departure of a veteran from a home, requires any moneys not in excess of \$3,000 held by the home for the veteran to be paid to the home’s ~~Moral~~, *Morale*, Welfare, and Recreation Fund, if the money is not requested by the veteran within a specified number of years after his or her departure.

This bill would increase the amount that may be transferred to \$5,000.

This bill would make other conforming changes and would delete obsolete provisions and references, as specified.

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

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

- 1 SECTION 1. Section 1010 of the Military and Veterans Code
- 2 is amended to read:
- 3 1010. As used in this chapter, the following terms have the
- 4 following meanings:
- 5 (a) “Administrator” means the senior executive appointed to
- 6 oversee the operations of a home.
- 7 (b) “Department” means the Department of Veterans Affairs.
- 8 (c) “Deputy secretary” means the Deputy Secretary of Veterans
- 9 Homes.
- 10 (d) “Director” or “secretary” means the Secretary of Veterans
- 11 Affairs.
- 12 (e) “Home” means any facility operated by the department for
- 13 the provision of long-term care, assisted living, adult day health,
- 14 independent living, or other health care services to eligible
- 15 veterans.
- 16 (f) “Member” means any veteran or nonveteran spouse who has
- 17 been admitted to residency at any home.
- 18 (g) “Veteran” means a person who is eligible for benefits under
- 19 this chapter.
- 20 SEC. 2. Section 1011 of the Military and Veterans Code is
- 21 repealed.

1 SEC. 3. Section 1011 is added to the Military and Veterans
2 Code, to read:

3 1011. There is in the department a Veterans' Home of
4 California, which the department shall administer. The Veterans'
5 Home of California is a system comprising the following subsidiary
6 home locations:

7 (a) The Veterans' Home of California, Yountville, in Napa
8 County.

9 (b) The Veterans' Home of California, Barstow, in San
10 Bernardino County.

11 (c) The Veterans' Home of California, Chula Vista, in San Diego
12 County.

13 (d) The Veterans' Home of California, West Los Angeles, in
14 Los Angeles County.

15 (e) The Veterans' Home of California, Lancaster, in Los Angeles
16 County.

17 (f) The Veterans' Home of California, Ventura, in Santa Barbara
18 County.

19 (g) The Veterans' Home of California, Fresno, in Fresno County.

20 (h) The Veterans' Home of California, Redding, in Shasta
21 County.

22 SEC. 4. Section 1011.1 is added to the Military and Veterans
23 Code, to read:

24 1011.1. (a) The secretary shall adopt uniform statewide policies
25 and procedures, by regulation, in accordance with the
26 Administrative Procedure Act (Chapter 3.5 (commencing with
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
28 Code), for the operation of the homes. The policies and procedures
29 shall be in conformity, as nearly as possible, to the rules and
30 regulations of the United States Department of Veterans Affairs
31 for their facilities and to ensure that adequate care and a homelike
32 environment is provided in a cost-effective manner for members
33 of the homes.

34 (b) These policies and procedures shall implement the
35 requirements to obtain and maintain required licenses and
36 accreditations, as well as to ensure members in all homes
37 throughout the state, to the extent possible, receive equitable
38 treatment, benefits, and services, and to ensure that high-quality
39 care is provided.

1 (c) These policies and procedures shall include, but are not
2 limited to, all of the following:

- 3 (1) The admission of applicants.
- 4 (2) The conditions upon which members may enter and remain
5 in the home.
- 6 (3) Resident disciplinary procedures.
- 7 (4) Quality of care standards.
- 8 (5) An internal quality of care review process.
- 9 (6) Delineating which services will be provided to members by
10 the state.
- 11 (7) Setting staffing standards.
- 12 (8) Staff training requirements.
- 13 (9) Establishment and operation of allied councils.
- 14 (10) Any other policies and procedures to ensure the safe and
15 effective operation of the homes.

16 (d) On or before July 1, 2017, the department shall establish a
17 quality of care assessment team, from within existing resources,
18 to conduct periodic reviews of how each home meets the quality
19 of care standards adopted pursuant to this section.

20 SEC. 5. Section 1011.2 is added to the Military and Veterans
21 Code, to read:

22 1011.2. (a) There shall be an administrator for each home,
23 who shall be recommended by the secretary and appointed by the
24 Governor, and who shall be located at that home. The salary for
25 each administrator shall be subject to the approval of the
26 Department of Human Resources.

27 (b) The administrator shall be responsible for ensuring
28 compliance with all state and federal statutes and regulations
29 related to the operation of the home and for implementation of all
30 statewide policies and procedures, as specified in Section 1011.1.

31 SEC. 6. Section 1011.3 is added to the Military and Veterans
32 Code, to read:

33 1011.3. The secretary shall make an annual report to the
34 veterans policy committees of the Legislature by January 1 of each
35 year, beginning January 1, 2018, reporting on significant veterans
36 home-related performance issues, which shall include, but are not
37 limited to, all of the following:

- 38 (a) Current census and census changes since last report.
- 39 (b) Any major changes to home policy and the impact of those
40 changes on the residents.

- 1 (c) Changes in provision of care, including licensure changes.
- 2 (d) Significant events that impacted the operations of the home.
- 3 (e) Results of regulatory agency inspections or reviews and
- 4 corrective action taken to address findings.
- 5 (f) Significant patient care complaints, results of any
- 6 investigations into those complaints, and any corrective action
- 7 taken to address validated complaints.
- 8 (g) Results of internal quality of care reviews.
- 9 (h) A comparison of veterans home quality of care metrics to
- 10 industry averages.
- 11 (i) Other significant issues that may be of interest to the
- 12 committee members.

13 SEC. 7. Section 1011.4 is added to the Military and Veterans
 14 Code, to read:

15 1011.4. (a) On or before January 1, 2018, the secretary shall
 16 implement an electronic medical record system. The usage of the
 17 electronic medical record system shall be standardized in all homes.

18 (b) *The electronic medical record system required by this*
 19 *section, and all transactions made in that system, shall comply*
 20 *with the Confidentiality of Medical Information Act (Part 2.6*
 21 *(commencing with Section 56) of Division 1 of the Civil Code),*
 22 *Chapter 1 (commencing with Section 123100) of Part 1 of Division*
 23 *106 of the Health and Safety Code, the Information Practices Act*
 24 *of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8*
 25 *of Part 4 of Division 3 of the Civil Code), the federal Health*
 26 *Insurance Portability and Accountability Act (HIPAA)(Public Law*
 27 *104-191), the federal Health Information Technology for Economic*
 28 *and Clinical Health Act (HITECH) (Public Law 111-005), and all*
 29 *corresponding regulations relating to privacy and security.*

30 SEC. 8. Section 1012 of the Military and Veterans Code is
 31 amended to read:

32 1012. (a) The home is for aged and disabled persons who
 33 served in the Armed Forces of the United States of America, who
 34 were discharged or released from active duty under honorable
 35 conditions from service, who are eligible for hospitalization or
 36 domiciliary care in a veterans' facility in accordance with the rules
 37 and regulations of the United States Department of Veterans
 38 Affairs, are unable to pay for necessary domiciliary and licensed
 39 long-term care outside the home, and who are bona fide residents
 40 of this state at the time of application; and for the spouses of these

1 persons if all of the following conditions, as are applicable, are
2 satisfied:

3 (1) Space is available.

4 (2) Joint residency will be in the best interests of the home
5 member, as determined by the administrator.

6 (3) The spouse is a bona fide resident of this state at the time
7 of application for admission to the home and either is married to,
8 and has resided with, the home member for at least one year, or is
9 the widow or widower of a recipient of the Medal of Honor or a
10 former prisoner of war (POW).

11 (4) The home member and spouse agree to pay the fees and
12 charges for joint residency, or for a widow or widower, that the
13 secretary may establish.

14 (b) (1) Veterans who qualify for benefits under this chapter due
15 to service during a time of war shall be given priority over veterans
16 who qualify due to service during a time of peace.

17 (2) Veterans who qualify for benefits under this chapter who
18 are recipients of the Medal of Honor or who were prisoners of war
19 (POWs) shall be given priority over all other qualified veterans,
20 regardless of the level of care required.

21 (3) The secretary may establish needs-based criteria for
22 admission to the homes, and any veteran meeting those criteria
23 shall be given priority over veterans who can afford to provide for
24 their own care elsewhere.

25 (c) A resident spouse may continue residence after the veteran's
26 death, so long as he or she continues to pay all applicable fees and
27 comply with the department's policies, procedures, and regulations.

28 (d) The property of the home shall be used for this purpose.

29 SEC. 9. Section 1012.1 of the Military and Veterans Code is
30 amended to read:

31 1012.1. Prior to the admission of a veteran as a member of the
32 home, and at any time during which a veteran is a member of the
33 home, the department may investigate any member's financial
34 status to determine the total value of the property and assets of any
35 veteran applying for admission to the home, or to ensure that the
36 member is unable to pay for necessary care outside of the home,
37 or to validate income levels for the purposes of establishing fees.
38 The department may contract with any other state agency to
39 conduct such an investigation in its behalf.

1 SEC. 10. Section 1012.2 of the Military and Veterans Code is
2 amended to read:

3 1012.2. (a) (1) Notwithstanding any other law, any member
4 of the home who is receiving an aid and attendance allowance
5 from the United States Department of Veterans Affairs and who
6 has no dependent spouse, child, grandchild, father, or mother shall
7 pay to the home an amount equal to that allowance in all levels of
8 care excluding domiciliary.

9 (2) Paragraph (1) shall not apply to a member of the home who
10 is in intermediate care or skilled nursing care and has a disability
11 that has been rated by the United States Department of Veterans
12 Affairs as being 70 percent or more service-connected, as
13 determined under Part 4 of Title 38 of the Code of Federal
14 Regulations.

15 (b) Moneys received by a home under this section shall be
16 deposited into the Federal Trust Fund and shall be used for the
17 operating costs of the home.

18 SEC. 11. Section 1012.3 of the Military and Veterans Code is
19 amended to read:

20 1012.3. (a) Members of the home, including members who
21 are nonveteran spouses, shall pay fees and charges as determined
22 by the department, except that the total of the individual member's
23 fees and charges for any fiscal year shall not be greater than as set
24 forth in the following schedule:

25 (1) Forty-seven and one-half percent of the member's annual
26 income for domiciliary care.

27 (2) Fifty-five percent of the member's annual income for
28 residential care for the elderly or assisted living.

29 (3) Sixty-five percent of the member's annual income for
30 intermediate care.

31 (4) Seventy percent of the member's annual income for skilled
32 nursing care.

33 (b) Subdivision (a) shall not apply to a member of the home
34 who is in intermediate care or skilled nursing care and has a
35 disability that has been rated by the United States Department of
36 Veterans Affairs as being 70 percent or more service-connected,
37 as determined under Part 4 of Title 38 of the Code of Federal
38 Regulations and whose related payments made under Section 51.41
39 of Title 38 of the Code of Federal Regulations are considered by

1 the United States Department of Veterans Affairs as payment in
2 full for the member's care.

3 (c) Fees paid by a member shall not exceed the average cost of
4 care for the level of care in which the member currently resides.

5 SEC. 12. Section 1012.4 of the Military and Veterans Code is
6 repealed.

7 SEC. 13. Section 1012.6 of the Military and Veterans Code is
8 repealed.

9 SEC. 14. Section 1014 of the Military and Veterans Code is
10 repealed.

11 SEC. 15. Section 1015 of the Military and Veterans Code is
12 repealed.

13 SEC. 16. Section 1023 of the Military and Veterans Code is
14 amended to read:

15 1023. (a) The department may sue and be sued in any of the
16 courts of this state. All property held by the department for the
17 home shall be held in trust for the state and for the use and benefit
18 of the home. The secretary shall adopt rules and regulations for
19 the administration of the homes conforming as nearly as possible
20 to the rules and regulations of the United States Department of
21 Veterans Affairs and those of other states with veterans' homes.

22 (b) The Director of General Services may lease or let any real
23 property held by the department for the home, and not needed for
24 any direct or immediate purpose of the home, to any entity or
25 person upon terms and conditions determined to be in the best
26 interests of the home. All moneys received in connection therewith
27 shall be deposited in the General Fund as a reimbursement for
28 operating costs of the home.

29 SEC. 17. Section 1024 of the Military and Veterans Code is
30 repealed.

31 SEC. 18. Section 1031 of the Military and Veterans Code is
32 amended to read:

33 1031. All moneys received by the state from the United States
34 for the use of the home shall be deposited into the General Fund
35 as a reimbursement for operating costs of the home.

36 SEC. 19. Section 1033.2 of the Military and Veterans Code is
37 repealed.

38 SEC. 20. Section 1034 of the Military and Veterans Code is
39 amended to read:

1 1034. Except money received from this state for disbursement,
2 all moneys received by the home, or by any officer of the home,
3 including pension and other moneys belonging to veterans and
4 other trust moneys, shall be immediately paid to the administrator
5 of the home. On or before the 10th day of each month, the
6 administrator of the home shall forward to the ~~State~~ Treasurer all
7 moneys in his or her possession, except pension and other moneys
8 belonging to veterans, trust moneys, the post funds, the emergency
9 fund, and donations made to each home, hereinafter mentioned,
10 together with a statement of the sources from which the moneys
11 have been received. The moneys shall be deposited by the ~~State~~
12 Treasurer to the credit of the ~~General Fund of the State; Fund;~~
13 provided, however, that abatements of support expenditures shall
14 be credited to the support appropriation current at the time of
15 collection.

16 SEC. 21. Section 1035.3 of the Military and Veterans Code is
17 amended to read:

18 1035.3. (a) If no will or heir is discovered within two years
19 after the death of the veteran, any moneys not exceeding fifteen
20 thousand dollars (\$15,000) held by the home pursuant to Section
21 1035 and not paid or otherwise delivered to the heir or heirs or
22 pursuant to the will of the deceased veteran, or otherwise disbursed
23 by the administrator pursuant to Section 1035, shall be paid to the
24 Morale, Welfare, and Recreation Fund.

25 If no will or heir is discovered within five years after the death
26 of the veteran, any moneys exceeding fifteen thousand dollars
27 (\$15,000) held by the home pursuant to Section 1035 and not paid
28 or otherwise delivered to the heir or heirs or pursuant to the will
29 of the deceased veteran, or otherwise disbursed by the administrator
30 pursuant to Section 1035, shall be paid to the Morale, Welfare,
31 and Recreation Fund.

32 This subdivision applies only to veterans becoming members of
33 the home on or after January 1, 1984.

34 (b) If no spouse, child, grandchild, or father or mother is
35 discovered within two years after the death of the veteran, any
36 moneys not exceeding fifteen thousand dollars (\$15,000) held by
37 the home pursuant to Section 1035 and not paid or otherwise
38 delivered to the spouse, children, grandchildren, or father or
39 mother, or otherwise disbursed by the administrator pursuant to

1 Section 1035, shall be paid to the Morale, Welfare, and Recreation
2 Fund.

3 If no spouse, child, grandchild, or father or mother is discovered
4 within five years after the death of the veteran, any moneys
5 exceeding fifteen thousand dollars (\$15,000) held by the home
6 pursuant to Section 1035 and not paid or otherwise delivered to
7 the spouse, children, grandchildren, or father or mother, or
8 otherwise disbursed by the administrator pursuant to Section 1035,
9 shall be paid to the Morale, Welfare, and Recreation Fund.

10 This subdivision applies only to veterans who have become
11 members of the home prior to January 1, 1984.

12 SEC. 22. Section 1038 of the Military and Veterans Code is
13 amended to read:

14 1038. All money deposited with the home for a veteran shall
15 be paid to him or her on demand, upon his or her discharge or
16 voluntary departure from the home. If the money is not so
17 demanded at the time of his or her discharge or departure or within
18 a period of two years thereafter, if the amount does not exceed
19 five thousand dollars (\$5,000), or within a period of five years
20 thereafter, if the amount exceeds five thousand dollars (\$5,000)
21 either by the veteran, or, in the event of the veteran's death after
22 his or her discharge or departure, by the veteran's heirs, devisees,
23 legatees, or qualified executor or administrator of his or her estate,
24 the money shall be paid to the Morale, Welfare, and Recreation
25 Fund.

26 SEC. 23. Section 1044 of the Military and Veterans Code is
27 amended to read:

28 1044. The secretary may adopt rules and regulations governing
29 the admission of applicants and may prescribe the conditions upon
30 which they may enter and remain with the home.

31 SEC. 24. Section 1051 of the Military and Veterans Code is
32 repealed.

O