

AMENDED IN SENATE MAY 31, 2016

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 add Sections 1011.1, 1011.2, 1011.3, and 1011.4 to*, to repeal Sections 1012.4, 1012.6, 1014, 1015, 1024, 1033.2, and 1051 of, *and 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, Senate and Assembly Committees on Veterans Affairs,~~ 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 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.

1 (g) “Veteran” means a person who is eligible for benefits under
2 this chapter.

3 SEC. 2. Section 1011 of the Military and Veterans Code is
4 repealed.

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

7 1011. There is in the department a Veterans’ Home of
8 California, which the department shall administer. The Veterans’
9 Home of California is a system comprising the following subsidiary
10 home locations:

11 (a) The Veterans’ Home of California, Yountville, in Napa
12 County.

13 (b) The Veterans’ Home of California, Barstow, in San
14 Bernardino County.

15 (c) The Veterans’ Home of California, Chula Vista, in San Diego
16 County.

17 (d) The Veterans’ Home of California, West Los Angeles, in
18 Los Angeles County.

19 (e) The Veterans’ Home of California, Lancaster, in Los Angeles
20 County.

21 (f) The Veterans’ Home of California, Ventura, in Santa Barbara
22 County.

23 (g) The Veterans’ Home of California, Fresno, in Fresno County.

24 (h) The Veterans’ Home of California, Redding, in Shasta
25 County.

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

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

38 (b) These policies and procedures shall implement the
39 requirements to obtain and maintain required licenses and
40 accreditations, as well as to ensure members in all homes

1 throughout the state, to the extent possible, receive equitable
2 treatment, benefits, and services, and to ensure that high-quality
3 care is provided.

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

6 (1) The admission of applicants.

7 (2) The conditions upon which members may enter and remain
8 in the home.

9 (3) Resident disciplinary procedures.

10 (4) Quality of care standards.

11 (5) An internal quality of care review process.

12 (6) Delineating which services will be provided to members by
13 the state.

14 (7) Setting staffing standards.

15 (8) Staff training requirements.

16 (9) Establishment and operation of allied councils.

17 (10) Any other policies and procedures to ensure the safe and
18 effective operation of the homes.

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

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

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

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

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

36 1011.3. The secretary shall make an annual report to the
37 ~~veterans policy committees of the Legislature~~ *Senate and Assembly*
38 *Committees on Veterans Affairs* by January 1 of each year,
39 beginning January 1, 2018, reporting on significant veterans

1 home-related performance issues, which shall include, but are not
2 limited to, all of the following:

3 (a) Current census and census changes since last report.

4 (b) Any major changes to home policy and the impact of those
5 changes on the residents.

6 (c) Changes in provision of care, including licensure changes.

7 (d) Significant events that impacted the operations of the home.

8 (e) Results of regulatory agency inspections or reviews and
9 corrective action taken to address findings.

10 (f) Significant patient care complaints, results of any
11 investigations into those complaints, and any corrective action
12 taken to address validated complaints.

13 (g) Results of internal quality of care reviews.

14 (h) A comparison of veterans home quality of care metrics to
15 industry averages.

16 (i) Other significant issues that may be of interest to the
17 committee members.

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

20 1011.4. (a) On or before January 1, 2018, the secretary shall
21 implement an electronic medical record system. The usage of the
22 electronic medical record system shall be standardized in all homes.

23 (b) The electronic medical record system required by this
24 section, and all transactions made in that system, shall comply
25 with the Confidentiality of Medical Information Act (Part 2.6
26 (commencing with Section 56) of Division 1 of the Civil Code),
27 Chapter 1 (commencing with Section 123100) of Part 1 of Division
28 106 of the Health and Safety Code, the Information Practices Act
29 of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8
30 of Part 4 of Division 3 of the Civil Code), the federal Health
31 Insurance Portability and Accountability Act (HIPAA)(Public Law
32 104-191), the federal Health Information Technology for Economic
33 and Clinical Health Act (HITECH) (Public Law 111-005), and all
34 corresponding regulations relating to privacy and security.

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

37 1012. (a) The home is for aged and disabled persons who
38 served in the Armed Forces of the United States of America, *States*,
39 who were discharged or released from active duty under honorable
40 conditions from service, who are eligible for hospitalization or

1 domiciliary care in a veterans' facility in accordance with the rules
2 and regulations of the United States Department of Veterans
3 Affairs, are unable to pay for necessary domiciliary and licensed
4 long-term care outside the home, and who are bona fide residents
5 of this state at the time of application; and for the spouses of these
6 persons if all of the following conditions, as are applicable, are
7 satisfied:

8 (1) Space is available.

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

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

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

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

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

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

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

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

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

36 1012.1. Prior to the admission of a veteran as a member of the
37 home, and at any time during which a veteran is a member of the
38 home, the department may investigate any member's financial
39 status to determine the total value of the property and assets of any
40 veteran applying for admission to the home, or to ensure that the

1 member is unable to pay for necessary care outside of the home,
2 or to validate income levels for the purposes of establishing fees.
3 The department may contract with any other state agency to
4 conduct such an investigation in its behalf.

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

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

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

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

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

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

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

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

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

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

37 (b) Subdivision (a) shall not apply to a member of the home
38 who is in intermediate care or skilled nursing care and has a
39 disability that has been rated by the United States Department of
40 Veterans Affairs as being 70 percent or more service-connected,

1 as determined under Part 4 of Title 38 of the Code of Federal
2 Regulations and whose related payments made under Section 51.41
3 of Title 38 of the Code of Federal Regulations are considered by
4 the United States Department of Veterans Affairs as payment in
5 full for the member's care.

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

8 SEC. 12. Section 1012.4 of the Military and Veterans Code is
9 repealed.

10 SEC. 13. Section 1012.6 of the Military and Veterans Code is
11 repealed.

12 SEC. 14. Section 1014 of the Military and Veterans Code is
13 repealed.

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

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

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

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

32 SEC. 17. Section 1024 of the Military and Veterans Code is
33 repealed.

34 ~~SEC. 18. Section 1031 of the Military and Veterans Code is~~
35 ~~amended to read:~~

36 ~~1031. All moneys received by the state from the United States~~
37 ~~for the use of the home shall be deposited into the General Fund~~
38 ~~as a reimbursement for operating costs of the home.~~

1 ~~SEC. 19.~~

2 *SEC. 18.* Section 1033.2 of the Military and Veterans Code is
3 repealed.

4 ~~SEC. 20.~~

5 *SEC. 19.* Section 1034 of the Military and Veterans Code is
6 amended to read:

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

21 ~~SEC. 21.~~

22 *SEC. 20.* Section 1035.3 of the Military and Veterans Code is
23 amended to read:

24 1035.3. (a) If no will or heir is discovered within two years
25 after the death of the veteran, any moneys not exceeding fifteen
26 thousand dollars (\$15,000) held by the home pursuant to Section
27 1035 and not paid or otherwise delivered to the heir or heirs or
28 pursuant to the will of the deceased veteran, or otherwise disbursed
29 by the administrator pursuant to Section 1035, shall be paid to the
30 Morale, Welfare, and Recreation Fund.

31 If no will or heir is discovered within five years after the death
32 of the veteran, any moneys exceeding fifteen thousand dollars
33 (\$15,000) held by the home pursuant to Section 1035 and not paid
34 or otherwise delivered to the heir or heirs or pursuant to the will
35 of the deceased veteran, or otherwise disbursed by the administrator
36 pursuant to Section 1035, shall be paid to the Morale, Welfare,
37 and Recreation Fund.

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

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

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

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

18 ~~SEC. 22.~~

19 *SEC. 21.* Section 1038 of the Military and Veterans Code is
20 amended to read:

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

33 ~~SEC. 23.~~

34 *SEC. 22.* Section 1044 of the Military and Veterans Code is
35 amended to read:

36 1044. The secretary may adopt rules and regulations governing
37 the admission of applicants and may prescribe the conditions upon
38 which they may enter and remain with the home.

1 ~~SEC. 24.~~
2 *SEC. 23.* Section 1051 of the Military and Veterans Code is
3 repealed.

O