

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 651

Introduced by Senators Pavley and Leno

(Coauthors: Senators Block, De León, DeSaulnier, Lieu, and Yee)

(Coauthors: Assembly Members Ammiano, Bloom, Blumenfield, Brown, Chesbro, Fox, Frazier, Garcia, Quirk-Silva, Rendon, Ting, and Williams)

February 22, 2013

An act to add Section 1424.6 to the Health and Safety Code, and to amend Section 4427.5 of, and to add Sections 4313.5 and 4427.7 to, the Welfare and Institutions Code, relating to health and human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 651, as amended, Pavley. Developmental centers and state hospitals.

Existing law establishes the State Department of Developmental Services and sets forth its powers and duties relating to the administration of the state developmental centers. Existing law establishes the State Department of State Hospitals and sets forth its powers and duties relating to the administration of state hospitals.

This bill would require designated investigators of developmental centers and state hospitals to authorize a sexual assault forensic medical examination for any resident of a developmental center or any resident of a state hospital, as applicable, who is a victim or suspected victim of sexual assault, as defined, performed at an appropriate facility off the grounds of the developmental center or state hospital in accordance

with specified provisions. *The bill would authorize a sexual assault forensic medical examination to be performed at a developmental center or a state hospital by an independent sexual assault forensic examiner designated to perform examinations of victims of sexual assault in the jurisdiction of the developmental center or state hospital only under specified circumstances.*

Existing law requires a developmental center to immediately report specified incidents involving a resident to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located. Existing law provides for the licensure and regulation of health facilities, including long-term care facilities, as defined, by the State Department of Public Health. Existing law provides for a citation system for the imposition of civil penalties against long-term care facilities, including penalties specifically applicable to certain skilled nursing facilities and intermediate care facilities, in violation of applicable laws and regulations.

This bill would deem a developmental center's failure to report to local law enforcement a class B violation, as specified, and subject to the penalties applicable to those certain skilled nursing and intermediate care facilities, as specified.

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 1424.6 is added to the Health and Safety
2 Code, to read:
3 1424.6. Failure by a developmental center to report incidents
4 as required under subdivision (a) of Section 4427.5 of the Welfare
5 and Institutions Code shall be deemed a class B violation and shall
6 be subject to the penalties specified in Section 1424.5.
7 SEC. 2. Section 4313.5 is added to the Welfare and Institutions
8 Code, to read:
9 4313.5. (a) Designated investigators of state hospitals shall
10 authorize a sexual assault forensic medical examination for any
11 resident of a state hospital who is a victim or suspected victim of
12 sexual assault, as defined in Section 15610.63, performed at an
13 appropriate facility off the grounds of a state hospital in accordance
14 with Sections 13823.5 to 13823.12, inclusive, of the Penal Code,
15 which includes, but is not limited to, the requirement that the law

1 enforcement agency having jurisdiction over the city or county in
2 which the state hospital is located be notified by the person
3 performing the sexual assault forensic medical examination as
4 required by subdivision (a) of Section 13823.11 of the Penal Code.

5 *(b) The sexual assault forensic medical examination described*
6 *in subdivision (a) may be performed at a state hospital by an*
7 *independent sexual assault forensic examiner designated to*
8 *perform examinations of victims of sexual assault in the jurisdiction*
9 *of the state hospital only if it is deemed safer for the victim and*
10 *the state hospital's examination facilities are equipped with*
11 *forensic examination and evidence collection capability*
12 *comparable to that of the designated community examination*
13 *facility, as determined by the independent sexual assault forensic*
14 *examiner.*

15 SEC. 3. Section 4427.5 of the Welfare and Institutions Code
16 is amended to read:

17 4427.5. (a) (1) A developmental center shall immediately
18 report the following incidents involving a resident to the local law
19 enforcement agency having jurisdiction over the city or county in
20 which the developmental center is located, regardless of whether
21 the Office of Protective Services has investigated the facts and
22 circumstances relating to the incident:

23 (A) A death.

24 (B) A sexual assault, as defined in Section 15610.63.

25 (C) An assault with a deadly weapon, as described in Section
26 245 of the Penal Code, by a nonresident of the developmental
27 center.

28 (D) An assault with force likely to produce great bodily injury,
29 as described in Section 245 of the Penal Code.

30 (E) An injury to the genitals when the cause of the injury is
31 undetermined.

32 (F) A broken bone, when the cause of the break is undetermined.

33 (2) If the incident is reported to the law enforcement agency by
34 telephone, a written report of the incident shall also be submitted
35 to the agency, within two working days.

36 (3) The reporting requirements of this subdivision are in addition
37 to, and do not substitute for, the reporting requirements of
38 mandated reporters, and any other reporting and investigative
39 duties of the developmental center and the department as required
40 by law.

1 (4) Nothing in this subdivision shall be interpreted to prevent
2 the developmental center from reporting any other criminal act
3 constituting a danger to the health or safety of the residents of the
4 developmental center to the local law enforcement agency.

5 (b) (1) The department shall report to the agency described in
6 subdivision (i) of Section 4900 any of the following incidents
7 involving a resident of a developmental center:

8 (A) Any unexpected or suspicious death, regardless of whether
9 the cause is immediately known.

10 (B) Any allegation of sexual assault, as defined in Section
11 15610.63, in which the alleged perpetrator is a developmental
12 center or department employee or contractor.

13 (C) Any report made to the local law enforcement agency in
14 the jurisdiction in which the facility is located that involves
15 physical abuse, as defined in Section 15610.63, in which a staff
16 member is implicated.

17 (2) A report pursuant to this subdivision shall be made no later
18 than the close of the first business day following the discovery of
19 the reportable incident.

20 (c) The department shall do both of the following:

21 (1) Annually provide written information to every developmental
22 center employee regarding all of the following:

23 (A) The statutory and departmental requirements for mandatory
24 reporting of suspected or known abuse.

25 (B) The rights and protections afforded to individuals' reporting
26 of suspected or known abuse.

27 (C) The penalties for failure to report suspected or known abuse.

28 (D) The telephone numbers for reporting suspected or known
29 abuse or neglect to designated investigators of the department and
30 to local law enforcement agencies.

31 (2) On or before August 1, 2001, in consultation with employee
32 organizations, advocates, consumers, and family members, develop
33 a poster that encourages staff, residents, and visitors to report
34 suspected or known abuse and provides information on how to
35 make these reports.

36 (d) A failure to report under subdivision (a) shall be deemed a
37 class B violation as provided in Section 1424.6 of the Health and
38 Safety Code.

39 SEC. 4. Section 4427.7 is added to the Welfare and Institutions
40 Code, to read:

1 4427.7. (a) Designated investigators of developmental centers
2 shall authorize a sexual assault forensic medical examination for
3 any resident of a developmental center who is a victim or suspected
4 victim of sexual assault, as defined in Section 15610.63, performed
5 at an appropriate facility off the grounds of the developmental
6 center in accordance with Sections 13823.5 to 13823.12, inclusive,
7 of the Penal Code, which includes, but is not limited to, the
8 requirement that the law enforcement agency having jurisdiction
9 over the city or county in which the developmental center is located
10 be notified by the person performing the sexual assault forensic
11 medical examination as required by subdivision (a) of Section
12 13823.11 of the Penal Code.

13 (b) *The sexual assault forensic medical examination described*
14 *in subdivision (a) may be performed at a developmental center by*
15 *an independent sexual assault forensic examiner designated to*
16 *perform examinations of victims of sexual assault in the jurisdiction*
17 *of the developmental center only if it is deemed safer for the victim*
18 *and the developmental center's examination facilities are equipped*
19 *with forensic examination and evidence collection capability*
20 *comparable to that of the designated community examination*
21 *facility, as determined by the independent sexual assault forensic*
22 *examiner.*