

Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
AB 439 (Mark Stone) – As Introduced February 11, 2019

SUBJECT: Juveniles: competency

SUMMARY: Clarifies current statute regarding permissible and appropriate placements for minors subject to juvenile proceedings who are found to be incompetent by deleting reference to placement in developmental centers and community facilities operated by the Department of Developmental Services (DDS). Specifically, **this bill:**

- 1) Deletes language prohibiting provisions of current law pertaining to the competency of a minor who is subject to juvenile proceedings from being interpreted as authorizing or requiring the placement of a minor who is found to be incompetent in a developmental center or community facility operated by the DDS unless certain conditions are met, as specified.
- 2) Removes developmental centers from the list of appropriate alternatives to juvenile hall confinement that the court may consider for minors found to be incompetent, as specified.
- 3) States that, in order to provide clarity and provide for the proper placement of juveniles, this bill is an urgency statute, as specified, thereby requiring it to go into effect immediately.
- 4) Makes technical changes.

EXISTING LAW:

- 1) Establishes the Lanterman Developmental Disabilities Services Act (Lanterman Act), which declares California's responsibility for providing an array of services and supports to meet the needs of each person with developmental disabilities in the least restrictive environment, regardless of age or degree of disability, and to support their integration into the mainstream life of the community. (Welfare and Institutions Code [WIC] Section 4500, *et seq.*)
- 2) Defines "developmental disability" to mean a disability that originates before an individual turns 18 years old, that continues or can be expected to continue indefinitely, and that constitutes a substantial disability for that individual. Further, states that "developmental disability" includes intellectual disability, cerebral palsy, epilepsy, autism, as well as disabling conditions found to be closely related to, or require treatment similar to, intellectual disability. (WIC 4512)
- 3) Establishes the jurisdiction of DDS over state developmental centers (DCs), including Sonoma, Fairview, and Porterville DCs, as specified. (WIC 4440 *et seq.*)
- 4) Establishes a system of 21 nonprofit regional centers throughout the state to identify needs and coordinate services for eligible individuals with developmental disabilities and requires DDS to contract with regional centers to provide case management services and arrange for or purchase services that meet the needs of individuals with developmental disabilities, as defined. (WIC 4620 *et seq.*)

- 5) Prohibits DDS from admitting anyone to a developmental center unless they are determined to be eligible for developmental services, as specified, and to be one of the following:
 - a) An adult committed by a court to the Porterville DC's secure treatment program when found mentally incompetent and the action against that adult is on a complaint charging a felony offense, as specified;
 - b) An individual committed by a court to the acute crisis center at Fairview or Sonoma DCs due to an acute crisis, as specified;
 - c) An adult committed by a court to Porterville DC's secure treatment program for reasons including having committed a violent felony, or posing a danger to themselves or others;
 - d) A person committed by a court, on or before June 30, 2021, to Canyon Springs Community Facility who otherwise meets the criteria for admission due to an acute crisis; and,
 - e) An individual provisionally released from a DC who maintains the right to return, as specified. (WIC 7505)
- 6) Establishes rules and processes related to the determination of a minor's competence for purposes of juvenile proceedings, and actions to be taken if a minor is found to be incompetent. (WIC 709)

FISCAL EFFECT: This bill was keyed nonfiscal by the Legislative Counsel.

COMMENTS:

Developmental services and developmental center placements: Developmental disabilities are defined to be those disabilities that: originate before a person turns 18 years old, are anticipated to continue indefinitely, and that constitute a substantial disability for that individual. They include intellectual disabilities, cerebral palsy, epilepsy, and autism spectrum disorders. Developmental disabilities can also be those disabling conditions similar to an intellectual disability that require care and management similar to what is required by individuals with an intellectual disability.

The state, pursuant to the Lanterman Act, has a responsibility to provide an array of services and supports to meet the needs of each person with developmental disabilities in the least restrictive environment, regardless of age or degree of disability, and to support their integration into the mainstream life of the community. All individuals with developmental disabilities are entitled, per the Lanterman Act, to treatment and habilitation services and supports in the least restrictive setting possible, and services provided under the Lanterman Act are designed to facilitate this, enabling consumers to live more independently in the community.

DDS and 21 regional centers share responsibility for the implementation of the Lanterman Act. These regional centers are private, nonprofit entities that contract with DDS to carry out many of the state's obligations under the Lanterman Act; over 345,000 individuals receive services in their communities from vendors that contract with the regional centers. Additionally, DDS still operates two DCs (and Canyon Springs, which is a state-operated, specialized community facility) which provide 24-hour habilitation and medical and social treatment services to

individuals with developmental disabilities. However, both of these DCs – Fairview and Porterville – are slated to be closed in the coming years, with the exception of the forensic portion of the Porterville DC, known as the secure treatment program. The secure treatment program serves individuals who have been charged with a serious felony offense, have been found incompetent to stand trial, and who have exhibited challenging behaviors.

The developmental services budget trailer bill adopted in 2012 enacted a moratorium on new admissions to DCs, with limited exceptions, including the placement of certain adults committed by a court to the Porterville DC's secure treatment program. According to DDS's website, "The aging DC [developmental center] infrastructure, the moratorium on admissions and gradual decline in DC population, associated costs of operation, and the recent development of new community-based residential and service models capable of meeting the service needs of people with significant health and behavioral needs have all reduced the reliance on State-operated DCs." There are currently under 400 total individuals placed at either DC or the community facility.

Need for this bill: AB 1214 (Mark Stone), Chapter 991, Statutes of 2018, revised and updated the procedures for determining the mental competence of a juvenile charged with a crime. AB 1214 included provisions referencing DCs and community care facilities that could create confusion, given that these are not placement options for minors. This bill provides clean-up to remove the references to DCs and community care facilities.

According to the author, "In 2012, there was a statutory moratorium placed on developmental center admissions, and there are currently no provisions for the admission of a minor to a developmental center or to a state-operated community facility. [This bill] removes language from Welfare & Institutions Code Section 709 to clarify that Developmental Centers are not a potential placement option for juveniles with developmental disabilities."

Double referral: This bill passed out of the Assembly Public Safety Committee on March 19, 2019, with an 8-0 vote.

PRIOR LEGISLATION:

AB 1214 (Mark Stone), Chapter 991, Statutes of 2018, revised the procedures for determining the mental competence of a juvenile charged with a crime.

SB 82 (Senate Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015, the Developmental Services trailer bill, among other things, clarified that only adults could be placed, as a result of a commitment by a court, in Porterville Developmental Center's secure treatment program.

AB 1472 (Assembly Committee on Budget), Chapter 25, Statutes of 2012, the Developmental Services trailer bill, among other things, enacted a moratorium on new admissions to developmental centers, with limited exceptions, including the placement of certain adults committed by a court to the Porterville Developmental Center secure treatment program.

REGISTERED SUPPORT / OPPOSITION:

Support

California State PTA

Opposition

None on file

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