

**S278330**

Supreme Court Case No.

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

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DISABILITY RIGHTS CALIFORNIA

PETITIONER,

V.

GAVIN NEWSOM, in his official capacity as Governor  
of the State of California; and MARK GHALY, in his official capacity as  
Secretary of the California Health and Human Services Agency;

RESPONDENTS.

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**PETITIONER'S REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF PETITION**

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## REQUEST FOR JUDICIAL NOTICE

Petitioner Disability Rights California respectfully asks this Court to take judicial notice of the documents listed below.

A. Pursuant to Evidence Code Sections 451, subdivision (a), Petitioner requests judicial notice of:

1. Senate Bill No. 1338, CHAPTER 319: An act to add Section 1374.723 to the Health and Safety Code, to add Section 10144.54 to the Insurance Code, to amend Section 1370.01 of the Penal Code, and to amend Sections 5801 and 5813.5 of, and to add Part 8 (commencing with Section 5970) to Division 5 of, the Welfare and Institutions Code, relating to courts. Approved by Governor September 14, 2022. Filed with Secretary of State September 14, 2022. Available from the Legislative Counsel's Digest official website, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB1338](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1338), and attached as Exhibit 1.
2. Assembly Bill No. 179, CHAPTER 249: Budget Act of 2022, §§1-4, 18, 134-135 (chaptered September 6, 2022). Approved by Governor September 6, 2022. Filed with Secretary of State September 6, 2022. Available from the Legislative Counsel's Digest official website, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB179](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB179), and attached, in relevant part, as Exhibit 2.

B. Pursuant to Evidence Code Section 452, subdivisions (b), (c) and (h), Petitioner requests judicial notice of the documents below from the certified Legislative History Report and Analysis prepared by the Legislative Intent Service, Inc.:

3. Assembly Committee on Health, Analysis, Date of Hearing: June 28, 2022, attached as Exhibit 3.
4. Assembly Committee on Judiciary, Analysis, Date of Hearing: June 21, 2022, attached as Exhibit 4.
5. California Psychological Association, Written Testimony dated June 23, 2022, submitted to Assembly Health Committee, attached as Exhibit 5.
6. County Behavioral Health Directors Association (CBHDA), Written Testimony and Recommendations dated April 16, 2022, submitted to Assembly Judiciary Committee, attached as Exhibit 6.
7. California Behavioral Health Planning Council, Written Testimony and Recommendations dated April 25, 2022, submitted to Senate Health, Senate Judiciary and Senate Public Safety Committees, attached as Exhibit 7.
8. Mental Health America, et al., Joint Comment and Recommendations Letter dated March 23, 2022, submitted to Governor Newsom and Secretary Ghaly, California Health and Human Services Agency, attached as Exhibit 8.
9. Senate Third Reading (SB 1338), dated August 25, 2022, attached as Exhibit 9.
10. Senate Committee on Health, Analysis, Date of Hearing: April 27, 2022, attached as Exhibit 10.
11. California Behavioral Health Directors Association, Written Comments and Recommendations dated March 25, 2022, submitted to Secretary Mark Ghaly, California Health and Human Services Agency, attached as Exhibit 11.

12. Human Rights Watch, Written Testimony dated April 12, 2022, submitted to Senators Umberg and Eggman, California State Senate, attached as Exhibit 12.
13. Cal Voices, Written Testimony dated June 14, 2022, submitted to Assembly Judiciary Committee, attached as Exhibit 13.
14. Assembly Committee on Appropriations, Analysis, Date of Hearing: August 3, 2022, attached as Exhibit 14.
15. Monterey County, Written Testimony dated May 10, 2022, submitted to Assemblymember Umberg, California State Assembly (with a copy to Senators Caballero and Laird), attached as Exhibit 15.
16. ACLU et al., Written Testimony dated June 14, 2022, submitted to Assembly Judiciary Committee, attached as Exhibit 16.
17. Mental Health Advocacy Services, Written Testimony dated June 23, 2022, submitted to Assembly Health Committee, attached as Exhibit 17.
18. Drug Policy Alliance, Written Testimony dated April 20, 2022, submitted to Assembly Judiciary and Health Committees, attached as Exhibit 18.
19. California Council of Community Behavioral Health Agencies, et al., Written Testimony dated April 19, 2022, submitted to Assembly Judiciary and Health Committees, attached as Exhibit 19.

C. Pursuant to Evidence Code Sections 452, subdivisions (b), (c), and (h), Petitioner requests judicial notice of the following transcripts:

20. Certified Hearing Transcript of California Senate Hearing, dated May 25, 2022, re: SB 1388, attached as Exhibit 20.

21. Certified Hearing Transcript of California Assembly Judiciary Committee Hearing dated June 21, 2022, re: SB 1388, attached as Exhibit 21.
22. Certified Hearing Transcript of California Assembly Health Committee Hearing dated June 28, 2022, re: SB 1388, attached as Exhibit 22.
23. Certified Hearing Transcript of California Assembly, Floor Hearing, dated August 30, 2022, re: SB 1388, attached as Exhibit 23.

Judicial notice is properly taken for all documents listed above.

Regarding the exhibits in Section A of this Request, courts must take judicial notice of the public statutory law of this state. Evid. Code §451(a); *Almond Alliance of Cal. v. Fish and Game Com.*, 79 Cal.App.5th 337, 337, fn. 3 (2022) (granting “requests because they contain relevant statutory law”).

The exhibits listed in Sections B and C of this Request also are judicially noticeable. First, the Court may take judicial notice of legislative enactments and official acts of the California State Legislature. Evid. Code §452(b), (c). In addition, the Court may take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” *Id.*, §452(h). Finally, in “determining the propriety of taking judicial notice of a matter, or the tenor thereof,” the Court may consult or use “[a]ny source of pertinent information, including

the advice of persons learned in the subject matter . . . whether or not furnished by a party.” *Id.*, §§454(a), 459(b).

Here, each exhibit listed in Section B is part of the certified Legislative History Report and Analysis prepared by the Legislative Intent Service, Inc.<sup>1</sup> A true and correct copy of the Declaration of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc., dated December 6, 2022, is attached hereto as Exhibit 24. This Court has determined that “it is well established that reports of legislative committees and commissions are part of a statute’s legislative history and may be considered when the meaning of a statute is uncertain.” *Hutnick v. U.S. Fidelity & Guarantee Co.*, 47 Cal.3d 456, 465, fn. 7 (1988) (rejecting lower court’s refusal to judicially notice committee staff member views); *see also Zabetian v. Medical Bd. of Cal.*, 80 Cal.App.4th 462, 468 (2000) (discussing legislative analyses by Assembly and Senate Committees on Health); *Guillemin v. Stein*, 104 Cal.App.4th 156, 166, fn. 12 (2002) (discussing legislative analyses by Assembly Committee on Judiciary). Accordingly, the Assembly and Senate Committee analyses listed as

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<sup>1</sup> The entire Legislative History Report and Analysis consists of 3,723 pages, and therefore, for the sake of brevity, Petitioner submits only those exhibits most relevant to its initial Petition. Petitioner will immediately submit the entire Legislative History if preferred by the Court. *See Drouet v. Superior Court*, 31 Cal.4th 583, 598 (2003) (request involved “isolated fragments of the Act’s legislative history”).

Exhibits 3, 4, 10, and 14 can be judicially noticed.

Similarly, in its Legislative History Report and Analysis, the Legislative Intent Service, Inc. included written testimony and recommendation letters from both proponents and opponents of SB 1338, which were submitted to Assembly and Senate Committees, as well as Governor Newsom and Director Ghaly. *See* Exhibits 5-8, 11-13, 15-19. In addition to their inclusion in the Legislative History Report, the Committee analyses listed as exhibits herein often cite and quote from these letters. *See, e.g.*, Ex. 4 at 0155 (Assembly Committee on Judiciary quoting Human Rights Watch). Accordingly, such testimony, comments and recommendations may be judicially noticed. *Guillemin*, 104 Cal.App.4th at 166, fn. 12 (citing County letter to Assemblymember in support of Senate Bill); *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 133 Cal.App.4th 26, 36 (2005) (statements by sponsors, proponents and opponents communicated to the Legislature as a whole are judicially noticeable).

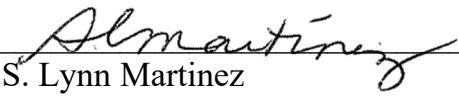
Finally, legislative floor analyses, such as the Senate Third Reading of SB 1338 attached as Exhibit 9, are subject to judicial notice. *Pacific Gas & Electric Co. v. Dep't of Water Resources*, 112 Cal.App.4th 477, 497 (2003) (quoting Senate Floor Analysis, Third Reading); *Khajavi v. Feather River Anesthesia Medical Group*, 84 Cal.App.4th 32, 49-50 (2000) (same). In addition, this Court has taken judicial notice of



transcripts of committee hearings (Exhibits 21 and 22), as well as commentaries made at legislative floor hearings (Exhibits 20 and 23). *Lantzy v. Centex Homes*, 31 Cal.4th 363, 376, fn. 10 (2003) (citing testimony made at Assembly Judiciary Committee hearing); *Conservatorship of Whitley*, 50 Cal.4th 1206, 1219 (2010) (quoting Senate Judiciary Committee hearing testimony); *see also Pacific Gas & Electric Co.*, 112 Cal.App.4th at 498 (quoting from Senate Republican Floor Commentaries).

For each of these reasons, Petitioner respectfully requests that this Court grant its request to judicially notice the above listed exhibits.

Dated: January 23, 2023      DISABILITY RIGHTS CALIFORNIA  
WESTERN CENTER ON LAW & POVERTY  
PUBLIC INTEREST LAW PROJECT

By:   
S. Lynn Martinez  
Sarah J. Gregory  
Attorneys for Petitioner DRC

## INDEX OF EXHIBITS

<b>Volume #</b>	<b>Exhibit #</b>	<b>Title -</b>	<b>Starting Page</b>	<b>Ending Page</b>
1	Exhibit 1.	Senate Bill No. 1338, CHAPTER 319	RJN-0001	RJN-0038
1	Exhibit 2.	Assembly Bill No. 179, CHAPTER 249	RJN-0039	RJN-0088
1	Exhibit 3.	Assembly Committee on Health, Analysis, Date of Hearing: June 28, 2022	RJN-0089	RJN-0125
1	Exhibit 4.	Assembly Committee on Judiciary, Analysis, Date of Hearing: June 21, 2022	RJN-0126	RJN-0214
1	Exhibit 5.	California Psychological Association, Written Testimony dated June 23, 2022, submitted to Assembly Health Committee	RJN-0215	RJN-0217
1	Exhibit 6.	County Behavioral Health Directors Association (CBHDA), Written Testimony and Recommendations dated April 16, 2022, submitted to Assembly Judiciary Committee	RJN-0218	RJN-0234
1	Exhibit 7.	California Behavioral Health Planning Council, Written Testimony and Recommendations dated April 25, 2022, submitted to Senate Health, Senate Judiciary and Senate Public Safety Committees	RJN-0235	RJN-0239
1	Exhibit 8.	Mental Health America, et al., Joint Comment and Recommendations Letter dated March 23, 2022, submitted to Governor Newsom and Secretary Ghaly, California Health and Human Services Agency	RJN-0240	RJN-0249
1	Exhibit 9.	Senate Third Reading (SB 1338), dated August 25, 2022	RJN-0250	RJN-0268

1	Exhibit 10.	Senate Committee on Health, Analysis, Date of Hearing: April 27, 2022	RJN-0269	RJN-0283
1	Exhibit 11.	California Behavioral Health Directors Association, Written Comments and Recommendations dated March 25, 2022, submitted to Secretary Mark Ghaly, California Health and Human Services Agency	RJN-0284	RJN-0295
2	Exhibit 12.	Human Rights Watch, Written Testimony dated April 12, 2022, submitted to Senators Umberg and Eggman, California State Senate	RJN-0296	RJN-0303
2	Exhibit 13.	Cal Voices, Written Testimony dated June 14, 2022, submitted to Assembly Judiciary Committee	RJN-0304	RJN-0323
2	Exhibit 14.	Assembly Committee on Appropriations, Analysis, Date of Hearing: August 3, 2022	RJN-0324	RJN-0337
2	Exhibit 15.	Monterey County, Written Testimony dated May 10, 2022, submitted to Assemblymember Umberg, California State Assembly	RJN-0338	RJN-0340
2	Exhibit 16.	ACLU et al., Written Testimony dated June 14, 2022, submitted to Assembly Judiciary Committee	RJN-0341	RJN-0354
2	Exhibit 17.	Mental Health Advocacy Services, Written Testimony dated June 23, 2022, submitted to Assembly Health Committee	RJN-0355	RJN-0363
2	Exhibit 18.	Drug Policy Alliance, Written Testimony dated April 20, 2022, submitted to Assembly Judiciary and Health Committees	RJN-0364	RJN-0368

2	Exhibit 19.	California Council of Community Behavioral Health Agencies, et al., Written Testimony dated April 19, 2022, submitted to Assembly Judiciary and Health Committees	RJN-0369	RJN-0375
2	Exhibit 20.	Certified Hearing Transcript of California Senate Hearing, dated May 25, 2022, re: SB 1388	RJN-0376	RJN-0441
3	Exhibit 21.	Certified Hearing Transcript of California Assembly Judiciary Committee Hearing dated June 21, 2022, re: SB 1388	RJN-0442	RJN-0616
3	Exhibit 22.	Certified Hearing Transcript of California Assembly Health Committee Hearing dated June 28, 2022, re: SB 1388	RJN-0617	RJN-0719
4	Exhibit 23.	Certified Hearing Transcript of California Assembly, Floor Hearing, dated August 30, 2022, re: SB 1388	RJN-0720	RJN-0759
4	Exhibit 24.	Declaration of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc., dated December 6, 2022	RJN-0760	RJN-0763