



*California's Protection & Advocacy System
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New Laws to Help People with Developmental Disabilities Stay Out of Institutions and Other Restrictive Settings

November 2014, Pub # F070.01

On July 1, 2012 and June 27, 2013, California passed a series of laws to reduce the State's reliance on developmental centers, institutions for mental disease, and out-of-state placements for people with developmental disabilities. The Department of Developmental Services (DDS) called these changes a "redesign of services for individuals with challenging service needs." The laws were passed for two reasons: 1) to ensure the State provides Lanterman Act services in the least restrictive environment; and 2) to save money because institutional and out-of-state placements are expensive and often unnecessary.

These laws were further amended on June 20, 2014 to reinforce the right of people with developmental disabilities to get the services and supports they need to remain in their communities. The changes can be found in the Developmental Services Budget Trailer Bill, SB 856 (Chapter 30, Statutes of 2014).¹

¹ To see the changes made by SB 856, you can go to the June 12, 2014, amended version of the bill at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB856

This fact sheet will discuss the 2012 and 2013 laws and provide an update about the 2014 changes.² The 2014 changes will be *italicized*.

Summary of How the Law Changed and New Updates for 2014

The laws expanded the availability of community-based services so people can choose less restrictive settings by:

1. Requiring DDS to develop a “statewide specialized resources service”. This service tracks and coordinates the availability of specialty services, like homes that help people who are in crisis or who are transitioning out of a developmental center. The law also required regional centers to share resources developed with State funds and make these resources available to other regional centers.³
2. Expanding the availability of adult residential facilities for people with special health care needs (also known as “SB 962 homes”).
 - a. Before the law was passed, SB 962 homes were only available to people who 1) require the support of a licensed nurse on staff 24 hours a day, 7 days a week; and 2) lived at Agnews or Lanterman Developmental Centers. These homes are now available to other people as well, including people who live in Sonoma, Porterville, and Fairview Developmental Centers.⁴
 - b. The law also allows a person not living in a developmental center to move to a SB 962 home when the following three conditions are met:
 - i. There is an opening in the home;

² DDS has also summarized these laws in letters to regional center directors and board presidents. The letters can be found at the following websites:

http://www.dds.ca.gov/Budget/Docs/22704_June2013TrailerBillLanguageAffectingRegionalCenters.pdf
http://www.dds.ca.gov/Budget/Docs/2012_2013_TBLJuly_LtrRC.pdf

³ Welfare and Institutions Code § 4418.25(b)

⁴ Welfare and Institutions Code § 4684.53(b)(3)

- ii. There is no one from a developmental center waiting for the space;
 - iii. The placement is necessary to protect the person's health or safety.⁵
- 3. Authorizing certain facilities with less than 15 beds to use "delayed egress devices" and "secured perimeters." "Delayed egress device" means a device that prevents someone from leaving the facility without warning. "Secured perimeters" means fences. There are specific admission requirements for this type of facility. For example, before someone can be admitted, the IPP team must decide that the person would have no other choice but to live somewhere more restrictive.⁶ There are also regulations which govern admission criteria, transition planning so people can return to a less restrictive setting, and a limit of 100 beds that can be developed throughout the State.⁷
- 4. *New for 2014: Authorization of Enhanced Behavioral Supports Homes and Community Crisis Homes*
 - Enhanced Behavioral Supports Homes*
 - a. *Enhanced Behavioral Supports Homes will be available to adults and children with developmental disabilities who need intensive services and supports due to challenging behaviors that cannot be managed in other types of community settings and meet the following criteria:*
 - i. *are at risk of institutionalization or out-of-state placement;*
or

⁵ Welfare and Institutions Code § 4684.65(b)(3)

⁶ Health and Safety Code §§ 1267.75 & 1531.15

⁷ See <http://www.dds.ca.gov/ProposedRegs/SecuredPerimeters.cfm>

- ii. *are transitioning to the community from a developmental center, other state-operated residential facility, institution for mental disease, or out-of-state placement.*⁸
- b. *The homes will be licensed by DSS and certified by DDS to provide enhanced behavioral supports, staffing and supervision in a home like setting with 24 hour nonmedical staff. Each home is designed for up to 4 people.*⁹
- c. *A pilot program, until January 1, 2020, will allow DDS to develop up to 6 homes each year. A maximum of 6 homes during the pilot program may be authorized to use delayed egress devices in combination with secured perimeters.*¹⁰
- d. *Each resident will have an “individual behavior supports plan” developed by the “individual behavior supports team”. The Clients’ Rights Advocate for the regional center is a member of this team.*¹¹
- e. *DDS must develop emergency regulations before these homes can be built. There will be opportunity for public comment.*¹²

Community Crisis Homes

- i. *Community crisis homes will be available to individuals with developmental disabilities in need of crisis intervention services who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease.*¹³

⁸ Welfare and Institutions Code § 4684.81(a)

⁹ Welfare and Institutions Code § 4684.80(a)

¹⁰ Welfare and Institutions Code § 4684.81(c),(k)

¹¹ Welfare and Institutions Code § 4684.80(c),(d)

¹² Welfare and Institutions Code § 4684.86

¹³ Welfare and Institutions Code § 4698(a)

- ii. *The homes will be licensed by DSS and certified by DDS to provide crisis intervention in a home like setting with 24 hour nonmedical staff. Each home is designed for up to 8 people.*¹⁴
- iii. *The Clients' Rights Advocate for the regional center must be notified of each admission and may participate in developing the plan to transition the person back to the community.*¹⁵
- iv. *DDS must develop emergency regulations before these homes can be built. The law says that the regulations need to place a high priority on transitioning the person to his or her prior residence, when that is the preferred objective in the person's individual program plan. There will be opportunity for public comment.*¹⁶

5. New for 2014: Use of Public Employees in Community Settings

- a. *Existing law authorizes the use of public employees in community settings to help people transition to the community during the closure of Agnews and Lanterman Developmental Centers.*¹⁷
- b. *The law now expands the use of public employees in community settings when the following conditions are met:*
 - i. *DDS determines that the activity will assist in successfully transitioning developmental center residents to community living; or*
 - ii. *DDS determines that the activity will assist with deflecting the admission of individuals to a developmental center, an institution for mental disease, an out-of-state placement, a*

¹⁴ Welfare and Institutions Code § 4698

¹⁵ Welfare and Institutions Code § 4698(f)

¹⁶ Welfare and Institutions Code § 4698.1

¹⁷ Welfare and Institutions Code § § 4474.2 & 4474.3

*general acute care hospital, or an acute psychiatric hospital.*¹⁸

The laws reduced the State’s reliance on developmental centers by ending most new admissions after July 1, 2012. For people already living in a developmental center as of July 1, 2012, the laws also required regional centers to identify community-based services and supports to help them move out.¹⁹

1. Effective July 1, 2012 people with developmental disabilities can no longer be placed in a developmental center unless the person is (1) committed by a court to Fairview Developmental Center because the person is a danger to self or others and is in an acute crisis; or (2) committed by a court to the Porterville Developmental Centers secure treatment program through the criminal or juvenile justice system; or (3) a prior resident of a developmental center who was provisionally released no more than 12 months earlier.²⁰
2. *New for 2014: Acute Crisis Centers at Fairview and Sonoma Developmental Center.*
 - a. Starting on January 1, 2015, people can be committed by a court to Sonoma Developmental Center under the same “acute crisis” standards currently used for commitments to Fairview Developmental Center.²¹
 - b. The acute crisis centers at Fairview and Sonoma Developmental Center can serve no more than 5 people. The new laws also reiterated that the role of the acute crisis centers is to transition the person back to his or her prior residence, or an alternative community-based residential setting.²²

¹⁸ Welfare and Institutions Code § § 4474.2 & 4474.3

¹⁹ Developmental centers are public institutions operated by the State. A list of California developmental centers can be found here: <https://dds.ca.gov/DevCtrs/Home.cfm>

²⁰ Welfare and Institutions Code § 7505

²¹ Welfare and Institutions Code §§ 4418.7(g),(h); 6509; 7505

²² Welfare and Institutions Code § 4418.7(g),(h)

3. *New for 2014: The Clients Rights' Advocate for the regional center must now be notified before the person is committed to Fairview or Sonoma Developmental Center.*

- a. Existing law says that when a person's community placement is at risk of failing and commitment to a developmental center is likely, the regional center must notify certain people, including the consumer, the consumer's parents, legal guardian, conservator, and the regional resource development project.²³ The role of the regional resource development project is to complete an assessment and determine if the person can remain in the community with additional supports or if placement at a developmental center is necessary.²⁴
 - b. The law now requires the Clients' Rights Advocate for the regional center to be notified during this "at-risk" stage as well.²⁵
4. When someone is admitted to the acute Crisis Centers at Fairview or Sonoma Developmental Center after July 1, 2012, the law requires the regional center to notify the Clients' Rights Advocate for the regional center and complete a comprehensive assessment to determine what services and supports are necessary to return the person to his or her community. The regional center must begin working on this assessment upon admission so that it can be reviewed by the IPP team no later than the 30 day IPP. The person must be returned to his or her community within 395 days of the date of admission.²⁶
5. If the person lived in a developmental center before July 1, 2012, the law required regional centers to complete a comprehensive assessment to identify the services and supports available in the community.²⁷ In addition, the regional center must also notify the

²³ Welfare and Institutions Code § 4418.7(a)

²⁴ Welfare and Institutions Code § 4418.7(b)

²⁵ Welfare and Institutions Code § 4418.7(a)

²⁶ Welfare and Institutions Code § § 4418.7 & 6500(c)(2)

²⁷ Welfare and Institutions Code § 4418.25(c)(2)(A)-(E)

Clients' Rights Advocate for the regional center of each IPP meeting, who may participate unless the person objects.²⁸

New for 2014: The regional center must now also send copies of the comprehensive assessments to 1) the Clients' Rights Advocate for the regional center; and 2) the court with jurisdiction over the developmental center commitment; and 3) other parties, as specified, including the person's public defender.²⁹

The laws reduced the State's reliance on institutions for mental disease by placing restrictions on new admissions after July 1, 2012. For people already living in an institution for mental disease as of July 1, 2012, the law also required regional centers to identify community-based services and supports to help them move out.³⁰

1. Regional centers can no longer admit people to an institution for mental disease, unless there is an emergency and no other community based alternatives can be located.³¹ When someone is admitted, regional centers must immediately complete a comprehensive assessment to identify the services and supports the person needs to return to the community. The person must be returned to the community within 180 days.³²
2. The regional center must notify the Clients' Rights Advocate for the regional center of all emergency admissions, who may participate in all IPP meetings unless the person objects.³³
3. If the person lived in an institution for mental disease before July 1, 2012, the law required regional centers to complete a comprehensive assessment to identify the services and supports available in the community. The regional center must notify the Clients' Rights

²⁸ Welfare and Institutions Code § 4418.25(c)(2)(B),(E)

²⁹ Welfare and Institutions Code § § 4418.25(c)(2)(D); 6504.5

³⁰ Institutions for Mental Diseases (IMDs) are institutions of more than 16 beds and primarily engaged in providing diagnosis, treatment, or care of persons with mental illnesses. A current list of IMDs can be found here:

http://www.dhcs.ca.gov/services/MH/Pages/MedCCC-IMD_List.aspx

³¹ Welfare and Institutions Code § 4648(a)(9)(C)

³² Welfare and Institutions Code § 4648(a)(9)(C)(ii)

³³ Welfare and Institutions Code § 4648(a)(9)(C)(iv)

Advocate for the regional center of each meeting that includes a discussion of the comprehensive assessment. The Clients' Rights Advocate may join these meetings unless the person objects.³⁴

The laws limited regional centers' ability to purchase out-of-state services.

1. Starting July 1, 2012, the law requires regional centers to seek authorization from DDS to place someone in an out-of-state facility. In order to place someone in an out-of-state facility, regional centers must complete a comprehensive assessment and determine that the person's needs cannot be met in California. No out-of-state placement can last longer than one year.³⁵
2. If the person lived in a regional center funded out-of-state facility before July 1, 2012, the law required regional centers to prepare a transition plan. The law said that the plan needs to be submitted to DDS by December 31, 2012.³⁶

The laws added additional protections for people who ask to be released from developmental centers and institutions for mental disease.

1. When someone asks to be released from a facility, the law says that certain entities and people need to be notified, like the court, the regional center, and the person's legal representative. The court may hold a hearing to determine whether the person can live somewhere else. This is called a "writ of habeas corpus."³⁷ The Legislature added additional protections for people who ask for this hearing. For example:
 - a. The law now says the court needs to notify the Clients' Rights Advocate for the regional center, who can attend the hearing to help protect the person's rights.³⁸

³⁴ Welfare and Institutions Code § 4648(a)(9)(C)(v)

³⁵ Welfare and Institutions Code § 4519(a)

³⁶ Welfare and Institutions Code § 4519(e)

³⁷ Welfare and Institutions Code §§ 4800 & 4801

³⁸ Welfare and Institutions Code § 4801(b)

- b. For people who live in developmental centers and institutions for mental disease, the law also requires the regional center to provide everyone with copies of the comprehensive assessment which identified the services and supports the person needs to return to the community within 2 working days of receiving the notice from the court.³⁹

Additional Information about Living Arrangements for Children and Adults and How to Stay Out of Institutions

Disability Rights California also has a manual about your rights. Chapter 7 from this manual explains your right to choose a living arrangement, see [Rights Under The Lanterman Act: Living Arrangements for Adults and Children Chapter 7](#).⁴⁰ Chapter 9 from this manual explains how to stay out of an institution, see [Rights Under The Lanterman Act: How To Stay Out Of An Institution Chapter 9](#).⁴¹

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.

³⁹ Welfare and Institutions Code § 4801(c)(1)

⁴⁰ See <http://www.disabilityrightsca.org/pubs/506301Ch07.pdf>

⁴¹ See <http://www.disabilityrightsca.org/pubs/506301Ch09.pdf>