September 11, 2019

Honorable Gavin Newsom
Governor of California
Capitol Building, 1st Floor
Sacramento, CA 95814

RE: SB 398 (DURAZO) – REQUEST FOR SIGNATURE

Dear Governor Newsom:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, sponsors and supports SB 398 and requests your signature.

DRC was established in 1978 as California’s designated protection and advocacy (P&A) system pursuant to what is, as amended, the federal Developmentally Disabilities Assistance and Bill of Rights Act of 2000 (codified at 42 U.S.C. §§ 15041-15045; DD Act) to advocate on behalf of the rights of individuals with developmental disabilities. Since then, the federal mandate of the state P&As was expanded to include individuals with psychiatric disabilities (Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act (1986), 42 U.S.C. § 10801 et seq.) and individuals with physical, neurological, sensory, and other disabilities (Protection and Advocacy for Individual Rights (PAIR) Act (1993), 29 U.S.C. § 794e). Pursuant to these laws P&As have broad authority to protect and advocate for the rights and interests of people with disabilities, including authority to investigate incidents of abuse or neglect; to monitor facilities and programs serving individuals with disabilities; to pursue administrative, legal, and other appropriate remedies to ensure the protection of the rights of people with disabilities; and to provide information and training on, and referral to, programs and services addressing the
needs of people with disabilities. Federal law grants the P&As broad authority to access public and private entities providing services and supports to individuals with disabilities, and to information and records prepared or maintained by these entities pertaining to such individuals in carrying out their responsibilities.

To facilitate accessibility and transparency with respect to the responsibilities and authority of its P&A agency, in 1991, California enacted Division 4.7 of the Welfare & Institutions Code (sections 4900-4906), which consolidated the access authority of the P&As as provided in applicable federal statutes and regulations. (SB 1088 (McCorquodale), Chapter 534, Statutes of 1991). Following enactment of the federal PAIR Act, and amendments to the DD Act and its implementing regulations, Division 4.7 was amended in 2003 to conform to then-current federal law. (SB 577 (Kuehl), Chapter 878, Statutes of 2003).

In 2015, the federal DD Act regulations were updated and amended (45 C.F.R. Part 1326) to further specify and clarify the authority of the state P&As. SB 398 would amend California’s protection and advocacy agency statutory provisions to incorporate and conform to changes in these federal regulations.

Importantly, and in keeping with the intent of federal law that the service providers to which P&As must be provided with access be broadly inclusive, SB 398 would add, to the list of such facilities, programs, and service providers, “facilities used to house or detain persons for purposes of civil immigration proceedings.” (SEC. 1, amending Welf. & Inst. Code § 4900(e)). We deem continued access to these facilities critical in ensuring that the rights of persons with disabilities detained within them are protected. For example, DRC released a report in March 2019 on the conditions within the Adelanto Detention Center, one of the largest privately operated immigration detention facilities in the United States: “There is no Safety Here: the Dangers for People with Mental Illness and other Disabilities in Immigration Detention at GEO Group’s Adelanto ICE Processing Center” (https://www.disabilityrightsca.org/reports/adelanto).

SB 398 has no opposition and did not receive any no votes.

For these reasons, DRC sponsors and supports this bill and requests your signature. Please contact me if you have any questions about our position or if I can provide any further information.
Very truly yours,

[Signature]

Curtis Child
Legislative Director
Disability Rights California

cc:  Honorable Maria Elena Durazo, California State Senate
     Daisy Luna, Legislative Director, Office of Senator Durazo
     Tam Ma, Deputy Legislative Secretary, Office of Legislative Affairs
     Sam Miller, Assistant Legislative Deputy, Office of Legislative Affairs