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SB 1092 (Hurtado): Equitable Access to Services (EASe) Act

Summary: California must ensure that people with developmental disabilities, particularly people of color, can meaningfully participate in decisions about the services they receive, and in hearings about those services, regardless of their race, ethnicity, English proficiency, or ability to afford legal counsel. This bill moves hearings about regional center services to the Department of Social Services, where hearings are more accessible, and includes other reforms to make decision-making and dispute resolution processes fairer and more equitable.

Background

The Lanterman Act provides services for individuals with intellectual and developmental disabilities (I/DD) through the Department of Developmental Services (DDS) and 21 regional centers. Decisions about services are supposed to be decided collaboratively by an Individual Program Planning (IPP) team. In cases of disagreement, people with I/DD have the right to a “fair hearing” with an impartial administrative law judge (ALJ).

Yet in practice, people with I/DD and their families find the fair hearing system to be overly complex, opaque, and biased. A November 2021 report, [*Unfair Hearings: How People with Intellectual and Developmental Disabilities Lack Access to Justice in California*](#), cites significant flaws in the way decisions are made and the dispute resolution process works:

- IPP meetings often include no regional center staff authorized to make decisions. Many decisions are made at separate meetings of only regional center staff, with no notice to the individual served or opportunity for them to attend.
- Few incentives for and lackluster efforts by regional centers to settle disputes in mediations and informal meetings that precede fair hearings.
- An unlevel playing field where regional centers frequently hire attorneys to represent them at hearing, which most individuals served cannot afford.
- Even when ALJs decide in their favor, no way for individuals to obtain compensatory services when regional centers fail to provide needed services.
- No meaningful oversight of the fair hearing process by DDS.

DDS has also described the fair hearing system as “cumbersome, difficult to navigate, and intimidating,” particularly for Latino communities. DDS is currently holding focus groups on improving the process and is expected to release recommendations.

Legislative Proposal

Ensure the Person Served Has a Voice in the Process

- Require that all decisions about services be made in meetings that include the person served and a regional center decision-maker.
- Establish a fair hearing advisory committee that allows people served by regional centers and their families to have input into the hearing process.

Make Disputes Easier to Resolve

- Require regional centers to participate in mediation.

Make the Hearing Process More Accessible and Fair

- Move hearings from the Office of Administrative Hearings to the Department of Social Services, where hearings are conducted in a more informal and accessible manner.
- Only allow regional centers to hire an attorney to represent them at a fair hearing if the individual served is also represented by an attorney.
- Allow people who win their fair hearing to recover compensatory services or retroactive reimbursement as a remedy for past violations by the regional center.
- Require DDS to review and approve hearing decisions before they become final.
- If people lose at fair hearing, but appeal to superior court and win, allow them to recover attorneys' fees.

Address Equity, Build Trust with Communities of Color, and Reduce Barriers to Justice

- Require ALJ training to address ethnic disparities in regional center expenditures, and include presentations from people with I/DD and their family members as well as DDS.
- Require DDS to provide public access to an indexed, searchable fair hearings database that includes information such as outcome, reasons for withdrawal, and race/ethnicity.
- Clarify that people served by regional centers can pursue civil rights or personal injury actions in state or federal court, without having to first go through the fair hearing process.

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