

Legislative Summary Report



2014 Legislative Year

2014 Legislation Affecting the
Department of State Hospitals

STATE OF CALIFORNIA

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INTRODUCTION

This Legislative Summary focuses on all legislation introduced or enacted in the 2014 legislative year that affected the Department of State Hospitals (DSH).

The DSH was established on July 1, 2012, and is the successor agency to the former Department of Mental Health (DMH). The DSH is responsible for the operation of the State Hospital system, as well as three forensic mental health programs: the Sex Offender Commitment Program, the Mentally Disordered Offender program, and the Forensic Conditional Release Program.

The DSH oversees the operation of eight state inpatient mental health facilities:

- Atascadero State Hospital (DSH-Atascadero)
- Coalinga State Hospital (DSH-Coalinga)
- Metropolitan State Hospital (DSH-Metropolitan LA)
- Napa State Hospital (DSH-Napa)
- Patton State Hospital (DSH-Patton)
- Salinas Valley Psychiatric Program (DSH-Salinas Valley)
- Stockton Psychiatric Program (DSH-Stockton)
- Vacaville Psychiatric Program (DSH-Vacaville)

In operating these programs and serving our patients, the DSH adheres to its core values, vision, mission, and goals:

Core Values: *Safety, Treatment, and Responsibility.*

Vision: *Caring Today for a Safe and Healthy Tomorrow.*

Mission: *Providing evaluation and treatment in a safe and responsible manner, seeking innovation and excellence in hospital operations, across a continuum of care and settings.*

Goals: *A safe environment; Responsible stewardship; Excellence in forensic evaluation; Excellence in treatment.*

For more information about the legislation summarized in this document, please contact the DSH Office of Legislation at (916) 654-2316. For more information about the establishment of the DSH, including the Department's values, vision, mission, or goals, please contact the DSH Director's Office at (916) 654-2309, or visit our Internet Web site at <http://www.dsh.ca.gov>.

ACRONYMS COMMONLY USED

AB	Assembly Bill
ACR	Assembly Concurrent Resolution
DMH	Department of Mental Health
DSH	Department of State Hospitals
DSH-Atascadero	Atascadero State Hospital
DSH-Coalinga	Coalinga State Hospital
DSH-Metropolitan	Metropolitan State Hospital
DSH-Napa	Napa State Hospital
DSH-Patton	Patton State Hospital
DSH-Salinas Valley	Salinas Valley Psychiatric Program
DSH-Stockton	Stockton Psychiatric Program
DSH-Vacaville	Vacaville Psychiatric Program
SB	Senate Bill

SIGNED LEGISLATION

Assembly

AB 1340 (Achadjian)

Subject: Enhanced treatment programs

Status: Chapter 718, Statutes of 2014

Summary: Allows DSH to establish and maintain pilot Enhanced Treatment Programs (ETPs) at its state hospital facilities, for the purpose of housing and treating patients who pose the highest risk for violent behavior, and who cannot be safely treated in the standard treatment environment. Describes the procedures for admitting a patient to an ETP, including guaranteed due process rights for patients and an annual independent clinical review of a patient's commitment to the ETP. Grants DSH the authority to lock patient room doors externally, when clinically indicated and when it is determined that this would be the least restrictive environment for the patient's care and treatment.

AB 1468 (Committee on Budget)

Subject: Public Safety

Status: Chapter 26, Statutes of 2014

Summary: As it relates to DSH, this bill: (1) Establishes an office within the Health and Human Services Agency (CHHS) to oversee law enforcement and investigative functions for DSH and Department of Developmental Services (DDS) facilities; (2) Establishes a unit within DSH to manage the placement of patients within the state hospital system; and, (3) Authorizes DSH to expand programs providing jail-based competency restoration treatment for defendants found Incompetent to Stand Trial (IST), following on the success of pilot programs implemented in San Bernardino and Riverside counties.

AB 1607 (Fox)

Subject: Sexually violent predators

Status: Chapter 877, Statutes of 2014

Summary: Requires a person committed to the DSH as a Sexually Violent Predator (SVP) who petitions for conditional release, the Director of DSH, and the designated attorney of the county of commitment to notify the court if the county of commitment appears to be different than the county of domicile. Requires the court to notify attorneys from each potential county of placement of conditional release hearings. Requires an SVP who is conditionally released to be placed in the county of domicile, as defined, prior to incarceration, unless the designated county of placement was given prior notice and an opportunity to comment. Requires the determined county of domicile to govern the petitions for conditional release.

AB 1847 (Chesbro)**Subject:** Mental health disorders: language**Status:** Chapter 144, Statutes of 2014**Summary:** Replaces outdated terms concerning people with mental health disabilities in California statutes and updates certain phrases and terms, such as “mentally defective,” that the sponsor, Disability Rights California contends are now obsolete and offensive.**AB 1960 (Perea)****Subject:** State summary criminal history information: state hospitals**Status:** Chapter 730, Statutes of 2014**Summary:** Allows state hospital police officers with access to the California Law Enforcement Telecommunications System (CLETS) to provide state summary criminal history information for state hospital patients to designated hospital staff assessing, placing, treating, or reporting to the court on those patients. Criminal history information can be included in the patient’s confidential file and would be destroyed within 30 days of the patient being discharged. Requires a licensed mental health clinician authorized to receive criminal history information to receive CLETS training that is appropriate for a person who has ongoing access to information from the CLETS and is not a CLETS operator, following the policies on training, compliance, and inspection required by the Department of Justice.**AB 2053 (Gonzalez)****Subject:** Employment discrimination or harassment: education and training: abusive conduct**Summary:** This bill expands on existing law related to sexual harassment training for supervisory employees to also include training on the prevention of “abusive conduct,” as defined by the bill.**AB 2186 (Lowenthal)****Subject:** Defendants: competence**Status:** Chapter 733, Statutes of 2014**Summary:** Improves the process for involuntary medication (IM) of incompetent to stand trial (IST) defendants in state hospitals, by: (1) authorizing the court to consider reports prepared by DSH psychiatrists in determining if the defendant lacks the capacity to make decisions regarding antipsychotic medication; (2) allowing an IM order issued by a court to follow a patient when transferring between jurisdictions (i.e., between the state hospital and county jail); (3) authorizing a court to extend a preliminary IM order for 14 days beyond the initial 21-day period in order to complete the hearing process; (4) adjusting the timing of competency progress reports to coincide with IM order reviews; and, (5) authorizing DSH to seek a one-year renewal of an IM order under the same terms and conditions as the original order.

AB 2190 (Maienschein)**Subject:** Criminal defendants: gravely disabled persons**Summary:** This bill changes current law regarding the commitment of criminal defendants who are found either Incompetent to Stand Trial (IST) or Not Guilty by Reason of Insanity (NGRI) to mental health facilities. Current law requires that IST or NGRI defendants charged with specified crimes be automatically committed to a Department of State Hospitals (DSH) state hospital for at least 180 days. This bill modifies that requirement, instead giving the court discretion to order the defendant into an alternative program, such as a community-based outpatient facility, if the court determines that the defendant would receive more appropriate treatment in such a facility, and that the placement would not pose a danger to the health and safety of others. The bill also makes minor changes to the Lanterman-Petris-Short (LPS) conservatorship process that do not affect DSH.**AB 2506 (Salas)****Subject:** Peace officers**Summary:** Authorizes peace officers employed by DSH as Medical Technical Assistants (MTAs), a classification used exclusively at Salinas Valley and Vacaville Psychiatric Programs, to carry firearms while off-duty if authorized to do so by the Secretary of the California Department of Corrections and Rehabilitation (CDCR).**AB 2625 (Achadjian)****Subject:** Defendants: competence**Status:** Chapter 742, Statutes of 2014**Summary:** Requires an Incompetent to Stand Trial (IST) patient in a state hospital to be returned to the committing court no later than 10 days following the delivery of a progress report concluding that there is no substantial likelihood the patient will regain mental competence. Requires the medical director of a state hospital to promptly provide a copy of the report to the defense counsel, district attorney, and notice to the county sheriff's department. Requires patients who have not been restored to competency to be returned to the committing court no later than 90 days prior to the expiration of their term of commitment.

Senate

SB 940 (Jackson)**Subject:** California Conservatorship Jurisdiction Act**Summary:****SB 1412 (Nielsen)****Subject:** Criminal proceedings: mentally incompetent offenders**Status:** Chapter 759, Statutes of 2014**Summary:** Would prohibit a person from having his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. The bill would establish a process by which the person's mental competency is evaluated and by which the defendant receives

treatment, including, if applicable, antipsychotic medication, with the goal of returning the person to competency. This bill contains other related provisions and other existing laws.

SB 1465 (Committee on Health)

Subject: Health

Status: Chapter 442, Statutes of 2014

Summary: As it relates to DSH, this bill makes non-substantive changes to various sections of code that removes obsolete references to the former Department of Mental Health in statute, and to accurately reflect that DSH currently operates the state hospital system and all associated functions.

VETOED LEGISLATION

Assembly

AB 2155 (Ridley-Thomas)

Subject: Nurses: overtime

Summary: This bill would have prohibited a Registered Nurse (RN), Licensed Vocational Nurse (LVN), or a Certified Nursing Assistant (CNA) employed by the State of California in a state facility, including facilities operated by the Department of State Hospitals (DSH), from being required to work overtime, except under certain circumstances. The bill also would have prohibited a state facility from retaliating against a nurse who refuses to work overtime.

Governor's Veto Message:

I am returning Assembly Bill 2155 without my signature. This bill would prohibit mandatory overtime for nurses in state facilities. This measure covers matters more appropriately settled through the collective bargaining process.

AB 2520 (Maeinschein)

Subject: Parole: primary mental clinicians

Summary: Current law authorizes a prisoner who has a severe mental disorder to request a hearing before the Board of Parole Hearings for the purpose of proving that the prisoner is subject to that parole condition. Current law also authorizes a prisoner to request that the board appoint 2 independent professionals for that hearing. This bill would additionally require those independent professionals, at the request of the prisoner, to consult with a prisoner's primary mental health clinician, as defined, and if any, before making a recommendation concerning that prisoner to the board.

Governor's Veto Message:

I am returning Assembly Bill 2520 without my signature. AB 2520 requires the mental health evaluators appointed by the Board of Parole Hearings to consult directly with a prison inmate's primary mental health treatment clinician when considering parole suitability or mentally disordered offender status. The Board's evaluators have access to the inmate's mental health treatment records and can directly consult with clinicians if needed.

AB 2616 (Skinner)

Subject: Workers' compensation: hospital employers: compensation

Summary: Would provide, with respect to hospital employees who provide direct patient care in an acute care hospital, that the term "injury" includes a methicillin-resistant Staphylococcus aureus skin infection (MRSA skin infection) that develops or manifests itself during the period of the person's employment with the hospital.

This bill would create a presumption that a MRSA skin infection arises out of and in the course of the person's employment if the MRSA skin infection develops or manifests, as specified.

Governor's Veto Message:

I am returning Assembly Bill 2616 without my signature. This bill would create a first of its kind private employer workers' compensation presumption for a specific staph infection -- methicillin-resistant Staphylococcus aureus (MRSA) -- for certain hospital employees. California's no-fault system of worker's compensation insurance requires that claims must be "liberally construed" to extend benefits to injured workers whenever possible. The determination that an illness is work-related should be decided by the rules of that system and on the specific facts of each employee's situation. While I am aware that statutory presumptions have steadily expanded for certain public employees, I am not inclined to further this trend or to introduce it into the private sector. Some have reported that hospitals have intimidated nurses from filing valid worker's compensation claims for a work-related MRSA infection. Any such conduct would be reprehensible. I am therefore directing the Department of Industrial Relations to investigate and take whatever action is needed.

Senate

SB 1071 (Beall)

Subject: Bill of Rights for Excluded Employees

Summary: Would provide, under the Bill of Rights for State Excluded Employees, an excluded employee who is a supervisory employee, except as specified, and who is required to work shifts at a workplace that operates with two or more work shifts per day would have the right to use seniority in the employee's classification to obtain a preferred shift, subject to a specified restriction.

Governor's Veto Message:

I am returning Senate Bill 1071 without my signature. This bill provides state excluded supervisory employees in a workplace that operates two or more work shifts per day the right to obtain work shifts based on seniority and would limit shift selection to 60% of the positions within the same classification scheduled for a shift. This bill is unnecessary. Several departments that operate multiple shifts and who have deemed it to be in the best interest of the department to provide seniority shift bidding have done so, including one department that applies this practice to supervisory employees. Unfortunately, this bill would circumvent that discretion. I encourage those departments without post and bid in place for excluded employees to meet with supervisors for further discussion.

OTHER KEY LEGISLATION Affecting the Department of State Hospitals

Assembly

AB 326 (Morrell)

Subject: Occupational safety and health: reporting requirements

Status: Chapter 91, Statutes of 2014

Summary: Current law requires an employer to make an immediate report by telephone or telegraph of every case involving an employee's serious injury or illness or death to the Division of Occupational Safety and Health. This bill requires every employer to make an immediate report by telephone or email of every case involving an employee's serious injury or illness or death to the division.

AB 1468 (Committee on Budget)

Subject: Public Safety

Status: Chapter 26, Statutes of 2014

Summary: Implements the public safety provisions of the Fiscal Year (FY) 2014-15 Budget Act. As it applies to the Department of State Hospitals (DSH), this bill: (1) Establishes an office within the Health and Human Services Agency (CHHS) to oversee law enforcement and investigative functions for DSH and Department of Developmental Services (DDS) facilities; (2) Establishes a unit within DSH to manage the placement of patients within the state hospital system; and, (3) Authorizes DSH to expand programs providing jail-based competency restoration treatment for defendants found Incompetent to Stand Trial (IST), following on the success of pilot programs implemented in San Bernardino and Riverside counties.

AB 1575 (Pan)

Subject: Personal services contracts: reports and termination of contracts

Status: Vetoed by the Governor

Summary: Current law sets forth requirements for the acquisition of goods and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing those state contracting procedures and policies. This bill would require personal services contracts to include specific performance criteria and cost parameters, require reports by the contractor, and provide for cancellation by the state contracting agency if the contractor fails to comply with contract requirements or the law, as specified. This bill contains other existing laws.

Governor's Veto Message: I am returning Assembly Bill 1575 without my signature. This bill requires contractors to file certain performance reports every three months for the life of the contract. Current law already gives state agencies the discretion to require any reports they deem necessary for personal services contracts. I don't believe we should mandate additional paperwork without a clear benefit, which I don't find to be the case here.

AB 1591 (Achadjian)**Subject:** Firearms: prohibited persons: notification**Status:** Chapter 141, Statutes of 2014

Summary: Notice to the Department of Justice is required when, among other instances, a person has been found mentally incompetent to stand trial, a person has been found not guilty of specified crimes by reason of insanity, or a person has been placed under conservatorship and prohibited from possessing firearms or deadly weapons. Current law requires the court to notify the department as soon as possible, but not later than 2 court days after taking the relevant action. The court is required to submit these notices in an electronic format, as prescribed by the department. This bill would reduce that notification deadline from 2 court days to one court day after taking the relevant action.

AB 1687 (Conway)**Subject:** Persons with Developmental Disabilities Bill of Rights**Status:** Chapter 178, Statutes of 2014

Summary: Current law grants specified rights to a person with developmental disabilities who has been admitted or committed to a state hospital, community care facility, or health facility, including the right to have access to individual storage space for private use and a right to see visitors each day. Current law requires a developmental center to immediately report resident deaths and certain serious injuries, including a sexual assault, to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located. This bill would recast those rights as the Persons with Developmental Disabilities Bill of Rights.

AB 1755 (Gomez)**Subject:** Medical information**Status:** Chapter 412, Statutes of 2014

Summary: Current law requires a clinic, health facility, home health agency, or hospice to report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the State Department of Public Health and to the affected patient or the patient's representative no later than 5 business days after the unlawful or unauthorized access, use, or disclosure has been detected. Current law requires these entities to delay the report for specified law enforcement purposes and requires that the delayed report be submitted within 5 days of the end of the delay. This bill would instead require those entities to make those reports no later than 15 business days after the unlawful or unauthorized access, use, or disclosure has been detected.

AB 1860 (Pérez)**Subject:** Peace officers: basic training requirements**Status:** Chapter 87, Statutes of 2014

Summary: Current law requires every peace officer to complete an introductory course of training prescribed by the Commission on Peace Officer Standards and

Training, except for specifically exempted categories of peace officers, and imposes other training requirements on those persons who would exercise the powers of peace officers. This bill would provide that a probation department that is a certified provider of the introductory training course shall not be required to offer the course to the general public, and would make other technical, non-substantive changes in those provisions.

AB 2121 (Gray)

Subject: Sex Offenders: parole: disabling monitoring device

Status: Chapter 603, Statutes of 2014

Summary: Current law, subject to exceptions, prohibits a person required to register as a sex offender from removing or disabling an electronic, global positioning system (GPS), or other monitoring device, or permitting another to do so, if the device is a condition of parole. This bill would recast those provisions to prohibit the person from removing, disabling, rendering inoperable, or knowingly circumventing the operation of an electronic, GPS, or other monitoring system that is required as a condition of parole, or permitting another person to perform one of those prohibited acts, except as provided.

AB 2144 (Yamada)

Subject: Staff-to-patient ratios

Status: Died in Assembly Appropriations Committee

Summary: Would require the State Department of Public Health to adopt regulations by January 1, 2016, that establish minimum, specific, and numerical licensed nursing staff-to-patient ratios by licensing classification and minimum, specific, and numerical ancillary staff-to-patient ratios for health facilities that are operated by the State Department of State Hospitals, as prescribed.

AB 2411 (Bonta)

Subject: Sex Offenders: parole: disabling monitoring device

Status: Chapter 611, Statutes of 2014

Summary: Current law requires the terms of probation or parole for all persons placed on formal probation or parole for an offense that requires registration as a sex offender to include, among other things, participation in, or completion of, a sex offender management program, as specified. Current law requires that the length of the period in the program be determined by a certified sex offender management professional in consultation with the probation or parole officer and as approved by the court. This bill would require participation in the above programs to apply without regard to when the crime or crimes for which the person is on probation or parole were committed.

LEGISLATION BY AUTHOR

Assembly

Achadjian, Katcho

AB 1340: Enhanced treatment programs
AB 1591: Firearms: prohibited persons: notification
AB 2625: Defendants: competence

Bonta, Rob

AB 2411: Probation and parole

Chesbro, Wesley

AB 1847: Mental health disorder: language

Committee on Budget

AB 1468: Public Safety

Conway, Connie

AB 1687: Persons with Developmental Disabilities Bill of Rights

Fox, Steve

AB 1607: Sexually violent predators

Gomez, Jimmy

AB 1755: Medical information

Gonzalez, Lorena

AB 2053: Employment discrimination or harassment: education and training:
abusive conduct

Gray, Adam

AB 2121: Sex Offenders: parole: disabling monitoring device

Lowenthal, Bonnie

AB 2186: Defendants: competence

Maeinschein, Brian

AB 2520: Parole: primary mental clinicians

Morrell, Mike

AB 326: Occupational safety and health: reporting requirements

Pan, Richard

AB 1575: Personal services contracts: reports and termination of contracts

Perea, Henry

AB 1960: State summary criminal history information: state hospitals

Pérez, V. Manuel

AB 1860: Peace officers: basic training requirements

Ridley-Thomas, Sebastian

AB 2155: Nurses: overtime

Skinner, Nancy

AB 2616: Workers' compensation: hospital employers: compensation

Yamada, Mariko

AB 2144: Staff-to-patient ratios

Senate

Beall, Jim

SB 1071: Excluded State Employees Bill of Rights

Committee on Health

SB 1465: Health

Padilla, Alex

SB 1299: Workplace violence prevention plans: hospitals