

Legislative Summary Report



2017 Legislative Year

2017 Legislation Affecting the
Department of State Hospitals

STATE OF CALIFORNIA

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INTRODUCTION

This report provides an overview of legislation affecting the Department of State Hospitals (DSH) in 2017.

During the first year of the 2017-18 Legislative Session, 2,980 measures were introduced. DSH's Office of Legislation monitored or tracked 134 bills affecting issues related to DSH's jurisdiction or expertise, and provided final recommendations on nine bills that reached the Governor's desk.

DSH manages the nation's largest inpatient forensic mental health hospital system. Its mission is to provide evaluation and treatment in a safe and responsible manner, seeking innovation and excellence in state hospital operations, across a continuum of care and settings.

DSH is responsible for the daily care and provision of mental health treatment of its patients. DSH oversees five state hospitals and employs nearly 11,000 staff. Additionally, DSH provides services in jail-based competency treatment programs and conditional release programs.

The following pages provide a summary of legislation introduced or enacted in the 2017 legislative year. For more information about the legislation summarized in this report, please contact DSH's Office of Legislation at (916) 654-2448. For more information about DSH, including the Department's values, vision, mission, or goals, please visit our Internet Web site at <http://www.dsh.ca.gov>.

ACRONYMS COMMONLY USED

AB	Assembly Bill
ACR	Assembly Concurrent Resolution
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
SB	Senate Bill
SCR	Senate Concurrent Resolution

ENACTED PRIORITY LEGISLATION

This section includes bills that directly impact DSH that were signed into law by the Governor. All bills take effect January 1, 2018 unless otherwise noted.

[AB 97 \(Ting, Chapter 14\) Budget Act of 2017](#)

Authorized the 2017-18 fiscal year General Fund expenditures for the entire State of California. This bill also transferred control of DSH's three Psychiatric Inpatient Programs, all program employees and more than \$250 million in budget expenditures to the California Department of Corrections and Rehabilitation (CDCR), and California Correctional Health Care Services (CCHCS). Also requires DSH submit annual institutional expenditure reports as part of the Governor's Budget and May Revision estimates. (Effective July 1, 2017)

[AB 103 \(Ting, Chapter 17\) Public safety: omnibus](#)

Budget trailer bill that established an Admissions, Evaluation, and Stabilization (AES) Center in Kern County and clarifies DSH's Patient Management Unit's authority to determine the appropriate placement for competency restoration among the five state hospitals. This bill would also allow DSH to continue operations at the existing central utility plant at DSH-Metro under the current contract agreement, allows Not Guilty by Reason of Insanity (NGI) defendants committed to DSH to request a reduction in their maximum term of commitment under the resentencing guidelines of Proposition 36 (2012) and Proposition 47 (2014), and provides a loan for repairs to DSH-Napa due to the 2014 South Napa Earthquake. (Effective July 1, 2017)

[AB 255 \(Gallagher, Chapter 39\) Sexually violent predators: out-of-county placement](#)

Requires the court to consider whether a sexually violent predator has familial, residential or employment connections when granting conditional release in a county other than his or her county of domicile.

[AB 790 \(Stone, Chapter 348\) Identification cards: replacement: reduced fees](#)

Provides for a reduced fee of \$8 for a replacement Department of Motor Vehicle (DMV) identification card issued to an eligible patient upon release from a DSH facility or through a conditional release program. A patient must have a usable photo on file with DMV that is not more than ten years old to take advantage of this reduced fee.

[AB 1119 \(Limón, Chapter 323\) Developmental and mental health services: information and records: confidentiality](#)

Authorizes, during the provision of emergency services and care, the communication of patient information and records between specified health care professionals and others to effectively treat patients with developmental disabilities and mental health disorders.

[AB 1456 \(Low, Chapter 151\) Professional licensure \(Psychologists\)](#)

Extends the timeframe allowing pre-licensed individuals to provide psychological services while accumulating the supervised hours required for licensure within state or governmental health facilities, including state hospitals, from three years to four years. This bill also allows state departments employing the individual to grant an extension of the timeframe for one additional year, if needed, and allows for an additional extension for specified individuals working part time. A similar bill (AB 705, Chapter 218) which passed in 2015, allowed for an extension of up to five years but did not amend code sections that specifically address psychologists in governmental health facilities. **(Effective July 31, 2017)**

[SB 31 \(Lara, Chapter 826\) California Religious Freedom Act: state agencies: disclosure of religious affiliation information](#)

Prohibits state agencies and employees from sharing personal information with federal authorities to compile a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity. This bill does allow state law enforcement to collect such personal information only if it is part of a targeted investigation or it is necessary to provide religious accommodations. **(Effective October 15, 2017)**

[SB 54 \(De León, Chapter 495\) Law enforcement: Sharing immigration data](#)

Prohibits state law enforcement agencies from using moneys or personnel to investigate, detain, detect, or arrest persons for immigration enforcement purposes. This bill also requires state administered health facilities to implement model policies drafted by the Attorney General that limit assistance with immigration enforcement. The Attorney General's model policies must be published by October 1, 2018.

[SB 613 \(De León, Chapter 774\) Immigration status](#)

Repeals existing state law requiring DSH, the Division of Juvenile Justice, and the Department of Developmental Services to cooperate with the United States Bureau of Immigration in arranging the deportation of aliens who are committed or confined in these departments' facilities.

[SB 684 \(Bates, Chapter 246\) Incompetence to stand trial: conservatorship: treatment](#)

Expands the current legal options for criminal courts by allowing them to make a probable cause determination that a defendant committed the offense before or after a defendant charged with a serious felony is determined Incompetent to Stand Trial (IST). Allows courts greater flexibility in initiating both Lanterman-Petris-Short (LPS) and Murphy conservatorships when a criminal defendant is charged with a felony complaint but has not yet been indicted, while also codifying case law for Murphy conservatorship requirements.

ADDITIONAL ENACTED LEGISLATION

This section includes bills relating to mental health, public safety, licensing, and other general government issues that were signed into law by the Governor and may impact DSH. All bills take effect January 1, 2018 unless otherwise noted.

[AB 40 \(Santiago, Chapter 607\) CURES database: health information technology system](#)

Requires the Department of Justice (DOJ) to develop a programming interface or other method of system integration to allow health information technology systems to retrieve information in the CURES database on the electronic history of controlled substances dispensed to an individual. Entities operating a health information technology system wishing to integrate with CURES must certify that their system meets specified minimum security and privacy requirements.

[AB 89 \(Levine, Chapter 182\) Psychologists: suicide prevention training](#)

Requires an applicant for licensure as a psychologist to complete six hours of coursework or applied experience in suicide risk assessment and intervention. (Effective January 1, 2020)

[AB 191 \(Wood, Chapter 184\) Mental health: involuntary treatment](#)

Adds licensed marriage and family therapists and licensed professional clinical counselors to list of health providers who are authorized to certify when a Welfare and Institutions Code Section 5250 patient needs intensive treatment.

[AB 262 \(Bonta, Chapter 816\) Public contracts: bid specifications: Buy Clean California Act](#)

Requires Department of General Services (DGS) by January 1, 2019 to establish and publish specified standards used in the bid process for state public works projects and review the acceptable global warming potential for building materials used by successful bids. State agencies must consider greenhouse gas emissions in the bid process for state public work projects and a successful bidder must submit an Environmental Product Declaration. By January 1, 2022, state agencies will be required to submit a report to the Legislature on any obstacles with implementation of the provisions of this bill.

[AB 335 \(Kiley, Chapter 523\) Parole: placement at release](#)

Adds specified sexual penetration offenses, as well as specified sexual assault offenses, in which the victim is unconscious or unable to give consent to the list of offenses to which an inmate being released on parole shall not be returned to a location within 35 miles of a victim or witness if the victim or witness makes such a request and the Board of Parole Hearings or CDCR find that the placement is necessary to protect the victim or witness.

[AB 459 \(Chau, Chapter 291\) Public records: video or audio recordings: crime](#)

Provides that public agencies are not required to disclose video or audio created during the commission or investigation of the crimes of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident depicted in the recording. This bill requires the agency to justify withholding such a video or audio recording by demonstrating that the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure of the recording. This bill requires public agencies to permit a victim of a crime depicted in such videos to inspect the recording and obtain a copy.

[AB 512 \(Rodriguez, Chapter 841\) Public employees' retirement: safety members: industrial disability retirement](#)

Extends the sunset date for the Industrial Disability Retirement benefit provided to safety members of the California Public Employees' Retirement System (CalPERS) from January 1, 2018, to January 1, 2023. The IDR program applies to those individuals who become disabled from job related injury or illness and can no longer perform the duties of the job.

[AB 822 \(Caballero, Chapter 785\) Institutional purchasers: sale of California produce](#)

Require all California state-owned or state-run institutions, except public universities and colleges and school districts, to purchase agricultural products grown in California when the bid or price of the California-grown agricultural product does not exceed, by more than five percent, the lowest bid or price for an agricultural product produced outside the state and the quality of the product is comparable.

[AB 976 \(Berman, Chapter 319\) Electronic filing and service](#)

Expands the use of permissive and mandatory electronic filing and service in civil courts as well as in criminal, probate, and juvenile courts. Provides clear rules governing the processes, the timing, and the safeguards that must be in place.

[AB 1014 \(Cooper, Chapter 145\) Diesel backup generators: health facility](#)

Requires a health facility to test and maintain each of its diesel backup generators in conformance with a specified standard adopted by the Centers for Medicare and Medicaid Services.

[AB 1022 \(Irwin, Chapter 790\) Information technology: Technology Recovery Plans: inventory](#)

Requires state agencies, as part of their Technology Recovery Plan, to provide the California Department of Technology with an inventory of all critical infrastructure controls and associated assets in their possession no later than July 1, 2019.

[AB 1102 \(Rodriguez, Chapter 275\) Health facilities: whistleblower protections](#)

Increases the maximum criminal fine, from \$20,000 to \$75,000, for violations of whistleblower protection laws that apply to patients, employees and other health care workers at hospitals.

[AB 1188 \(Nazarian, Chapter 557\) Health professions development: loan repayment](#)

Increases from \$10 to \$20 the additional license renewal fee collected by the Board of Psychology from licensed psychologists and by the Board of Behavioral Sciences from LMFTs and Licensed Clinical Social Worker (LCSW) for the Licensed Mental Health Service Provider Education Program (Loan Program). Also adds Licensed Professional Clinical Counselors (LPCCs) and associate professional clinical counselors to those licensed mental health service providers eligible for grants to reimburse education loans under this Loan Program.

[AB 1516 \(Cunningham, Chapter 561\) Maintenance of the codes](#)

Makes various technical, non-substantive changes to the codes suggested by the Office of Legislative Counsel to correct errors in the text of existing law. Section 189 of the bill deleted duplicative language in Penal Code Section 1170.18 that also appears in Penal Code Section 1170.127.

[SB 17 \(Hernandez, Chapter 603\) Health care: prescription drug costs](#)

Requires drug manufacturers to notify state purchasers (CalPERS, Medi-Cal, CDCR, and DGS), health plans and insurers, and pharmacy benefit managers at least 90 days prior to the planned effective date, of an increase in the wholesale acquisition cost of a prescription drug, as specified.

[SB 179 \(Atkins, Chapter 853\) Gender identity: female, male, or nonbinary](#)

As of September 1, 2018, an individual is no longer required to undergo any treatment prior to getting their birth certificate gender changed. Instead this bill authorizes a person to file a petition with the superior court either as a female, male or nonbinary. The bill also requires the State Registrar to issue a new birth certificate to change the birth certificate of any person who submits an application to change the gender.

[SB 219 \(Wiener, Chapter 483\) Long-term care facilities: rights of residents](#)

Gives any skilled nursing facility (SNF) and intermediate-care facility (ICF) patient guaranteed rights based on the patient's actual or perceived sexual orientation, gender identity, general expression or HIV status. This bill also requires SNFs and ICFs to post an additional nondiscriminatory notice regarding a person's actual or perceived sexual orientation, gender identify, gender expression or HIV status alongside the current nondiscriminatory policy.

[SB 241 \(Monning, Chapter 513\) Medical records: access](#)

Removes the requirement that a patient's request for health records be submitted in writing, and enables patients to access their health records in the form and format requested by the patient, if that format is readily producible, and impose a reasonable, cost-based fee for providing a paper or electronic copy or summary of patient records.

[SB 310 \(Atkins, Chapter 856\) Name and gender change: prisons and county jails](#)

Establishes the right of a person sentenced to CDCR or county jail to petition the court to obtain a name or gender change. CDCR and county jails are required to use the new name of a person who obtains a name change, and to list the prior name only as an alias. **(Effective September 1, 2018)**

[SB 384 \(Wiener, Anderson, Chapter 384\) Sex offenders: registration: criminal offender record information systems](#)

This bill creates a three-tiered registration system for sex offenses where people will be required to register for 10 years, 20 years, or life for a conviction in adult court of specified sex offenses, and five years or 10 years in adjudication as a ward of the juvenile court for specified sex offenses. **(Effective January 1, 2021)**

[SB 565 \(Portantino, Chapter 218\) Mental health: involuntary commitment](#)

Requires a mental health facility, prior to a certification review hearing to extend LPS intensive mental health services to 30-days, to make reasonable attempts to notify family members or any other person designated by the patient at least 36 hours prior to the certification review hearing.

[SB 575 \(Leyva, Chapter 575\) Patient access to health records](#)

Entitles a patient, or his or her representative, free access to certain medical records upon the filing of a claim or appeal for a public benefit program, including IHSS, CalWORKS, federal veteran service-connected compensation benefits, non-service connected pension disability benefits, and CalFRESH.

ADDITIONAL VETOED LEGISLATION

This section includes bills relating to mental health, public safety, and other general government issues that would have impacted DSH but were vetoed by the Governor.

[AB 531 \(Irwin\) Office of Information Security: information security technologies](#)

This bill would have required the Office of Information Security to review information security technologies currently in place in state agencies to determine if there are sufficient policies, standards, and procedures in place to protect critical government information and prevent the compromise or unauthorized disclosure of sensitive digital content, as defined, inside or outside the firewall of state agencies. The bill would require the office, following the review, to develop a statewide plan to require the implementation by state agencies, during the next fiscal year, of any information security technology the office determines to be necessary to protect critical government information and prevent the compromise or unauthorized disclosure of sensitive digital content of a state agency. The Governor vetoed this bill, stating that the “[A]dministration will finish information security assessments of every state department as required by AB 670 ... The Department [of Technology’s Office of Information Security] is also performing audits on departments that scrutinize how their information security practices measure up to the state’s information security policies ... Because these efforts will fulfill many of this bill’s objectives, I am reluctant to sign the bill at this time.”

TWO-YEAR LEGISLATION

Tracked by the Department of State Hospitals

This section includes priority bills currently being tracked by DSH that are still eligible for consideration in 2018 as two-year legislation. Two-year legislation must clear its house of origin by January 31, 2018 to remain active.

[AB 93 \(Medina D\) Healing arts: marriage and family therapists: clinical social workers: professional clinical counselors: required experience and supervision](#)

This bill would make changes to the supervised experience requirements for licensure as a LMFT, LCSW, and a LPCC; would put in place various requirements for supervisors; changes the term "intern" to "associate"; and would make other technical and conforming changes. **(Cleared House of Origin)**

[AB 183 \(Lackey\) Bill of Rights for State Excluded Employees](#)

This bill would require state entities operating two or more shifts per day to develop policies allowing excluded supervisory employees to select shift assignments, vacations, and overtime. This bill would require management to maintain these policies and meet with supervisory employee organizations representing excluded employees. This bill would not apply to the California Highway Patrol (CHP).

[AB 387 \(Thurmond\) Minimum wage: health professionals: interns](#)

This bill would expand the definition of employer to include any entity who employs or exercises control over the wages, hours or working conditions of any person, including any person engaged in a period of supervised work experience to satisfy requirements for licensure, registration or certification as an allied health professional. This would require DSH to pay minimum wage to all interns and students gaining experience in a state hospital setting.

[AB 587 \(Chiu\) State government: pharmaceuticals: procurement: collaborative](#)

Requires DGS to convene the California Pharmaceutical Collaborative to address the rising cost of pharmaceutical drugs, co-chaired by the Deputy Director of the Procurement Division of DGS and the Assistant Secretary of California Health and Human Services Agency, and to coordinate the efforts of state and local government entities to identify and implement opportunities for cost savings with regard to the purchase of pharmaceuticals, particularly pharmaceuticals that are considered high-cost drugs. **(Cleared House of Origin)**

[AB 748 \(Ting\) Peace officers: video and audio recordings: disclosure](#)

This bill would make a video or audio recording a matter of public concern when depicting an incident involving a peace officer's use of force, or is reasonably believed to involve a violation of law or agency policy. This bill would allow such video or recording to be withheld for a maximum of 120 days if disclosure would substantially impede an active investigation. If a recording violates the reasonable expectation of privacy of a subject depicted, this bill would allow a redacted version of the recording to be disclosed. **(Cleared House of Origin)**

[AB 1250 \(Jones-Sawyer\) Counties: contracts for personal services](#)

Would establish specific standards for the use of personal services contracts by counties. The bill would allow a county or county agency to contract for personal services currently or customarily performed by employees, as applicable, when specified conditions are met. The bill would exempt certain types of contracts from its provisions, and would exempt a city and county from its provisions. By placing new duties on local government agencies, the bill would impose a state-mandated local program. The bill also would provide that its provisions are severable. **(Cleared House of Origin)**

[AB 1335 \(Kalra\) Long-term health facilities](#)

Current law provides for the licensure and regulation of long-term health facilities by the State Department of Public Health and establishes an inspection and reporting system to ensure that long-term health care facilities are in compliance with state statutes and regulations pertaining to patient care and a system for the imposition of prompt and effective civil sanctions against long-term health care facilities in violation of the laws and regulations of this state. This bill would redefine a class "AA" violation as a class "A" violation that the department determines to have been a substantial factor, as described, in the death of a patient or resident of a long-term health care facility. **(Cleared House of Origin)**

[AB 1539 \(Chen\) Mental health](#)

Current law provides that an individual can be conserved as LPS patients if the court finds beyond a reasonable doubt that the individual is gravely disabled. This bill would expand the definition of "gravely disabled" for LPS conservatorships to include a condition in which a person is unable to provide for his or her own "medical care."

[SB 8 \(Beall\) Diversion: mental disorders](#)

Would authorize a court, with the consent of the defendant and a waiver of the defendant's speedy trial right, to postpone prosecution of a misdemeanor or a felony punishable in a county jail, and place the defendant in a pretrial diversion program for up to two years if the court is satisfied the defendant suffers from a mental disorder, that the defendant's mental disorder played a significant role in the commission of the charged offense, and that the defendant would benefit from mental health treatment. **(Cleared House of Origin)**

[SB 22 \(Hill\) Firearms: law enforcement agencies: agency firearm accounting](#)

Would require a law enforcement agency to adopt a written procedure to account for firearms that are owned, acquired, maintained, sold, loaned, lost, stolen, or in any way possessed by that agency or by an employee of that agency if used or carried for purposes of carrying out the official duties of his or her employment. Firearms that are lost, stolen, or otherwise disposed of would be entered into the DOJ's Automated Firearms System.

[SB 76 \(Nielsen\) Excluded employees: arbitration](#)

This bill would give excluded employees, represented by an employee organization, the option to request binding arbitration for resolving disputes with a state employer, but only after exhausting normal grievance procedures. Additionally, this bill requires the cost of arbitration for both parties, including costs associated with a certified shorthand reporter, to be paid by the non-prevailing party, although it is the employee organization - not the individual employee - who pays when the state prevails. **(Cleared House of Origin)**

[SB 350 \(Galgiani\) Incarcerated persons: health records.](#)

This bill would require DSH, CDCR, and county agencies caring for inmate/patients to disclose medical, dental, and mental health information regarding any transferred or released inmate/patient to ensure continuity of care for the individual.