

SEC. 13. Division 25 (commencing with Section 38000) of the Health and Safety Code is repealed.

SEC. 14. Division 25 (commencing with Section 38000) is added to the Health and Safety Code, to read:

DIVISION 25. SERVICES FOR THE MENTALLY RETARDED

CHAPTER 1. GENERAL PROVISIONS

38000. This division shall be known and may be cited as the Lanterman Mental Retardation Services Act of 1969.

38001. The State of California accepts a responsibility for its mentally retarded citizens and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors, and whole communities, mental retardation presents social, medical, economic, and legal problems of extreme importance.

The complexities of mental retardation require the services of many state departments as well as the community. Frequently there are gaps beyond the present duties and powers of departments in the development of state and community services.

Services should be planned and provided as a part of a continuum. A pattern of facilities and eligibility should be established which is so complete as to meet the needs of each retarded person, regardless of age or degree of handicap, and at each stage of his life's development.

38002. After July 1, 1971, mental retardation alone shall no longer constitute sufficient justification for judicial commitment. Instead mentally retarded persons shall receive services pursuant to this division. Mentally retarded persons who constitute a danger to themselves or others may be judicially committed if evidence of such danger is proven in court.

Unless otherwise indicated, the provisions of this division shall not be construed to apply retroactively to terminate court commitments of mentally retarded persons.

38003. As used in this division:

(a) "Regional center" means a regional diagnostic, counseling and service center for mentally retarded persons and their families.

(b) "Director" means the Director of Public Health.

(c) "Department" means the Department of Public Health.

(d) "Secretary" means the Secretary of the Human Relations Agency.

(e) "State board" means the State Mental Retardation Program Advisory Board.

(f) "Area board" means an areawide mental retardation program board.

(g) "Area plan" means an areawide mental retardation plan.

38004. Notwithstanding any other provision of law, mentally retarded persons shall not be released from state hospitals on leaves of absence after July 1, 1971, except for short home visits, but shall be referred to a regional center for services pursuant to this division.

CHAPTER 2 AREA BOARDS

38050. By January 1, 1970, the secretary shall divide the state into areas for the purpose of planning and coordinating services for the mentally retarded. To the extent feasible, the areas shall correspond to comprehensive health planning regions.

38051. By July 1, 1970, an areawide mental retardation program board shall be appointed in each area to act as a planning and coordinating body for mental retardation services.

38052. Area boards shall be comprised, as follows:

(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 members appointed by the governing bodies of the counties, each county appointing an equal number of members, and five members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two members appointed by the governing body of each county, and five members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one member appointed by the governing body of each county, and five members appointed by the Governor.

38053. Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years.

38054. The governing bodies of the counties in each area and the Governor shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(a) Parents of the mentally retarded—25 percent.

(b) Professional disciplines serving the mentally retarded—50 percent.

(c) The general public and county supervisors—25 percent.

38054.1. The Governor shall give consideration to the relative populations of the counties within the area in selecting his appointees to the area boards.

38054.2. The governing bodies of the counties in each area and the Governor shall request recommendations for persons to be appointed to the area boards from:

(a) Organizations representing parents of the retarded;

(b) Professional organizations representing the various professional disciplines to be included on the board; and

(c) Such mental retardation coordinating councils as may exist.

38055. All members of the area board shall be residents of the area.

38056. No member of an area board may be an employee of a regional center, the State Department of Public Health, the State Department of Mental Hygiene, or the State Department of Social Welfare.

38057. An area board shall have the following duties:

(a) It shall be the mental retardation planning body for the area, and shall develop and submit the area plan.

(b) It shall have the responsibility for coordinating and encouraging the development of services.

38058. Each area board shall adopt an areawide mental retardation plan.

The purpose of an area plan shall be to ensure the provision of services as specified in this division in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures. To achieve this purpose, an area plan shall provide for the most appropriate and economical use of all existing public and private mental retardation agencies and professional personnel. An area plan must include the fullest possible participation by Short-Doyle agencies, state hospitals and clinics, public and private hospitals, county and state health and welfare agencies, and all such other public and private agencies and professional personnel as are required to, or may agree to, participate in the area plan.

38059. An area plan shall provide for the orderly and economic development of mental retardation services in the area.

Each area board shall submit its area plan at such time and in such form as required by the secretary. The area plan shall designate the region or regions within the area for the purpose of the regional center or centers, and the agency or agencies which will provide regional center services. The area plan shall also indicate the services required by the mentally retarded in the area, the number of persons needing such services, the available service resources, and the anticipated costs and revenues. The area plan may include individual county plans which have been submitted to the area board.

38060. Area plans shall be submitted to the Areawide Comprehensive Health Planning Agency for review, and to the secretary for approval and transmission to the Health Planning Council.

38061. The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division.

Each area board shall meet at least quarterly, and on call of the board chairman, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

38062. Each area board shall, by majority vote of the voting members, elect its own chairman from among the appointed members, and shall establish such committees as it deems necessary or desirable. The board chairman shall appoint all members of committees of the area board.

An area board may appoint such advisory committees composed of professional persons serving the mentally retarded as necessary for technical assistance.

38063. Each area board may appoint an executive secretary who may appoint persons to such staff positions as the area board may authorize within available funds. The affirmative votes of a majority of the members of the area board shall be necessary for the appointment or removal of an executive secretary.

CHAPTER 3. REGIONAL CENTERS FOR THE MENTALLY RETARDED

38100. In order to provide fixed points of referral in the community for the mentally retarded and their families; establish ongoing points of contact with the mentally retarded and their families so that they may have a place of entry for services and return as the need may appear; provide a link between the mentally retarded and services in the community, including state-operated services, to the end that the mentally retarded and their families may have access to the facilities best suited to them throughout the life of the retarded person; offer alternatives to state hospital placement; and encourage the placement of persons from the state hospital, it is the intent of this division that a network of regional diagnostic, counseling, and service centers for mentally retarded persons and their families, easily accessible to every family, be established throughout the state.

The Legislature finds that the services required of a regional center are of such a special and unique nature that they cannot be satisfactorily provided by state agencies. Therefore, private nonprofit community and local public agencies shall be utilized for the purpose of operating regional centers to the end that the unique relationship which these agencies enjoy with both the mentally retarded and their families and the providers of services in the community may enable the mentally retarded to receive service in the most direct, efficient and effective manner possible.

38101. The State Department of Public Health, within the limitations of funds appropriated, shall contract with appropriate agencies, either public or private nonprofit corporations, for the establishment of regional centers.

38102. Regional centers shall be near centers of population where most needed and wherever possible connected to or in close proximity to institutions of higher learning and research.

38103. A regional center shall investigate every appropriate and economically feasible alternative for care of a mentally

retarded person available within the region. If suitable care cannot be found within the region, care may be obtained in facilities outside of the region.

After July 1, 1971, except for those mentally retarded persons placed in state hospitals pursuant to the Lanterman-Petris-Short Act, no mentally retarded person shall be admitted to a state hospital except upon the referral of a regional center. Upon discharge from a state hospital, a mentally retarded person shall be referred to an appropriate regional center. The department may contract with appropriate agencies for regional center services in those regions where a regional center is not yet fully operative.

38104. Any person suspected of mental retardation shall be eligible for initial intake and for diagnostic and counseling services in the regional centers.

38105. A regional center may purchase required out-of-home prehospital and posthospital care for mentally retarded persons. In locating appropriate placement alternatives for mentally retarded children, regional centers shall encourage maximum participation by parents in the decisionmaking process.

Regional centers may contract or enter into agreements with appropriate agencies for the provision of out-of-home placement services and case management.

38106. The regional centers shall provide and perform or cause to be performed services including, but not limited to, the following:

(a) Diagnosis.

(b) Counseling on a continuing basis. Counseling shall include advice and guidance to any mentally retarded person and his family, to assist them in locating and using suitable facilities, including, but not limited to: special medical services; nursery and preschool training; public education; recreation; vocational rehabilitation; suitable residential facilities; and state hospital facilities.

(c) Provide state funds to vendors of service to the retarded.

(d) Maintain a registry and individual case records.

(e) Systematic followup of the mentally retarded and reactivation of cases as indicated.

(f) Call public attention to unmet needs in community care and services, defining and interpreting standards of community care and services as used by the regional center, and stimulating the community to develop such services as needed.

(g) Maintain a staff according to standards set by the secretary.

(h) Report as required to the area board and the secretary on services provided and unmet needs in the region.

(i) Develop a plan for mental retardation services in the region to be submitted to the area board at such time and in such form as required by the area board or the secretary.

38107. A regional center may make use of the services of volunteers.

CHAPTER 4. GUARDIANSHIP AND CONSERVATORSHIP

38150. Notwithstanding any other provision of law, the Department of Mental Hygiene shall not be appointed as guardian of any mentally retarded person after July 1, 1971. This chapter shall not be construed to terminate any appointment of the Department of Mental Hygiene as guardian of a mentally retarded person prior to July 1, 1971.

It is the intent of this section that the Director of Public Health be appointed as guardian or conservator of a mentally retarded person as provided, pursuant to the provisions of Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of this code, in any case in which the Director of Mental Hygiene would otherwise have been so appointed.

Notwithstanding Section 6000 of the Welfare and Institutions Code, the admission of an adult mentally retarded person to a state hospital or private institution shall be upon the application of the person's parent or guardian.

CHAPTER 5. STATE MENTAL RETARDATION PROGRAM ADVISORY BOARD

38200. There is in the Human Relations Agency the State Mental Retardation Program Advisory Board.

The state board shall consist of 11 appointed voting members. Two members shall represent the general public; one member shall be the parent of a mentally retarded child who is not a patient in a state hospital; one member shall be the parent of a mentally retarded child who is a patient in a state hospital; one member shall be a county supervisor and the remaining six members shall each represent one of the following professions: medicine, psychology, social work, nursing, education, and law.

The Governor shall appoint the following seven members of the board: a county supervisor, and the six members representing the professions of medicine, psychology, social work, nursing, education, and law. The Chairman of the Senate Rules Committee shall appoint the following two members of the board: a representative of the general public, and the parent of a mentally retarded child who is a patient in a state hospital. The Speaker of the Assembly shall appoint the following two members of the board: a representative of the general public, and the parent of a mentally retarded child who is not a patient in a state hospital.

Of the members first appointed by the Governor, one shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. The members appointed by the Chairman of the Senate Rules Committee and

by the Speaker of the Assembly each shall hold office for three years. Thereafter, each member shall hold office for three years.

38201. The members of the state board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division

The state board shall meet at least quarterly, and on call of the board chairman as often as necessary to fulfill its duties. All meetings and records of the board shall be open to the public.

The state board shall, by majority vote of the voting members, elect its own chairman from among the 11 appointed members, and shall establish such committees as it deems necessary or desirable. The board chairman shall appoint all members of committees of the state board. The chairman may appoint such advisory committees composed of professional persons serving the mentally retarded as necessary for technical assistance.

38202. The state board shall advise the Health Planning Council, the secretary, the Governor and the Legislature on the initiation, coordination, and implementation of programs and projects for the mentally retarded, including, but not limited to, the following:

(a) Present and proposed programs of service for the mentally retarded of state, local governmental, and voluntary agencies.

(b) The development by the secretary of a state plan for mental retardation services and the system of priorities contained in a program budget to be developed by the secretary.

(c) The development by the Health Planning Council of the mental retardation portion of the state plan for all health services.

(d) Standards for services in various facilities that are now being operated or which will hereafter be created.

(e) Standards and rates of state payment for any services purchased for mentally retarded persons through the regional centers.

(f) The development of uniform recordkeeping in all services for the mentally retarded

(g) The coordination of services and research activities in the field of mental retardation, including the evaluation of services and programs, studies of the prevalence of mental retardation, and the development of experimental programs.

(h) The stimulation of planning for professional training in the state universities and colleges

38203. The state board shall prepare and render annually a written report of its activities and its recommendations to the Health Planning Council, the Secretary of the Human Relations Agency, the Governor and the Legislature.

38204. To the extent feasible, the departments of state government shall cooperate with and furnish such information, records, and documents, as the state board may request, except for confidential patient records

38205. The state board may appoint an executive secretary who may appoint persons to such staff positions as the board may authorize within available funds. The affirmative votes of a majority of the members of the board shall be necessary for the appointment or removal of the executive secretary.

CHAPTER 6. FINANCIAL PROVISIONS

38250. It is the intent of this division that by July 1, 1971, state funds previously allocated to other agencies for the provision of out-of-home prehospital, hospital and posthospital care be allocated, to the fullest extent feasible, to regional centers to contract with appropriate agencies for the provision of out-of-home placements.

In the event either the Governor or the Legislature should obtain federal approval to transfer programs for the mentally retarded from other state departments to the Department of Public Health under the provisions of Public Law 90-577 (Intergovernmental Cooperation Act of 1968), the State Controller shall, upon approval of the Director of Finance, transfer to the Department of Public Health such parts of the appropriation of the other departments that are related to mental retardation programs: provided further, that such transfer shall enable the state to make maximum utilization of available state and federal funds

It is the intent of this division that the regional center program be funded by the state on a regional basis using the maximum of federal funds available, and that all funds be transmitted through the department to each regional center.

38251. When appropriated by the Legislature, the secretary may receive and expend all funds made available by the federal government, the state, its political subdivisions, and other sources, and, within the limitation of the funds made available, shall act as an agent for the transmittal of such funds for services through the regional centers. The secretary may use any funds received under Article 2 (commencing with Section 249) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code for the purposes of this division.

38252. The secretary may accept and expend grants, gifts, and legacies of money and, with the consent of the Department of Finance, may accept, manage and expend grants, gifts and legacies of other property, in furtherance of the purposes of this division.

The secretary may enter into agreements with any person, agency, corporation, foundation, or other legal entity to carry out the purposes of this division

38253. The secretary, in the same manner and subject to the same conditions as other state agencies, shall submit a

program budget annually to the Department of Finance, including not only expenditures proposed to be made under this division, but also expenditures proposed to be made under any related program or by any other state agency, designed to provide services incidental to the functions to which this division relates. The secretary may require state departments to contract with it for services to carry out the provisions of this division.

Notwithstanding any other provision of law, authorized services to eligible persons, as defined in this division, provided by all state agencies, including, but not limited to, the Departments of Education, Mental Hygiene, Public Health, Rehabilitation and Social Welfare shall, to the fullest extent permitted by federal law, by contract or otherwise, be made available upon request of the director, and the approval of the secretary, to the department for services to eligible persons.

The secretary shall consult with the departments involved in developing the statewide plan and program budget, and shall seek the advice of the state board.

38254. The secretary shall adopt rules and regulations to carry out the provisions of this division and to prescribe standards of service which shall be satisfied and maintained as a condition to the payment of state funds by a regional center.

The secretary shall provide regional centers with current lists of approved facilities and services. Regional centers may not expend state funds for services which are not approved by the secretary, notwithstanding any other certification, licensing, or approval of the facility or service.

The secretary shall not adopt standards which are in conflict with those governing services under the jurisdiction of the State Superintendent of Public Instruction.

38255. The secretary shall establish rates of state payment for services purchased by regional centers for mentally retarded persons. An equitable system of rates shall be developed prior to July 1, 1971.

38256. The secretary shall coordinate all mental retardation services and related programs, conducted by state agencies, with the federal government and ensure that there is no duplication of such programs among state agencies and that all agreements, contracts, plans or programs conform to the provisions of this division. Any plan proposed to be submitted by any such agency to the federal government in relation to a mental retardation or related program shall first be submitted to the secretary for his review. The secretary may require state departments to contract with it for services to carry out the provisions of this division.

38257. After July 1, 1971, parents of children under the age of 18 who are receiving services purchased by the regional center may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the

cost of caring for a normal child at home, as determined by the secretary. Parental contributions shall be made only to the regional center and the method of determination of the amount of the contribution shall be the same, whether the child is placed in the state hospital or in a public or private community facility. In no event, however, shall parents be charged for diagnosis or counseling services received through the regional centers. Nothing in this section shall be construed to prevent parental contributions to regional centers prior to July 1, 1971.

38258. The secretary shall propose a schedule for parental fees for services received through the regional centers to be submitted to the Legislature no later than the fifth legislative day of the 1970 Regular Session of the Legislature.

In establishing the amount parents will contribute, the secretary shall take into account such factors as:

- (a) Medical expenses incurred prior to regional center care;
- (b) Whether the child is living at home;
- (c) Parental contributions for medical expenses, clothing, incidentals, and other items considered necessary to the normal rearing of a child; and
- (d) Transportation expenses incurred in visiting a child placed in a facility outside the region.

All parental contributions shall be utilized for the provision of additional direct services to the retarded.

38259. Counties shall pay to the regional centers, for each person receiving purchased out-of-home care through a regional center in a state hospital, such amount as established by the director, but not to exceed twenty dollars (\$20) per month. Such amount shall be reduced by the amount paid to the regional center by the parent.

38260. State funds appropriated for the purposes of this division shall not be used to supplant city or county matching funds required under the Budget Act of 1969.

For purposes of this section, city or county matching funds required under the Budget Act of 1969 for services specified in Section 38106 which are provided under the Short-Doyle Act shall be deemed to be the amount of matching funds specified for such services in the city or county Short-Doyle plan as approved by the Director of Mental Hygiene for the 1969-70 fiscal year.

For the purposes of this section, the Secretary, with the approval of the Department of Finance, shall determine the amount of city or county matching funds with respect to each city or county.

38261. Any services specified in Section 38106 which are provided by cities or counties in accordance with the area plan approved by the secretary and not, as determined by the secretary with the approval of the Department of Finance, provided for in the Budget Act of 1969, including, but not limited

to, services under the Short-Doyle Act, shall be eligible for funding on the same basis as services provided for in this division.

CHAPTER 7. EVALUATION

38300. The secretary shall by January 1, 1973, make provision for an evaluation of all aspects of the program provided for by this division, including, but not limited to: the number, age and type of clients served; the kind of services provided; the effectiveness of the service; the equity of the fees charged to parents; the effectiveness and quality of state and area planning; and the range and availability of services.

SEC. 15. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. As used in this code, "mentally retarded persons" means those persons who are so mentally retarded from infancy or before reaching maturity that they are incapable of managing themselves and their affairs independently, with ordinary prudence, or of being taught to do so, and who require supervision, control, and care, because they are a danger to themselves or others.

Wherever in this code or in any provision of statute heretofore or hereafter enacted the terms "feble-minded" and "feble-mindedness" are used, they shall be construed to refer to and mean "mentally retarded" and "mental retardation," respectively, as defined in this section. All persons heretofore committed or admitted as feble-minded to any state hospital for the mentally retarded, or committed to the Department of Mental Hygiene for placement therein, shall be deemed to have been committed or admitted thereto as mentally retarded persons.

SEC. 16. Section 7511 of the Welfare and Institutions Code is amended to read:

7511. The portion of the cost of such care payable by the county for mentally retarded persons placed in state hospitals prior to July 1, 1971, shall be determined by the Department of Mental Hygiene from time to time, subject to the approval of the Department of Finance, but in no case shall it exceed the rate of twenty dollars (\$20) per month.

SEC. 17. Section 15 of this act shall become operative on July 1, 1971.

CHAPTER 1595

An act to amend Section 9942 of the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 4, 1969. Filed with Secretary of State September 6, 1969.]