

Assembly Committee
on
Aging & Long-Term Care Committee
Mariko Yamada, Chair

2011-2012 Legislative Summary

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2011-2012 Legislative Summary

Assembly Committee on Aging & Long-Term Care October, 2012

The following is a summary of legislation referred to, and heard by the Assembly Committee on Aging and Long-Term Care during the 2011-2012 legislative sessions.

AB 40 (Yamada)

AB 40 calls for immediate, direct reporting of elder or dependent physical abuse to law enforcement, with follow-up written reports to law enforcement, Ombudsman and licensing agencies. AB 40 changes mandated reporting timeframes from two working days to 2 hours. AB 40 provides special reporting variations in the event residents with dementia interact with each other aggressively, and no serious bodily injury occurs, providing a 24 hour reporting time frame as opposed to the two working day timeline in current law. AB 40 further streamlines reporting procedures by eliminating redundancies. Direct reporting to law enforcement and the corresponding written reports to Ombudsman overcomes competing and conflicting mandates between federal and state law related to acquiring written consent before reporting criminal-level abuse to law enforcement agencies. Finally, AB 40 provides guidance to law enforcement and Ombudsman to collaborate on the most appropriate and immediate response.

Last Action: Chaptered by Secretary of State - Chapter 659, Statutes of 2012.

AB 138 (Beall)

AB 138 establishes the Elder Economic Security Act of 2011 and requires the Department of Aging to utilize the Elder Economic Security Standard Index (Index) for each service area in its state plan and use it as a reference when making decisions about allocating its existing resources. Each area agency on aging would be required to use the Index as a reference when making decisions about allocating existing resources to specify the costs in the private market of meeting the basic needs of elders in each planning and service area.

Last Action: Chaptered by Secretary of State - Chapter 668, Statutes of 2011.

AB 332 (Butler)

AB 332 protects seniors and dependent adults by increasing fines for misdemeanor theft, embezzlement, forgery, fraud, identity theft, and other identity crimes against an elder or dependent adult. AB 332 enhances fines so that the punishment adequately deters and /or prevents such crimes. AB 332 does so by increasing the fines in two ways. For crimes where the losses do not exceed \$950, the maximum fine

is increased from \$1,000 to \$2,500 (other fees and assessments typically increase fine totals to 370% of the original fine, plus a \$103 flat fee). Additionally, AB 332 creates a fine not to exceed \$10,000 (\$37,103 with penalties and assessments) when the value of the loss exceeds \$950.

Last Action: Chaptered by Secretary of State - Chapter 366, Statutes of 2011.

AB 367 (Smyth)

AB 367 allows mandated and non-mandated reporters of elder and dependent adult abuse to report suspected elder and dependent adult abuse occurring within a community to any Adult Protective Services (APS) agency or law enforcement agency, regardless of whether the agency lacks geographical or subject matter jurisdiction or obligation to receive the report.

Last Action: Amended into different subject matter (Board of Behavioral Science: reporting)

AB 518 (Wagner)

AB 518 removes the repeal date of section 15630.1 of the Welfare and Institutions Code. By doing so, AB 518 would extend the requirement that officers and employees of financial institutions act as mandated reporters of known or suspected financial elder abuse indefinitely, a mandate which currently sunsets on January 1, 2013. By making section 15630.1 of the Welfare and Institutions Code permanent, it will continue the protection of elders and dependent adults from financial abuse.

Last Action: Held in Senate Banking and Financial Institutions Committee.

AB 533 (Yamada)

In the absence of enactment of the annual Budget Act by July 1 of each year, Older American Act funds that support programs and services administered through the California Department of Aging (CDA), and Federal Rehabilitation Act funds that support programs and services administered through the Department of Rehabilitation, are held in state administered trust accounts. AB 533 (Yamada) creates a continuous appropriation of federal funds that have already been appropriated to the State of California from the United States Treasury, and have been deposited in the state's Federal Trust Fund for the single purpose of supporting independent living centers (ILC's) and area agencies on aging (AAA's).

Last Action: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

AB 574 (Lowenthal)

AB 574 allows for the long-term implementation of the PACE model in California by increasing the limit of potential providers from ten to 15. The Program of All-Inclusive Care for the Elderly (PACE) model was created by the On Lok Senior Health Services program in San Francisco in 1973.

PACE is an integrated model of care that provides comprehensive medical and long-term care services, fully coordinated by the program's interdisciplinary teams. With the broad range and intense coordination of services, more than 90 percent of PACE participants are able to remain at home and in their communities. PACE is funded through capitation payments from Medicare, Medicaid and private individuals depending on the individual's eligibility for public programs.

Besides expanding availability of PACE, AB 574 modernizes state laws relative to the PACE programs and deletes out-dated references to its prior status as a federal demonstration program.

Last Action: Chaptered by Secretary of State - Chapter 367, Statutes of 2011.

AB 594 (Yamada)

AB 594 would reform and streamline the administration of long-term care services by placing important components of the state's home and community based long-term services and supports under the jurisdiction of a single agency.

AB 594 calls upon the leadership within the California Health and Humans Services Agency to submit a plan to begin transitioning various community-based services that are presently administered by several different departments, into the California Department of Adult and Aging Services. In order to develop this plan, and in order to assist with the transition, AB 594 calls for a stakeholder group made up of various representatives. Though the existing language provides for flexibility in size and make-up, the bill mandates that the following interests are included: independent living centers, area agencies on aging, adult day health care, adult protective services, in-home supportive services, caregiver resource centers, consumer of home- and community-based services. Ultimately, AB 594 would establish a new, single entity, to over-see the spectrum of programs, projects and services established to support an individual living with disabilities' desire to remain in their home, communities, or least restrictive home-like environment.

Last Action: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

AB 1293 (Blumenfield)

AB 1293 creates a mechanism which allows suspect assets to be frozen after a perpetrator has been charged with an instance of theft or embezzlement. The measure would curtail the practice of liquidating ill-gotten gains to finance a financial abuser's defense when a charge of financial or fiduciary abuse is filed.

Last Action: Chaptered by Secretary of State - Chapter 371, Statutes of 2011.

AB 1415 (Blumenfield)

AB 1415 would provide that it is the intent of the Legislature to provide for an orderly conversion of ADHC from a Medi-Cal benefit to a program operating under a specified waiver. This bill would require the department to establish the Keeping Adults Free from Institutions (KAFI) program for the purposes of transitioning individuals from the ADHC program to a program under a waiver or to any other supportive services, if appropriate. The bill would require the department to take all appropriate action

to obtain expedited approval from the federal Centers for Medicare and Medicaid Services to convert the ADHC program to a federal waiver.

Last Action: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

AB 1525 (Allen)

AB 1525 would increase safeguards and protections for elders who use wire transfer services for sending money. The measure provides that wire transfer licensees provide its agents (point-of-sale personnel) with training materials on recognizing elder or dependent adult financial abuse, and how to appropriately respond if the agent suspects that he or she is being asked to engage in money transmission for a fraudulent transaction involving an elder or dependent adult.

Last Action: Chaptered by Secretary of State - Chapter 632, Statutes of 2012.

AB 1698 (Portantino)

AB 1698 would allow "Life Care Contracts" which are currently available only to residents of continuing care retirement communities (CCRC), to be sold to people who live outside continuing care retirement communities.

Last Action: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

AB 2066 (Monning)

AB 2066 provides additional health and safety protections to individuals who live in residential care facilities for the elderly (RCFE) in the event that the Department of Social Services (DSS) determines it necessary to revoke an RCFE's license.

This measure will strengthen the protections provided to RCFE residents by providing a 60 day notification to the residents about a facility closure and mitigates the potential for resident transfer trauma by allowing a qualified third party entity to manage the day to day facility operations during this 60-day period.

Last Action: Chaptered by Secretary of State - Chapter 643, Statutes of 2012.

AB 2149 (Butler)

AB 2149 creates a statewide policy against non-contact or non-cooperation provisions ("gag" clauses) in settlement agreements in any cases alleging a violation of the Elder Abuse and Dependent Adult Civil Protection Act.

Last Action: Chaptered by Secretary of State - Chapter 644, Statutes of 2012.

SB 33 (Simitian)

SB 33 repeals the sunset date associated with various Welfare and Institutions Code sections (WIC), known as the "Elder and Dependent Adult Financial Abuse Act," thus making the act permanent.

Last Action: Chaptered by Secretary of State - Chapter 372, Statutes of 2011.

SB 345 (Wolk)

SB 345 would align federal and state law by making sure the State Long-Term Care Ombudsman (SLTCO) is allowed to advocate independently. The measure also requires the SLTCO to develop an annual report, as described in the federal Older American's Act. In addition this bill ensures the SLTCO, and not the Department of Aging, maintains an internet website with information for consumers on long-term care issues.

Last Action: Chaptered by Secretary of State - Chapter 649, Statutes of 2012.

SB 718 (Vargas)

SB 718 allows counties or the Ombudsman, to voluntarily adopt a secure and confidential electronic elder and dependent adult abuse reporting system which would manage the transfer of information otherwise contained in telephonic initial phone abuse reports, or subsequent written abuse reports. The bill also calls for reports to legislative committees on changes in the numbers of reports, numbers of dropped calls, and other criteria which would demonstrate success, or a lack thereof, of an electronic abuse reporting mechanism.

Last Action: Chaptered by Secretary of State - Chapter 373, Statutes of 2011.

2011-2012 INFORMATIONAL HEARINGS

February 22, 2011

Financial Scams to Surveillance Cams: Spotlight on Elder and Adult Abuse

The Assembly Committee on Aging and Long-Term Care and the Assembly Committee on Public Safety met jointly to receive testimony, collect information, and to oversee programs related to abuse and exploitation of older and dependent adults. Outcomes of the hearing will include a report and may include legislative initiatives, budget related proposals, or additional informational forums.

May 17, 2011

What is California's Plan for Home- and Community-Based Services? What are our choices?

This hearing looked at the unprecedented crisis California is facing in financing, managing, and administering state government obligations to residents in need of long-term supports and services. Chronic structural budget deficits, a lack of coordination, multiple funding streams, imprecise and varying eligibility standards, poor data all conspire to further complicate the state's ability to meet its commitment to support individuals of all ages with disabilities in a cost effective manner.

California has been repeatedly identified as a state with a fragmented and inefficient method of delivering services to Californians with disabilities of all ages. The state's geographic diversity, the size, the cultural and ethnic diversity, fiscal challenges of recent years, and governmental structure have all been identified as contributing to California's broken system of home and community based care.

August 16, 2011

Costs and Consequences: Elimination of the Adult Day Health Care Medi-Cal Optional Benefit

The purpose of this hearing was to provide oversight to the elimination of the Adult Day Health Care (ADHC) Medi-Cal optional benefit and the transition of 35,000 frail ADHC clients into alternative services.

December 9, 2011

Fiscal Forecast for Older Women: POOR

The Assembly Committee on Human Services and the Assembly Committee on Aging and Long-Term Care held a joint hearing to examine the fiscal realities older women face in California today.

March 7, 2012

Long-Term Care Integration and Medi-Cal Managed Care: The Future for Beneficiaries, the Work Force and our Health Care System

The Assembly Committee on Aging and Long-term Care and the Assembly Committee on Budget convened to review implications of the Governor's Coordinated Care Initiative, a proposal to transition "fee-for-service" Medi-Cal beneficiaries into Medi-Cal managed care delivery systems, statewide.

March 13, 2012

Who Cares? Planning, Protecting and Paying for the Future of Caregiving in California

The Assembly Committees on Aging and Long-Term Care and the Assembly Human Services Committee convened this hearing to review the current state of caregiving in California. Recent budget changes have placed additional challenges on caregivers in the state. This hearing was intended to explore caregiving and how we value caregivers in our communities. In an environment of restricted resources, services, and supports that caregivers may rely upon, understanding the limitations of California's caregiving community is important.

September 24, 2012

The Community Based Adult Services Transition: Impacts to Participants, Families, and Communities

This hearing of the Assembly Committee on Aging and Long-Term Care intended to provide oversight while responding to a growing number of constituent concerns regarding the ongoing transition of ADHC to CBAS.

Hearing Materials are Available at
<http://altc.assembly.ca.gov/20102011hearings>

Additional Aging and Long-Term Care Bills of Note

AB 217 (Carter) Smoking Prohibitions

AB 217 bans all indoor smoking within long-term health care facilities. The measure also restricts outdoor smoking at long-term care facilities by assuring that designated smoking areas are situated such that smoke is reasonably prevented from entering the facility, and adequate supervision by facility staff may still be performed.

Last Action: Vetoed by the Governor, September 27, 2012.

AB 889 (Ammiano) Domestic Workers' Rights

AB 889 requires the Department of Industrial Relations to adopt regulations governing the working conditions of domestic work employees. Such regulations are to address such as overtime pay, rest time, meals and uninterrupted sleep.

Last Action: Vetoed by the Governor, September 30, 2012.

AB 899 (Yamada) Home Care

AB 899 establishes a framework for the State of California to oversee and regulate home care providers.

Last Action: Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

AB 1142 (Chesbro) Residential Care Facilities for the Elderly Fees

AB 1142 would prohibit a residential care facility for the elderly from assessing personal care fees upon the notice of a death of a resident. The measure would prohibit the facility from assessing fees for the residential living unit of a deceased resident once it is vacated and all personal property of the deceased is removed.

Last Action: Held in Senate Human Services Committee. Filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec. 10(c) of the Constitution.

AB 1710 (Yamada) Nursing Home Administrator Program

AB 1710 subjects the Nursing Home Administrator Program (NHAP), to the same administrative and accounting procedures as Certified Nurse Assistant, Home Health Aid and health facility licensees. The measure ends the practice of charging the costs of some Nursing Home Administrator Program (NHAP) functions to other programs, federal funds, or the General Fund, and makes the NHAP self-sustaining.

Last Action: Chaptered by Secretary of State – Chapter 672, Statutes of 2012.

AB 1714 (Halderman) In-home Supportive Services Provider Eligibility

Adds forgery, embezzlement, extortion, and identity theft to the list of felony offenses for which a conviction precludes a new applicant from being an In-Home Supportive Services (IHSS) provider for a period of 10 years.

Last Action: Held in Senate Human Services Committee.

AB 1752 (Yamada) Nursing Home Bed Holds

AB 1752, The Nursing Home Bed-Hold Act of 2012, would prevent nursing homes from unlawful 'dumping' of lower-rate Medi-Cal, or high-needs and 'problem' residents at hospitals, and replacing them with higher-rate private pay or Medicare residents or Medi-Cal residents that require less complex care. The measure does so by making resident readmission rights as strict and enforceable as resident eviction rights.

Last Action: Held in Assembly Health Committee.

AB 1793 (Yamada) Emergency Preparedness and Planning

AB 1793 would add long-term health care facilities to the list of local health entities that prepare and respond to bioterrorist attacks and other public health emergencies, using federal funds allocated by the State Department of Public Health (DPH).

This bill would also delete the statute inoperative date of September 1, 2012 to preserve public health and safety.

Last Action: Chaptered by Secretary of State - Chapter 166, Statutes of 2012.

AB 1841 (Silva) In-home Supportive Services Provider Eligibility

AB 1841 deletes the authority of an In-home Supportive Services (IHSS) recipient to submit a waiver enabling a provider applicant who has been convicted of a range of crimes to be employed as that individual's IHSS provider.

Last Action: Held in Assembly Human Services Committee.

AB 2297 (Hayashi) Nursing Home Inspections of Food Preparation Facilities

This bill excludes intermediate care facilities for the developmentally disabled (ICF/DDs) from regulation as food facilities under the California Retail Food Code (CRFC). Clarifies that the Office of Statewide Health Planning and Development (OSHPD) has primary jurisdiction over licensed skilled nursing facilities (SNFs) when enforcing structural modification requirements in the CRFC.

Last Action: Chaptered by Secretary of State – Chapter 725, Statutes of 2012.

AB 2538 (Pérez, J.) In-home Supportive Services Provider Clearance

This bill would allow In-Home Supportive Services (IHSS) public authorities to provide the State Department of Social Services (DSS) with copies of the criminal offender record information obtained during a background search pertaining to individuals applying for a general exception to the criminal exclusions applicable to IHSS provider applicants.

Last Action: Held in Senate Appropriations Committee.

AJR 30 (Pan) Medicare and Dental Benefits

AJR 30 Memorializes the President and Congress for considering the inclusion of dental services as a benefit under the Medicare Program.

Last Action: Chaptered by Secretary of State – Res. Chapter 138, Statutes of 2012.

SB 135 (Hernández) Hospice Facilities

Establishes a new health facility licensing category of "hospice facility," and permits a licensed and certified hospice service provider to provide inpatient hospice through the operation of a hospice facility. The new category of licensure would allow either a free-standing facility, or adjacent to, physically connected to, or on the building grounds of another health facility or a residential care facility.

Last Action: Chaptered by Secretary of State – Chapter 673, Statutes of 2012.

SB 411 (Price) Home Care

This measure provides for a framework within the Department of Social Services for the licensure, certification and oversight of home care providers.

Last Action: Vetoed by the Governor, September 30, 2012.

SB 1170 (Leno) Senior Insurance Marketing Practices

This bill would ban the practice of marketing insurance products to elders by misleading consumers into believing that they are endorsed by the government or by veteran's organizations. The measure further restricts insurance brokers from attempting to elders certain products that are not in their interest. The bill goes on to require an advance disclosure and warning that an insurance agent intends to visit an elder with the intent to sell insurance related products.

Last Action: Chaptered by Secretary of State – Chapter 653, Statutes of 2012.

SB 1228 (Alquist) Small Nursing Homes

This measure establishes the Small House Skilled Nursing Facilities (SHSNFs) Pilot Program within the Department of Public Health (DPH) for the purposes of providing skilled nursing care in homelike, noninstitutional settings. This bill requires that pilot facilities meet different licensing requirements and pay different fees.

Last Action: Chaptered by Secretary of State – Chapter 671, Statutes of 2012.

SCR 88 (Alquist) Arthritis Awareness Month

SCR 88 proclaims the month of May 2012 as Arthritis Awareness Month.

Last Action: Chaptered by Secretary of State – Res. Chapter 49, Statutes of 2012.