

Introduced by Senator Menjivar

February 19, 2025

An act to amend Section 4685.9 of, and to add Chapter 1.4 (commencing with Section 4506) to Division 4.5 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 471, as introduced, Menjivar. Office of the Lanterman Ombudsperson.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law requires the department to establish an Office of the Self-Determination Program Ombudsperson to be headed by an individual to be known as the Self-Determination Program Ombudsperson, who is appointed by the Director of Developmental Services. Existing law requires the office to be an independent and autonomous entity within the department and prescribes specified duties and rights of the office, including recommending to the department strategies for change and improvement of the program.

This bill would establish the Office of the Lanterman Ombudsperson as an autonomous entity within the department for the purpose of providing individuals with intellectual and developmental disabilities who are consumers of developmental services with a means to resolve issues related to their care, placement, or services. The bill would set forth the duties of the Office of the Lanterman Ombudsperson, including, among other things, disseminating information and providing training and technical assistance, and receiving and possibly investigating

complains made by or on behalf of consumers of developmental services. The bill would clarify that the Office of the Self-Determination Ombudsperson is a separate office, but would also require the Lanterman Ombudsperson to oversee the Office of the Self-Determination Ombudsperson.

Existing law provides that, except as otherwise provided by statute, all relevant evidence is admissible. The California Constitution provides for the Right to Truth-In-Evidence, which requires a 2/3 vote of the Legislature to exclude any relevant evidence from any criminal proceeding, as specified.

This bill would prohibit the ombudsperson or their staff from being compelled to testify or be deposed, or to disclose specified records, in a judicial or administrative proceeding. Because this prohibition would affect the admissibility of relevant evidence in criminal proceedings, the bill would require a 2/3 vote of the Legislature.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.4 (commencing with Section 4506) is
2 added to Division 4.5 of the Welfare and Institutions Code, to read:

3
4 CHAPTER 1.4. OFFICE OF THE LANTERMAN OMBUDSPERSON

5
6 4506. The Legislature finds and declares that the people of
7 California have benefited from the establishment of a long-term
8 care ombudsperson pursuant to Section 9710, a foster care
9 ombudsperson pursuant to Section 16161 and a Self-Determination
10 Program Ombudsperson pursuant to Section 4685.9. The
11 Legislature further finds it is essential to maintain the nonpartisan
12 nature, integrity, and impartiality of ombudsperson functions and
13 services. It is the intent of the Legislature to provide similar
14 protections for consumers of developmental services by

1 establishing an Office of the Lanterman Ombudsperson within the
2 State Department of Developmental Services.

3 4506.1. (a) The Office of the Lanterman Ombudsperson shall
4 be established as an autonomous entity within the department for
5 the purpose of providing individuals with intellectual and
6 developmental disabilities who are consumers of developmental
7 services with a means to resolve issues related to their care,
8 placement, or services.

9 (b) The Office of the Self-Determination Ombudsperson
10 established in Section 4685.9 shall be a separate office. The
11 Lanterman Ombudsperson shall oversee the Office of the
12 Self-Determination Ombudsperson.

13 (c) For purposes of this chapter, “consumers of developmental
14 services” includes all of the following:

15 (1) Individuals who receive services through a regional center
16 under this division, including individuals who are in the intake
17 process, are pending assessment, or have reached out to regional
18 centers for information about eligibility.

19 (2) Individuals who are participating in the early start program
20 under Title 14 (commencing with Section 95000) of the
21 Government Code, including individuals who are in the intake
22 process, pending assessment, or have reached out to regional
23 centers for information about eligibility.

24 (3) Individuals who are determined to be eligible for regional
25 center services under this division, but are not receiving services
26 from a regional center.

27 4506.2. (a) The Director of Developmental Services, in
28 consultation with, and after receiving a list of possible nominees
29 from, a committee of at least five interested individuals that are
30 described in this subdivision, and after obtaining the committee’s
31 input, shall appoint an ombudsperson who is qualified by training
32 and experience to perform the duties of the office for a term of
33 four years. The director may reappoint the ombudsperson for
34 consecutive terms. The director shall select the committee
35 members, the majority of whom shall be representatives of
36 advocacy organizations and consumers or family members.

37 (b) The ombudsperson shall, in the performance of their duties
38 during the duration of their appointment, be independent, and the
39 exercise of their discretion related to the duties and powers set
40 forth in this chapter shall not be controlled, supervised, or directed,

1 directly or indirectly, by the director or any other official. The
2 ombudsperson shall devote their entire time to the duties and
3 powers set forth in this chapter and may not be removed from
4 office for exercising their independence and discretion in
5 furtherance of those duties and powers.

6 (c) If the term of an ombudsperson expires without the
7 appointment of a successor under this chapter, the incumbent
8 ombudsperson may continue in office until a successor is
9 appointed. If the ombudsperson dies, resigns, becomes ineligible
10 to serve, or is removed or suspended from office, the director shall
11 designate an acting ombudsperson until the ombudsperson is
12 appointed. The director shall appoint a new ombudsperson pursuant
13 to this section within the nine months from the date the office
14 became vacant. The acting ombudsperson shall not remain in office
15 longer than nine months before a new ombudsperson is appointed
16 pursuant to this section.

17 4506.3. The department shall hire the necessary personnel to
18 perform the functions of the office. Priority in hiring decisions
19 shall be given to individuals with lived experience with the
20 developmental services system, including, but not limited to,
21 individuals with developmental disabilities.

22 4506.4. (a) The Office of the Lanterman Ombudsperson shall
23 do all of the following:

24 (1) (A) Disseminate information and provide training and
25 technical assistance to consumers of developmental services, family
26 members, regional center staff, tribes, advocacy groups, consumer
27 and service provider organizations, and other interested parties on
28 the rights of persons with developmental disabilities and services
29 provided by the office. The information shall include methods of
30 contacting the office and notification that conversations with the
31 office may be disclosed to other persons, as necessary, to
32 adequately investigate and resolve a complaint. The information
33 and training shall include information about the rights of persons
34 with developmental disabilities under this division, including the
35 rights specified in Chapter 1.3 (commencing with Section 4502)
36 and the Self-Determination Program under Section 4685.8.

37 (B) Commencing on January, 1, 2028, at the end of every
38 two-year legislative session, review amendments to the laws
39 applicable to consumers of developmental services and determine
40 whether updates to the rights should be recommended in the

1 compilation prepared pursuant to paragraph (7). The office shall
2 update the standardized information prepared pursuant to paragraph
3 (1) of subdivision (e), and any training materials prepared pursuant
4 to subparagraph (A), in accordance with the legislative review.

5 (2) Receive complaints made by or on behalf of consumers of
6 developmental services, related to their care, placement, or services.

7 (3) Decide, in its discretion, whether to investigate a complaint,
8 or refer complaints to another agency for investigation. After
9 rendering a decision to investigate a complaint, attempt to resolve
10 the complaint without using a judicial or administrative proceeding,
11 including attempting to facilitate solutions to disagreements about
12 eligibility and services.

13 (4) Upon rendering a decision to investigate a complaint from
14 a complainant, notify the complainant of the intention to
15 investigate. If the office declines to investigate a complaint or
16 continue an investigation, the office shall notify the complainant
17 of the reason for the action of the office.

18 (5) Update the complainant on the progress of the investigation
19 and the attempts to resolve the complaint, and notify the
20 complainant of the final outcome.

21 (6) Document the number, source, origin, location, and nature
22 of complaints.

23 (7) (A) Compile and make available to the Legislature all data
24 collected over the course of the year, including, but not limited to,
25 the number of contacts to the office, the number of complaints
26 made, including the type and source of those complaints, the
27 number of investigations performed by the office, the trends and
28 issues that arose in the course of investigating complaints, the
29 number of referrals made, the number of pending complaints. The
30 office shall include recommendations consistent with this data for
31 improving the developmental services system.

32 (B) Present this compiled data, on an annual basis, at appropriate
33 conferences, forums, and other events, as determined by the
34 department, that may include presentations to, but are not limited
35 to, representatives of the Legislature, the Association of Regional
36 Center Agencies, the State Council on Developmental Disabilities,
37 tribes, developmental services organizations, advocacy groups,
38 consumer and service provider organizations, and other interested
39 parties.

1 (C) It is the intent of the Legislature that representatives of the
2 organizations described in subparagraph (B) consider this data in
3 the development of any recommendations offered toward
4 improving the developmental services system.

5 (D) The compiled data shall be posted so that it is available to
6 the public on the existing internet website of the office.

7 (E) Nothing shall preclude the office from issuing data, findings,
8 or reports other than the annual compilation of data described in
9 this paragraph.

10 (8) Have access to copies of any record of a state agency, local
11 agency, or regional center, and contractors or vendors with the
12 state agency, local agencies, and regional centers that is necessary
13 to carry out their responsibilities, and may meet or communicate
14 with any consumer in their placement or elsewhere.

15 (b) The office may establish, in consultation with a committee
16 of interested individuals, regional or local Lanterman
17 ombudsperson offices for the purposes of expediting investigations
18 and resolving complaints, subject to appropriations in the annual
19 Budget Act.

20 (c) (1) Information obtained by the office from a complaint,
21 regardless of whether it is investigated by the office, referred to
22 another entity for investigation, or determined not to be the proper
23 subject of an investigation, shall remain confidential under relevant
24 state and federal confidentiality laws. Disclosure of information
25 that is not confidential under state and federal confidentiality laws
26 shall occur only as necessary to carry out the mission of the office,
27 including as necessary to provide explanation and support for the
28 office's recommendations for improving the developmental
29 services system to the Legislature and state and local agencies that
30 provide services and supports to consumers of regional center
31 services.

32 (2) The ombudsperson shall maintain confidentiality with respect
33 to the identities of the complainants or witnesses coming before
34 them, except insofar as disclosure may be necessary to enable the
35 ombudsperson to carry out the duties of the office set forth in
36 paragraphs (2) to (5), inclusive, of subdivision (a). The
37 ombudsperson may not disclose a record that is confidential under
38 relevant state and federal confidentiality laws.

39 (3) If a consumer is represented by a conservator, legal guardian,
40 or counsel, the office may notify the conservator, legal guardian,

1 or counsel of a complaint in order for those entities to satisfy their
2 obligations specified in this division. Notifying these entities of
3 an investigation shall not limit the ombudsperson's ability to
4 investigate or resolve a complaint or take any other action
5 authorized by this section. If appropriate, the office may also share
6 the outcome of any investigation performed by the office with the
7 consumer's conservator, legal guardian, or counsel.

8 (d) The office shall provide administrative and technical
9 assistance to regional or local Lanterman ombudsperson's offices,
10 including, but not limited to, assistance in developing policies and
11 procedures consistent with the policies and procedures used by
12 the office.

13 (e) (1) The office, in consultation with the Association of
14 Regional Center Agencies, the State Council on Developmental
15 Disabilities, tribes located in the state, consumer advocates,
16 provider organizations, and other interested parties, shall develop
17 standardized information explaining the rights specified in Section
18 4502. The information shall be developed in an accessible manner,
19 and shall reflect any relevant licensing requirements with respect
20 to providers' responsibilities to adequately provide care for
21 consumers of developmental services.

22 (2) The office, regional centers, service providers, vendors, and
23 others shall use the information developed in paragraph (1) in
24 carrying out their responsibilities to inform consumers, or if
25 appropriate, their parents, legal guardians, conservator, or
26 authorized representative, of their rights pursuant to Section 4502.

27 (3) The office shall measure the distribution of the standardized
28 materials for purposes of evaluating and improving the degree to
29 which consumers of developmental services are adequately
30 informed of their rights. This data shall be included in the
31 compilation prepared pursuant to paragraph (7) of subdivision (a).

32 4506.5. As part of the office's efforts to resolve complaints
33 related to the developmental services system, the ombudsperson
34 may do all of the following:

35 (a) Establish policies and procedures for receiving and
36 processing complaints, conducting investigations, and reporting
37 findings.

38 (b) Develop and maintain a page on the department's internet
39 website with information about the office, how to access the office,
40 including via an online portal to submit questions and complaints,

1 general information about this division and regional centers, and
2 links to relevant materials.

3 (c) Conduct whatever investigation reasonably related to the
4 complaint and to developmental services that the ombudsperson
5 deems necessary, including, but not limited to, both of the
6 following:

7 (1) Access to, and inspection of, premises within the control of
8 a state agency, local agency, or a regional center, or a contractor
9 or vendor with a state agency, local agency, or regional center,
10 and access to, and inspection of, a licensed or approved residential
11 facility, at any time, with or without prior notice, for the purpose
12 of carrying out the duties of the office. The ombudsperson shall
13 be granted access to records and residents at all times for the
14 purpose of carrying out the duties of the office.

15 (A) For purposes of this section, “access” means the right to do
16 all of the following:

17 (i) Enter any licensed or approved developmental services
18 residential facility, upon providing identification. A private home
19 may be entered only with consent of the consumer or their legal
20 representative.

21 (ii) Communicate privately and without restriction with any
22 resident, caregiver, staff, personnel, or volunteer.

23 (iii) Review and copy any consumer record or caregiver file.

24 (iv) Observe all resident and staff areas of a facility.

25 (v) Review and reproduce administrative records, policies, and
26 documents of any licensed or approved developmental services
27 care facility.

28 (vi) Review and copy all licensing records maintained by the
29 state, county, or agency, and review and reproduce any records of
30 a state, county, or local agency and their contractors, except sealed
31 court records, which may be obtained only by subpoena or other
32 lawful court order.

33 (vii) Interview all relevant witnesses.

34 (B) For purposes of this section, “record” means a document,
35 paper, memorandum, book, letter, file, drawing, map, plat, photo,
36 photographic file, motion picture, film, microfilm,
37 microphotograph, exhibit, magnetic or paper tape, punched card,
38 or other item developed or received under law or in connection
39 with the transaction of official business, but does not include
40 material that is protected by privilege.

1 (2) Observe proceedings and attend hearings, consistent with
2 this division.

3 (d) Attempt to resolve the complaint.

4 (e) Submit a written plan to the relevant state agency, local
5 agency, or regional center, or a contractor or vendor with the state
6 agency, local agency, or regional center, recommending a course
7 of action to resolve the complaint. If the ombudsperson makes a
8 written recommendation, the state agency, regional center, or
9 vendor or contractor, shall submit a written response to the
10 ombudsperson within 30 calendar days.

11 4506.6. In order to encourage candor during the
12 ombudsperson's investigation of complaints made by or on behalf
13 of a consumer of developmental services and to facilitate the
14 ombudsperson's ability to resolve complaints, all of the following
15 shall apply:

16 (a) The ombudsperson and staff of the ombudsperson shall not
17 be compelled to testify or be deposed in a judicial or administrative
18 proceeding regarding matters coming to their attention in the
19 exercise of their official duties, except as may be necessary to
20 enforce or implement this chapter.

21 (b) The records of the ombudsperson and the staff of the
22 ombudsperson, including notes, drafts, and records obtained from
23 an individual or agency during the intake, review, or investigation
24 of a complaint, and any reports not released to the public shall not
25 be subject to disclosure or production in response to a subpoena
26 or discovery in a judicial or administrative proceeding, except as
27 necessary to enforce or implement the provisions of this chapter.

28 (c) When exercising the investigative, complaint resolution, and
29 technical assistance functions of the Office of the Lanterman
30 Ombudsperson, the ombudsperson and staff of the ombudsperson
31 shall have all immunities under Article 2 (commencing with
32 Section 815) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of
33 the Government Code afforded to the discharge of discretionary
34 duties by public entities and their employees.

35 (d) If the ombudsperson believes, based on information received
36 during the exercise of their official duties, that there is a breach of
37 duty or misconduct by an employee of a state agency, local agency,
38 regional center, or their contractors or vendors, in the conduct of
39 the employees' official duties, the ombudsperson shall refer the
40 matter to the regional center or vendor's director, or other

1 responsible officer, and if the conduct would constitute a crime,
2 to an appropriate law enforcement body or agency.

3 4506.7. (a) The office shall establish a toll-free number.

4 (b) Regional center case managers shall provide consumers,
5 and, if appropriate, their parents, legal guardians, conservator or
6 authorized representative, with the toll-free telephone number for
7 the office and verbal or written information regarding the existence
8 and purpose of the office during the annual individualized program
9 plan or individual family service plan meetings.

10 SEC. 2. Section 4685.9 of the Welfare and Institutions Code
11 is amended to read:

12 4685.9. (a) The department shall establish an Office of the
13 Self-Determination Program Ombudsperson. *This office shall be*
14 *overseen by the Lanterman Ombudsperson described in Section*
15 *4506.1.*

16 (b) The Office of the Self-Determination Program
17 Ombudsperson shall be headed by an individual, to be known as
18 the Self-Determination Program Ombudsperson. As soon as is
19 practicable, the Director of the Department of Developmental
20 Services shall appoint an ombudsperson qualified by training and
21 experience to perform the duties of the office for a term of four
22 years. The director may reappoint the ombudsperson for
23 consecutive terms. *The director shall appoint an ombudsperson*
24 *using the process specified in 4506.2. The ombudsperson shall*
25 *report to the Lanterman Ombudsperson.*

26 (c) The office shall be an independent and autonomous entity
27 within the department for the purpose of monitoring the
28 implementation of Section 4685.8 and to assist regional center
29 clients and Self-Determination Program consumers and their
30 families to participate fully in the Self-Determination Program
31 Program, as authorized pursuant to Section 4685.8

32 (d) ~~The office shall have all of the following rights and duties:~~
33 *rights, authority, responsibilities, and duties conveyed to the*
34 *Lanterman Ombudsperson specified in Chapter 1.4 (commencing*
35 *with Section 4506) for matters pertaining to the Self-Determination*
36 *Program. To the degree that it is practicable, the required reports,*
37 *notices, outreach, and other duties of the office may be done in*
38 *conjunction with the activities of the Lanterman Ombudsperson.*

39 ~~(1) Providing information and assisting regional center~~
40 ~~consumers and their families in understanding their rights under~~

1 the Self-Determination Program, including the process, goals, and
2 objectives of the program and facilitating solutions to
3 disagreements regarding eligibility and services.

4 ~~(2) Deciding whether to investigate complaints regarding the~~
5 ~~implementation of the Self-Determination Program, and~~
6 ~~recommending to the department strategies for change and~~
7 ~~improvement of the Self-Determination Program. Disclosure of~~
8 ~~information shall occur only as necessary to carry out the mission~~
9 ~~of the office and as permitted by law.~~

10 ~~(3) Annually compiling and reporting to the appropriate policy~~
11 ~~and fiscal committees of the Legislature relevant data collected~~
12 ~~over the course of the year, including, but not limited to, the~~
13 ~~number of contacts to the office, the number of complaints made,~~
14 ~~including the type of those complaints, the number of investigations~~
15 ~~performed by the office, the trends and issues that arose in the~~
16 ~~course of investigating complaints, the number of referrals made,~~
17 ~~and the number of pending complaints.~~

18 ~~(4) Recommending to the department and the Legislature~~
19 ~~changes to, including, but not limited to, relevant laws, regulations,~~
20 ~~policies, and actions that it determines to be appropriate and~~
21 ~~provide and facilitate public comment on, including, but not limited~~
22 ~~to, relevant laws, regulations, policies, and actions.~~

23 ~~(5) Establishing a dedicated telephone number at which regional~~
24 ~~center consumers and other stakeholders may contact the office.~~

25 ~~(e) The department shall include, on the portion of its internet~~
26 ~~website dedicated to the Self-Determination Program, a link to the~~
27 ~~internet website of the office.~~

28 SEC. 3. The Legislature finds and declares that Section 1 of
29 this act, which adds Section 4506.5 to the Welfare and Institutions
30 Code, imposes a limitation on the public's right of access to the
31 meetings of public bodies or the writings of public officials and
32 agencies within the meaning of Section 3 of Article I of the
33 California Constitution. Pursuant to that constitutional provision,
34 the Legislature makes the following findings to demonstrate the
35 interest protected by this limitation and the need for protecting
36 that interest:

1 In order to protect the confidentiality of consumers of
2 developmental services, it is necessary to maintain the
3 confidentiality of the records described in Section 4506.5.

O