

Legislative Summary Report



2020 Legislative Year

**2020 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 2020.

During the second year of the 2019-20 Legislative Session, 2,390 measures were introduced. DSH's Office of Legislation monitored or tracked 201 bills affecting issues related to DSH's jurisdiction or expertise and provided final recommendations on six 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. In Fiscal Year 2018-2019, DSH served 11,752 patients. DSH oversees five state hospitals and employs over 12,000 staff members. Additionally, DSH provides services in jail-based competency treatment programs and conditional release programs.

The following pages provide a summary of legislation that was introduced or enacted in the 2020 legislative year analyzed or tracked by the DSH Office of Legislation. For more information about the legislation summarized in this report, please click the bill title or contact the Office of Legislation at (916) 654-2316. 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
CDCR	California Department of Corrections and Rehabilitation
CONREP	Conditional Release Program
DDS	Department of Developmental Services
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
FY	Fiscal Year
IST	Incompetent to Stand Trial
JBCT	Jail-Based Competency Treatment Program
LPS	Lanterman-Petris-Short
OMD	Offender with Mental Health Disorder
NGI	Not Guilty by Reason of Insanity
OPS	Office of Protective Services
SB	Senate Bill
SCR	Senate Concurrent Resolution
SVP	Sexually Violent Predator

ENACTED PRIORITY LEGISLATION

This section includes bills directly impacting DSH that were signed into law by the Governor. All bills take effect January 1, 2021, unless otherwise noted.

[AB 80 \(Committee on Budget, Chapter 12\) Public health omnibus](#)

This Health Omnibus trailer bill, as it impacts DSH, requires the Governor, upon the recommendation of the Director of State Hospitals, to appoint one medical director for the department and one medical director for each state hospital. The bill requires the department and hospital medical directors to be physicians and requires the Director of State Hospitals to appoint the following officers: 1) a hospital administrator; 2) a hospital director; 3) a chief of police services; and 4) any other hospital employee to be an officer. This bill requires a hospital administrator to be selected based on their overall knowledge of the hospital and the operation of its administrative, business, and life-support functions and provides for various updates to statutory provisions that govern State Hospital leadership. This bill also continues to allow DSH-Patton to house up to 1,530 patients until September 2030.

Effective Date: July 1, 2020.

[AB 89 \(Ting, Chapter 7\) Budget Act of 2020](#)

This Budget Bill follow-up makes technical changes to the Budget Act of 2020 for DSH state operations. As it impacts DSH, this bill restores funding for some requested positions and repairs at the Department of State Hospitals including electronic health records system implementation, roof repairs at three state hospitals, and staffing for treatment teams and protective services. This bill also includes a federal budget trigger mechanism that would appropriate \$14 billion for state programs, or a proportionate amount, if the State received additional federal relief by October 15, 2020. These appropriations include \$2.8 billion to offset reductions to employee compensation through the 2020 Personal Leave Program.

Effective Date: July 1, 2020.

[AB 890 \(Wood D, Chapter 265\) Nurse practitioners: scope of practice: unsupervised practice](#)

Authorizes Nurse Practitioners (NPs) to perform increased duties in a health facility without supervision or standardized procedures. This bill creates new standards for NPs to meet to qualify for independent practice. This bill requires the Board of Registered Nursing (BRN) to establish a Nurse Practitioner Advisory Committee to advise and make recommendations to the BRN on all matters relating to nurse practitioners. The bill allows NPs to serve on medical staff and

hospital committees, and to attend meetings of the department to which they are assigned, however, limits NPs ability to vote to specified situations. This bill excludes certain health facilities, including the Department of State Hospitals (DSH), until January 1, 2023 when the bill proposes to broaden the settings in which nurse practitioners with an active certification can perform increased duties without supervision.

[AB 2537 \(Rodriguez, Chapter 313\) Personal protective equipment: health care employees](#)

Requires any public or private employer that employs workers who provide direct patient care in a general acute care hospital, as defined, to provide personal protective equipment (PPE) to employees and ensure that employees properly use the equipment supplied to them. This bill also requires the employer to maintain a stockpile of unexpired and unused PPE in an amount equal to three months of normal 2019 consumption. The bill requires employers to provide an inventory of their PPE stockpile to the Division of Occupational Safety and Health (Cal/OSHA) upon request and any violation of the stockpile requirement shall result in a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation.

[SB 74 \(Mitchell, Chapter 6\) Budget Act of 2020](#)

As the primary Budget Bill for the 2020-21 fiscal year, it provides DSH's General Fund appropriations, including support of DSH's operations, rental payments on lease-revenue bonds, implementation of Health Insurance Portability and Accountability Act of 1996 and for Capital Outlay projects. Additionally, the act re-appropriates the unspent balance previously appropriated for Capital Outlay construction costs of DSH-Patton's Fire Alarm System Upgrade until June 30, 2022; for loan payments related to the 2014 South Napa Earthquake until June 30, 2022; and for Capital Outlay construction costs of DSH-Metropolitan's Fire Alarm System until June 30, 2022.

Effective Date: July 1, 2020.

[SB 275 \(Pan, Chapter 301\) Health Care and Essential Workers: personal protective equipment](#)

Requires the State Department of Public Health and the Governor's Office of Emergency Services (Cal OES) to establish a PPE stockpile sufficient for a 90-day health emergency by January 1, 2022. This bill also requires certain health care facilities, as defined, to have an inventory for 45 days of surge consumption by Jan 1, 2023. This bill requires the Department of Industrial Relations (DIR) to establish regulations defining "surge consumption" and determining which items of PPE

should be required for these inventories. This bill adds a \$25,000 fine for each violation of the several requirements established by this bill.

[SB 1159 \(Hill, Chapter 85\) Workers' compensation: COVID-19: critical workers](#) As it applies to DSH, this bill codifies and extends Governor Newsom's Executive Order (N-62-20) to create a rebuttable presumption that illness or death related to COVID-19 is an occupational injury and therefore eligible for workers' compensation benefits. The Governor's order applied to any employee who was employed between March 19-July 5, 2020. This bill applies the COVID-19 presumption to specified peace officers, firefighters, health care and health care facility employees who were employed on or after July 6, 2020. The specified categories of employees include DSH employees who provide direct patient care and custodial employees who are in contact with any COVID-19 positive patient. Employees at DSH hospitals who do not provide direct patient care would also have the presumption, but it can be controverted with evidence that the employee did not have contact with a COVID-19 positive patient within the last 14 days. DSH law enforcement is covered as a DSH employee but is not specified under the law enforcement provisions in this bill. SB 1159 also applies the presumption to any employee at a DSH hospital or headquarters who tests positive during an outbreak at their specific place of employment. For DSH, an outbreak is defined as 4% or more of the employees contracting the disease within a 14-day period or the specific place of employment is ordered to close by a local public health department, the State Department of Public Health, or the Division of Occupational Safety and Health due to a risk of infection with COVID-19. This bill requires DSH to report COVID-19 positive employee test results to the State Compensation Insurance Fund (SCIF), its workers' compensation claims administrator, within three days of being informed of the positive test result in order for SCIF to determine if a state hospital experiences an outbreak. This bill would repeal all three presumptions on January 1, 2023. Lastly, this bill requires the Commission on Health and Safety and Workers' Compensation to conduct a study of the impacts of COVID-19 claims on the workers' compensation system and report its findings to the Legislature and the Governor, as specified.

Effective Date: Chaptered September 17, 2020 and effective immediately as an urgency statute.

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. These bills may require DSH compliance with their provisions. All bills take effect January 1, 2021, unless otherwise noted. Bills are organized by subject matter.

Commitments

[SB 118 \(Committee on Budget and Fiscal Review, Chapter 29\) Public Safety](#)

This Public Safety Omnibus trailer bill, as it impacts DSH, shortens the parole term from three (3) years to two (2) years for determinate terms and establishes a three (3) year maximum for life terms for inmates released after July 1, 2020. It allows defined parolees to be reviewed by Adult Parole Operations for possible release after 12 months without a violation. The shortened parole terms for new Offenders with Mental Health Disorders (OMD) commitments may change the number and timing of some OMD commitment reviews. The new law's 12-month release option does not apply to OMD commitments.

Effective Date: Chaptered August 6, 2020 and effective immediately as a bill providing for appropriations related to the Budget Bill.

Hospitals and Clinical Staff

[AB 518 \(Calderon, Chapter 43\) Surplus state real property: Southern Youth Correctional Reception Center and Clinic](#)

Authorizes the Department of General Services (DGS) to sell the former Southern Youth Correctional Reception Center and Clinic (SYCRCC) property, located in the City of Norwalk (City), to the City by January 1, 2025.

[AB 2520 \(Chiu, Chapter 101\) Access to medical records](#)

Expands the ability of a patient or a patient's representative to obtain a copy, at no charge, of the relevant portion of the patient's medical records that are needed to support a claim or appeal regarding eligibility for certain benefit programs by permitting an employee of a nonprofit legal services entity representing the patient to have access to the patient's records, adding additional benefit programs, and prohibiting a health care provider from charging a fee to a patient for filling out forms or providing information responsive to forms that support a claim or appeal for a public benefit program.

[AB 2644 \(Wood, Chapter 287\) Skilled nursing facilities: deaths: reporting](#)

Requires a skilled nursing facility (SNF), during a declared emergency related to a communicable disease, to report each disease-related death to the Department of Public Health (DPH) within 24 hours. Requires DPH to make the total number of disease related deaths reported, and the location at which they occurred, available

on its internet website on a weekly basis. Requires SNFs to have a full-time Infection Preventionist (IP), and prohibits a long-term care facility from preventing a representative of the Long-Term Care Ombudsman Program from entering the facility in the event of a declared emergency.

[SB 653 \(Chang, Chapter 130\) Dental hygienists: registered dental hygienist in alternative practice: scope of practice](#)

Expands the scope of practice for registered dental hygienists (RDHs) and RDHs in alternative practice. Specifically, this bill allows an RDH to perform additional functions without supervision, including providing fluoride varnish as well as providing oral screenings and preventive services at an event sponsored by a nonprofit organization; expands the list of settings in which an RDH in alternative practice can work; and makes minor expansions to the practice authority of an RDH in alternative practice and allows an RDH in alternative practice to perform additional procedures, including removal of soft tissue and administration of local anesthesia, under specified conditions.

[SB 852 \(Pan, Chapter 207\) Health care: prescription drugs](#)

Requires the California Health and Human Services Agency (CHHSA) to enter into partnerships, in consultation with other state departments as necessary, to increase competition, lower prices, and address shortages in the market for generic prescription drugs, to reduce the cost of prescription drugs for public and private purchasers, taxpayers, and consumers, and, to increase patient access to affordable drugs.

[SB 932 \(Wiener, Chapter 183\) Communicable diseases: data collection](#)

Requires any electronic tool used by local health officers for the purpose of reporting cases of communicable disease to the Department of Public Health to include the capacity to collect and report data relating to the sexual orientation and gender identity of individuals who are diagnosed with a reportable disease, and requires health care providers who are in attendance on a case of a reportable disease to report the patient's sexual orientation and gender identity, if known.

Effective Date: Chaptered September 26, 2020 and effective immediately as an urgency statute.

[SB 1123 \(Chang, Chapter 247\) Elder and dependent adult abuse](#)

Clarifies the definition for elder and dependent adult abuse in the Penal Code by using cross-references to Welfare and Institutions Code definitions; and requires law enforcement to update their policy manuals.

Law Enforcement

[AB 1196 \(Gipson, Chapter 324\) Peace officers: use of force](#)

Prohibits law enforcement agencies from authorizing carotid restraint holds and choke holds.

[AB 1506 \(McCarty, Chapter 326\) Police use of force](#)

Requires a state prosecutor to investigate any officer-involved shooting that results in the death of an unarmed civilian. Directs the Attorney General, beginning July 1, 2023, to operate a Police Practices Division within the Department of Justice (DOJ), to, upon request of a local law enforcement agency, review the use of deadly force policies of that law enforcement agency.

[AB 1945 \(Salas, Chapter 68\) Emergency services: first responders](#)

Defines a "first responder" in the California Emergency Services Act (CESA) as an employee of the state or a local public agency who provides emergency response services, including any of the following: a peace officer; a firefighter; paramedic; an emergency medical technician; and a public safety dispatcher or public safety telecommunicator.

[AB 2606 \(Cervantes, Chapter 332\) Criminal justice: supervised release file](#)

Requires each county probation department or other supervising county agency to update any supervised release file that is available to them on the California Law Enforcement Telecommunications System (CLETS) every 10 days by entering any person placed onto postconviction supervision within their jurisdiction and under their authority, including persons on probation, mandatory supervision, and post-release community supervision (PRCS).

[AB 2699 \(Santiago, Chapter 289\) Firearms: unsafe handguns](#)

Imposes new restrictions on law enforcement entities that are permitted to carry off-roster handguns; and exempts various law enforcement entities or sworn officers of those entities from the prohibitions against the sale or purchase of an "unsafe" handgun if the handgun is purchased or sold for use by the sworn officers of that entity as a service weapon, and if those officers have satisfactorily completed the Commission on Peace Officer Standards and Training (POST) basic course.

[AB 3043 \(Jones-Sawyer, Chapter 333\) Corrections: confidential calls](#)

Requires the Department of Corrections and Rehabilitation (CDCR) to approve an attorney's request to make a confidential call to a client they represent at a CDCR facility, and requires CDCR to provide the inmate at least 30 minutes per month, per inmate, per case, to make such calls unless the attorney or the inmate requests less time.

[AB 3366 \(Committee on Judiciary, Chapter 76\) Judicial emergencies](#)

Authorizes the Chief Justice of the California Supreme Court to issue an order *sua sponte* authorizing multiple courts to implement some or all of the relief provided for in Government Code Section 68115 in the event of a statewide or multiple-county emergency. Specifically, when emergency conditions threaten the orderly operation of the courts in more than one county, or more than one district of courts of appeal, or if the emergency otherwise renders courts unsafe to court personnel or the public, this bill would authorize the Chief Justice to issue appropriate multi-

county or statewide emergency orders, with or without an Executive Order or requests from presiding superior court judges.

Effective Date: Chaptered September 11, 2020 and effective immediately as an urgency statute.

[SB 132 \(Wiener, Chapter 182\) Corrections](#)

Requires the Department of Corrections and Rehabilitation (CDCR) to ask each person entering into its custody specified information, including the individual's gender identity; requires CDCR to conduct searches of and assign housing to transgender inmates based on the inmate's individual preferences; and requires CDCR to articulate the reasons for denying a search or housing preference if the department has management or security concerns.

[SB 905 \(Archuleta, Chapter 191\) Criminal history information requests](#)

Provides that a residence address shall not be required to be submitted to the Department of Justice (DOJ) for a background check of an individual applying to work with a minor and makes a technical amendment to facilitate the processing of background checks.

[SB 909 \(Dodd, Chapter 262\) Emergency vehicles](#)

Authorizes an emergency vehicle to use a "Hi-Lo" audible system solely for the purpose of notifying the public of an immediate evacuation in case of an emergency.

Effective Date: Chaptered September 29, 2020 and effective immediately as an urgency statute.

Employment

[AB 119 \(Ting, Chapter 23\) State employment: State Bargaining Units](#)

Ratifies and implements memoranda of understanding (MOUs) and addenda between 12 bargaining units (BUs) and the state, including the Personal Leave Program (PLP 2020) and suspending the prefunding of post-retirement health benefits.

Effective Date: July 1, 2020.

[AB 499 \(Mayes, Chapter 155\) Personal information: social security numbers: state agencies](#)

Prohibits a state agency from sending any outgoing United States mail that contains an individual's social security number (SSN) unless the number is truncated to its last four digits or in specified circumstances.

[AB 685 \(Reyes, Chapter 84\) COVID-19: imminent hazard to employees: exposure: notification: serious violations](#)

Requires employers to provide written notice and instructions to employees who may have been exposed to COVID-19 at their worksite and enhances the Division

of Occupational Health and Safety's (Cal/OSHA) ability to enforce health and safety standards to prevent workplace exposure to and spread of COVID-19.

[AB 1867 \(Committee on Budget, Chapter 45\) Small employer family leave mediation: handwashing: supplemental paid sick leave](#)

This Labor Omnibus trailer bill makes statutory changes related to paid sick leave, handwashing for food service workers, and family leave necessary to implement the Budget Act of 2020. This bill allows every California employee that has been exposed to or tests positive for COVID-19 to have access to paid sick days for the rest of the 2020 calendar year. This bill would also allow a food employee working in a food facility to wash their hands every 30 minutes and additionally as needed.

Effective Date: Chaptered September 9, 2020 and effective immediately as a bill providing for appropriations related to the Budget Bill.

[AB 2017 \(Mullin, Chapter 211\) Employee: sick leave: kin care](#)

Specifies that for purposes of an employee's use of their accrued sick leave, it is at the employee's discretion to designate this time for the purpose of diagnosis, care, or treatment of their or their family member's health condition or for obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.

[AB 2967 \(O'Donnell, Chapter 223\) Public Employees' Retirement System: contracting agencies: exclusion from membership](#)

Prohibits public agencies from amending their contract for retirement benefits with the California Public Employees' Retirement System (CalPERS) to segregate defined benefits among the same class of employees, and prevent the use of that process to circumvent the process of terminating a contract with CalPERS.

[AB 2992 \(Weber, Chapter 224\) Employment practices: leave time](#)

Expands existing protected leave to victims of any violent crime, and to immediate family members of homicide victims; and further allows additional reasonable forms of documentation to verify that a crime or abuse occurred to determine employee eligibility for protected leave.

[SB 119 \(Committee on Budget and Fiscal Review, Chapter 30\) State employment: State Bargaining Units](#)

Ratifies and implements a memorandum of understanding (MOU) and addenda between the state and Bargaining Unit (BU) 12 and 13, including the Personal Leave Program (PLP 2020) and suspending the prefunding of post-retirement health benefits. This bill also makes conforming statutory changes for successor agreements and addenda between the state and BUs 2, 5, 7, 8, 9, 10, 16, 18, and 19.

Effective Date: July 1, 2020.

[SB 1383 \(Jackson, Chapter 86\) Unlawful employment practice: California Family Rights Act](#)

Expands the California Family Rights Act (CFRA) to allow employees to use unpaid job protected leave to care for a domestic partner, grandparent, grandchild, sibling, or parent-in-law who has a serious health condition.

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 1299 \(Salas\) Peace officers: employment](#)

Would have Required every law enforcement agency to notify the Commission on Peace Officers Standards and Training (POST) when an officer separates from employment, as specified. Would have created a process at (POST) for information on investigations and results of sustained findings of misconduct to be housed and accessed by law enforcement agencies conducting pre-employment background investigations on candidates for employment.

[AB 1906 \(Salas\) Pregnant peace officers: duty assignment policy](#)

Would have required the Department of Corrections and Rehabilitation (CDCR), in consultation with the California Department of Human Resources (CalHR), to establish and implement by January 1, 2021, a policy pursuant to which a pregnant peace officer shall be permitted to perform alternate, light duty assignments, subject to a medical certification that establishes the nature of pregnancy-related limitations.

[AB 2004 \(Calderon\) Medical test results: verification credentials](#)

Would have required the Government Operations Agency (GovOps) to appoint a working group on or before July 1, 2021, consisting of representatives from the public and private sectors to explore the use of verifiable health credentials to communicate COVID-19 test results or other medical test results in this state. Would have tasked the Department of Consumer Affairs with establishing procedures for authorizing health care providers to issue VHCs and with developing and maintaining a verifiable issuer registry.

[AB 2405 \(Burke\) Right to safe, decent, and affordable housing](#)

Would have declared that it is the policy of the state that every individual in California has the right to safe, decent, and affordable housing. The bill would have required the policy to consider homelessness prevention, emergency accommodations, and permanent housing placement. It would have also required all relevant state agencies and departments to consider this state policy when reviewing or establishing policies and regulations related to housing, including ensuring that state-funded institutions do not discharge people without a temporary or permanent housing option. The bill would have made implementation subject to a Budget Act appropriation.

[SB 179 \(Nielsen R\) Excluded employees: arbitration](#)

Would have enacted the Excluded Employee Arbitration Act to permit an employee organization that represents an excluded employee who has filed certain grievances with the Department of Human Resources to request arbitration

of the grievance if specific conditions are met. Arbitrators are chosen using the striking method and the excluded employees shall not bear the cost of the arbitration.

[SB 1207 \(Jackson\) Skilled nursing facilities: backup power system](#)

Would have required a skilled nursing (SNF) facility to have an alternative source of power to protect resident health and safety for no less than 96 hours during any type of power outage; requires the alternative source of power to comply with federal requirements for long-term care facilities; and, specifies that those requirements include maintaining a safe temperature for residents and staff.

Would have clarified that, if fuel is to be delivered during an emergency, the SNF must ensure that the fuel will be available with no delays.

[SB 1220 \(Umberg\) Peace and custodial officers](#)

Would have required each prosecuting agency to maintain a Brady list and any law enforcement agency to, annually and upon request, provide a prosecuting agency a list of names and badge numbers of officers employed in the five years prior to providing the list that meet specified criteria, including having a sustained finding for conduct of moral turpitude or group bias, and establishes a due process procedure for the officer to contest their inclusion on the list.