

SENATE THIRD READING
SB 1139 (Kamlager)
As Amended August 15, 2022
Majority vote

SUMMARY

Requires the California Department of Corrections and Rehabilitation (CDCR) to make emergency phone calls available to an incarcerated person and specified people outside of CDCR when the incarcerated person has been hospitalized for a serious or critical medical condition or when the incarcerated person's family member has become critically ill or died while the person has been incarcerated.

Major Provisions

- 1) Requires, at intake, every incarcerated person be asked whom they want listed on the following forms:
 - a) Approved visitor list. If the incarcerated person would like to add a visitor, CDCR must provide a visitor application form for the incarcerated person to sign and send to the potential visitor, who may then complete and submit it to the facility;
 - b) Medical release of information form;
 - c) Medical power of attorney form; and,
 - d) Next of kin form.
- 2) Requires CDCR to assist incarcerated persons in completing the above-listed forms.
- 3) States that the incarcerated person shall have the ability to update the above-listed forms at any time. At least once a year, CDCR shall offer incarcerated persons the opportunity to review and update the forms as necessary.
- 4) Requires that emergency phone calls to be made available to incarcerated people, as specified:
 - a) When the incarcerated person has been admitted to the hospital for a serious medical reason; and,
 - b) When a family member, approved visitor, next of kin, or persons listed on the incarcerated person's medical release of information form or medical power of attorney form has become critically ill or has died while the incarcerated person has been hospitalized.
- 5) Requires CDCR to allow persons outside the facility and incarcerated persons to initiate a phone call to an incarcerated person in either of the following circumstances:
 - a) When the incarcerated person has been admitted to the hospital for a serious or critical medical condition, as defined; and,

- b) When a family member, approved visitor, next of kin, or persons listed on the incarcerated person's medical release of information form or medial power of attorney form has become critically ill or has died while the incarcerated person has been hospitalized.
- 6) Requires CDCR to maintain a phone line for outside people to call to inform CDCR that a family member or approved visitor, next of kin, or persons listed on the incarcerated person's medical release of information form or medial power of attorney form has become critically ill or has died while the incarcerated person has been hospitalized. CDCR is required to attempt to verify the identity of the caller and whether the person has become ill or died, and to promptly notify the incarcerated person of these calls upon their receipt.
- 7) Requires emergency in-person contact visits and video calls to be made available whenever an incarcerated person is hospitalized due to a serious or critical medical condition, including imminent danger of dying.
- 8) States that, if in-person contact visits are unavailable at the facility due to a public health emergency or are inconsistent with the patient's current medical treatment needs, as determined by their medical provider, video calls shall be made available.
- 9) Provides that any visitor approval process shall be conducted through an expedited process and any request responded to with an approval or denial within 24 hours.
- 10) States that if in-person visits are not able to occur within the 24-hour timeframe and the individual is in imminent danger of dying, a video visit shall be offered without clearance. When the incarcerated person is in imminent danger of dying, CDCR shall allow up to four visitors at one time to visit the incarcerated person.
- 11) Requires, within 24 hours of an incarcerated person being hospitalized for a serious or critical medical condition, CDCR to inform all persons listed on the incarcerated person's current medical release of information form about the incarcerated person's health status, and to facilitate phone calls between the incarcerated person and those persons if the incarcerated person consents.
- 12) Provides that a serious or critical medical condition occurs when an incarcerated person needs medical treatment for a terminal disease or life-sustaining medical treatment, as determined by a medical professional, and when the incarcerated person has been administered to a public or community hospital.
- 13) States that if an incarcerated person has died, CDCR shall notify all persons covered by the current medical release of information form and next of kin form within 24 hours.
- 14) Provides that, if the incarcerated person is able to provide knowing and voluntary consent, CDCR shall, within 24 hours of being admitted to a hospital within a prison, ask the incarcerated person whether they want to add people to any of above listed forms.
- 15) Requires CDCR to promptly assist, as able, the incarcerated person in completing the above forms and to promptly inform the newly designated persons on the forms of the incarcerated person's condition and facilitate a phone call between the incarcerated person and the newly designated person, if one is requested.

- 16) Provides that the Secretary of CDCR shall not charge a fee for an incarcerated person to request, review or use their medical records.
- 17) Requires CDCR to have a grievance process in place by which the incarcerated person, or the persons listed on the incarcerated person's medical release of information form or medial power of attorney form, may file a formal grievance.
- 18) Provides that CDCR's existing grievance process satisfies the grievance-process requirement of this bill.
- 19) States that these provisions are contingent upon the appropriation of funds for these sections by express reference in the annual Budget Act or another statute.

COMMENTS

According to the Author

"Prisons were hit particularly hard during the COVID-19 pandemic due to their very nature of confinement, leading to increased contamination. Hundreds of incarcerated people died. Many of these people died alone —no family members were present or notified to be a comfort to them in their time of need.

"Unfortunately, for incarcerated people this type of treatment during medical emergencies is not limited to the COVID-19 pandemic. Incarcerated people and their loved ones have suffered this way for years. Incarcerated men and women who endure medical emergencies, and even slow deaths, suffer/pass away alone more often than not. Not only is this inhumane for the incarcerated person suffering from illness, but a terrible tragedy for their law-abiding families.

"SB 1139 will implement a format of guided steps and tools to afford incarcerated people and their families a humane health care process infused with the dignity they and their loved ones deserve."

Arguments in Support

According to *Prison From the Inside Out*, the sponsor of this bill, "Currently, a designated person can sign a California Department of Corrections and Rehabilitation (CDCR) medical release form to receive an incarcerated person's medical information. Unfortunately, many families report not being made aware of this process until it is too late, leaving people blind to their loved ones' health care status. As a result, incarcerated people may suffer from illness and pass away alone with family members not being notified for days.

"This has been exacerbated throughout the COVID-19 pandemic, during which hundreds of incarcerated people have died. Many of these people died alone —no family members were present or notified to be a comfort to them in their time of need. Incarcerated people are all too familiar with this type of treatment during medical emergencies—not just during the COVID-19 pandemic— suffering this way for years. Incarcerated men and women who endure medical emergencies, and even slow deaths, suffer alone more often than not. Not only is this inhumane for the incarcerated person suffering from illness, but a terrible tragedy for their families.

"SB 1139 will increase transparency within CDCR's health care delivery program by removing fees for incarcerated people requesting medical records and doing away with many of the barriers faced by those with incarcerated loved ones who are receiving medical care. ..."

Arguments in Opposition

According to the *Riverside Sheriffs' Association*, "We are extremely concerned that the safety and security of inmates, civilian staff and custodial officers will be dangerously compromised by publicizing the location of certain inmates who are temporarily re-located for medical care to a community hospital.

"Even more troubling, the bill mandates that certain inmates be provided in-person contact visits at these un-secured locations.

"Informing members of the public that potentially high risk inmates are located in a nearby hospital puts the inmate, as well as everyone near or around the inmate in jeopardy."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, costs (General Fund) possibly in the millions of dollars to CDCR annually in additional staff and infrastructure to provide emergency phone calls, update visitor and medical documents, notify identified parties..

VOTES

SENATE FLOOR: 28-2-10

YES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Melendez, Wilk

ABS, ABST OR NV: Archuleta, Bates, Borgeas, Caballero, Dahle, Grove, Hertzberg, Jones, Nielsen, Ochoa Bogh

ASM PUBLIC SAFETY: 5-0-2

YES: Jones-Sawyer, Mia Bonta, Bryan, Quirk, Santiago

ABS, ABST OR NV: Lackey, Seyarto

ASM APPROPRIATIONS: 12-3-1

YES: Holden, Bryan, Calderon, Arambula, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty

NO: Bigelow, Megan Dahle, Davies

ABS, ABST OR NV: Fong

UPDATED

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