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**AB-860 Mental Health Services Oversight and Accountability Commission: factfinding tour.** (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 860**

Introduced by Assembly Member Cooley

February 16, 2017

An act to add Section 5845.1 to the Welfare and Institutions Code, relating to mental health services.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 860, Cooley. Mental Health Services Oversight and Accountability Commission: factfinding tour.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Oversight and Accountability Commission to oversee the administration of various parts of the act. The act may be amended by the Legislature by a  $\frac{2}{3}$  vote of both houses and only so long as the amendment is consistent with and furthers the intent of the act. The Legislature may clarify procedures and terms of the act by majority vote.

Existing law, the Bagley-Keene Open Meeting Act, requires all meetings of a state body to be open and public and requires that all persons shall be permitted to attend any meeting of a state body, except as otherwise specified. For purposes of the act, "state body" includes, among other entities, every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order. As a state commission created by statute, the Mental Health Services Oversight and Accountability Commission is a state body for purposes of the act.

This bill, notwithstanding the Bagley-Keene Open Meeting Act (Bagley-Keene Act) or any other law, would authorize the commission to conduct a factfinding tour of a facility or location that either is not open to the public, or for which opening the facility or location to the public would compromise or impede the safety or security of the facility or location, including, but not limited to, locked mental health facilities, prisons, jails, schools, or other facilities in furtherance of the commission's duties, for the

purpose of supporting those duties. The bill would require the commission to comply with specified notice provisions required by the Bagley-Keene Act prior to the factfinding tour. The bill would require the commission to provide specified notice to members of the media of the proposed site tour and allow at least one member of the media to attend the site tour, as specified. The bill would prohibit the commission from taking any action, as described, during the site tour and from discussing among themselves any business of a specific nature that does not fall within the scope or purpose of the tour. The bill would require the commission to post a summary of the factfinding tour on its Internet Web site within 10 days after its completion.

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.

This bill would declare that it clarifies procedures and terms of the Mental Health Services Act.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 5845.1 is added to the Welfare and Institutions Code, to read:

**5845.1.** (a) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code or any other law, the commission may conduct a factfinding tour of a facility or location that either is not open to the public, or for which opening the facility or location to the public would compromise or impede the safety or security of the facility or location, including, but not limited to, locked mental health facilities, prisons, jails, schools, or other facilities in furtherance of the commission's duties, for the purpose of supporting the commission's duties under the Mental Health Services Act.

(b) (1) The commission shall comply with the notice procedures specified in Sections 11125 and 11125.1 of the Government Code. The notice required by Section 11125 of the Government Code shall include a statement identifying the location, date, and purpose of the factfinding tour, and the reason that the location of the site visit is not open to the public.

(2) The notice identified in paragraph (1) shall also include information for members of the media of the commission's intent to tour a facility or location described in subdivision (a), and shall allow at least one member of the media to attend the factfinding tour. The commission may make arrangements for a pool reporter to attend the tour if the number of reporters requesting to accompany the commission is excessive and would compromise or impede the safety and security of the facility or location.

(3) The information described in paragraph (2) shall be directed to reporters, publishers, and editors employed by a newspaper, magazine, or other periodical publication, or by a press association or wire service.

(c) The commission shall not take any action, as described in Section 11122 of the Government Code, during a factfinding tour authorized by this section, and the members shall not discuss among themselves any business of a specific nature that does not fall within the scope or purpose of the tour.

(d) The commission shall post on its Internet Web site a summary of the factfinding tour authorized by this section within 10 days after the completion of the tour.

**SEC. 2.** The Legislature finds and declares that Section 1 of this act, which adds Section 5845.1 to the Welfare and Institutions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act strikes an appropriate balance between the public's right to access information regarding the conduct of its government agencies and the commission's need to tour sites that are not open to the public in order to collect information relevant to and in furtherance of its duties, and to ensure that the safety and security of other restricted-access sites visited by the commission, such as schools, are not impeded or compromised.

**SEC. 3.** The Legislature finds and declares that this act clarifies procedures and terms of the Mental Health Services Act within the meaning of Section 18 of the Mental Health Services Act.