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**SB-175 Developmental services: Canyon Springs Community Facility.** (2017-2018)

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**Senate Bill No. 175**

**CHAPTER 884**

An act to amend Sections 6500, 6509, and 7505 of, and to add Section 7502.6 to, the Welfare and Institutions Code, relating to developmental services, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 175, McGuire. Developmental services: Canyon Springs Community Facility.

Existing law authorizes a court, if the court finds that a person has a developmental disability, and is a danger to himself, herself, or to others, to make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services, as specified.

This bill would authorize a court to order, until June 30, 2021, the commitment of an individual who meets specified criteria for admission due to an acute crisis, as defined, to a separate and distinct unit of Canyon Springs Community Facility. The bill would make other conforming changes.

This bill would incorporate additional changes to Section 6500 of the Welfare and Institutions Code proposed by SB 1494 to be operative only if this bill and SB 1494 are enacted and this bill is enacted last.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

**SECTION 1.** Section 6500 of the Welfare and Institutions Code is amended to read:

**6500.** (a) For purposes of this article, the following definitions shall apply:

(1) "Dangerousness to self or others" shall include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by

force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

(2) "Developmental disability" shall have the same meaning as defined in subdivision (a) of Section 4512.

(b) (1) A person with a developmental disability may be committed to the State Department of Developmental Services for residential placement other than in a state developmental center or state-operated community facility, as provided in subdivision (a) of Section 6509, if he or she is found to be a danger to himself, herself, or others.

(A) Any order of commitment made pursuant to this paragraph shall expire automatically one year after the order of commitment is made.

(B) This paragraph shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with the initial petition for commitment.

(2) A person with a developmental disability shall not be committed to the State Department of Developmental Services for placement in a state developmental center or state-operated community facility pursuant to this article unless he or she meets the criteria for admission to a developmental center pursuant to paragraph (2), (3), or (4) of subdivision (a) of Section 7505 and is dangerous to self or others or he or she currently is a resident of a state developmental center or state-operated community facility pursuant to an order of commitment made pursuant to this article prior to July 1, 2012, and is being recommitted pursuant to paragraph (4) of this subdivision.

(3) If the person with a developmental disability is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

(4) In the event subsequent petitions are filed with respect to a resident of a state developmental center or a state-operated community facility committed prior to July 1, 2012, the procedures followed and criteria for recommitment shall be the same as with the initial petition for commitment.

(5) In any proceedings conducted under the authority of this article, the person alleged to have a developmental disability shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person has a developmental disability and is dangerous to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel. The clients' rights advocate for the regional center may attend any judicial proceedings to assist in protecting the individual's rights.

(c) (1) Any order of commitment made pursuant to this article with respect to a person described in paragraph (3) of subdivision (a) of Section 7505 shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

(2) Any order of commitment made pursuant to this article on or after July 1, 2012, with respect to the admission to a developmental center of a person described in paragraph (2) of subdivision (a) of Section 7505 shall expire automatically six months after the earlier of the order of commitment pursuant to this section or the order of a placement in a developmental center pursuant to Section 6506, unless the regional center, prior to the expiration of the order of commitment, notifies the court in writing of the need for an extension. The required notice shall state facts demonstrating that the individual continues to be in acute crisis as defined in paragraph (1) of subdivision (d) of Section 4418.7 and the justification for the requested extension, and shall be accompanied by the comprehensive assessment and plan described in subdivision (e) of Section 4418.7. An order granting an extension shall not extend the total period of commitment beyond one year, including any placement in a developmental center pursuant to Section 6506. If, prior to expiration of one year, the regional center notifies the court in writing of facts demonstrating that, due to circumstances beyond the regional center's control, the placement cannot be made prior to expiration of the extension, and the court determines that good cause exists, the court may grant one further extension of up to

30 days. The court may also issue any orders the court deems appropriate to ensure that necessary steps are taken to ensure that the individual can be safely and appropriately transitioned to the community in a timely manner. The required notice shall state facts demonstrating that the regional center has made significant progress implementing the plan described in subdivision (e) of Section 4418.7 and that extraordinary circumstances exist beyond the regional center's control that have prevented the plan's implementation. This paragraph does not preclude the individual or any person acting on his or her behalf from making a request for release pursuant to Section 4800, or counsel for the individual from filing a petition for habeas corpus pursuant to Section 4801. Notwithstanding subdivision (a) of Section 4801, for purposes of this paragraph, judicial review shall be in the superior court of the county that issued the order of commitment pursuant to this section.

**SEC. 1.5.** Section 6500 of the Welfare and Institutions Code is amended to read:

**6500.** (a) For purposes of this article, the following definitions shall apply:

(1) "Dangerousness to self or others" shall include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 287 of, or former Section 288a of, the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

(2) "Developmental disability" shall have the same meaning as defined in subdivision (a) of Section 4512.

(b) (1) A person with a developmental disability may be committed to the State Department of Developmental Services for residential placement other than in a state developmental center or state-operated community facility, as provided in subdivision (a) of Section 6509, if he or she is found to be a danger to himself, herself, or others.

(A) Any order of commitment made pursuant to this paragraph shall expire automatically one year after the order of commitment is made.

(B) This paragraph shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with the initial petition for commitment.

(2) A person with a developmental disability shall not be committed to the State Department of Developmental Services for placement in a state developmental center or state-operated community facility pursuant to this article unless he or she meets the criteria for admission to a developmental center pursuant to paragraph (2), (3), or (4) of subdivision (a) of Section 7505 and is dangerous to self or others or he or she currently is a resident of a state developmental center or state-operated community facility pursuant to an order of commitment made pursuant to this article prior to July 1, 2012, and is being recommitted pursuant to paragraph (4) of this subdivision.

(3) If the person with a developmental disability is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility is not required in order to find that the person is a danger to self or others.

(4) In the event subsequent petitions are filed with respect to a resident of a state developmental center or a state-operated community facility committed prior to July 1, 2012, the procedures followed and criteria for recommitment shall be the same as with the initial petition for commitment.

(5) In any proceedings conducted under the authority of this article, the person alleged to have a developmental disability shall be informed of his or her right to counsel by the court, and if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal services if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person has a developmental disability and is dangerous to himself or herself or to others shall be presented by the district

attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel. The clients' rights advocate for the regional center may attend any judicial proceedings to assist in protecting the individual's rights.

(c) (1) Any order of commitment made pursuant to this article with respect to a person described in paragraph (3) of subdivision (a) of Section 7505 shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

(2) Any order of commitment made pursuant to this article on or after July 1, 2012, with respect to the admission to a developmental center of a person described in paragraph (2) of subdivision (a) of Section 7505 shall expire automatically six months after the earlier of the order of commitment pursuant to this section or the order of a placement in a developmental center pursuant to Section 6506, unless the regional center, prior to the expiration of the order of commitment, notifies the court in writing of the need for an extension. The required notice shall state facts demonstrating that the individual continues to be in acute crisis as defined in paragraph (1) of subdivision (d) of Section 4418.7 and the justification for the requested extension, and shall be accompanied by the comprehensive assessment and plan described in subdivision (e) of Section 4418.7. An order granting an extension shall not extend the total period of commitment beyond one year, including any placement in a developmental center pursuant to Section 6506. If, prior to expiration of one year, the regional center notifies the court in writing of facts demonstrating that, due to circumstances beyond the regional center's control, the placement cannot be made prior to expiration of the extension, and the court determines that good cause exists, the court may grant one further extension of up to 30 days. The court may also issue any orders the court deems appropriate to ensure that necessary steps are taken to ensure that the individual can be safely and appropriately transitioned to the community in a timely manner. The required notice shall state facts demonstrating that the regional center has made significant progress implementing the plan described in subdivision (e) of Section 4418.7 and that extraordinary circumstances exist beyond the regional center's control that have prevented the plan's implementation. This paragraph does not preclude the individual or any person acting on his or her behalf from making a request for release pursuant to Section 4800, or counsel for the individual from filing a petition for habeas corpus pursuant to Section 4801. Notwithstanding subdivision (a) of Section 4801, for purposes of this paragraph, judicial review shall be in the superior court of the county that issued the order of commitment pursuant to this section.

**SEC. 2.** Section 6509 of the Welfare and Institutions Code is amended to read:

**6509.** (a) If the court finds that the person has a developmental disability, and is a danger to himself, herself, or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any of the following:

(1) Any licensed community care facility, as defined in Section 1502 of the Health and Safety Code, or any health facility, as defined in Section 1250 of the Health and Safety Code, other than a developmental center or state-operated facility.

(2) The acute crisis center at Fairview Developmental Center, if the person meets the criteria for admission pursuant to paragraph (2) of subdivision (a) of Section 7505.

(3) On or after January 1, 2015, the acute crisis center at Sonoma Developmental Center, if the person meets the criteria for admission pursuant to paragraph (2) of subdivision (a) of Section 7505.

(4) The secure treatment program at Porterville Developmental Center, if the person meets the criteria for admission pursuant to paragraph (3) of subdivision (a) of Section 7505.

(5) Canyon Springs Community Facility, if the person meets the criteria for admission pursuant to paragraph (4) of subdivision (a) of Section 7505.

(6) Any other appropriate placement permitted by law.

(b) (1) The court shall hold a hearing as to the available placement alternatives and consider the reports of the regional center director or designee and the developmental center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence, the court shall order that the person be committed to the placement that the court finds to be the most appropriate and least restrictive alternative. If the court finds that release of the person can be made subject to conditions that the court deems proper and adequate for the protection and safety of others and the welfare of the person, the person shall be released subject to those conditions.

(2) The court, however, may commit a person with a developmental disability who is not a resident of this state under Section 4460 for the purpose of transportation of the person to the state of his or her legal residence pursuant to Section 4461. The

State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

(c) If the person has at any time been found mentally incompetent pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code arising out of a complaint charging a felony offense specified in Section 290 of the Penal Code, the court shall order the State Department of Developmental Services to give notice of that finding to the designated placement facility and the appropriate law enforcement agency or agencies having local jurisdiction at the site of the placement facility.

(d) For persons residing in the secure treatment program at the Porterville Developmental Center, at the person's annual individual program plan meeting the team shall determine if the person should be considered for transition from the secure treatment program to an alternative placement. If the team concludes that an alternative placement is appropriate, the regional center, in coordination with the developmental center, shall conduct a comprehensive assessment and develop a proposed plan to transition the individual from the secure treatment program to the community. The transition plan shall be based upon the individual's needs, developed through the individual program plan process, and shall ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services shall include, when appropriate for the individual, wrap-around services through intensive individualized support services. The clients' rights advocate for the regional center shall be notified of the individual program plan meeting and may participate in the meeting unless the consumer objects on his or her own behalf. The individual's transition plan shall be provided to the court as part of the notice required pursuant to subdivision (e).

(e) If the State Department of Developmental Services decides that a change in placement is necessary, it shall notify, in writing, the court of commitment, the district attorney, the attorney of record for the person, and the regional center of its decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

**SEC. 3.** Section 7502.6 is added to the Welfare and Institutions Code, to read:

**7502.6.** (a) Notwithstanding any other law or regulation, commencing with the effective date of this section and until June 30, 2021, a court may order the commitment of an individual to a separate and distinct unit of Canyon Springs Community Facility, as provided in paragraph (4) of subdivision (a) of Section 7505. No more than 10 beds at the facility shall be designated for this purpose.

(b) Prior to admission to Canyon Springs Community Facility of an individual meeting the criteria of paragraph (4) of subdivision (a) of Section 7505, the regional center and regional resource development project shall follow the preadmission procedures, including notification and assessment procedures, specified in subdivisions (a) to (c), inclusive, of Section 4418.7. Upon admission, the postadmission procedures and timelines specified in subdivision (e) of Section 4418.7 shall apply.

**SEC. 4.** Section 7505 of the Welfare and Institutions Code is amended to read:

**7505.** (a) Notwithstanding any other law, the State Department of Developmental Services shall not admit anyone to a developmental center unless the person has been determined eligible for services under Division 4.5 (commencing with Section 4500) and the person is any of the following:

(1) An adult committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Section 1370.1 of the Penal Code.

(2) Committed by a court to the acute crisis center at Fairview Developmental Center, or the acute crisis center at Sonoma Developmental Center, pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 due to an acute crisis, pursuant to Section 4418.7.

(3) An adult committed by a court to Porterville Developmental Center, secure treatment program, pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 as a result of involvement with the criminal justice system, and the court has determined the person is mentally incompetent to stand trial.

(4) A person committed by a court on or before June 30, 2021, to Canyon Springs Community Facility pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 who otherwise meets the criteria for admission described in Section 4418.7 due to an acute crisis, as defined in paragraph (1) of subdivision (d) of Section 4418.7.

(5) A person described in Section 4508.

(b) Under no circumstances shall the State Department of Developmental Services admit a person to a developmental center after July 1, 2012, as a result of a criminal conviction or when the person is competent to stand trial for the criminal offense and

the admission is ordered in lieu of trial.

**SEC. 5.** Section 1.5 of this bill incorporates amendments to Section 6500 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1494. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, but this bill becomes operative first, (2) each bill amends Section 6500 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1494, in which case Section 6500 of the Welfare and Institutions Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of Senate Bill 1494, at which time Section 1.5 of this bill shall become operative.

**SEC. 6.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because there is a critical shortage of placement options for persons with challenging mental health treatment needs who are experiencing acute crises and are in need of immediate mental health services, and in order to authorize the Canyon Springs Community Facility to serve as an additional placement option for those individuals who meet the criteria for admission as soon as possible, it is necessary that this act take effect immediately.