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SB-1274 Developmental services: data exchange. (2017-2018)

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Senate Bill No. 1274

CHAPTER 466

An act to amend Section 4514 of, and to add Section 10850.6 to, the Welfare and Institutions Code, relating to developmental services.

[Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1274, McGuire. Developmental services: data exchange.

(1) Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which, through a combination of state and county funds and federal funds received through the TANF program, each county provides cash assistance and other benefits to qualified low-income families. Existing law generally requires a recipient of CalWORKs benefits to participate in welfare-to-work activities as a condition of eligibility for aid. Existing federal law also provides for the federal Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county. Under existing law, the State Department of Social Services is charged with state administration of both of these programs.

Existing law generally prohibits county welfare departments and the State Department of Social Services from disclosing records and information concerning the administration of public social services for which grants-in-aid are received from the United States government, such as CalWORKs and CalFresh, and requires that those records and information be kept confidential, except as prescribed.

Existing law establishes the Employment First Policy, which is the policy that opportunities for integrated, competitive employment be given the highest priority for working-age individuals with developmental disabilities, regardless of the severity of their disabilities. Existing law requires various state agencies to disclose specified information to the State Department of Developmental Services to assist the department in the implementation of this policy.

This bill would, notwithstanding the general prohibition above, require the State Department of Social Services to provide the eligibility and enrollment data for the CalWORKs and CalFresh programs to the State Department of Developmental Services for the purposes of monitoring and evaluating employment outcomes to determine the effectiveness of the Employment First Policy, as specified, to the extent permitted under federal law and regulations.

(2) Existing law provides that all information and records obtained by the State Department of Developmental Services in the course of providing intake, assessment, and services to persons with developmental disabilities are confidential and may only be disclosed under specified circumstances.

This bill would authorize disclosure of this information as necessary to authorized employees of the State Department of Social Services to enable the State Department of Developmental Services to obtain the CalWORKs and CalFresh eligibility and enrollment data described above.

(3) This bill would incorporate additional changes to Section 4514 of the Welfare and Institutions Code proposed by SB 1190 to be operative only if this bill and SB 1190 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released. This chapter does not compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, dependent ward, or conservatee, and his or her parent, guardian, conservator, limited conservator with access to confidential records, or authorized representative, designates, in writing, persons to whom records or information may be disclosed. This chapter does not compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, if the Director of Developmental Services designates, by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

"

Date

As a condition of doing research concerning persons with developmental disabilities who have received services from ____ (fill in the facility, agency, or person), I, ____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

"

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, and Section 6502 of this code.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person. This article does not compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with a developmental disability, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime for which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on multidisciplinary personnel teams, as defined in subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee, shall release the patient's medical record to a medical examiner, forensic pathologist, or coroner, upon request. Except for the purposes included in paragraph (8) of subdivision (b) of Section 56.10 of the Civil Code, a medical examiner, forensic pathologist, or coroner shall not disclose any information contained in the medical record obtained pursuant to this subdivision without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11 of the Civil Code.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Public Health, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Public Health or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Public Health or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Public Health or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To a board that licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of a law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) (1) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (A) the person with a developmental disability has been reported lost or missing or (B) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in any provision listed in Section 16590 of the Penal Code.

(2) This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

(3) This subdivision is not an exception to, and does not in any other way affect, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Division of Juvenile Facilities and Department of Corrections and Rehabilitation or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of this code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with a developmental disability, or the parent, guardian, or conservator of a person with a developmental disability who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with a developmental disability within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person if both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

(t) (1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were from a source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to an appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(4) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

(u) To the person appointed as the developmental services decisionmaker for a minor, dependent, or ward pursuant to Section 319, 361, or 726.

(v) To a protection and advocacy agency established pursuant to Section 4901, to the extent that the information is incorporated within any of the following:

(1) An unredacted facility evaluation report form or an unredacted complaint investigation report form of the State Department of Social Services. This information shall remain confidential and subject to the confidentiality requirements of subdivision (f) of Section 4903.

(2) An unredacted citation report, unredacted licensing report, unredacted survey report, unredacted plan of correction, or unredacted statement of deficiency of the State Department of Public Health, prepared by authorized licensing personnel or authorized representatives described in subdivision (n). This information shall remain confidential and subject to the confidentiality requirements of subdivision (f) of Section 4903.

(w) To the regional center clients' rights advocate who provides service pursuant to Section 4433, unless the consumer objects on his or her own behalf, for the purpose of providing authorized clients' rights advocacy services pursuant to Section 4418.25 or 4418.7, subparagraph (B) or (C) of paragraph (9) of subdivision (a) of Section 4648, Sections 4684.80 to 4684.87, inclusive, or Section 4698 or 7502.5 of this code, or Section 1267.75 or 1531.15 of the Health and Safety Code.

(x) For purposes of this section, a reference to a "medical examiner, forensic pathologist, or coroner" means a coroner or deputy coroner, as described in subdivision (c) of Section 830.35 of the Penal Code, or a licensed physician who currently performs official autopsies on behalf of a county coroner's office or a medical examiner's office, whether as a government employee or under contract to that office.

(y) To authorized personnel who are employed by the Employment Development Department as necessary to enable the Employment Development Department to provide the information required to be disclosed to the State Department of

Developmental Services pursuant to subdivision (ak) of Section 1095 of the Unemployment Insurance Code. The Employment Development Department shall maintain the confidentiality of information provided to it by the State Department of Developmental Services to the same extent as if the Employment Development Department had acquired the information directly.

(z) To authorized personnel who are employed by the State Department of Social Services as necessary to enable the department to provide the information required to be disclosed to the State Department of Developmental Services pursuant to Section 10850.6. The State Department of Social Services shall maintain the confidentiality of any information provided to it by the State Department of Developmental Services to the same extent as if the State Department of Social Services had acquired the information directly.

SEC. 1.5. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released. This chapter does not compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, dependent ward, or conservatee, and his or her parent, guardian, conservator, limited conservator with access to confidential records, or authorized representative, designates, in writing, persons to whom records or information may be disclosed. This chapter does not compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, if the Director of Developmental Services designates, by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

“

Date

As a condition of doing research concerning persons with developmental disabilities who have received services from ____ (fill in the facility, agency, or person), I, ____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

”

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, and Section 6502 of this code.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person. This article does not compel a physician and surgeon, psychologist, social worker, marriage and family therapist, professional clinical counselor, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with a developmental disability, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime for which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on multidisciplinary personnel teams, as defined in subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee, shall release the patient's medical record to a medical examiner, forensic pathologist, or coroner, upon request. Except for the purposes included in paragraph (8) of subdivision (b) of Section 56.10 of the Civil Code, a medical examiner, forensic pathologist, or coroner shall not disclose any information contained in the medical record obtained pursuant to this subdivision without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11 of the Civil Code.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Public Health, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Public Health or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Public Health or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Public Health or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To a board that licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of a law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a

decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) (1) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (A) the person with a developmental disability has been reported lost or missing or (B) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in any provision listed in Section 16590 of the Penal Code.

(2) This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved.

(3) This subdivision is not an exception to, and does not in any other way affect, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Division of Juvenile Facilities and Department of Corrections and Rehabilitation or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of this code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with a developmental disability, or the parent, guardian, or conservator of a person with a developmental disability who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with a developmental disability within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person if both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

(t) (1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were from a source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to an appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(4) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

(u) To the person appointed as the developmental services decisionmaker for a minor, dependent, or ward pursuant to Section 319, 361, or 726.

(v) To a protection and advocacy agency established pursuant to Section 4901, to the extent that the information is incorporated within any of the following:

(1) An unredacted facility evaluation report form or an unredacted complaint investigation report form of the State Department of Social Services. This information shall remain confidential and subject to the confidentiality requirements of subdivision (f) of Section 4903.

(2) An unredacted citation report, unredacted licensing report, unredacted survey report, unredacted plan of correction, or unredacted statement of deficiency of the State Department of Public Health, prepared by authorized licensing personnel or authorized representatives described in subdivision (n). This information shall remain confidential and subject to the confidentiality requirements of subdivision (f) of Section 4903.

(w) To the regional center clients' rights advocate who provides service pursuant to Section 4433, unless the consumer objects on his or her own behalf, for the purpose of providing authorized clients' rights advocacy services pursuant to Section 4418.25 or 4418.7, subparagraph (B) or (C) of paragraph (9) of subdivision (a) of Section 4648, Sections 4684.80 to 4684.87, inclusive, or Section 4698 or 7502.5 of this code, or Section 1267.75 or 1531.15 of the Health and Safety Code.

(x) For purposes of this section, a reference to a "medical examiner, forensic pathologist, or coroner" means a coroner or deputy coroner, as described in subdivision (c) of Section 830.35 of the Penal Code, or a licensed physician who currently performs official autopsies on behalf of a county coroner's office or a medical examiner's office, whether as a government employee or under contract to that office.

(y) To authorized personnel who are employed by the Employment Development Department as necessary to enable the Employment Development Department to provide the information required to be disclosed to the State Department of Developmental Services pursuant to subdivision (ak) of Section 1095 of the Unemployment Insurance Code. The Employment Development Department shall maintain the confidentiality of information provided to it by the State Department of Developmental Services to the same extent as if the Employment Development Department had acquired the information directly.

(z) To authorized personnel who are employed by the California Victim Compensation Board for the purposes of verifying the identity and eligibility of individuals claiming compensation pursuant to the Eugenics Sterilization Compensation Program described in Chapter 1.5 (commencing with Section 24200) of Division 20 of the Health and Safety Code. The board shall maintain the confidentiality of any information or records received from the department in accordance with Part 160 (commencing with Section 160.101) and Part 164 (commencing with Section 164.102) of Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and this section.

(aa) To authorized personnel who are employed by the State Department of Social Services as necessary to enable the department to provide the information required to be disclosed to the State Department of Developmental Services pursuant to Section 10850.6. The State Department of Social Services shall maintain the confidentiality of any information provided to it by the State Department of Developmental Services to the same extent as if the State Department of Social Services had acquired the information directly.

SEC. 2. Section 10850.6 is added to the Welfare and Institutions Code, to read:

10850.6. Notwithstanding Section 10850, the State Department of Social Services shall provide the State Department of Developmental Services with CalWORKs and CalFresh eligibility and enrollment data for consumers served by the State Department of Developmental Services for the purposes of monitoring and evaluating employment outcomes to determine the effectiveness of the Employment First Policy, established pursuant to Section 4689. This information shall be provided to the extent permitted under applicable federal statutes and regulations. The State Department of Developmental Services shall maintain the confidentiality of any information provided to it by the State Department of Social Services to the same extent as if the State Department of Developmental Services had acquired the information directly.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 4514 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1190. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 4514 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1190, in which case Section 1 of this bill shall not become operative.