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**AB-2835 Motels and hotels: publicly funded shelter programs.** (2023-2024)

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**Assembly Bill No. 2835**

**CHAPTER 209**

An act to amend Sections 1954.08, 1954.09, and 1954.092 of, and to repeal Section 1954.093 of, the Civil Code, relating to tenancy.

[ Approved by Governor August 27, 2024. Filed with Secretary of State August 27, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2835, Gabriel. Motels and hotels: publicly funded shelter programs.

Existing law provides that the continued occupancy of a shelter program participant in a motel or hotel, as defined, does not constitute a new tenancy and is not considered a "person who hires" for purposes of an unlawful detainer action if the shelter program meets certain requirements, including that the program establishes, adopts, and clearly documents rules governing how and for what reasons a program participant's enrollment may be terminated. Under existing law, permissible reasons for termination include, among others, physical violence to staff or other program participants. Existing law requires the shelter program operator to provide a written termination notice to a shelter program participant at least 30 days prior to the proposed termination, as specified.

This bill would revise the definition of motel or hotel to mean any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment. The bill would make physical violence to hotel guests a permissible reason for termination of a shelter program participant's enrollment. If a shelter program participant has self-exited, as defined, from the program, the bill would exempt the shelter program operator from providing a 30-day notice. If a shelter program participant will exit from the program due to time limits and their stay is extended less than 30 days, the bill would authorize the shelter program administrator or operator to issue an amended termination notice with that additional period of time.

Existing law prohibits a hotel or motel from adopting termination policies, imposing restrictions on property access, or levying charges and fees that are specifically for shelter program participants. Existing law also prohibits a hotel or motel from requiring those participants to check out and reregister, move out of or between rooms, or move out from the hotel or motel while actively enrolled in a shelter program for purposes of preventing occupants from establishing rights of tenancy.

This bill would except these prohibitions from an existing law provision that, among other things, requires any operational policies negotiated prior to the commencement of the shelter program to be approved by the shelter program administrator and shared with their program participants, as specified.

Existing law repeals these and other provisions related to shelter programs on January 1, 2025.

This bill would delete the January 1, 2025, repeal date, thereby extending operation of the above-described provisions indefinitely.

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

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

## **SECTION 1.** Section 1954.08 of the Civil Code is amended to read:

**1954.08.** For the purposes of this chapter, the following definitions apply:

- (a) "Harm-reduction" means a set of strategies, policies, and practices aimed at mitigating the negative social and physical consequences associated with various human behaviors, including, but not limited to, substance use, and that do not rely on punitive measures to gain program compliance.
- (b) "Motel or hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment.
- (c) "Self-exit" means when a shelter program participant voluntarily leaves a shelter program, including for a reason unknown to the shelter program operator, and does not return to the site or make reasonable contact with the shelter program operator within 72 hours of leaving. The shelter program operator shall contact hospitals, jails, and any other relevant sites to make a good faith effort to determine the location of the individual and if their exit from the program was voluntary.
- (d) "Shelter program" means a city-, county-, continuum of care-, state-, or federally funded shelter, interim housing, motel voucher, or emergency shelter program in which the city, county, continuum of care, state, or federal governmental entity retains an oversight and accountability role in ensuring compliance with program regulations and proper program administration.
- (e) "Shelter program administrator" means a city, county, or continuum of care entity that retains an oversight role in ensuring compliance with program regulations and proper program administration.
- (f) "Shelter program operator" means a service provider agency that is contracting with a shelter program administrator to carry out the operations of the shelter program. A "shelter program operator" may include community-based service providers as well as public government agencies carrying out program operations.
- (g) "Shelter program participant" means an occupant of a motel, hotel, or other shelter site whose occupancy is solely due to their participation in a shelter program.
- (h) "Trauma-informed" means a set of practices that promote safety, empowerment, and healing in recognition that program participants may have experienced trauma that informs their experiences and responses.

## **SEC. 2.** Section 1954.09 of the Civil Code is amended to read:

**1954.09.** (a) Notwithstanding paragraph (1) of subdivision (b) of Section 1954.091, shelter program participants shall not have their continued occupancy in a motel, hotel, or shelter program constitute a new tenancy and shall not be considered persons who hire pursuant to Section 1940 for the purposes of Section 1161 of the Code of Civil Procedure, if the shelter program meets all of the following requirements:

(1) The shelter program adheres to the core components of Housing First, pursuant to subdivision (b) of Section 8255 of the Welfare and Institutions Code.

(2) The shelter program establishes, adopts, and clearly documents rules governing how and for what reasons a shelter program participant's enrollment may be terminated and the shelter program operator discloses the termination policy to program participants in writing, in plain language, at the commencement of their occupancy.

(A) Permissible reasons for termination shall include sexual assault, verbally or physically threatening behaviors, which rise to the level of a "direct threat" to persons or property, as defined in paragraph (3) of subdivision (b) of Section 12179 of Title 2 of the Code of California Regulations, physical violence to staff, hotel guests, or other program participants, direct observation of participant engaging in illegal activity onsite, or time limits established by the shelter program.

(B) Terminations for reasons not stated in subparagraph (A) and any operational policies negotiated prior to the commencement of the shelter program shall be approved by the shelter program administrator and shared with their shelter program participants in a clearly labeled document.

(C) The shelter program administrator shall endeavor to ensure terminations are performed by the shelter program operator in a trauma-informed manner utilizing a harm-reduction approach, and shall ensure that the termination policies and procedures of the hotel, motel, and shelter program, including the required grievance procedure, comply with all applicable disability laws, including requirements for reasonable accommodation.

(D) The shelter program operator is exempt from providing a 30-day notice pursuant to subparagraph (A) of paragraph (3) if the shelter program participant has self-exited from the program.

(E) If a shelter program participant will exit from the program due to time limits and the participant's stay is extended for a period of less than 30 days beyond the original termination date, the shelter program administrator or shelter program operator may issue an amended termination notice with an additional period of time equal to the number of days of the program extension.

(3) The shelter program administrator establishes procedures regarding how a shelter program participant will be provided a written termination notice if a termination occurs and the shelter program operator discloses those procedures to shelter program participants in writing at the commencement of their occupancy.

(A) The shelter program operator shall provide the termination notice to the participant at least 30 days prior to the proposed termination or, if the underlying cause for a proposed termination constitutes a "direct threat," as defined in paragraph (3) of subdivision (b) of Section 12179 of Title 2 of the Code of California Regulations, the shelter program operator may remove the participant from the premises immediately, provided that the operator advises the participant of their right to utilize the grievance process described in paragraph (5).

(B) The termination notice shall contain a clear, plain-language statement of the reason for the termination, shall notify the participant of their right to request a reasonable accommodation if they are a qualified person with a disability, and shall notify the participant of their right to utilize the grievance process described in paragraph (5).

(C) The established procedures developed regarding participant guideline violations shall include an escalation continuum that incorporates documented warnings and documented shelter program operator staff and participant problem solving methods prior to instituting terminations from the shelter program.

(4) The shelter program operator shall provide an exit plan upon termination of a shelter program participant that includes referrals to any available local shelter service for which the participant is eligible and the shelter program operator shall make a good faith, reasonable effort to facilitate an intake for that participant in an available bed or unit.

(A) The shelter program operator shall document good faith, reasonable efforts and shall make that documentation available upon request.

(B) The shelter program administrator, in cases where the grievance process is utilized, shall determine whether the shelter program operator's efforts constitute a good faith effort to facilitate a participant into an alternative available shelter site or program.

(C) (i) The shelter program administrator shall make good faith efforts to provide reasonable transportation accommodations upon termination of a shelter program participant from a program or upon transfer of a shelter program participant to an alternative available bed or unit.

(ii) In exigent circumstances that necessitate the presence of first responders, police, or fire department and render it infeasible to provide a termination letter at that time or coordinate a postexit plan, the shelter program operator shall create a termination letter that satisfies the above-described requirements and make that documentation available to participants within 24 hours of their request.

(5) The shelter program administrator shall establish a grievance process that complies with due process and the shelter program operator shall disclose the grievance process to occupants in writing, in plain language, at the commencement of their occupancy.

(A) The grievance process shall give shelter program participants a right to due process appeal through the shelter program administrator if the shelter program participant believes they were or are being wrongfully terminated from the program, and shall inform shelter program participants on how to access and initiate the grievance process.

(B) (i) Program participants shall be provided the opportunity to initiate the grievance process 30 days prior to their proposed termination date or at any point thereafter.

(ii) In cases where participants are subject to immediate removal based on circumstances that present a "direct threat," as defined in paragraph (3) of subdivision (b) of Section 12179 of Title 2 of the Code of California Regulations, participants shall be provided the opportunity to initiate the grievance process at the time of removal or at any point thereafter.

(C) If, following the grievance process, the proposed termination is not carried out, any participant already removed shall be granted the right to resume their participation in the program. If the shelter program operator is unable to place the individual in the original site, the shelter program operator shall facilitate a placement for the individual in an alternative available motel, hotel, or shelter site.

(b) Where a shelter program administrator is also the shelter program operator, the shelter program administrator is responsible for all of the duties described in subdivision (a).

(c) For properties that are being converted from use as a motel or hotel, or from use as a shelter, interim housing, emergency shelter, or other interim facility to a permanent housing site, paragraph (2) shall not apply to occupants of the site from the date that the site receives a certificate of occupancy as a permanent housing site.

**SEC. 3.** Section 1954.092 of the Civil Code is amended to read:

**1954.092.** (a) A motel or hotel shall not be designated as a nontransient motel or a nontransient hotel pursuant to Section 310.4 of Chapter 3 (commencing with Section 301.1) of Part 2 of Title 24 (the California Building Standards Code) of the California Code of Regulations solely as a result of a shelter program participant's occupancy in the motel or hotel beyond a 30-day period.

(b) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (a) of Section 1954.09, a hotel or motel shall not do either of the following:

(1) (A) Adopt termination policies specifically for motel or hotel occupants who are shelter program participants that do not apply to other motel or hotel occupants who are not participating in a shelter program, impose restrictions on the ability of program participants to freely enter or exit the property or access certain areas or amenities of the property that do not apply to other motel or hotel occupants, or levy charges and fees, including fees for room card replacements, that do not apply to other motel or hotel occupants.

(B) This paragraph sets minimum standards for shelter program terminations and shall not be construed to restrict shelter program operating standards that confer greater rights to participants with regard to shelter program terminations.

(2) Require shelter program participants to check out and reregister, move out of rooms or between rooms, or from the hotel or motel while actively enrolled in the shelter program for the purposes of preventing an occupant from establishing rights of tenancy.

**SEC. 4.** Section 1954.093 of the Civil Code is repealed.