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SB-1281 Advancing Equity and Access in the Self-Determination Program Act. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1281

Introduced by Senator Menjivar
(Principal coauthor: Assembly Member Addis)
(Coauthor: Assembly Member Stephanie Nguyen)

February 15, 2024

An act to amend Sections 4435.1 and 4685.8 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1281, Menjivar. Advancing Equity and Access in the Self-Determination Program Act.

Existing law, the Lanterman Developmental Disabilities Services Act (act), requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), which is developed by the planning team according to specified procedures.

Existing law requires the department to establish and implement a statewide Self-Determination Program to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. Existing law

declares the intent of the Legislature to provide more statewide uniformity and consistency and promote equity in the administrative practices and services of regional centers, consistent with the act.

This bill, the Advancing Equity and Access in the Self-Determination Program Act, would require the department, by January 1, 2026, to establish statewide standardized processes and procedures for the Self-Determination Program, as specified, and to ensure that those processes and procedures are applied consistently by regional centers and that they make measurable improvements towards achieving equitable enrollment by race, ethnicity, and regional center. The bill would require deviation from the standardized processes and procedures to be approved by the department.

Existing law provides participants with a choice of financial management services providers who assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement their IPP throughout the year.

This bill would, subject to eligibility for federal funding, require regional centers to ensure that participant choice of providers is respected and that the full cost of the participant's provider is included in the participant's spending plan, as specified.

This bill would incorporate additional changes to Section 4685.8 of the Welfare and Institutions Code proposed by SB 1463 to be operative only if this bill and SB 1463 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. This act shall be known, and may be cited, as the Advancing Equity and Access in the Self-Determination Program Act.

SEC. 2. Section 4435.1 of the Welfare and Institutions Code is amended to read:

4435.1. (a) It is the intent of the Legislature to provide more statewide uniformity and consistency and promote equity in the administrative practices and services of regional centers, consistent with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)), as specified in this section.

(b) It is the intent of the Legislature that the department makes measurable improvements towards achieving equity in outreach and program promotion by race, ethnicity, and regional center for the Self-Determination Program.

(c) (1) No later than June 30, 2024, the department shall establish common data definitions that shall be used to promote service access and equity in all regional center services and programs. No later than January 1, 2025, regional centers shall start recording the race and ethnicity and preferred language identified by each individual, subject to paragraph (4), at the time of initial intake, assessment, and the individual program plan meeting following the individual's 18th birthday. Individuals have the right to update their demographic information at any time.

(2) The categories for race and ethnicity shall be based on the latest categories adopted by the United States Core Data for Interoperability set forth by the United States Office of the National Coordinator for Health Information Technology.

(3) "Preferred language" means the language chosen by the applicant or individual, or, when appropriate, the individual's parent, legal guardian or conservator, or authorized representative.

(4) Nothing in this section shall be construed to compel an individual, their parent, their legal guardian or conservator, or their authorized representative to provide requested information regarding the race, ethnicity, or preferred language of any of those persons.

(5) The data requirements described in this subdivision shall be integrated with the department's new case management system.

(d) (1) No later than June 30, 2025, the department shall establish standardized processes, including standardized templates, for assessing a consumer's need for respite services. Regional centers shall implement these standardized processes no later than January 1, 2026.

(2) The processes shall include a requirement that the regional center obtain information about respite needs from family members and, when appropriate, from other caregivers. The information obtained from these standardized processes shall be considered by the individual's individual program planning team.

(3) Regional centers shall make any modifications to their purchase-of-service policies as necessary for implementation of this subdivision.

(e) No later than June 30, 2024, the department shall establish a standardized individual program plan template and standardized procedures, including frequency of meetings, that are consistent with person-centered services planning requirements. The template shall be integrated with the department's new case management system. Regional centers shall implement the standardized individual program plan template and procedures no later than January 1, 2025.

(f) No later than June 30, 2025, the department shall establish standardized vendorization procedures. These procedures may include, but are not limited to, standardized vendorization forms and requirements to streamline vendorization elements, including when services are provided through more than one regional center. Regional centers shall implement these standardized vendorization procedures and provide updated vendor lists to the department on a quarterly basis no later than January 1, 2026.

(g) (1) No later than January 1, 2025, the department shall establish a standardized intake process consistent with the requirements and timelines specified in Section 4642.

(2) No later than June 30, 2025, and to the extent allowed by current data systems, regional centers shall report to the department, quarterly as described in paragraph (4), the number of assessments and the length of time that it took to determine eligibility.

(3) The department shall include all of the following information in its new case management system:

(A) The number of individuals for whom intake was requested.

(B) The outcome of that intake, including whether an assessment was determined to be necessary.

(C) The length of time that it took to complete the assessment.

(D) The number of notices of action sent pursuant to paragraph (3) of subdivision (a) of Section 4642.

(4) Regional centers shall report the data described in this subdivision to the department on a quarterly basis, based on the criteria specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 4519.5.

(h) No later than January 1, 2026, the department shall establish statewide standardized processes and procedures for the Self-Determination Program established by Section 4685.8. The department shall ensure that they are consistently applied by each regional center and that they make measurable improvements towards achieving equitable enrollment by race, ethnicity, and regional center. The standardized processes and procedures shall also include the requirement that any regional center variation from the standardized processes and procedures shall be approved by the department. The standardized processes and procedures shall include, but not be limited to, all of the following:

(1) Enrollment.

(2) Individual budgets.

(3) Financial management services.

(4) Access to self-directed and transition supports.

(5) Spending plan.

(6) Financial management service monthly spending report.

(i) The department shall develop the standardized processes specified in this section with input from stakeholders, including consumers and families, who reflect the demographic diversity of California, to the extent practicable. In developing the standardized processes specified in this section, the department shall address barriers that may impact access to services.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section through written directives until regulations are effective.

(k) As part of its quarterly updates to the Legislature pursuant to Section 4474.17, the department shall provide information on the status of implementation of this section.

SEC. 3. Section 4685.8 of the Welfare and Institutions Code is amended to read:

4685.8. (a) The department shall implement a statewide Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. As of July 1, 2021, the program shall begin to be available on a voluntary basis to all regional center consumers who are eligible for the Self-Determination Program.

(b) The department, in establishing the statewide program, shall do both of the following:

(1) Set targets and benchmarks as set forth in paragraph (1) of subdivision (r).

(2) Address all of the following:

(A) Oversight of expenditure of self-determined funds and the achievement of participant outcomes over time.

(B) Increased participant control over which services and supports best meet the participant's needs and the IPP objectives. A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring their own support workers, or negotiating unique service arrangements with local community resources.

(C) Comprehensive person-centered planning, including an individual budget and services that are outcome based.

(D) Consumer and family training to ensure understanding of the principles of self-determination, the planning process, and the management of budgets, services, and staff.

(E) Choice of independent facilitators, who meet standards and certification requirements established by the department, and who can assist with the functions specified in paragraph (2) of subdivision (c).

(F) Choice of financial management services providers who meet standards and certification requirements established by the department, and who can carry out the functions specified in paragraph (1) of subdivision (c).

(G) Innovation that will more effectively allow participants to achieve their goals.

(H) Long-term sustainability of the Self-Determination Program by doing all of the following:

(i) Requiring IPP teams, when developing the individual budget, to determine the services, supports, and goods necessary for each consumer based on the needs and preferences of the consumer, and when appropriate the consumer's family, and the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option, as specified in subparagraph (D) of paragraph (6) of subdivision (a) of Section 4648.

(ii) The department may review final individual budgets that are at or above a spending threshold determined by the department of all individual budgets and use information from its review in the aggregate to develop additional program guidance and verify compliance with federal and state laws and other requirements.

(c) For purposes of this section, the following definitions apply:

(1) "Financial management services" means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement their IPP throughout the year. These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying provider qualifications, including criminal background checks, and expenditure reports. The financial management services provider shall meet the applicable requirements of Title 17 of the California Code of Regulations and other specific qualifications or certifications established by the department.

(2) "Independent facilitator" means a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to their IPP and is not employed by a person providing services to the participant. The independent facilitator may assist the participant in making informed decisions about the individual budget, and in locating, accessing, and coordinating services and supports consistent with the participant's IPP. The independent facilitator is available to assist in identifying immediate and long-term needs, developing options to meet those needs, leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP, and obtaining identified services and supports. The cost of the independent facilitator, if any, shall be paid by the participant out of the participant's individual budget. An independent facilitator shall receive training in the principles of self-determination, the person-centered planning process, and the other responsibilities described in this paragraph at the independent facilitator's own cost. The independent facilitator shall meet standards and certification requirements established by the department.

(3) "Individual budget" means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. The individual budget shall be determined using a fair, equitable, and transparent methodology.

(4) "IPP" means individual program plan, as described in Section 4646.

(5) "Participant" means an individual, and when appropriate, the participant's parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and has voluntarily agreed to participate in, the Self-

Determination Program.

(6) "Self-determination" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion. The Self-Determination Program shall only fund services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation.

(7) "Spending Plan" means the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their individual program plan (IPP). The spending plan shall identify the cost of each good, service, and support that will be purchased with regional center funds. The total amount of the spending plan cannot exceed the amount of the individual budget. A copy of the spending plan, and any revised spending plan, shall be attached to the participant's IPP. The regional center shall promptly send a copy of the spending plan and authorizations to the financial management services provider.

(d) Participation in the Self-Determination Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time. A regional center shall not require or prohibit participation in the Self-Determination Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division. Participation in the Self-Determination Program shall be available to any regional center consumer who meets the following eligibility requirements:

(1) The participant has a developmental disability, as defined in Section 4512, and is receiving services pursuant to this division.

(2) The consumer does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations. An individual, and when appropriate the individual's parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the Self-Determination Program pursuant to this paragraph may request that the regional center provide person-centered planning services in order to make arrangements for transition to the Self-Determination Program, provided that the individual is reasonably expected to transition to the community within 90 days. In that case, the regional center shall initiate person-centered planning services within 60 days of that request.

(3) The participant agrees to all of the following terms and conditions:

(A) The participant shall receive an orientation that meets the standards set or developed by the department to the Self-Determination Program prior to enrollment, which includes the principles of self-determination, the role of the independent facilitator and the financial management services provider, person-centered planning, and development of a budget.

(B) The participant shall utilize the services and supports available within the Self-Determination Program only when generic services and supports are not available.

(C) The participant shall only purchase services and supports necessary to implement their IPP and shall comply with any and all other terms and conditions for participation in the Self-Determination Program described in this section.

(D) The participant shall manage Self-Determination Program services and supports within the participant's individual budget.

(E) The participant shall utilize the services of a financial management services provider of their own choosing and who is vendored by a regional center and who meets the qualifications in paragraph (1) of subdivision (c).

(F) The participant may utilize the services of an independent facilitator of their own choosing for the purpose of providing services and functions as described in paragraph (2) of subdivision (c). If the participant elects not to use an independent facilitator, the participant may use their regional center service coordinator to provide the services and functions described in paragraph (2) of subdivision (c).

(G) If eligible, with the assistance of the regional center, if needed, timely apply for Medi-Cal in order to maximize federal funding. The participant may consider institutional deeming in order to qualify for Medi-Cal services.

(e) A participant who is not Medi-Cal eligible may participate in the Self-Determination Program and receive self-determination services and supports if all other program eligibility requirements are met and the services and supports are otherwise eligible for federal financial participation.

(f) The additional federal financial participation funds generated by the former participants of the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant to Article 4 (commencing with Section 4669.2) of Chapter 5, shall be used to maximize the ability of Self-Determination Program participants to direct their own lives and to ensure the department and regional centers successfully implement the program as follows:

(1) First, to offset the cost to the department for the criminal background check conducted pursuant to subdivision (v) and other administrative costs incurred by the department in implementing the Self-Determination Program.

(2) With the remaining funds, the department, in consultation with stakeholders, including a statewide self-determination advisory workgroup, shall prioritize the use of the funds to meet the needs of participants, increase service access and equity, and reduce disparities, and to implement the program, including costs associated with all of the following:

(A) Independent facilitators to assist with a participant's initial person-centered planning meeting.

(B) Development of the participant's initial individual budget.

(C) Joint training of consumers, family members, regional center staff, and members of the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w).

(D) Regional center operations to increase support for transition to the Self-Determination Program or for caseload ratio enhancement.

(E) To offset the costs to the regional centers in implementing the Self-Determination Program.

(F) To support the Statewide Self-Determination Advisory Committee established pursuant to paragraph (2) of subdivision (w).

(g) If at any time during participation in the Self-Determination Program a regional center determines that a participant is no longer eligible to continue in, or a participant voluntarily chooses to exit, the Self-Determination Program, the regional center shall provide for the participant's transition from the Self-Determination Program to other services and supports. This transition shall include the development of a new IPP that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(h) An individual determined to be ineligible for or who voluntarily exits the Self-Determination Program shall be permitted to return to the Self-Determination Program upon meeting all applicable eligibility criteria and upon approval of the participant's planning team, as described in subdivision (j) of Section 4512. An individual who has voluntarily exited the Self-Determination Program shall not return to the program for at least 12 months.

(i) An individual who participates in the Self-Determination Program may elect to continue to receive self-determination services and supports if the individual transfers to another regional center catchment area, provided that the individual remains eligible for the Self-Determination Program pursuant to subdivision (d). The balance of the participant's individual budget shall be reallocated to the regional center to which the participant transfers.

(j) The IPP team shall utilize the person-centered planning process to develop the IPP for a participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant-selected services and supports. The IPP team shall determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in the participant's IPP and ensures their health and safety. The completed individual budget shall be attached to the IPP.

(k) The participant shall implement their IPP, including choosing and purchasing the services and supports allowable under this section necessary to implement the plan. A participant is exempt from the cost control restrictions regarding the purchases of services and supports pursuant to Section 4648.5. A regional center shall not prohibit the purchase of any service or support that is otherwise allowable under this section.

(l) A participant shall have all the rights established in Sections 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section 4700).

(m) (1) Except as provided in paragraph (4), the IPP team shall determine the initial and any revised individual budget for the participant using the following methodology:

(A) (i) Except as specified in clause (ii), for a participant who is a current consumer of the regional center, their individual budget shall be the total amount of the most recently available 12 months of purchase of service expenditures for the participant.

(ii) An adjustment may be made to the amount specified in clause (i) if both of the following occur:

(I) The IPP team determines that an adjustment to this amount is necessary due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in purchase of service expenditures. When adjusting the budget, the IPP team shall document the specific reason for the adjustment in the IPP.

(II) The regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator.

(B) For a participant who is either newly eligible for regional center services or who does not have 12 months of purchase service expenditures, the participant's individual budget shall be calculated as follows:

(i) The IPP team shall identify the services and supports needed by the participant and available resources, as required by Section 4646.

(ii) The regional center shall calculate the cost of providing the services and supports to be purchased by the regional center by using the average cost paid by the regional center for each service or support unless the regional center determines that the consumer has a unique need that requires a higher or lower cost. The IPP team also shall document the specific reason for the adjustment in the IPP. The regional center shall certify on the individual budget document that this amount would have been expended using regional center purchase of service funds regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator.

(2) The amount of the individual budget shall be available to the participant each year for the purchase of program services and supports. An individual budget shall be calculated no more than once in a 12-month period, unless revised to reflect a change in circumstances, needs, or resources of the participant using the process specified in clause (ii) of subparagraph (A) of paragraph (1).

(3) The spending plan shall be assigned to uniform budget categories developed by the department in consultation with stakeholders and distributed according to the timing of the anticipated expenditures in the IPP and in a manner that ensures that the participant has the financial resources to implement the IPP throughout the year.

(4) The department, in consultation with stakeholders, may develop alternative methodologies for individual budgets that are computed in a fair, transparent, and equitable manner and are based on consumer characteristics and needs, and that include a method for adjusting individual budgets to address a participant's change in circumstances or needs.

(n) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3) of subdivision (m) to another budget category or categories. Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center or the participant's IPP team.

(o) Consistent with the implementation date of the IPP, the IPP team shall annually ascertain from the participant whether there are any circumstances or needs that require a change to the annual individual budget. Based on that review, the IPP team shall calculate a new individual budget consistent with the methodology identified in subdivision (m).

(p) (1) The department, as it determines necessary, may adopt regulations to implement the procedures set forth in this section. Any regulations shall be adopted in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

(q) The department, in consultation with stakeholders, shall develop informational materials about the Self-Determination Program. The department shall ensure that regional centers are trained in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families as candidates for, and participants in, the Self-Determination Program.

(r) Each regional center shall be responsible for implementing the Self-Determination Program as a term of its contract under Section 4629. As part of implementing the program, the regional center shall do all of the following:

(1) Meet the Self-Determination targets approved by the department, meet benchmarks established by the department in areas including timely enrollment, diversity of consumers served, and reduction of disparities in the individual budget of participants from racial and ethnic communities, and be eligible for incentives for exceeding these targets and benchmarks once the department has established a performance incentives program.

(2) Develop and implement an outreach and training plan about the Self-Determination Program for the diverse communities served by the regional center, including in congregate settings. Information shall be provided in plain language, in alternative formats and alternative modes of communication and provide language access as required by state and federal law. Obtain input from stakeholders, including consumers and families that reflect the ethnic and language diversity of the regional center's consumers, about the effectiveness of this outreach and training and other activities that may be effective in reducing disparities in these programs.

(3) Annually report the enrollment, individual budget data, and purchase of service expenditure data for the Self-Determination Program consistent with the criteria in subdivisions (a) to (c), inclusive, of Section 4519.5.

(4) Assist eligible participants and their families in applying for Medi-Cal, in order to maximize federal funding and assist interested participants who wish to pursue institutional deeming in order to qualify for Medi-Cal services.

(5) At least annually, in addition to annual certification, conduct an additional review of all final individual budgets for participants at the regional center which are at or above a spending threshold that is specified by the department through directive consistent with federal and state requirements. This information may be used in the aggregate to provide training, program guidance, and verify compliance with state and federal requirements.

(6) Review the spending plan only to verify that goods and services are eligible for federal financial participation, and are not used to fund goods or services available through generic agencies. A regional center shall ensure that participant choice of providers is respected. After the spending plan is developed, the participant is responsible for assigning amounts only to the uniform budget categories developed by the department. The cost of services may be estimated. If needed, the spending plan may be adjusted by the participant when the actual cost is known. The spending plan shall identify the type of provider that will provide each service. A provider name shall not be required in the spending plan. Goods and services purchased in the spending plan are not required to include, and are not limited to, the services utilized to develop the individual budget. A regional center shall not apply the purchase of service standards to services utilized through the Self-Determination Program spending plan. Any provision of this paragraph deemed to be ineligible for federal funding pursuant to written notice provided to the department by the federal government shall not be implemented.

(7) Contract with local consumer or family-run organizations and consult with the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w) to conduct outreach through local meetings or forums to consumers and their families to provide information about the Self-Determination Program and to help ensure that the program is available to a diverse group of participants, with special outreach to underserved communities.

(8) Collaborate with the local consumer or family-run organizations identified in paragraph (1) to jointly conduct training about the Self-Determination Program. The regional center shall consult with the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w) in planning for the training, and the local volunteer advisory committee may designate members to represent the advisory committee at the training.

(9) Train all service coordinators and fair hearing specialists in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families. The training shall be conducted in collaboration with the local volunteer advisory committee.

(10) Provide payment to the financial management services provider for spending plan expenses through a not less than semimonthly pay schedule.

(s) The financial management services provider shall provide the participant and the regional center service coordinator with a monthly individual budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(t) Only the financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations for the Self-Determination Program. All other service and support providers shall not be on the federal debarment list and shall have applicable state licenses, certifications, or other state-required documentation, including documentation of any other qualifications

required by the department, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations when serving participants in the Self-Determination Program.

(u) The regional center shall pay the full costs of the participant's financial management services provider, which shall be included in the participant's spending plan, and which shall be clearly and individually identified in the monthly report sent to the participant. The financial management service provider shall purchase services and goods in the spending plan or revised spending plan without additional review from the regional center. A financial management services provider serving as a sole employer shall be individually responsible for any fees, penalties, or fines resulting from its failure to comply with state and federal labor requirements. Any provision of this subdivision deemed to be ineligible for federal funding pursuant to written notice provided to the department by the federal government shall not be implemented.

(v) To protect the health and safety of participants in the Self-Determination Program, the department shall require a criminal background check in accordance with all of the following:

(1) The department shall issue a program directive that identifies nonvendored providers of services and supports who shall obtain a criminal background check pursuant to this subdivision. At a minimum, these staff shall include both of the following:

(A) Individuals who provide direct personal care services to a participant.

(B) Other nonvendored providers of services and supports for whom a criminal background check is requested by a participant or the participant's financial management service.

(2) Subject to the procedures and requirements of this subdivision, the department shall administer criminal background checks consistent with the department's authority and the process described in Sections 4689.2 to 4689.6, inclusive.

(3) The department shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of nonvendored providers of services and supports, as specified in paragraph (1), for purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(4) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(5) The Department of Justice shall provide a state or federal response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(6) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(7) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision.

(8) The fingerprints of any provider of services and supports who is required to obtain a criminal background check shall be submitted to the Department of Justice prior to employment. The costs of the fingerprints and the financial management service's administrative cost authorized by the department shall be paid by the services and supports provider or the provider's employing agency. Any administrative costs incurred by the department pursuant to this subdivision shall be offset by the funds specified in subdivision (g).

(9) If the criminal record information report shows a criminal history, the department shall take the steps specified in Section 4689.2. The department may prohibit a provider of services and supports from becoming employed, or continuing to be employed, based on the criminal background check, as authorized in Section 4689.6. The provider of services and supports who has been denied employment shall have the rights set forth in Section 4689.6.

(10) The department may utilize a current department-issued criminal record clearance to enable a provider to serve more than one participant, as long as the criminal record clearance has been processed through the department and no subsequent arrest notifications have been received relative to the cleared applicant.

(11) Consistent with subdivision (h) of Section 4689.2, the participant or financial management service that denies or terminates employment based on written notification from the department shall not incur civil liability or unemployment insurance liability.

(w) To ensure the effective implementation of the Self-Determination Program and facilitate the sharing of best practices and training materials commencing with the implementation of the Self-Determination Program, local and statewide advisory committees shall be established as follows:

(1) Each regional center shall establish a local volunteer advisory committee to provide oversight of the Self-Determination Program and identify a regional center liaison to the committee. The regional center and the State Council on Developmental Disabilities shall each appoint one-half of the membership of the committee. The committee shall consist of the regional center clients' rights advocate, consumers, family members, and other advocates, and community leaders, including a representative from a family resource center. A majority of the committee shall be consumers and their family members. The committee shall reflect the multicultural diversity and geographic profile of the catchment area. The committee shall review the development and ongoing progress of the Self-Determination Program, including whether the program advances the principles of self-determination and is operating consistent with the requirements of this section, and may make ongoing recommendations for improvement to the regional center and the department. Annually, the regional center shall confirm, in writing, that the committee meets the requirements specified in this paragraph and provide the department with the name of the staff liaison and the names of the committee members, the positions they fill on the committee, and which entity appointed them to the committee.

(2) The State Council on Developmental Disabilities shall form a volunteer committee, to be known as the Statewide Self-Determination Advisory Committee, comprised of the chairs of the 21 local advisory committees or their designees. The council shall convene the Statewide Self-Determination Advisory Committee twice annually, or more frequently in the sole discretion of the council. The Statewide Self-Determination Advisory Committee shall meet by teleconference or other means established by the council to identify self-determination best practices, effective consumer and family training materials, implementation concerns, systemic issues, ways to enhance the program, and recommendations regarding the most effective method for participants to learn of individuals who are available to provide services and supports. The council shall synthesize information received from the Statewide Self-Determination Advisory Committee, local advisory committees, and other sources, share the information with consumers, families, regional centers, and the department, and make recommendations, as appropriate, to increase the program's effectiveness in furthering the principles of self-determination.

(x) The department shall annually provide the following information to the appropriate policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional center, including the number of participants who entered the program upon movement from a developmental center.

(2) Types and amount of services and supports purchased under the Self-Determination Program, by regional center.

(3) Range and average of individual budgets, by regional center, including adjustments to the budget to address the adjustments permitted in clause (ii) of subparagraph (A) of paragraph (1) of subdivision (m).

(4) The number and outcome of appeals concerning individual budgets, by regional center.

(5) The number and outcome of fair hearing appeals, by regional center.

(6) The number of participants who voluntarily withdraw from the Self-Determination Program and a summary of the reasons why, by regional center.

(7) The number of participants who are subsequently determined to no longer be eligible for the Self-Determination Program and a summary of the reasons why, by regional center.

(y) (1) The State Council on Developmental Disabilities shall issue an interim report to the Legislature, in compliance with Section 9795 of the Government Code, no later than June 30, 2021, on the status of the Self-Determination Program authorized by this section, barriers to its implementation, and recommendations to enhance the effectiveness of the program. The interim report shall provide an update to the program's status, each regional center's cap on participation and progress toward that cap, the most recent statewide and per-regional-center participant count, and the historical trend in the statewide participation count since the start of the program. The department shall assist in providing available information to the council in order to facilitate the timely issuance of the report.

(2) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, may work with regional centers to survey participants regarding participant satisfaction under the Self-Determination Program and, when data is available, the traditional service delivery system, including the proportion of participants who report that their choices and decisions are respected and supported and who report that they are able to recruit and hire qualified service providers, and to identify barriers to participation and recommendations for improvement.

(3) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, shall issue a report to the Legislature, in compliance with Section 9795 of the Government Code, by June 30, 2023, on the status of the Self-Determination Program authorized by this section, and provide recommendations to enhance the effectiveness of the program. This review shall include the program's effectiveness in furthering the principles of self-determination, including all of the following:

(A) Freedom, which includes the ability of adults with developmental disabilities to exercise the same rights as all citizens to establish, with freely chosen supporters, family, and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them; and for families to have the freedom to receive unbiased assistance of their own choosing when developing a plan and to select all personnel and supports to further the life goals of a minor child.

(B) Authority, which includes the ability of a person with a disability, or family, to control a certain sum of dollars in order to purchase services and supports of their choosing.

(C) Support, which includes the ability to arrange resources and personnel, both formal and informal, that will assist a person with a disability to live a life in the community that is rich in community participation and contributions.

(D) Responsibility, which includes the ability of participants to take responsibility for decisions in their own lives and to be accountable for the use of public dollars, and to accept a valued role in their community through, for example, competitive employment, organizational affiliations, spiritual development, and general caring of others in their community.

(E) Confirmation, which includes confirmation of the critical role of participants and their families in making decisions in their own lives and designing and operating the system that they rely on.

SEC. 3.5. Section 4685.8 of the Welfare and Institutions Code is amended to read:

4685.8. (a) (1) The department shall implement a statewide Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. As of July 1, 2021, the program shall begin to be available on a voluntary basis to all regional center consumers who are eligible for the Self-Determination Program.

(2) The Governor shall appoint a Deputy Director of Self-Determination, subject to Senate confirmation. The deputy director shall be responsible for overseeing the successful implementation and operation of the program. The deputy director shall serve within the department and report directly to the Director of Developmental Services.

(b) The department, in establishing the statewide program, shall do both of the following:

(1) Set targets and benchmarks as set forth in paragraph (1) of subdivision (r).

(2) Address all of the following:

(A) Oversight of expenditure of self-determined funds and the achievement of participant outcomes over time.

(B) Increased participant control over which services and supports best meet the participant's needs and the IPP objectives. A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring their own support workers, or negotiating unique service arrangements with local community resources.

(C) Comprehensive person-centered planning, including an individual budget and services that are outcome based.

(D) Consumer and family training to ensure understanding of the principles of self-determination, the planning process, and the management of budgets, services, and staff.

(E) Choice of independent facilitators, who meet standards and certification requirements established by the department, and who can assist with the functions specified in paragraph (2) of subdivision (c).

(F) Choice of financial management services providers who meet standards and certification requirements established by the department, and who can carry out the functions specified in paragraph (1) of subdivision (c).

(G) Innovation that will more effectively allow participants to achieve their goals.

(H) Long-term sustainability of the Self-Determination Program by doing all of the following:

(i) Requiring IPP teams, when developing the individual budget, to determine the services, supports, and goods necessary for each consumer based on the needs and preferences of the consumer, and when appropriate the

consumer's family, and the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option, as specified in subparagraph (D) of paragraph (6) of subdivision (a) of Section 4648.

(ii) The department may review final individual budgets that are at or above a spending threshold determined by the department of all individual budgets and use information from its review in the aggregate to develop additional program guidance and verify compliance with federal and state laws and other requirements.

(c) For purposes of this section, the following definitions apply:

(1) "Financial management services" means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement their IPP throughout the year. These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying provider qualifications, including criminal background checks, and expenditure reports. The financial management services provider shall meet the applicable requirements of Title 17 of the California Code of Regulations and other specific qualifications or certifications established by the department.

(2) "Independent facilitator" means a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to their IPP and is not employed by a person providing services to the participant. The independent facilitator may assist the participant in making informed decisions about the individual budget, and in locating, accessing, and coordinating services and supports consistent with the participant's IPP. The independent facilitator is available to assist in identifying immediate and long-term needs, developing options to meet those needs, leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP, and obtaining identified services and supports. The cost of the independent facilitator, if any, shall be paid by the participant out of the participant's individual budget. An independent facilitator shall receive training in the principles of self-determination, the person-centered planning process, and the other responsibilities described in this paragraph at the independent facilitator's own cost. The independent facilitator shall meet standards and certification requirements established by the department.

(3) "Individual budget" means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. The individual budget shall be determined using a fair, equitable, and transparent methodology.

(4) "IPP" means individual program plan, as described in Section 4646.

(5) "Participant" means an individual, and when appropriate, the participant's parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and has voluntarily agreed to participate in, the Self-Determination Program.

(6) "Self-determination" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion. The Self-Determination Program shall only fund services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation.

(7) "Spending Plan" means the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their individual program plan (IPP). The spending plan shall identify the cost of each good, service, and support that will be purchased with regional center funds. The total amount of the spending plan cannot exceed the amount of the individual budget. A copy of the spending plan, and any revised spending plan, shall be attached to the participant's IPP. The regional center shall promptly send a copy of the spending plan and authorizations to the financial management services provider.

(d) Participation in the Self-Determination Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time. A regional center shall not require or prohibit participation in the Self-Determination Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division. Participation in the Self-Determination Program shall be available to any regional center consumer who meets the following eligibility requirements:

(1) The participant has a developmental disability, as defined in Section 4512, and is receiving services pursuant to this division.

(2) The consumer does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations. An individual, and when appropriate the individual's parent,

legal guardian or conservator, or authorized representative, who is not eligible to participate in the Self-Determination Program pursuant to this paragraph may request that the regional center provide person-centered planning services in order to make arrangements for transition to the Self-Determination Program, provided that the individual is reasonably expected to transition to the community within 90 days. In that case, the regional center shall initiate person-centered planning services within 60 days of that request.

(3) The participant agrees to all of the following terms and conditions:

(A) The participant shall receive an orientation that meets the standards set or developed by the department to the Self-Determination Program prior to enrollment, which includes the principles of self-determination, the role of the independent facilitator and the financial management services provider, person-centered planning, and development of a budget.

(B) The participant shall utilize the services and supports available within the Self-Determination Program only when generic services and supports are not available.

(C) The participant shall only purchase services and supports necessary to implement their IPP and shall comply with any and all other terms and conditions for participation in the Self-Determination Program described in this section.

(D) The participant shall manage Self-Determination Program services and supports within the participant's individual budget.

(E) The participant shall utilize the services of a financial management services provider of their own choosing and who is vendored by a regional center and who meets the qualifications in paragraph (1) of subdivision (c).

(F) The participant may utilize the services of an independent facilitator of their own choosing for the purpose of providing services and functions as described in paragraph (2) of subdivision (c). If the participant elects not to use an independent facilitator, the participant may use their regional center service coordinator to provide the services and functions described in paragraph (2) of subdivision (c).

(G) If eligible, with the assistance of the regional center, if needed, timely apply for Medi-Cal in order to maximize federal funding. The participant may consider institutional deeming in order to qualify for Medi-Cal services.

(e) A participant who is not Medi-Cal eligible may participate in the Self-Determination Program and receive self-determination services and supports if all other program eligibility requirements are met and the services and supports are otherwise eligible for federal financial participation.

(f) The additional federal financial participation funds generated by the former participants of the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant to Article 4 (commencing with Section 4669.2) of Chapter 5, shall be used to maximize the ability of Self-Determination Program participants to direct their own lives and to ensure the department and regional centers successfully implement the program as follows:

(1) First, to offset the cost to the department for the criminal background check conducted pursuant to subdivision (v) and other administrative costs incurred by the department in implementing the Self-Determination Program.

(2) With the remaining funds, the department, in consultation with stakeholders, including a statewide self-determination advisory workgroup, shall prioritize the use of the funds to meet the needs of participants, increase service access and equity, and reduce disparities, and to implement the program, including costs associated with all of the following:

(A) Independent facilitators to assist with a participant's initial person-centered planning meeting.

(B) Development of the participant's initial individual budget.

(C) Joint training of consumers, family members, regional center staff, and members of the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w).

(D) Regional center operations to increase support for transition to the Self-Determination Program or for caseload ratio enhancement.

(E) To offset the costs to the regional centers in implementing the Self-Determination Program.

(F) To support the Statewide Self-Determination Advisory Committee established pursuant to paragraph (2) of subdivision (w).

(g) If at any time during participation in the Self-Determination Program a regional center determines that a participant is no longer eligible to continue in, or a participant voluntarily chooses to exit, the Self-Determination Program, the regional center shall

provide for the participant's transition from the Self-Determination Program to other services and supports. This transition shall include the development of a new IPP that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(h) An individual determined to be ineligible for or who voluntarily exits the Self-Determination Program shall be permitted to return to the Self-Determination Program upon meeting all applicable eligibility criteria and upon approval of the participant's planning team, as described in subdivision (j) of Section 4512. An individual who has voluntarily exited the Self-Determination Program shall not return to the program for at least 12 months.

(i) An individual who participates in the Self-Determination Program may elect to continue to receive self-determination services and supports if the individual transfers to another regional center catchment area, provided that the individual remains eligible for the Self-Determination Program pursuant to subdivision (d). The balance of the participant's individual budget shall be reallocated to the regional center to which the participant transfers.

(j) The IPP team shall utilize the person-centered planning process to develop the IPP for a participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant-selected services and supports. The IPP team shall determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in the participant's IPP and ensures their health and safety. The completed individual budget shall be attached to the IPP.

(k) The participant shall implement their IPP, including choosing and purchasing the services and supports allowable under this section necessary to implement the plan. A participant is exempt from the cost control restrictions regarding the purchases of services and supports pursuant to Section 4648.5. A regional center shall not prohibit the purchase of any service or support that is otherwise allowable under this section.

(l) A participant shall have all the rights established in Sections 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section 4700).

(m) (1) Except as provided in paragraph (4), the IPP team shall determine the initial and any revised individual budget for the participant using the following methodology:

(A) (i) Except as specified in clause (ii), for a participant who is a current consumer of the regional center, their individual budget shall be the total amount of the most recently available 12 months of purchase of service expenditures for the participant.

(ii) An adjustment may be made to the amount specified in clause (i) if both of the following occur:

(I) The IPP team determines that an adjustment to this amount is necessary due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in purchase of service expenditures. When adjusting the budget, the IPP team shall document the specific reason for the adjustment in the IPP.

(II) The regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator.

(B) For a participant who is either newly eligible for regional center services or who does not have 12 months of purchase service expenditures, the participant's individual budget shall be calculated as follows:

(i) The IPP team shall identify the services and supports needed by the participant and available resources, as required by Section 4646.

(ii) The regional center shall calculate the cost of providing the services and supports to be purchased by the regional center by using the average cost paid by the regional center for each service or support unless the regional center determines that the consumer has a unique need that requires a higher or lower cost. The IPP team also shall document the specific reason for the adjustment in the IPP. The regional center shall certify on the individual budget document that this amount would have been expended using regional center purchase of service funds regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator.

(2) The amount of the individual budget shall be available to the participant each year for the purchase of program services and supports. An individual budget shall be calculated no more than once in a 12-month period, unless revised to reflect a change in circumstances, needs, or resources of the participant using the process specified in clause (ii) of subparagraph (A) of paragraph (1).

(3) The spending plan shall be assigned to uniform budget categories developed by the department in consultation with stakeholders and distributed according to the timing of the anticipated expenditures in the IPP and in a manner that ensures that the participant has the financial resources to implement the IPP throughout the year.

(4) The department, in consultation with stakeholders, may develop alternative methodologies for individual budgets that are computed in a fair, transparent, and equitable manner and are based on consumer characteristics and needs, and that include a method for adjusting individual budgets to address a participant's change in circumstances or needs.

(n) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3) of subdivision (m) to another budget category or categories. Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center or the participant's IPP team.

(o) Consistent with the implementation date of the IPP, the IPP team shall annually ascertain from the participant whether there are any circumstances or needs that require a change to the annual individual budget. Based on that review, the IPP team shall calculate a new individual budget consistent with the methodology identified in subdivision (m).

(p) (1) The department, as it determines necessary, may adopt regulations to implement the procedures set forth in this section. Any regulations shall be adopted in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

(q) The department, in consultation with stakeholders, shall develop informational materials about the Self-Determination Program. The department shall ensure that regional centers are trained in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families as candidates for, and participants in, the Self-Determination Program.

(r) Each regional center shall be responsible for implementing the Self-Determination Program as a term of its contract under Section 4629. As part of implementing the program, the regional center shall do all of the following:

(1) Meet the Self-Determination targets approved by the department, meet benchmarks established by the department in areas including timely enrollment, diversity of consumers served, and reduction of disparities in the individual budget of participants from racial and ethnic communities, and be eligible for incentives for exceeding these targets and benchmarks once the department has established a performance incentives program.

(2) Develop and implement an outreach and training plan about the Self-Determination Program for the diverse communities served by the regional center, including in congregate settings. Information shall be provided in plain language, in alternative formats and alternative modes of communication and provide language access as required by state and federal law. Obtain input from stakeholders, including consumers and families that reflect the ethnic and language diversity of the regional center's consumers, about the effectiveness of this outreach and training and other activities that may be effective in reducing disparities in these programs.

(3) Annually report the enrollment, individual budget data, and purchase of service expenditure data for the Self-Determination Program consistent with the criteria in subdivisions (a) to (c), inclusive, of Section 4519.5.

(4) Assist eligible participants and their families in applying for Medi-Cal, in order to maximize federal funding and assist interested participants who wish to pursue institutional deeming in order to qualify for Medi-Cal services.

(5) At least annually, in addition to annual certification, conduct an additional review of all final individual budgets for participants at the regional center which are at or above a spending threshold that is specified by the department through directive consistent with federal and state requirements. This information may be used in the aggregate to provide training, program guidance, and verify compliance with state and federal requirements.

(6) Review the spending plan only to verify that goods and services are eligible for federal financial participation, and are not used to fund goods or services available through generic agencies. A regional center shall ensure that participant choice of

providers is respected. After the spending plan is developed, the participant is responsible for assigning amounts only to the uniform budget categories developed by the department. The cost of services may be estimated. If needed, the spending plan may be adjusted by the participant when the actual cost is known. The spending plan shall identify the type of provider that will provide each service. A provider name shall not be required in the spending plan. Goods and services purchased in the spending plan are not required to include, and are not limited to, the services utilized to develop the individual budget. A regional center shall not apply the purchase of service standards to services utilized through the Self-Determination Program spending plan. Any provision of this paragraph deemed to be ineligible for federal funding pursuant to written notice provided to the department by the federal government shall not be implemented.

(7) Contract with local consumer or family-run organizations and consult with the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w) to conduct outreach through local meetings or forums to consumers and their families to provide information about the Self-Determination Program and to help ensure that the program is available to a diverse group of participants, with special outreach to underserved communities.

(8) Collaborate with the local consumer or family-run organizations identified in paragraph (1) to jointly conduct training about the Self-Determination Program. The regional center shall consult with the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w) in planning for the training, and the local volunteer advisory committee may designate members to represent the advisory committee at the training.

(9) Train all service coordinators and fair hearing specialists in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families. The training shall be conducted in collaboration with the local volunteer advisory committee.

(10) Provide payment to the financial management services provider for spending plan expenses through a not less than semimonthly pay schedule.

(s) The financial management services provider shall provide the participant and the regional center service coordinator with a monthly individual budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(t) Only the financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations for the Self-Determination Program. All other service and support providers shall not be on the federal debarment list and shall have applicable state licenses, certifications, or other state-required documentation, including documentation of any other qualifications required by the department, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations when serving participants in the Self-Determination Program.

(u) The regional center shall pay the full costs of the participant's financial management services provider, which shall be included in the participant's spending plan, and which shall be clearly and individually identified in the monthly report sent to the participant. The financial management service provider shall purchase services and goods in the spending plan or revised spending plan without additional review from the regional center. A financial management services provider serving as a sole employer shall be individually responsible for any fees, penalties, or fines resulting from its failure to comply with state and federal labor requirements. Any provision of this subdivision deemed to be ineligible for federal funding pursuant to written notice provided to the department by the federal government shall not be implemented.

(v) To protect the health and safety of participants in the Self-Determination Program, the department shall require a criminal background check in accordance with all of the following:

(1) The department shall issue a program directive that identifies nonvendored providers of services and supports who shall obtain a criminal background check pursuant to this subdivision. At a minimum, these staff shall include both of the following:

(A) Individuals who provide direct personal care services to a participant.

(B) Other nonvendored providers of services and supports for whom a criminal background check is requested by a participant or the participant's financial management service.

(2) Subject to the procedures and requirements of this subdivision, the department shall administer criminal background checks consistent with the department's authority and the process described in Sections 4689.2 to 4689.6, inclusive.

(3) The department shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of nonvendored providers of services and supports, as specified in paragraph (1), for purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and

also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(4) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(5) The Department of Justice shall provide a state or federal response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(6) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(7) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision.

(8) The fingerprints of any provider of services and supports who is required to obtain a criminal background check shall be submitted to the Department of Justice prior to employment. The costs of the fingerprints and the financial management service's administrative cost authorized by the department shall be paid by the services and supports provider or the provider's employing agency. Any administrative costs incurred by the department pursuant to this subdivision shall be offset by the funds specified in subdivision (g).

(9) If the criminal record information report shows a criminal history, the department shall take the steps specified in Section 4689.2. The department may prohibit a provider of services and supports from becoming employed, or continuing to be employed, based on the criminal background check, as authorized in Section 4689.6. The provider of services and supports who has been denied employment shall have the rights set forth in Section 4689.6.

(10) The department may utilize a current department-issued criminal record clearance to enable a provider to serve more than one participant, as long as the criminal record clearance has been processed through the department and no subsequent arrest notifications have been received relative to the cleared applicant.

(11) Consistent with subdivision (h) of Section 4689.2, the participant or financial management service that denies or terminates employment based on written notification from the department shall not incur civil liability or unemployment insurance liability.

(w) To ensure the effective implementation of the Self-Determination Program and facilitate the sharing of best practices and training materials commencing with the implementation of the Self-Determination Program, local and statewide advisory committees shall be established as follows:

(1) Each regional center shall establish a local volunteer advisory committee to provide oversight of the Self-Determination Program and identify a regional center liaison to the committee. The regional center and the State Council on Developmental Disabilities shall each appoint one-half of the membership of the committee. The committee shall consist of the regional center clients' rights advocate, consumers, family members, and other advocates, and community leaders, including a representative from a family resource center. A majority of the committee shall be consumers and their family members. The committee shall reflect the multicultural diversity and geographic profile of the catchment area. The committee shall review the development and ongoing progress of the Self-Determination Program, including whether the program advances the principles of self-determination and is operating consistent with the requirements of this section, and may make ongoing recommendations for improvement to the regional center and the department. Annually, the regional center shall confirm, in writing, that the committee meets the requirements specified in this paragraph and provide the department with the name of the staff liaison and the names of the committee members, the positions they fill on the committee, and which entity appointed them to the committee.

(2) The State Council on Developmental Disabilities shall form a volunteer committee, to be known as the Statewide Self-Determination Advisory Committee, comprised of the chairs of the 21 local advisory committees or their designees. The council shall convene the Statewide Self-Determination Advisory Committee twice annually, or more frequently in the sole discretion of the council. The Statewide Self-Determination Advisory Committee shall meet by teleconference or other means established by the council to identify self-determination best practices, effective consumer and family training materials, implementation concerns, systemic issues, ways to enhance the program, and recommendations regarding the most effective method for participants to learn of individuals who are available to provide services and supports. The council shall synthesize information received from the Statewide Self-Determination Advisory Committee, local advisory committees, and other sources, share the information with consumers, families, regional centers, and the department, and make recommendations, as appropriate, to increase the program's effectiveness in furthering the principles of self-determination.

(x) The department shall annually provide the following information to the appropriate policy and fiscal committees of the Legislature:

- (1) Number and characteristics of participants, by regional center, including the number of participants who entered the program upon movement from a developmental center.
- (2) Types and amount of services and supports purchased under the Self-Determination Program, by regional center.
- (3) Range and average of individual budgets, by regional center, including adjustments to the budget to address the adjustments permitted in clause (ii) of subparagraph (A) of paragraph (1) of subdivision (m).
- (4) The number and outcome of appeals concerning individual budgets, by regional center.
- (5) The number and outcome of fair hearing appeals, by regional center.
- (6) The number of participants who voluntarily withdraw from the Self-Determination Program and a summary of the reasons why, by regional center.
- (7) The number of participants who are subsequently determined to no longer be eligible for the Self-Determination Program and a summary of the reasons why, by regional center.

(y) (1) The State Council on Developmental Disabilities shall issue an interim report to the Legislature, in compliance with Section 9795 of the Government Code, no later than June 30, 2021, on the status of the Self-Determination Program authorized by this section, barriers to its implementation, and recommendations to enhance the effectiveness of the program. The interim report shall provide an update to the program's status, each regional center's cap on participation and progress toward that cap, the most recent statewide and per-regional-center participant count, and the historical trend in the statewide participation count since the start of the program. The department shall assist in providing available information to the council in order to facilitate the timely issuance of the report.

(2) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, may work with regional centers to survey participants regarding participant satisfaction under the Self-Determination Program and, when data is available, the traditional service delivery system, including the proportion of participants who report that their choices and decisions are respected and supported and who report that they are able to recruit and hire qualified service providers, and to identify barriers to participation and recommendations for improvement.

(3) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, shall issue a report to the Legislature, in compliance with Section 9795 of the Government Code, by June 30, 2023, on the status of the Self-Determination Program authorized by this section, and provide recommendations to enhance the effectiveness of the program. This review shall include the program's effectiveness in furthering the principles of self-determination, including all of the following:

(A) Freedom, which includes the ability of adults with developmental disabilities to exercise the same rights as all citizens to establish, with freely chosen supporters, family, and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them; and for families to have the freedom to receive unbiased assistance of their own choosing when developing a plan and to select all personnel and supports to further the life goals of a minor child.

(B) Authority, which includes the ability of a person with a disability, or family, to control a certain sum of dollars in order to purchase services and supports of their choosing.

(C) Support, which includes the ability to arrange resources and personnel, both formal and informal, that will assist a person with a disability to live a life in the community that is rich in community participation and contributions.

(D) Responsibility, which includes the ability of participants to take responsibility for decisions in their own lives and to be accountable for the use of public dollars, and to accept a valued role in their community through, for example, competitive employment, organizational affiliations, spiritual development, and general caring of others in their community.

(E) Confirmation, which includes confirmation of the critical role of participants and their families in making decisions in their own lives and designing and operating the system that they rely on.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 4685.8 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1463. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 4685.8 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1463, in which case Section 3 of this bill shall not become operative.