

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 728 (Santiago) – As Amended March 21, 2019

**SUBJECT:** Homeless multidisciplinary personnel teams

**SUMMARY:** This bill would expand the goals of a homeless adult and family multidisciplinary personnel team (MDT) to include facilitating the expedited identification, assessment, and linkage of individuals at risk of homelessness, as defined, to housing and supportive services, and to include the expedited prevention of homelessness. This bill would allow members of the team to access and share specified confidential information. Specifically, **this bill would:**

- 1) Expand the authority of a homeless adult and family MDT to also engage in the prevention of homelessness by linking individuals at risk of homelessness to housing and supportive services, as specified.
- 2) Define “at risk of homelessness” to mean any recorded instance of an adult or family self-identifying as being at risk of homelessness, or an individual who is indigent or receiving, or is eligible to receive, public benefits in the form of cash aid and who meets either of the following conditions:
  - The individual is either exiting, or exited within the most recent 12 months, a publicly funded detention or treatment setting, as specified, or is aging out, or aged out within the most recent 12 months, of the child welfare system or the juvenile justice system.
  - The individual presents with, or received services within the most recent 12 months for, significant health, mental health, or substance use issues.
- 3) Add the goal of facilitating the expedited prevention of homelessness for individuals at risk of homelessness to the existing purposes of a homeless adult and family MDT, and, further, expand the authority of an MDT to allow team members to access information for purposes of identifying individuals at risk of homelessness.
- 4) Include case managers or case coordinators responsible for referral linkage, or coordination of care and services provided to adults or families, among the individuals who may be included on a homeless adult and family MDT.
- 5) Make other technical and clarifying changes.

**EXISTING LAW:**

- 1) Allows a county to establish a homeless adult and family MDT in order to facilitate the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county and to allow provider agencies to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care. (Welf. & Inst. Sec. 18999.8(a).)

- 2) Allows members of a homeless adult and family MDT engaged in the identification, assessment, and linkage of housing and supportive services to homeless adults or families to disclose to, and exchange with, one another information and writings that relate to any information that may be confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the identification, reduction, or elimination of homelessness, or the provision of services. (Welf. & Inst. Sec. 18999.8(c).)
- 3) Allows, notwithstanding any provision of law governing the disclosure of information and records, any person trained and qualified to serve on an MDT be deemed a part of the team as necessary, for the purposes of a particular case, provided the reasons for deeming the person a member of the team are specified in writing. (Welf. & Inst. Sec. 18964.)
- 4) Defines “homeless” as any recorded instance of an adult or family self-identifying as homeless within the most recent 12 months, or any element contained in service utilization records indicating that an adult or family experienced homelessness within the most recent 12 months. (Welf. & Inst. Sec. 18999.8(b)(1).)
- 5) Defines “homeless adult and family MDT” as any team of two or more persons who are trained in the identification and treatment of homeless adults and families, and who are qualified to provide a broad range of services related to homelessness. Further specifies that the MDT shall include, but not be limited to, mental health and substance abuse services personnel, law enforcement entities, legal counsel, and medical personnel, among other entities. (Welf. & Inst. Sec. 18999.8(b)(2).)
- 6) Defines “homeless service provider agency” as any governmental or other agency that has as one of its purposes the identification, assessment, and linkage of housing or supportive services to homeless adults or families, and further allows a homeless provider agency to share information with certain entities, including social services, health services, probation, and law enforcement, among others. (Welf. & Inst. Sec. 18999.8(b)(3).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Purpose of the bill:** This bill seeks further ongoing efforts to address California’s homelessness crisis by allowing MDT members to access and share information about and link individuals deemed to be at risk of homelessness to housing and supportive services. This bill is sponsored by Los Angeles County.
- 2) **Author’s statement:** According to the author:

The number of Californians experiencing homelessness continues to increase. On three given nights in January 2018, there were approximately 52,765 people experiencing homelessness in Los Angeles County. Many of these individuals suffer from chronic health, mental health and substance use disorders, often times co-occurring, and have criminal justice system involvement. Unaddressed, these factors contribute to these individual's path to homelessness. If stabilized through coordinated holistic supportive services, individuals can avoid becoming homeless. However, confidentiality laws

restrict the ability of care, treatment and services providers to share information necessary to effectively coordinate services for an individual that can help mitigate their risk of becoming homeless.

In 2017, my AB 210 allowed county homeless multi-disciplinary teams to share information to better serve individuals experiencing homelessness. This bill goes one step further and focuses on the need to prevent individuals from falling into homelessness through early intervention.

- 3) **Homelessness in California:** As of January 2018, California had an estimated 129,972 persons experiencing homelessness on any given day, as reported by Continuums of Care to the U.S. Department of Housing and Urban Development. Of that total, 6,702 were family households, 10,836 were Veterans, 12,396 were unaccompanied young adults (aged 18-24), and 34,332 were individuals experiencing chronic homelessness. (U.S. Interagency Council on Homelessness, *California Homelessness Statistics* <<https://www.usich.gov/homelessness-statistics/ca/>> [as of Apr. 8, 2019].) California comprises 12% of the nation's population of homeless families with children. From 2016 to 2017, the state experienced one of the largest increases of homeless families in the nation, leaving 1,000 more families on the streets. The majority of California's unsheltered homeless population is chronically homeless, meaning that they have been homeless for a year or more or have experienced at least four episodes of homelessness in the past three years. Chronically homeless individuals are often marked by serious mental or physical illnesses. (Cabales, *Homeless in California—what the data reveals* (Jun. 27, 2018) CalMatters.)

In 2017, the Legislature passed AB 210, by the same author as this bill. AB 210 sought to optimize efficiency and effectiveness in the services that counties – and community-based organizations (CBOs) under contract with counties – provide to homeless families and individuals by allowing counties and their CBOs to share information with each other regarding the homeless people they serve and the services they provide. This bill would now expand upon AB 210, by allowing the same information sharing for persons who are at risk of becoming homeless. This bill would additionally allow MDTs to *access* information of both homeless individuals and those at risk of homelessness. This is arguably a significant expansion of AB 210, which simply allowed for the disclosure of information.

In support, the Association of Community Human Service Agencies writes, “confidentiality laws restrict the ability of service providers to share information and support at-risk individuals and families. AB 728 would permit existing homeless MDTs to access and share information in order to coordinate housing and supportive services, ensuring continuity of care for those at risk of homelessness. These MDTs would be required to adhere to the same processes, privacy, and confidentiality requirements as prescribed in current law.”

- 4) **Privacy questions raised by connecting homeless individuals with housing and supportive services under AB 210:** On March 7, 2017, voters in Los Angeles County overwhelmingly passed Measure H authorizing the County to impose a one-quarter percent special transactions tax on the gross receipts of any retailer from the sale of all personal property. Proceeds from the tax are estimated to generate \$355 million a year for 10 years to fund mental health treatment, addiction treatment, health care, job training, affordable housing, and other programs and services for the homeless.

One specific purpose of Measure H was to sustain and implement the Los Angeles County's Homeless Initiative's recommended strategies detailed in a February 2016 report entitled "Approved Strategies to Combat Homelessness," and adopted by the Board of Supervisors on February 9, 2016. Recommended strategies include providing direction to the Chief Executive Officer of the Los Angeles Homeless Services Authority) to develop and implement a plan to enhance data sharing and tracking across key County departments. Specifically, the Homeless Initiative recommends identifying the costs for implementing homeless data collection on a monthly basis in various county agencies, developing data elements to "flag" homelessness in departmental data (if no such data elements exist), and exploring the use of passive consent, to the extent allowable by law, as it pertains to the use of data at an individual level rather than at an aggregate level.

When this Committee considered AB 210, it noted that while current law authorizes the creation of MDTs for a variety of purposes, those MDTs provide additional safeguards for the protection of privacy and confidentiality and require informed consent prior to the sharing of personal information. AB 210 did not, by contrast to existing law, require written informed consent by a homeless person whose data would be shared among county agencies and CBOs. Supporters of that bill argued that it is difficult (if not impossible) to obtain prior consent from each homeless person who could benefit from the MDT approach because homeless youth and adults are not only transient, but also often severely drug-addicted and/or mentally ill, making prior authorization a hurdle to the information-sharing needed to properly serve the individual. This Committee also noted that when a child abuse MDT is established, the law only allows data sharing between agencies for a 30-day period, or longer if a specified documented cause exists, following a report of a suspected child abuse or neglect incident.

To balance these privacy and consent concerns with the author's goal of connecting people who are chronically homeless with necessary services, the author offered a series of amendments to more strictly guard the confidentiality and limit the sharing of the sensitive personal information of homeless individuals. Those amendments included, among others, the following protections:

- That the information shared will be used by the MDT only for the intended purposes of coordinating housing and supportive services to ensure continuity of care.
- That sharing any confidential information with persons who are not members of the MDT, as specified, is prohibited.
- That all persons who have access to information shared by participating agencies sign a confidentiality statement that includes, at a minimum, general use, security safeguards, acceptable use, and enforcement policies.
- That participating agencies take reasonable steps to ensure information is complete, accurate, and up to date to the extent necessary for the agency's intended purposes and that the information has not been altered or destroyed in an unauthorized manner.

5) **Unlike homeless individuals, the populations this bill seeks to target have contact with county welfare agencies:** This bill would require that MDTs follow the same requirements established under AB 210. That being said, this bill would simultaneously cast a wide net

over persons whose information could be accessed and shared without their prior consent to now include persons at risk of homelessness. The definition of “at risk of homelessness” under this bill would capture individuals or families who are indigent or eligible to receive public benefits. Also covered by this definition are individuals who have self-identified as being at risk of homelessness so long as any of the following apply:

- a. any individual who “presents with, or received services within the most recent 12 months for, significant health, mental health, or substance use issues;”
- b. any individual who is exiting, or exited within the most recent 12 months, a publicly funded detention or treatment setting; or, is aging out, or aged out within the most recent 12 months, of the child welfare system or the juvenile justice system.

Problematically, it appears that this self-identification could happen at any time, and it is not clear how the information of children in a family would be treated once those children reach the age of majority. Arguably, the definition appears broad enough to capture an individual who self-identified as being at risk of homelessness 25 years ago, but has been employed and enjoying housing for the past 20 years.

In support the California Hospital Association writes:

The reasons for homelessness are multi-faceted (e.g., behavioral health conditions, lost jobs, the high cost of housing), and solutions to the problem are equally complex. AB 728 seeks to address the homelessness crisis not only by identifying those at risk but by adding case managers or coordinators to improve care coordination and services for homeless adults and families.

Hospitals work with a variety of traditional and non-traditional partners to care for homeless people. However, there is a critical shortage of community-based resources to partner with. Expanding the role of the county homeless adult and family multidisciplinary personnel teams will be an important step in addressing homeless individuals in California.

While preventing homelessness is a noble goal, it is not clear why a person who self-identified as being at risk of losing their home (or whose parents were at risk for losing their home), should have fewer protections applied to their personal information than persons who have actually been homeless, persons who are currently receiving public benefits and are existing state care, or abused children. Under AB 210, existing law defines a person as homeless if they have experienced homelessness within the past 12 months. Similarly, in the context of abused children, MDTs are only allowed to share personal information for 30 days, as specified. In the case of persons at risk of homelessness, this bill would arguably permit the individual’s information to be accessed and shared among an MDT for longer periods of time. This is particularly disturbing given that the individuals at risk of homelessness likely have contact with county welfare agencies, and it is a county employee that will arguably be the person witnessing an individual who “self-identifies” as at risk of homelessness. It should be at that time of self-identification of at risk of homelessness that consent is obtained.

To address these concerns, the author offers the following amendments which would:

- 1) Narrow the definition of “at risk of homelessness” to include persons who are indigent or receiving/eligible to receive public benefits *and* are exiting state-funded treatment or services, as specified, *and* have significant health, mental health, or substance abuse issues. The amendment would also require the first person in the MDT who has contact with the individual at risk of being homeless to notify the individual that their information may be shared in an effort to secure housing or other services, and require the MDT personnel to attempt to obtain consent for that information sharing. Finally, the amendment would limit the information sharing to 30 days, and prohibit the sharing of any confidential information if the individual has indicated that they do not want their information shared.
- 2) Similar to a pilot project, limit the applicability of the bill to southern California. Specifically to the counties of Los Angeles, Orange, San Bernardino, San Diego, Riverside, and Ventura.
- 3) Include a five-year sunset date.

Author’s amendments:

- 1) Section 18999.8 of the Welfare and Institutions Code is amended to read, in relevant part:

- b) For the purposes of this section, the following terms have the following meanings:

(1) “At risk of homelessness” means ~~any recorded instance of an adult or family self-identifying as being at risk of homelessness, or~~ an individual who is indigent or receiving or eligible to receive public benefits in the form of cash aid and who meets *both of either* the following conditions:

(A) The individual experiences either of the following:

- (i) Is exiting, or exited within the most recent 12 months, a State or locally publicly funded detention or treatment setting, including, but not limited to, a jail, prison, health facility, mental health facility, or substance use disorder treatment program.
- (ii) Is aging out, or aged out within the most recent 12 months, of the child welfare system or the juvenile justice system.

(B) The individual presents with, or received services within the most recent 12 months for, significant health, mental health, or substance use issues.

*(2) The multidisciplinary personnel team member first establishing contact with the individual at risk of homelessness as defined in section (b)(1) shall notify the individual that their confidential information may be shared for the purposes of coordinating housing and supportive services to ensure continuity of care and attempt to obtain the individual’s consent for that information sharing.*

(3) *For individuals at risk of homelessness as defined in section (b)(1), multidisciplinary personnel team members may share confidential information for the purposes of:*

*(i) identifying individuals at risk of homelessness, and*

*(ii) coordinating housing and supportive services to ensure continuity of care for a period not to exceed 30 days from the time multidisciplinary personnel team members establish contact with the individual or until the individual affirmatively opts-out of having their information shared, whichever occurs first.*

- 2) Limit the application of the bill to the following counties: Los Angeles, Orange, San Bernardino, San Diego, Riverside, and Ventura.
- 3) Impose a five-year sunset date.

These amendments should arguably help ensure that these counties are able to take proactive steps to prevent homelessness where possible, while still protecting the privacy of individuals. The County of Los Angeles, sponsor of this bill, writes in support:

AB 728 would allow counties, at their discretion, to use information to engage in prevention efforts to address the complex and varied needs of individuals who often come in contact with one or more local and State agencies, such as in the health and justice systems, but who have multiple, interrelated needs that go beyond the point of contact for one agency. The goal of the MDT approach is to prevent or to reduce the risk of homelessness through an integrated and coordinated support system. For example, an individual exiting the justice or dependency system who suffers from significant health, mental health or behavioral health issues, may require health and mental health services, substance use disorder treatment, public assistance, housing assistance and job training to successfully reintegrate into their communities. This bill would allow counties to better understand and to address the needs of such vulnerable populations by creating tailored plans for the care and the delivery of services. In Los Angeles County alone, our conservative estimate reflects a minimum of 45,000 individuals per year who are at risk of becoming homeless, based on the qualifying criteria outlined in AB 728. Under this measure, the County can at the earliest opportunity, begin addressing the needs of this at-risk population by allowing information sharing to facilitate supportive care and treatment coordination for those families and individuals at the highest risk of homelessness.

- 6) **Prior legislation:** AB 210 (Santiago, Ch. 544, Stats. 2017) allowed counties to develop homeless adult and family MDTs in order to facilitate identification and assessment of homeless individuals, and link homeless individuals to housing and supportive services, and to allow service providers to share confidential information to ensure continuity of care.

SB 1380 (Mitchell, Ch. 847, Stats. 2016) established the Homeless Coordinating and Financing Council to identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. The bill authorized a statewide data system or warehouse that collects local data through Homeless Management Information Systems, with

the ultimate goal of matching data on homelessness to programs impacting homeless recipients of state programs, such as Medi-Cal and CalWorks.

AB 2229 (Brownley, Ch. 464, Stats. 2010) established time-limited authority for counties to create two-person MTDs engaged in the investigation of suspected child abuse or neglect.

AB 2322 (Feuer & Bass, Ch. 551, Stats. 2010) broadened the scope of information that may be included in a county MDT computerized database to include information regarding nonrelatives living in the home of a child.

AB 1518 (Soto, Ch. 919, Stats 1999) established a three-year, three county pilot in Alameda, San Bernardino, and Ventura counties to create an integrated coordinated case management system using MDTs for CalWORKs families with multiple barriers to employment.

AB 1049 (Bader, Ch. 353, Stats. 1987) authorized the use of MDTs for both child and elder abuse.

- 7) **Double-referral:** This bill was double-referred to the Assembly Human Services Committee where it was heard on April 9, 2019, and passed on a 8 – 0 vote.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

County of Los Angeles (Sponsor)  
 Altamed Health Services Corporation  
 Association of Community Human Service Agencies  
 California Apartment Association  
 California Association Of Public Administrators, Public Guardians And Public Conservators  
 California Hospital Association  
 California Association Of Hospitals And Health Systems  
 California State Association Of Counties  
 Center For Employment Opportunities  
 Corporation For Supportive Housing  
 County of Los Angeles Homeless Initiative  
 County of Santa Clara  
 Harvest Home  
 Los Angeles County Chief Executive Office  
 Los Angeles County Department Of Public Health  
 Managed Career Solutions  
 National Association Of Social Workers, California Chapter  
 Pomona Valley America's Job Center of California  
 Rural County Representatives of California  
 San Pedro United Methodist Church  
 St. Joseph Center  
 The People Concern  
 One individual



**Opposition**

None on file

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