

AMENDED IN ASSEMBLY MAY 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1436

Introduced by Assembly Member Burke

February 27, 2015

An act to add Section 12300.3 to the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1436, as amended, Burke. In-home supportive services: authorized representative.

Existing law provides for the In-Home Supportive Services program, under which qualified aged, blind, or disabled persons are provided with supportive services in order to permit them to remain in their own homes and avoid institutionalization. Existing law specifies that supportive services include, among other things, domestic services, personal care services, and paramedical services that make it possible for the recipient to establish and maintain an independent living arrangement.

This bill would authorize an applicant for, or recipient of, in-home supportive services to designate an individual to act as his or her authorized representative for purposes of the In-Home Supportive Services program. The bill would define an authorized representative to mean an individual who is appointed in writing, on a form designated by the State Department of Social Services, by a competent person who is an applicant for or recipient of in-home supportive services, to act in place or on behalf of the applicant or recipient for purposes related to the program, including, but not limited to, accompanying, assisting, or representing the applicant in the application process, or the recipient in

directing the services received, as specified. The bill would require the duties to be provided by the authorized representative to be specified by the applicant or recipient and would provide that those duties may be changed or revoked at any time by the applicant or recipient. The bill would also provide that the authorized representative has a legal responsibility to act in the client's best interest. The bill would exclude certain persons from serving as an authorized representative, including a person who is found to have perpetrated a substantiated report of abuse or neglect against a child or an elder or dependent adult. The bill would require the department, in consultation with specified parties, including representatives of applicants for, and recipients of, services, to develop a form for this purpose, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12300.3 is added to the Welfare and
2 Institutions Code, to read:
3 12300.3. (a) For purposes of this section, an "authorized
4 representative" means an individual who is appointed in writing,
5 on a form designated by the department, by a competent person
6 who is an applicant for or recipient of in-home supportive services
7 pursuant to this article, to act in place or on behalf of the applicant
8 or recipient for purposes related to the program, including, but not
9 limited to, accompanying, assisting, or representing the applicant
10 in the application process, or the recipient in directing the services
11 received, and in the redetermination of eligibility process.
12 (b) (1) An applicant for, or recipient of, services pursuant to
13 this article may designate an individual to act as his or her
14 authorized representative for purposes of the in-home supportive
15 services program.
16 (1)
17 (2) (A) The duties to be provided by the authorized
18 representative shall be specified by the applicant or recipient and
19 may be changed or revoked at any time by the applicant or
20 recipient. The authorized representative shall have a legal
21 responsibility to act in the client's best interest.
22 (B) Legal documentation of authority to act on behalf of the
23 applicant or recipient under state law, including, but not limited

1 to, a court order establishing legal guardianship or a valid power
2 of attorney to make health care decisions, shall serve in place of
3 a written appointment by the applicant or recipient.

4 (C) The authorized representative may sign timesheets for
5 services rendered on the recipient's behalf, if specified to do so
6 by the recipient. However, an authorized representative who is the
7 provider of services for the recipient may not sign his or her own
8 timesheet unless one of the following applies:

9 (i) The provider is a parent, guardian, or other person having
10 legal custody of a minor recipient.

11 (ii) The provider is legally authorized to act on behalf of the
12 applicant or recipient under state law.

13 ~~(2)~~

14 (3) For purposes of this section, an individual having legal
15 authority to act on behalf of an applicant or recipient may also
16 ~~designate the authorized representative to~~ specify an individual
17 other than himself or herself to act on behalf of the applicant or
18 recipient if that individual elects to do so.

19 ~~(3)~~

20 (4) An individual who is prevented from being a provider of
21 services in the program pursuant to Section 12305.86 shall not
22 serve as an authorized representative for an applicant or recipient.

23 ~~(4)~~

24 (5) An individual who has been granted an exemption to serve
25 as a provider of services pursuant to Section 12305.87 and who is
26 not described in clause (i) or (ii) of subparagraph (C) of paragraph
27 ~~(4)~~, (2), shall not serve as an authorized representative for an
28 applicant or recipient.

29 ~~(5)~~

30 (6) An individual shall not serve as an authorized representative
31 if he or she is found to have perpetrated a substantiated report of
32 abuse or neglect against a child or an elder or dependent adult.

33 (c) (1) The department, in consultation with the State
34 Department of Health Care Services, the County Welfare Directors
35 Association of California, representatives of applicants for and
36 recipients of services under this article, and representatives of
37 providers of services under this article, shall develop a standardized
38 statewide form and procedures for effectuating the designation of
39 an authorized representative pursuant to this section.

- 1 (2) The standard agreement form shall include a notification
- 2 regarding the requirements of this subdivision and a statement that
- 3 by signing the agreement, the individual named as an authorized
- 4 representative agrees to abide by those requirements.