

Introduced by Senator MigdenFebruary 18, 2005

An act to amend Section 5008 of, and to add Article 15.5 (commencing with Section 645) and Article 15.6 (commencing with Section 647) to Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 570, as introduced, Migden. Mentally incompetent minors.

Existing criminal law provides for a stay of criminal proceedings and establishes procedures to determine the mental competence of a person who has been charged with a crime. In certain circumstances, these provisions authorize a stay of the criminal proceedings in order to conduct a trial by court or jury on the question of mental competence.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary detention and treatment of certain persons who are determined to be gravely disabled.

This bill would establish specified procedures for conducting a hearing regarding the mental competence of a minor under juvenile court law, and temporarily suspend any other proceeding until the competency of the minor is determined. The bill would impose various duties on the juvenile court and counsel for a minor who is the subject of those proceedings, as specified. The bill would provide that a minor is presumed competent, unless a preponderance of the evidence proves otherwise. The bill would also provide that a minor who is the subject of those proceedings may be determined to be gravely disabled for purposes of the Lanterman-Petris-Short Act.

The bill would require a court, in any detention or dispositional hearing, to order an evaluation of a minor who appears to have a

developmental disability, a substance abuse disorder, or a mental disorder, as specified.

The bill would authorize the juvenile court to commit a minor determined incompetent to a facility pursuant to specified provisions, and require the director of the regional center for persons with developmental disabilities or the county mental health director, as appropriate, to make evaluations and treatment recommendations. The bill would further establish procedures to subject a minor to involuntary or outpatient treatment, and, if competency is restored, for the return of a minor to the juvenile court, as specified. By expanding the duties of the county mental health director, the bill would impose a state-mandated local program.

The bill would also require specified state entities to collaborate with county representatives to make a specified determination regarding mental health and substance abuse treatment options. In addition, the bill would require certain state agencies to perform a study regarding the feasibility of establishing a treatment facility for specified minors.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. It is the intent of the Legislature that a minor
2 who is the subject of a petition filed pursuant to Section 602 of
3 the Welfare and Institutions Code, but who may be mentally
4 incompetent within the meaning of Section 645 of the Welfare
5 and Institutions Code, as added by this act, is to have the issue of
6 his or her competency determined promptly by the court, and, if
7 found competent, that the adjudication pursuant to Section 602 of
8 the Welfare and Institutions Code be resumed. It is further the
9 intent of the Legislature that, if found incompetent, appropriate

1 treatment be provided in the least restrictive setting, but only if
2 there is a substantial likelihood that competency will be restored
3 in the foreseeable future.

4 SEC. 2. Article 15.5 (commencing with Section 645) is added
5 to Chapter 2 of Part 1 of Division 2 of the Welfare and
6 Institutions Code, to read:

7

8 Article 15.5. Wards--Mentally Incompetent Minors

9

10 645. A person against whom a petition has been filed pursuant
11 to Section 602 is not subject to adjudication or disposition of the
12 charges in that petition while that person is mentally
13 incompetent. A person is mentally incompetent for purposes of
14 this article if, as the result of a mental disorder or developmental
15 disability, the person is unable to understand the nature of the
16 juvenile proceeding or to assist counsel in conducting his or her
17 defense in a rational manner.

18 645.1. (a) If, during the pendency of an action pursuant to
19 Section 602 and prior to disposition, the judge questions the
20 competency of the minor, he or she shall state his or her opinion
21 in this regard on the record, and inquire of the counsel for the
22 minor whether, in the opinion of counsel, the minor is competent.
23 If the minor is not represented by counsel, the court shall appoint
24 counsel. At the request of the minor, his or her counsel, or upon
25 its own motion, the court shall recess the proceedings for as long
26 as reasonably necessary to permit counsel to confer with the
27 minor and to form an opinion as to the competency of the minor.

28 (b) If counsel informs the court that he or she believes the
29 minor is or may be incompetent, the court shall order that the
30 competency of the minor be determined in a hearing, pursuant to
31 Section 645.3. If counsel informs the court that he or she believes
32 the minor is competent, the court may nevertheless order a
33 hearing. Any hearing shall be held in the juvenile court.

34 (c) Except as provided in Section 645.2, when an order for a
35 hearing of the competency of the minor has been issued, all
36 proceedings upon the petition under Section 602 shall be
37 suspended until the competency of the minor is determined.

38 645.2. (a) Prior to the commencement of any hearing on the
39 competency of a minor, counsel for the minor may do all of the
40 following:

1 (1) File a demurrer.

2 (2) Move to dismiss the petition on the grounds that there is no
3 reasonable cause to believe an offense has been committed
4 within the meaning of Section 602, and that the minor committed
5 the offense.

6 (3) If the minor was under 14 years of age at the time of the
7 alleged offense, move to dismiss the petition on the ground that
8 the minor is not capable of committing an offense, unless proof
9 of capacity is presented pursuant to Section 26 of the Penal Code.

10 (4) Make a motion pursuant to Section 700.1.

11 (5) Demand a hearing pursuant to Section 635, if the minor is
12 detained and a hearing has not previously been conducted.

13 (b) In ruling upon any demurrer or motion described in
14 subdivision (a), the court may hear any matter that is capable of a
15 fair determination without the participation of the minor.

16 645.3. A hearing by the juvenile court relating to competency
17 shall proceed in the following order:

18 (a) The court shall appoint a psychiatrist or licensed
19 psychologist, and any other expert the court deems appropriate,
20 to examine the minor. This examination shall be conducted
21 pursuant to Section 5585.52, and include an assessment of
22 whether the minor is incompetent within the meaning of Section
23 645. If it is suspected that the minor may have a developmental
24 disability, the examiner shall also include an assessment of the
25 minor's mental capability in this regard.

26 (b) If the minor or the counsel for the minor informs the court
27 that the minor is not seeking a finding of competency, the court
28 shall appoint two psychiatrists, licensed psychologists, or a
29 combination, that possess the qualifications set forth in Section
30 5585.52. One of the psychiatrists or licensed psychologists may
31 be named by the minor or the counsel for the minor, and one may
32 be named by the petitioner.

33 (c) Counsel for the minor shall offer any evidence in support
34 of the allegation of incompetence. If the minor declines to offer
35 any evidence in support of the allegation of incompetence, the
36 petitioner may do so.

37 (d) The petitioner shall present its case regarding the issue of
38 the present competency of the minor.

1 (e) Each party may offer rebutting testimony, unless the court,
2 in the furtherance of justice, also permits other evidence in
3 support of the original contention.

4 (f) When presentation of the evidence is concluded, unless the
5 case is submitted without final argument, the petitioner shall
6 make its final argument, followed by the minor.

7 (g) There is a presumption that a minor is competent, unless it
8 is proven by a preponderance of the evidence that the minor is
9 incompetent.

10 645.5. (a) If the minor is found competent, the juvenile
11 proceedings may resume, adjudication on the petition may
12 proceed, and an appropriate disposition may be made.

13 (b) If the minor is found incompetent, the adjudication or
14 disposition shall be suspended until the minor becomes
15 competent, and the minor shall be declared a temporary ward of
16 the court. A temporary ward may not be involuntarily detained
17 solely because he or she is incompetent. The finding of
18 incompetency itself does not give rise to new facts justifying
19 detention pursuant to Section 635.

20 (c) Temporary wardship does not terminate any other form of
21 supervision to which the minor may be subject, including
22 supervision under Section 300.

23 645.7. (a) If a minor is found to be incompetent, and was
24 found to have a developmental disability pursuant to the
25 assessment described in subdivision (a) of Section 645.3, the
26 court shall order the director of the regional center, or the
27 director's designee, to evaluate the minor and to submit his or her
28 decision with regard to the minor's eligibility for regional center
29 services to the court within 15 judicial days of the order. If the
30 minor is found to be eligible for regional center services the
31 submission to court shall include a written treatment
32 recommendation. If the minor is not found to be developmentally
33 disabled, the court shall order the county mental health director
34 or his or her designee to evaluate the minor and to submit to the
35 court within 15 judicial days of the order a written treatment
36 recommendation. The recommendation shall specify whether the
37 minor is likely to regain competency in the reasonably
38 foreseeable future, and identify what treatment will best promote
39 the speedy restoration to competency, who shall provide that
40 treatment, and, if the minor is detained, the least restrictive

1 placement alternative in which the minor can receive that
2 treatment. In the meantime, if the minor is detained, the court
3 shall order the probation officer to deliver the minor to a
4 residential treatment center that meets the standards established
5 pursuant to Section 5697.5, a state hospital, or a developmental
6 center for the care and treatment of persons with developmental
7 disabilities, whichever is the least restrictive environment that
8 will promote the restoration of competency, or, if subject to
9 subdivision (b) of Section 645.5, to release the minor to his or
10 her parent or guardian pending establishment of a treatment
11 program. If the minor's caretaker is not his or her legal guardian,
12 and no appropriate legal guardian exists, the juvenile court shall
13 establish a guardianship pursuant to subdivisions (c) and (d) of
14 Section 728.

15 (b) The court, after considering the treatment
16 recommendations of the director of the regional center or county
17 mental health director, may make any order for the treatment of
18 the minor under the supervision of the director of the regional
19 center or county mental health director, as appropriate, that will
20 best promote a speedy restoration to competency. The family,
21 legal guardian, or caretaker, and the minor, shall be consulted
22 and informed as to the basic recommendations for treatment.

23 (c) If the minor is detained and in need of treatment in a
24 residential setting, the parent or legal guardian of the minor shall
25 be notified and given an opportunity to be heard as to whether he
26 or she consents to that treatment before the court may order that
27 treatment. No minor under 16 years of age may be held in a
28 facility with adults receiving psychiatric treatment. A minor
29 subject to involuntary treatment may be placed on outpatient
30 status under Section 645.9.

31 (d) The time spent in any residential treatment facility,
32 whether voluntary or otherwise, is to be included in the
33 calculation of the maximum term of detention of the minor.

34 645.9. (a) Any detained minor subject to involuntary
35 treatment under subdivision (c) of Section 645.7 may be placed
36 on outpatient status, if all of the following conditions are
37 satisfied:

38 (1) The director of the facility in which the minor is being
39 treated advises the court that the minor will not be a danger to the

1 health and safety of others while on outpatient status, and will
2 benefit from outpatient status.

3 (2) The county mental health director or a designee advises the
4 court that the minor will not be a danger to the health and safety
5 of others while on outpatient status, will benefit from outpatient
6 status, and identifies an appropriate program of supervision and
7 treatment.

8 (3) After actual notice to the petitioner, probation department,
9 and counsel, the court specifically approves the recommendation
10 and plan for outpatient status.

11 (b) Application for, approval of, and revocation of outpatient
12 status is governed by the procedures in Sections 1604 to 1610,
13 inclusive, of the Penal Code, except that where the term
14 “community program director” appears, the term “county mental
15 health director” is to be substituted, and where the term
16 “prosecutor” appears, the term “petitioner or probation officer” is
17 to be substituted.

18 646. (a) Within 90 days of an order for treatment made
19 pursuant to Section 645.7, the director of the regional center, the
20 county mental health director, or the medical director of any
21 treatment facility in which the minor is being treated, as
22 appropriate, shall make a written report to the court concerning
23 the progress of the minor towards competency. If the minor has
24 not recovered competency, but the report discloses a substantial
25 likelihood that the minor will regain competency in the
26 foreseeable future, the minor is to remain subject to the treatment
27 orders of the court. Thereafter, at 90 day intervals or until
28 competency is restored, written reports shall be provided to the
29 court regarding the progress of the minor. A copy of these reports
30 shall be provided to the petitioner, the probation officer, and
31 counsel, by the court. If the report indicates there is not a
32 substantial likelihood that competency will be restored in the
33 foreseeable future, the court shall order the minor to be returned
34 to the juvenile court.

35 (b) If the offense alleged in the petition brought pursuant to
36 Section 602 is a misdemeanor if committed by an adult, and if, at
37 the end of one year from the date of the treatment order or a
38 period of time equal to the maximum term of imprisonment
39 provided by law for the most serious offense charged if
40 committed by an adult, whichever is shorter, the minor has not

1 recovered competency, the minor shall be returned to the juvenile
2 court.

3 (c) If the offense alleged in the petition brought pursuant to
4 Section 602 is a felony if committed by an adult, and if, at the
5 end of three years from the date of the treatment order or a period
6 of time equal to the maximum term of imprisonment provided by
7 law for the most serious offense charged if committed by an
8 adult, whichever is shorter, the minor has not recovered
9 competency, the minor shall be returned to the juvenile court.

10 (d) Whenever any minor is returned to the court pursuant to
11 this section, temporary wardship shall be terminated. If it appears
12 to the court that the minor is gravely disabled, as defined in
13 Section 5585.25, the court may initiate proceedings pursuant to
14 Chapter 2 (commencing with Section 5585.50) of Part 1.5 of
15 Division 5. If it appears to the court that the minor is gravely
16 disabled, as defined in paragraph (1) of subdivision (h) of Section
17 5008, and the offense alleged in the petition brought pursuant to
18 Section 602 is a felony involving death, great bodily harm, or a
19 serious threat to the physical well-being of another person, the
20 court may initiate proceedings to determine whether the minor is
21 gravely disabled, as defined in paragraph (1) of subdivision (h) of
22 Section 5008.

23 (e) The juvenile petition remains subject to dismissal pursuant
24 to Section 782. If the petition is dismissed, the court shall
25 transmit a copy of the order of dismissal to the director of the
26 regional center or county mental health director, as appropriate,
27 and to the facility at which the minor is detained.

28 (f) When temporary wardship is terminated, or if the petition
29 is dismissed, the minor shall be released from any commitment
30 or treatment order made under this section, but without prejudice
31 to the initiation of any proceeding which may be appropriate
32 under Part 1.5 (commencing with Section 5585) of Division 5.

33 646.1. (a) If the director of the regional center, the county
34 mental health director, or the medical director of a treatment
35 facility in which the minor is being treated, as appropriate,
36 determines that the minor has regained competency, that fact
37 shall be immediately certified to the court by filing a certificate
38 of restoration with the court by certified mail, return receipt
39 requested. For the purposes of this section, the date of filing shall
40 be the date on the return receipt.

1 (b) If the minor is detained, the court shall direct the probation
2 officer to deliver the minor to the court. If the minor is not
3 detained, the minor is to be returned through an arrangement
4 made with the county mental health director or director of the
5 regional center. In all cases, the minor is to be returned to the
6 court no later than 10 days following the filing of a certificate of
7 restoration.

8 (c) If a minor is returned to the court with a certificate that
9 competency has been restored, the court shall notify either the
10 county mental health director or the director of the regional
11 center, as appropriate, of the date of any hearing on the
12 competency of the minor and whether or not the minor was found
13 by the court to have recovered competency.

14 (d) If the minor is detained and is found to have recovered
15 competency, the court shall terminate temporary wardship. Upon
16 recommendation of the director of the facility where the minor
17 was receiving treatment, the minor may be returned to that
18 facility or any other appropriate facility. The recommendation is
19 to be based upon the opinion that the minor will need continued
20 treatment in order to maintain competency to stand trial, or that
21 the placement of the minor in a different custodial environment
22 would create a substantial risk that the minor would again
23 become incompetent before juvenile proceedings are resumed.

24 SEC. 3. Article 15.6 (commencing with Section 647) is added
25 to Chapter 2 of Part 1 of Division 2 of the Welfare and
26 Institutions Code, to read:

27
28 Article 15.6. Wards—Emotionally and Mentally Disturbed
29

30 647. (a) The Legislature finds and declares all of the
31 following:

32 (1) Many minors in the juvenile justice system are suffering
33 from severe emotional disturbances, severe mental illness,
34 addiction, or developmental disabilities, or a combination of
35 these, and are in need of mental health treatment or substance
36 abuse treatment, or both.

37 (2) The rate of serious mental illness among juvenile offenders
38 has been conservatively estimated to be 15 to 20 percent.

39 (3) Many adolescents in the juvenile justice system suffer
40 from both emotional and substance abuse disorders

1 simultaneously with the rate of substance abuse as high as 70 to
2 80 percent.

3 (4) Because of the lack of residential placement options or
4 treatment options for primary mental health disorders and
5 substance abuse disorders in California, many minors are sent to
6 facilities out of state at an enormous cost to California taxpayers.
7 Placements in out-of-state facilities also remove minors from the
8 proximity of their families, which often exacerbates the mental
9 state of the minors.

10 (5) Although state hospitals accept placement, of minors with
11 severe mental illness, these hospitals are now at 105 percent of
12 capacity and many minors would benefit from less restrictive and
13 costly options.

14 (6) Several counties in California have local community-based
15 or county-operated residential or detention programs for minors
16 who have committed offenses and have mental disorders. These
17 counties include, among others, Santa Cruz, Ventura, Humboldt,
18 Los Angeles, San Diego, Marin, and the City and County of San
19 Francisco.

20 (7) Santa Cruz County also supports a multidisciplinary
21 assessment and joint case management approach, using
22 Children's System of Care funding, in which a mental health
23 professional is a member of a minor's placement team as part of
24 a proceeding to determine whether a minor shall be adjudged a
25 ward of the juvenile court. The team develops an individualized
26 case plan for the minor at the local level in order to keep the
27 minor out of the Youth Authority. A joint recommendation that
28 meets both public safety and treatment needs is established.

29 (8) In Santa Cruz County, experience has shown that minors
30 who have mental disorders and who have committed offenses
31 that would result in a designation of a category 5, 6, or 7 offense
32 pursuant to Sections 4955 to 4957, inclusive, of Title 15 of the
33 California Code of Regulations, which includes nonviolent
34 offenses, may stay in the community and receive treatment at a
35 county-operated residential facility with demonstrated positive
36 outcomes.

37 (9) Santa Cruz County has found that it can keep minors who
38 have committed the offenses described in paragraph (8) out of
39 the Youth Authority completely with community-based services.

1 (10) However, many innovative local programs which have
2 been cobbled together using local, state and federal funds without
3 mandates are now in danger of closing because of funding
4 shortfalls. These programs function only with all components of
5 the service and funding in place. For example, a minor who has
6 substance abuse, mental health, and behavioral treatment needs
7 cannot be adequately served in the community if one of those
8 components of treatment is no longer available.

9 (11) Although documented best practices have been
10 developed, there are no regulations or standards and there is no
11 continuum of care to meet the specific and unique needs of
12 juveniles in need of community placement. As a result, children
13 languish in detention without appropriate treatment or
14 rehabilitative interventions.

15 (12) For the last few years, the state has discouraged counties
16 from sending minors who have committed nonviolent offenses to
17 the Youth Authority by requiring that counties pay 100 percent
18 of the cost of a Youth Authority placement for minors who are
19 found to have committed a category 6 or 7 offense as described
20 in Sections 4956 and 4957 of Title 15 of the California Code of
21 Regulations. The state does not receive federal funds for the
22 treatment of minors who have been committed to the Youth
23 Authority.

24 (13) However, many counties still send a majority of their
25 minors who have committed nonviolent offenses to the Youth
26 Authority, even though counties are required to pay 100 percent
27 of the cost of placement and cannot receive federal funding.

28 (14) When minors are placed in detention institutions, such as
29 the Youth Authority, the juvenile hall, or county camps or
30 ranches, they are not eligible for Medi-Cal or federal funding;
31 however, when minors are placed in foster care in the community
32 they become eligible for those funds. Detention should not be
33 used as a substitute for treatment.

34 (15) In California, 40 percent of minors placed in group homes
35 by the juvenile court receive services reimbursed under the
36 federal program known as Title IV-E and the Early and Periodic
37 Screening, Diagnostic, and Treatment Program.

38 (b) It is the intent of the Legislature to enact legislation that
39 will require that minors in the juvenile court, delinquency, and
40 probation systems be evaluated, before a final placement order at

1 a dispositional hearing, in order to enable counties to provide
2 appropriate treatment in the least restrictive placement setting to
3 minors who would not present a threat to public safety, and to
4 provide that treatment at the local level to many of their youth
5 with mental health, substance abuse, and developmental
6 disorders, so that the minors may be as close to their families as
7 possible, and so that the state may have access to federal funding
8 for the treatment of these minors. It is also the intent of the
9 Legislature to enact legislation that will ensure maximum
10 coordination and provide maximum flexibility with existing
11 community, state, and federal resources and between mental
12 health and substance abuse agencies.

13 647.1. (a) (1) In any detention hearing or any dispositional
14 hearing held pursuant to Article 14 (commencing with Section
15 601) to Article 21 (commencing with Section 800), inclusive, if it
16 appears that the minor may have a developmental disability as
17 defined in Section 4512, a substance abuse disorder, or a mental
18 disorder as described in Section 5600.3, the court shall order that
19 the minor be evaluated pursuant to Section 741, and shall
20 continue the hearing for two weeks, at which time the court shall
21 receive the evaluation.

22 (2) During the evaluation conducted pursuant to paragraph (1),
23 the minor shall be placed in the least restrictive placement
24 available and appropriate, and the court shall make findings as
25 follows:

26 (A) That the court is removing the minor from the custody of
27 his or her parent or guardian.

28 (B) That it is contrary to the minor's best interest to be
29 returned to the custody of his or her parent or guardian.

30 (3) An evaluation ordered by a court pursuant to paragraph (1)
31 shall be a multidisciplinary team evaluation under the
32 supervision of a psychiatrist, physician, or professional qualified
33 by the state to diagnose serious mental health, developmental,
34 and substance abuse disorders, and shall be based on criteria
35 developed by the State Department of Mental Health, the State
36 Department of Alcohol and Drug Programs, and the State
37 Department of Developmental Services, in collaboration with
38 local agencies and service providers in these specialties, in order
39 to ensure the adequacy of evaluations and to achieve uniformity
40 of evaluations statewide. The multidisciplinary team shall

1 include professionals with education, knowledge, skill, and
2 experience in areas appropriate to the needs of the minor. In
3 conducting an evaluation of a minor pursuant to an order made
4 pursuant to paragraph (1), the multidisciplinary team shall obtain
5 a copy of the minor's Individualized Education Plan, if any. The
6 multidisciplinary team shall make recommendations for
7 placement based on the minor's needs in the following areas, as
8 applicable:

- 9 (A) Mental health.
- 10 (B) Drug and alcohol abuse.
- 11 (C) Education.
- 12 (D) Job preparation and job search.
- 13 (E) Job skills and vocational training.
- 14 (F) Life skills.
- 15 (G) Health care.
- 16 (H) Parenting skills.
- 17 (I) Community service opportunities.
- 18 (J) Mentoring programs.
- 19 (K) Gang intervention.
- 20 (L) Crime prevention.
- 21 (M) Recreational, cultural, or social activities.
- 22 (N) Transportation.
- 23 (O) Recovery support services.

24 (4) Notwithstanding Section 741, the state shall request federal
25 funds to cover the cost of an evaluation ordered pursuant to this
26 section, and shall apply for federal waivers necessary to obtain
27 federal funding.

28 (5) The multidisciplinary team shall provide a report to the
29 court and to the probation officer regarding whether the minor
30 meets the criteria of having a severe emotional disturbance as
31 described in Section 5600.3, a developmental disability as
32 defined in Section 4512, or a substance abuse disorder. If the
33 multidisciplinary team determines that a minor has a
34 developmental disability, a substance abuse disorder, or a mental
35 disorder, the report shall include a recommendation for
36 placement for the minor, and an appropriate treatment plan.

37 (6) If the multidisciplinary team determines that a minor has a
38 developmental disability as defined in Section 4512, a severe
39 emotional disturbance as described in Section 5600.3, or a
40 substance abuse disorder, the court may, as an alternative to other

1 placement alternatives permitted by law, such as the minor's
2 home, the juvenile hall, a ranch or camp, or the Youth Authority,
3 order that the minor be placed in a facility described in
4 subdivision (c) for treatment and services.

5 (b) If the court determines that the minor shall be placed out of
6 the home, the following shall apply:

7 (1) The facilities in which a minor may be placed include, but
8 are not limited to, the following:

9 (A) A community care facility, including, but not limited to, a
10 foster home, a foster family agency, a group home, or a
11 community treatment facility.

12 (B) A state hospital, as defined in Section 4001.

13 (C) A general acute care hospital, as defined in subdivision (a)
14 of Section 1250 of the Health and Safety Code, solely with
15 regard to information pertaining to a mentally disordered person
16 subject to this section.

17 (D) An acute psychiatric hospital, as defined in subdivision (b)
18 of Section 1250 of the Health and Safety Code.

19 (E) A psychiatric health facility, as described in Section
20 1250.2 of the Health and Safety Code.

21 (F) A mental health rehabilitation center, as described in
22 Section 5675.

23 (G) A skilled nursing facility with a special treatment program
24 for chronically mentally disordered patients, as described in
25 Section 51335 and Sections 72445 to 72475, inclusive, of Title
26 22 of the California Code of Regulations.

27 (2) Only programs certified by the Department of Alcohol &
28 Drug Programs may provide substance abuse treatment services.

29 (3) The treatment plan ordered by the court shall be an
30 all-inclusive program that meets all of the minor needs, including
31 providing appropriate support services to the family if the goal is
32 to reunify the minor with the family. The treatment plan shall
33 also include a "step-down" element to authorize less restrictive
34 placements for the minor based on compliance with the treatment
35 plan. The step-down may include placement in a lower level of
36 facility, according to the rate classification levels set forth by the
37 State Department of Social Services.

38 (4) A placement in a community care facility, a group home, a
39 foster home, foster family agency, or the minor's home shall
40 include a family-centered, community based outpatient treatment

1 program that might include wrap-around services pursuant to
2 Chapter 3.2 (commencing with Section 18220) and Chapter 4
3 (commencing with Section 18250) of Part 6 of Division 9.

4 (5) The minor may not be removed from treatment, without a
5 clinical assessment, until the completion of treatment goals.

6 (c) Counties shall enter into contracts with private nonprofit
7 agencies and or any nongovernmental provider listed in
8 subdivision (c) qualified to provide mental or substance abuse
9 treatment or services for minors with developmental disabilities.
10 Each contract shall include provisions for the facility to review
11 the minor's treatment needs and behavior to determine if the
12 minor is an appropriate candidate for placement in the facility or
13 program. A private nonprofit agency may not be required to
14 accept placement if it is deemed not to be appropriate.

15 (d) If a minor is determined to be in substantial noncompliance
16 with his or her treatment plan, the minor may be sent back to
17 court for subsequent disposition and placement.

18 647.2. The State Department of Mental Health, the State
19 Department of Alcohol and Drug Programs, the State Department
20 of Social Services, the State Department of Developmental
21 Services, and the Department of the Youth Authority, in
22 collaboration with county representatives, including
23 representatives from relevant county agencies and providers,
24 shall determine the barriers to the development of, and create
25 incentives to support, flexibility in mental health and substance
26 abuse treatment options and enhancements in residential and
27 outpatient settings, including, but not limited to, federal waivers,
28 joint projects, changes in workforce qualifications under the rate
29 classification system, and other options.

30 647.3. (a) The State Department of Mental Health, State
31 Department of Alcohol and Drug Programs, and the Department
32 of Youth Authority, jointly, shall perform a study regarding the
33 feasibility of establishing a facility for the treatment of minors
34 with severe emotional disturbances, substance abuse disorders, or
35 developmental disabilities, whose behaviors would make them a
36 threat to public safety if they were placed in a community care
37 facility, with a relative, or at home. The facility shall be located
38 at a Youth Authority facility or on the site of a Youth Authority
39 facility that has been closed if the land and the buildings or other

1 structures on the site are owned and managed by the state. The
2 study shall be based on the following assumptions:

3 (1) The facility shall be operated by the State Department of
4 Mental Health.

5 (2) Mental health services shall be provided as prescribed by
6 the State Department of Mental Health.

7 (3) Minors who are determined to be incompetent to stand trial
8 may be placed in this facility for treatment.

9 (4) The facility shall offer programs that are developed
10 through collaborative efforts of the State Department of
11 Developmental Services and the State Department of Mental
12 Health, and that are co-managed by the State Department of
13 Social Services, the State Department of Mental Health, the State
14 Department of Alcohol and Drug Programs, and the State
15 Department of Developmental Services.

16 (5) The facilities shall offer educational programs, mental
17 health evaluations, mental health treatment and substance abuse
18 programs, and job training opportunities.

19 SEC. 4. Section 5008 of the Welfare and Institutions Code is
20 amended to read:

21 5008. Unless the context otherwise requires, the following
22 definitions shall govern the construction of this part:

23 (a) "Evaluation" consists of multidisciplinary professional
24 analyses of a person's medical, psychological, educational,
25 social, financial, and legal conditions as may appear to constitute
26 a problem. Persons providing evaluation services shall be
27 properly qualified professionals and may be full-time employees
28 of an agency providing evaluation services or may be part-time
29 employees or may be employed on a contractual basis.

30 (b) "Court-ordered evaluation" means an evaluation ordered
31 by a superior court pursuant to Article 2 (commencing with
32 Section 5200) or by a court pursuant to Article 3 (commencing
33 with Section 5225) of Chapter 2.

34 (c) "Intensive treatment" consists of ~~such~~ hospital and other
35 services as may be indicated. Intensive treatment shall be
36 provided by properly qualified professionals and carried out in
37 facilities qualifying for reimbursement under the California
38 Medical Assistance Program (Medi-Cal) set forth in Chapter 7
39 (commencing with Section 14000) of Part 3 of Division 9, or
40 under Title XVIII of the federal Social Security Act and

1 regulations thereunder. Intensive treatment may be provided in
2 hospitals of the United States government by properly qualified
3 professionals. Nothing in this part shall be construed to prohibit
4 an intensive treatment facility from also providing 72-hour
5 treatment and evaluation.

6 (d) “Referral” is referral of persons by each agency or facility
7 providing intensive treatment or evaluation services to other
8 agencies or individuals. The purpose of referral shall be to
9 provide for continuity of care, and may include, but need not be
10 limited to, informing the person of available services, making
11 appointments on the person’s behalf, discussing the person’s
12 problem with the agency or individual to which the person has
13 been referred, appraising the outcome of referrals, and arranging
14 for personal escort and transportation when necessary. Referral
15 shall be considered complete when the agency or individual to
16 whom the person has been referred accepts responsibility for
17 providing the necessary services. All persons shall be advised of
18 available precare services which prevent initial recourse to
19 hospital treatment or aftercare services which support adjustment
20 to community living following hospital treatment. These services
21 may be provided through county welfare departments, State
22 Department of Mental Health, Short-Doyle programs or other
23 local agencies.

24 Each agency or facility providing evaluation services shall
25 maintain a current and comprehensive file of all community
26 services, both public and private. These files shall contain current
27 agreements with agencies or individuals accepting referrals, as
28 well as appraisals of the results of past referrals.

29 (e) “Crisis intervention” consists of an interview or series of
30 interviews within a brief period of time, conducted by qualified
31 professionals, and designed to alleviate personal or family
32 situations which present a serious and imminent threat to the
33 health or stability of the person or the family. The interview or
34 interviews may be conducted in the home of the person or
35 family, or on an inpatient or outpatient basis with ~~such~~ therapy,
36 or other services, as may be appropriate. Crisis intervention may,
37 as appropriate, include suicide prevention, psychiatric, welfare,
38 psychological, legal, or other social services.

39 (f) “Prepetition screening” is a screening of all petitions for
40 court-ordered evaluation as provided in Article 2 (commencing

1 with Section 5200) of Chapter 2, consisting of a professional
2 review of all petitions; an interview with the petitioner and,
3 whenever possible, the person alleged, as a result of mental
4 disorder, to be a danger to others, or to himself or herself, or to
5 be gravely disabled, to assess the problem and explain the
6 petition; when indicated, efforts to persuade the person to
7 receive, on a voluntary basis, comprehensive evaluation, crisis
8 intervention, referral, and other services specified in this part.

9 (g) “Conservatorship investigation” means investigation by an
10 agency appointed or designated by the governing body of cases
11 in which conservatorship is recommended pursuant to Chapter 3
12 (commencing with Section 5350).

13 (h) (1) For purposes of Article 1 (commencing with Section
14 5150), Article 2 (commencing with Section 5200), and Article 4
15 (commencing with Section 5250) of Chapter 2, and for the
16 purposes of Chapter 3 (commencing with Section 5350),
17 “gravely disabled” means either of the following:

18 (A) A condition in which a person, as a result of a mental
19 disorder, is unable to provide for his or her basic personal needs
20 for food, clothing, or shelter.

21 (B) A condition in which a person, has been found mentally
22 incompetent under Section 1370 of the Penal Code *or under*
23 *Article 15.5 (commencing with Section 645) of Chapter 2 of Part*
24 *1 of Division 2* and all of the following facts exist:

25 (i) The *petition*, indictment, or information pending against the
26 defendant *or the minor, as applicable*, at the time of commitment
27 charges a felony involving death, great bodily harm, or a serious
28 threat to the physical well-being of another person.

29 (ii) The *petition*, indictment, or information has not been
30 dismissed.

31 (iii) As a result of mental disorder, the person is unable to
32 understand the nature and purpose of the proceedings taken
33 against him or her and to assist counsel in the conduct of his or
34 her defense in a rational manner.

35 (2) For purposes of Article 3 (commencing with Section 5225)
36 and Article 4 (commencing with Section 5250), of Chapter 2, and
37 for the purposes of Chapter 3 (commencing with Section 5350),
38 “gravely disabled” means a condition in which a person, as a
39 result of impairment by chronic alcoholism, is unable to provide
40 for his or her basic personal needs for food, clothing, or shelter.

1 (3) The term “gravely disabled” does not include mentally
2 retarded persons by reason of being mentally retarded alone.

3 (i) “Peace officer” means a duly sworn peace officer as that
4 term is defined in Chapter 4.5 (commencing with Section 830) of
5 Title 3 of Part 2 of the Penal Code who has completed the basic
6 training course established by the Commission on Peace Officer
7 Standards and Training, or any parole officer or probation officer
8 specified in Section 830.5 of the Penal Code when acting in
9 relation to cases for which he or she has a legally mandated
10 responsibility.

11 (j) “Postcertification treatment” means an additional period of
12 treatment pursuant to Article 6 (commencing with Section 5300)
13 of Chapter 2.

14 (k) “Court,” unless otherwise specified, means a court of
15 record.

16 (l) “Antipsychotic medication” means any medication
17 customarily prescribed for the treatment of symptoms of
18 psychoses and other severe mental and emotional disorders.

19 (m) “Emergency” means a situation in which action to impose
20 treatment over the person’s objection is immediately necessary
21 for the preservation of life or the prevention of serious bodily
22 harm to the patient or others, and it is impracticable to first gain
23 consent. It is not necessary for harm to take place or become
24 unavoidable prior to treatment.

25 SEC. 5. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.