

AMENDED IN SENATE MAY 3, 2005
AMENDED IN SENATE APRIL 27, 2005
AMENDED IN SENATE APRIL 7, 2005

SENATE BILL

No. 570

Introduced by Senator Migden

February 18, 2005

An act to add Section 68553.5 to the Government Code, and to add Sections 710, 711, 712, ~~713~~, and ~~714~~ and 713 to the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law requires the Judicial Council to perform various duties designed to assist the judiciary.

This bill would require the Judicial Council, to the extent resources are available, to provide education on mental health and developmental disability issues affecting juveniles in delinquency proceedings to judicial officers and other public officers and entities, as specified.

(2) Existing law establishes various criteria for evaluating whether a minor is seriously emotionally disturbed or has a developmental disability.

This bill would authorize the court, *in counties that agree to be subject to these provisions pursuant to a resolution adopted by the board of supervisors, as specified*, to order a minor who is a ward of the juvenile court to be referred for evaluation of whether the minor has a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability either when it appears to the court that the minor may have one of these conditions or upon request of the

minor's counsel. The bill would also require an evaluation ordered by the court to be made by an appropriate and licensed mental health professional with specified credentials, and would require the evaluator to personally examine the minor and submit to the court a written report of his or her findings to guide the court.

~~This~~

~~The bill would establish dispositional procedures for the court to follow for minors determined to be seriously emotionally disturbed, or who have serious mental disorders or developmental disabilities. Those procedures would include referral of the minor to a multidisciplinary team for review, as specified, development and review of a treatment plan by the multidisciplinary team, and a dispositional order by the court, consistent with the needs identified in the team's report and other specified factors. The bill would also require the Department of Mental Health to ensure maximum feasible coordination between the courts and county mental health services. The bill would specify a source of funding to provide treatment to mentally disordered minors pursuant to the provisions described above.~~ The bill would make related findings and declarations.

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. (a) The Legislature finds and declares all of the
2 following:
3 (1) Many of the minors in our state's juvenile justice system
4 have severe emotional disturbances or developmental disabilities.
5 (2) There are many different statutes under which a court is
6 authorized to order evaluation of these minors, and different
7 funding sources from which payment for an evaluation may be
8 made.
9 (3) There is no uniform statewide standard or procedure for
10 evaluation of these minors. Under the current law, it is difficult to
11 ensure that these minors' needs are being met.
12 (b) It is the intent of the Legislature to enact legislation that
13 will create a unified statutory scheme for the evaluation of
14 minors in the juvenile justice system who have severe emotional
15 disturbances or developmental disabilities, so that these minors
16 may be evaluated prior to disposition and, if the minors are

1 identified as having a disability, placed where they may receive
2 integrated services and treatment whenever possible.

3 SEC. 2. Section 68553.5 is added to the Government Code, to
4 read:

5 68553.5. To the extent resources are available, the Judicial
6 Council shall provide education on mental health and
7 developmental disability issues affecting juveniles in
8 delinquency proceedings pursuant to Section 602 of the Welfare
9 and Institutions Code to judicial officers and, as appropriate, to
10 other public officers and entities that may be involved in the
11 arrest, evaluation, prosecution, defense, disposition, and
12 postdisposition or placement phases of delinquency proceedings.
13 The education shall include, to the extent possible, using
14 available resources, information on the early identification of
15 mental illness or developmental disability in delinquency
16 proceedings, on statutory and case law providing for the
17 assessment or evaluation of minors with mental health problems
18 or developmental disabilities, on specialized adjudication or
19 disposition procedures, such as mental health courts, that may
20 apply to these minors, and on appropriate programs, services, and
21 placements for minors with mental health problems or
22 developmental disabilities, including information on the benefits
23 and detriments of placing minors with mental health problems or
24 developmental disabilities in secure juvenile justice facilities,
25 such as the Department of the Youth Authority.

26 SEC. 3. Section 710 is added to the Welfare and Institutions
27 Code, to read:

28 710. (a) Sections 711, 712, and 713, shall not be applicable
29 in a county unless the application of those subdivisions in the
30 county has been approved by resolution of the board of
31 supervisors. A county may establish a program pursuant to
32 Sections 711, 712, and 713 on a permanent basis, or it may
33 establish the program on a limited duration basis for a specific
34 number of years pursuant to the receipt of a grant from the
35 Mental Health Services Act.

36 (b) It is the intent of the Legislature that in a county where
37 funding exists through the Mental Health Services Act, and the
38 board of supervisors has adopted a resolution pursuant to
39 subdivision (a), the courts may, under the guidelines established
40 in Section 711, make available the evaluation described in

1 *Section 712, and receive treatment and placement*
2 *recommendations from the multidisciplinary assessment team as*
3 *described in Section 713.*

4 ~~SEC. 3.~~

5 *SEC. 4.* Section 711 is added to the Welfare and Institutions
6 Code, to read:

7 711. (a) When it appears to the court, or upon request of
8 counsel for the minor, at any time, that a minor who is alleged to
9 come within the jurisdiction of the court under Section 602, may
10 have a serious mental disorder, is seriously emotionally
11 disturbed, or has a developmental disability, the court may order
12 that the minor be referred for evaluation, as described in Section
13 712.

14 (b) A minor, with the approval of his or her counsel, may
15 decline the referral for mental health evaluation described in
16 Section 712 or the multidisciplinary team review described in
17 Section 713, in which case the matter shall proceed without the
18 application of Sections 712 and 713, and in accordance with all
19 other applicable provisions of law.

20 ~~SEC. 4.~~

21 *SEC. 5.* Section 712 is added to the Welfare and Institutions
22 Code, to read:

23 712. (a) The evaluation ordered by the court under Section
24 711 shall be made, in accordance with the provisions of Section
25 741, by an appropriate and licensed mental health professional
26 who meets one or more of the following criteria:

27 (1) The person is licensed to practice medicine in the State of
28 California and is trained and actively engaged in the practice of
29 psychiatry.

30 (2) The person is licensed as a psychologist under Chapter 6.6
31 (commencing with Section 2900) of Division 2 of the Business
32 and Professions Code.

33 (b) The evaluator selected by the court shall personally
34 examine the minor, conduct appropriate psychological or mental
35 health screening, assessment, or testing, and prepare and submit
36 to the court a written report indicating his or her findings and
37 recommendations to guide the court in determining whether the
38 minor has a serious mental disorder or is seriously emotionally
39 disturbed, as described in Section 5600.3, or has a developmental
40 disability, as defined in Section 4512. If the minor is detained,

1 the examination shall occur within three court days of the court's
2 order of referral for evaluation, and the evaluator's report shall be
3 submitted to the court not later than five court days after the
4 evaluator has personally examined the minor, unless the
5 submission date is extended by the court for good cause shown.

6 (c) Based on the evaluator's written report, the court shall
7 determine whether the minor has a serious mental disorder or is
8 seriously emotionally disturbed, as described in Section 5600.3,
9 or has a developmental disability, as defined in Section 4512. If
10 the court determines that the minor has a serious mental disorder,
11 is seriously emotionally disturbed, or has a developmental
12 disability, the case shall proceed as described in Section 713. If
13 the court determines that the minor does not have a serious
14 mental disorder, is not seriously emotionally disturbed, or does
15 not have a developmental disability, the matter shall proceed
16 without the application of Section 713 and in accordance with all
17 other applicable provisions of law.

18 (d) This section shall not be construed to interfere with the
19 legal authority of the juvenile court or of any other public or
20 private agency or individual to refer a minor for mental health
21 evaluation or treatment as provided in Section 370, 635.1, 704,
22 741, 5150, 5694.7, 5699.2, 5867.5, or 6551 of this code, or in
23 Section 4011.6 of the Penal Code.

24 ~~SEC. 5.~~

25 *SEC. 6.* Section 713 is added to the Welfare and Institutions
26 Code, to read:

27 713. (a) For any minor described in Section 711 who is
28 determined by the court under Section 712 to be seriously
29 emotionally disturbed, have a serious mental disorder, or have a
30 developmental disability, and who is adjudicated a ward of the
31 court under Section 602, the dispositional procedures set forth in
32 this section shall apply.

33 (b) Prior to the preparation of the social study required under
34 Section 706, 706.5, or 706.6, the minor shall be referred to a
35 multidisciplinary team for dispositional review and
36 recommendation. The multidisciplinary team shall consist of
37 qualified persons who are collectively able to evaluate the
38 minor's full range of treatment needs and may include
39 representatives from local probation, mental health, child
40 welfare, education, community-based youth services, and other

1 agencies or service providers. The multidisciplinary team shall
2 include at least one licensed mental health professional as
3 described in subdivision (a) of Section 712.

4 (c) The multidisciplinary team shall review the nature and
5 circumstances of the case, including the minor's family
6 circumstances, as well as the minor's relevant tests, evaluations,
7 records, medical and psychiatric history, and any existing
8 individual education plan or individual program plans. The
9 multidisciplinary team shall provide for the involvement of the
10 minor's available parent, guardian, or primary caretaker in its
11 review, including any direct participation in multidisciplinary
12 team proceedings as may be helpful or appropriate for
13 development of a treatment plan in the case. The team shall
14 identify the mental health or other treatment services, including
15 in-home and community-based services that are available and
16 appropriate for the minor, including services that may be
17 available to the minor under federal and state programs and
18 initiatives, such as wraparound service programs. At the
19 conclusion of its review, the team shall then produce a
20 recommended disposition and written treatment plan for the
21 minor, to be appended to, or incorporated into, the probation
22 social study presented to the court.

23 (d) The court shall review the treatment plan and the
24 dispositional recommendations prepared by the multidisciplinary
25 team and shall take them into account when making the
26 dispositional order in the case. The dispositional order in the case
27 shall be consistent with the primary treatment needs of the minor,
28 as identified in the report of the multidisciplinary team, and
29 consistent with the protection of the public. The minor's
30 disposition order shall incorporate, to the extent feasible, the
31 treatment plan submitted by the multidisciplinary team, with any
32 adjustments deemed appropriate by the court.

33 (e) The dispositional order in the case shall authorize
34 placement of the minor in the least restrictive setting that is
35 consistent with the minor's treatment needs, with the treatment
36 plan approved by the court, and with the protection of the public.
37 The court shall, in making the dispositional order, give
38 preferential consideration to the return of the minor to the home
39 of his or her family, guardian, or responsible relative with
40 appropriate in-home, outpatient, or wraparound services, unless

1 that action would be, in the reasonable judgment of the court,
2 inconsistent with the minor's treatment needs or with the need to
3 protect the minor or the public.

4 ~~SEC. 6. Section 714 is added to the Welfare and Institutions~~
5 ~~Code, to read:~~

6 ~~714. The Department of Mental Health, in its review of~~
7 ~~county mental health planning, shall ensure maximum feasible~~
8 ~~coordination between the courts and county mental health~~
9 ~~services. In a county where funding exists through the Mental~~
10 ~~Health Services Act, and the county has determined that early~~
11 ~~treatment and intervention would provide juveniles with better~~
12 ~~care and mental health services, the courts may, under the~~
13 ~~guidelines established in Section 711, make available the~~
14 ~~evaluation described in Section 712, and receive treatment and~~
15 ~~placement recommendations from the multidisciplinary~~
16 ~~assessment team as described in Section 713.~~

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