

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN SENATE MAY 18, 2005

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 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 may be 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 prosecutor or 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.

The bill would establish dispositional procedures for the court to follow for wards of the court who are 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 protection of the public and the minor's treatment needs identified in the team's report and other specified factors. 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

1 disturbances or developmental disabilities, so that these minors
2 may be evaluated prior to disposition and, if the minors are
3 identified as having a disability, placed where they may receive
4 integrated services and treatment whenever possible.

5 SEC. 2. Section 68553.5 is added to the Government Code, to
6 read:

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

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

30 710. (a) Sections 711, 712, and 713 shall not be applicable in
31 a county unless the application of those sections in the county has
32 been approved by a resolution adopted by the board of
33 supervisors. A county may establish a program pursuant to
34 ~~Sections Section 711, 712, and 713~~ or 713, or pursuant to two or
35 all three of those Sections, on a permanent basis, or it may
36 establish the program on a limited duration basis for a specific
37 number of years. *Moneys from a grant from the Mental Health
38 Services Act used to fund a program pursuant to Section 711,
39 712, or 713 may be used only for services related to the
40 treatment of emotional disturbance or mental disorder.*

1 (b) It is the intent of the Legislature that in a county where
2 funding exists through the Mental Health Services Act, and the
3 board of supervisors has adopted a resolution pursuant to
4 subdivision (a), the courts may, under the guidelines established
5 in Section 711, make available the evaluation described in
6 Section 712, and receive treatment and placement
7 recommendations from the multidisciplinary assessment team as
8 described in Section 713.

9 SEC. 4. Section 711 is added to the Welfare and Institutions
10 Code, to read:

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

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

24 SEC. 5. Section 712 is added to the Welfare and Institutions
25 Code, to read:

26 712. (a) The evaluation ordered by the court under Section
27 711 shall be made, in accordance with the provisions of Section
28 741, by an appropriate and licensed mental health professional
29 who meets one or more of the following criteria:

30 (1) The person is licensed to practice medicine in the State of
31 California and is trained and actively engaged in the practice of
32 psychiatry.

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

36 (b) The evaluator selected by the court shall personally
37 examine the minor, conduct appropriate psychological or mental
38 health screening, assessment, or testing, *according to a uniform*
39 *protocol developed by the county mental health department* and
40 prepare and submit to the court a written report indicating his or

1 her findings and recommendations to guide the court in
2 determining whether the minor has a serious mental disorder or is
3 seriously emotionally disturbed, as described in Section 5600.3,
4 or has a developmental disability, as defined in Section 4512. If
5 the minor is detained, the examination shall occur within three
6 court days of the court's order of referral for evaluation, and the
7 evaluator's report shall be submitted to the court not later than
8 five court days after the evaluator has personally examined the
9 minor, unless the submission date is extended by the court for
10 good cause shown.

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

23 (d) This section shall not be construed to interfere with the
24 legal authority of the juvenile court or of any other public or
25 private agency or individual to refer a minor for mental health
26 evaluation or treatment as provided in Section 370, 635.1, 704,
27 741, 5150, 5694.7, 5699.2, 5867.5, or 6551 of this code, or in
28 Section 4011.6 of the Penal Code.

29 SEC. 6. Section 713 is added to the Welfare and Institutions
30 Code, to read:

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

37 (b) Prior to the preparation of the social study required under
38 Section 706, 706.5, or 706.6, the minor shall be referred to a
39 multidisciplinary team for dispositional review and
40 recommendation. The multidisciplinary team shall consist of

1 qualified persons who are collectively able to evaluate the
2 minor's full range of treatment needs and may include
3 representatives from local probation, mental health, regional
4 centers, *regional resource development projects*, child welfare,
5 education, community-based youth services, and other agencies
6 or service providers. The multidisciplinary team shall include at
7 least one licensed mental health professional as described in
8 subdivision (a) of Section 712. *If the minor has been determined*
9 *to have both a mental disorder and a developmental disorder, the*
10 *multidisciplinary team may include both an appropriate mental*
11 *health agency and a regional center.*

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

31 (d) The court shall review the treatment plan and the
32 dispositional recommendations prepared by the multidisciplinary
33 team and shall take them into account when making the
34 dispositional order in the case. The dispositional order in the case
35 shall be consistent with the protection of the public and the
36 primary treatment needs of the minor as identified in the report of
37 the multidisciplinary team. The minor's disposition order shall
38 incorporate, to the extent feasible, the treatment plan submitted
39 by the multidisciplinary team, with any adjustments deemed
40 appropriate by the court.

1 (e) The dispositional order in the case shall authorize
2 placement of the minor in the least restrictive setting that is
3 consistent with the protection of the public and the minor's
4 treatment needs, and with the treatment plan approved by the
5 court. The court shall, in making the dispositional order, give
6 preferential consideration to the return of the minor to the home
7 of his or her family, guardian, or responsible relative with
8 appropriate in-home, outpatient, or wraparound services, unless
9 that action would be, in the reasonable judgment of the court,
10 inconsistent with the need to protect the public or the minor, or
11 with the minor's treatment needs.

12 (f) *Whenever a minor is recommended for placement at a state*
13 *developmental center, the regional center director or designee*
14 *shall submit a report to the Director of the Department of*
15 *Developmental Services or his or her designee. The regional*
16 *center report shall include the assessments, individual program*
17 *plan, and a statement describing the necessity for a*
18 *developmental center placement. The Director of Developmental*
19 *Services or his or her designee may, within 60 days of receiving*
20 *the regional center report, submit to the court a written report*
21 *evaluating the ability of an alternative community option or a*
22 *developmental center to achieve the purposes of treatment for the*
23 *minor and whether a developmental center placement can*
24 *adequately provide the security measures or systems required to*
25 *protect the public health and safety from the potential dangers*
26 *posed by the minor's known behaviors.*

27 SEC. 7. Section 714 is added to the Welfare and Institutions
28 Code, to read:

29 714. A regional center, as described in Chapter 5
30 (commencing with Section 4620) of Division 4.5, shall not be
31 required to provide assessments or services to minors pursuant to
32 Section 711, 712, or 713 solely on the basis of a finding by the
33 court under subdivision (c) of Section 712 that the minor is
34 developmentally disabled. Regional center representatives may,
35 at their option and on a case-by-case basis, participate in the
36 multidisciplinary teams described in Section 713. However, any
37 assessment provided by or through a regional center to a minor
38 determined by the court to be developmentally disabled under
39 subdivision (c) of Section 712 shall be provided in accordance

- 1 with the provisions and procedures in Chapter 5 (commencing
- 2 with Section 4620) of Division 4.5 that relate to regional centers.

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