

Senate Bill No. 570

Passed the Senate August 31, 2005

Secretary of the Senate

Passed the Assembly August 30, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Many of the minors in our state’s juvenile justice system have severe emotional disturbances or developmental disabilities.

(2) There are many different statutes under which a court is authorized to order evaluation of these minors, and different funding sources from which payment for an evaluation may be made.

(3) There is no uniform statewide standard or procedure for evaluation of these minors. Under the current law, it is difficult to ensure that these minors’ needs are being met.

(b) It is the intent of the Legislature to enact legislation that will create a unified statutory scheme for the evaluation of minors in the juvenile justice system who have severe emotional disturbances or developmental disabilities, so that these minors may be evaluated prior to disposition and, if the minors are identified as having a disability, placed where they may receive integrated services and treatment whenever possible.

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

68553.5. To the extent resources are available, the Judicial Council shall provide education on mental health and developmental disability issues affecting juveniles in delinquency proceedings pursuant to Section 602 of the Welfare and Institutions Code to judicial officers and, as appropriate, to other public officers and entities that may be involved in the arrest, evaluation, prosecution, defense, disposition, and postdisposition or placement phases of delinquency proceedings. The education shall include, to the extent possible, using available resources, information on the early identification of mental illness or developmental disability in delinquency proceedings, on statutory and case law providing for the assessment or evaluation of minors with mental health problems or developmental disabilities, on specialized adjudication or disposition procedures, such as mental health courts, that may

apply to these minors, and on appropriate programs, services, and placements for minors with mental health problems or developmental disabilities, including information on the benefits and detriments of placing minors with mental health problems or developmental disabilities in secure juvenile justice facilities, such as the Department of the Youth Authority.

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

710. (a) Sections 711, 712, and 713 shall not be applicable in a county unless the application of those sections in the county has been approved by a resolution adopted by the board of supervisors. A county may establish a program pursuant to Section 711, 712, or 713, or pursuant to two or all three of those sections, on a permanent basis, or it may establish the program on a limited duration basis for a specific number of years. Moneys from a grant from the Mental Health Services Act used to fund a program pursuant to Section 711, 712, or 713 may be used only for services related to mental health assessment, treatment, and evaluation.

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

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

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

(b) A minor, with the approval of his or her counsel, may decline the referral for mental health evaluation described in Section 712 or the multidisciplinary team review described in Section 713, in which case the matter shall proceed without the

application of Sections 712 and 713, and in accordance with all other applicable provisions of law.

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

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

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

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

(b) The evaluator selected by the court shall personally examine the minor, conduct appropriate psychological or mental health screening, assessment, or testing, according to a uniform protocol developed by the county mental health department and prepare and submit to the court a written report indicating his or her findings and recommendations to guide the court in determining whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, or has a developmental disability, as defined in Section 4512. If the minor is detained, the examination shall occur within three court days of the court's order of referral for evaluation, and the evaluator's report shall be submitted to the court not later than five court days after the evaluator has personally examined the minor, unless the submission date is extended by the court for good cause shown.

(c) Based on the evaluator's written report, the court shall determine whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, or has a developmental disability, as defined in Section 4512. If the court determines that the minor has a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability, the case shall proceed as described in Section 713. If the court determines that the minor does not have a serious mental disorder, is not seriously emotionally disturbed, or does not have a developmental disability, the matter shall proceed

without the application of Section 713 and in accordance with all other applicable provisions of law.

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

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

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

(b) Prior to the preparation of the social study required under Section 706, 706.5, or 706.6, the minor shall be referred to a multidisciplinary team for dispositional review and recommendation. The multidisciplinary team shall consist of qualified persons who are collectively able to evaluate the minor's full range of treatment needs and may include representatives from local probation, mental health, regional centers, regional resource development projects, child welfare, education, community-based youth services, and other agencies or service providers. The multidisciplinary team shall include at least one licensed mental health professional as described in subdivision (a) of Section 712. If the minor has been determined to have both a mental disorder and a developmental disorder, the multidisciplinary team may include both an appropriate mental health agency and a regional center.

(c) The multidisciplinary team shall review the nature and circumstances of the case, including the minor's family circumstances, as well as the minor's relevant tests, evaluations, records, medical and psychiatric history, and any existing individual education plan or individual program plans. The multidisciplinary team shall provide for the involvement of the minor's available parent, guardian, or primary caretaker in its review, including any direct participation in multidisciplinary team proceedings as may be helpful or appropriate for

development of a treatment plan in the case. The team shall identify the mental health or other treatment services, including in-home and community-based services that are available and appropriate for the minor, including services that may be available to the minor under federal and state programs and initiatives, such as wraparound service programs. At the conclusion of its review, the team shall then produce a recommended disposition and written treatment plan for the minor, to be appended to, or incorporated into, the probation social study presented to the court.

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

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

(f) Whenever a minor is recommended for placement at a state developmental center, the regional center director or designee shall submit a report to the Director of the Department of Developmental Services or his or her designee. The regional center report shall include the assessments, individual program plan, and a statement describing the necessity for a developmental center placement. The Director of Developmental Services or his or her designee may, within 60 days of receiving the regional center report, submit to the court a written report

evaluating the ability of an alternative community option or a developmental center to achieve the purposes of treatment for the minor and whether a developmental center placement can adequately provide the security measures or systems required to protect the public health and safety from the potential dangers posed by the minor's known behaviors.

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

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

Approved _____, 2005

Governor