

AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 568**

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**Introduced by Senator Wiggins**

February 22, 2007

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An act to add and repeal Section 1369.1 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 568, as amended, Wiggins. Criminal procedure: mental competence.

Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. If a defendant is found to be mentally incompetent, the trial or judgment shall be suspended until the person becomes mentally competent, during which time the court shall order that the mentally incompetent defendant be delivered to a state hospital or to any other available public or private treatment facility, or be placed on outpatient status, as specified.

This bill would provide that the term "treatment facility" as used in these provisions, *for the sole purpose of administering antipsychotic medication pursuant to a court order*, includes a county jail, or other county penal facility, that, upon the concurrence of the county board of supervisors and the county sheriff, the county mental health director, or the chief of corrections, as specified, may be ~~used~~ *designated* to provide medically approved ~~treatment of medication to~~ defendants found to be mentally incompetent due to a mental disorder. The bill would limit treatment in these facilities to a maximum of 6 months.

The bill would require the State Department of Mental Health to report to the Legislature, not later than January 1, 2009, on specified topics relating to treatment, pursuant to the provisions of the bill, of defendants who are incompetent to stand trial. The bill would provide that its provisions would be repealed on January 1, 2010.

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. *It is the intent of the Legislature to assure timely*  
 2 *and humane access to court-approved psychiatric medications*  
 3 *while individuals are in jail and awaiting transfer to a state*  
 4 *psychiatric hospital for restoration of competency.*

5     ~~SECTION 1.~~

6     SEC. 2. Section 1369.1 is added to the Penal Code, to read:

7     1369.1. (a) As used in this chapter, *for the sole purpose of*  
 8 *administering antipsychotic medication pursuant to a court order,*  
 9 *“treatment facility” includes a county jail, or other county penal*  
 10 *facility, that, upon facility. Upon the concurrence of the county*  
 11 *board of supervisors, the county mental health director, and the*  
 12 *county sheriff, the jail or other county penal facility may be used*  
 13 *designated to provide medically approved treatment of medication*  
 14 *to defendants found to be mentally incompetent and unable to*  
 15 *provide informed consent due to a mental disorder, pursuant to*  
 16 *this chapter. In the case of Madera, Napa, and Santa Clara Counties,*  
 17 *the concurrence shall be with the board of supervisors and*  
 18 *supervisors, the county mental health director, and the county*  
 19 *sheriff or the chief of corrections. The provisions of Section 1370*  
 20 *and 1370.01 shall apply to treatment antipsychotic medications*  
 21 *provided in a county jail or other county penal facility, provided*  
 22 *however, that the maximum period of time a defendant may be*  
 23 *treated in a treatment facility pursuant to this section shall not*  
 24 *exceed six months. The purpose of this section is to allow the*  
 25 *incompetent defendant to be restored to competency as quickly as*  
 26 *possible.*

27     (b) The State Department of Mental Health shall report to the  
 28 Legislature on or before January 1, 2009, on all of the following:

29     (1) The number of defendants in the state who are incompetent  
 30 to stand trial.

1 (2) The resources available at state hospitals and local mental  
2 health facilities, other than jails, for returning these defendants to  
3 competence.

4 (3) Additional resources that are necessary to reasonably treat,  
5 in a reasonable period of time, at the state and local levels,  
6 excluding jails, defendants who are incompetent to stand trial.

7 (4) What, if any, statewide standards and organizations exist  
8 concerning local treatment facilities that could treat defendants  
9 who are incompetent to stand trial.

10 (5) Address the concerns regarding defendants who are  
11 incompetent to stand trial who are currently being held in jail  
12 awaiting treatment.

13 (c) Nothing in this section shall be construed to abrogate or in  
14 any way limit any provision of law enacted to ensure the due  
15 process rights set forth in *Sell v. United States* (2003) 539 U.S.  
16 166.

17 (d) This section shall remain in effect only until January 1, 2010,  
18 and as of that date is repealed, unless a later enacted statute, that  
19 is enacted before January 1, 2010, deletes or extends that date.

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