

AMENDED IN ASSEMBLY JUNE 20, 2007

AMENDED IN SENATE MAY 1, 2007

AMENDED IN SENATE APRIL 17, 2007

**SENATE BILL**

**No. 916**

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**Introduced by Senator Yee**

February 23, 2007

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An act to amend Section 1799.111 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 916, as amended, Yee. Acute psychiatric hospitals: patient detention and release.

Existing law exempts a licensed general acute care hospital, as defined, licensed professional staff of the hospital, or any physician and surgeon, providing emergency medical services to a person at the hospital from civil and criminal liability for detaining a person, or for the actions of the person after release from the hospital, if certain conditions exist, including, among other things, that the person is not detained beyond 8 hours.

This bill would ~~also exempt a facility that is a specified mental health facility designated by the county or, if not so designated, revise these provisions, to exempt~~ a licensed acute psychiatric hospital *that is not a specified mental health facility designated by the county, or licensed general acute care hospital that has a psychiatric inpatient unit, that lacks the current capacity or capability to provide appropriate mental health treatment for the person being detained for evaluation and treatment is not a specified mental health facility designated by the county, from civil or criminal liability for detaining a person, or from*

*the actions of the person after release from the hospital, under specified conditions, and would increase the maximum period of detention to 24 hours. The bill would impose additional conditions applicable when the detention is for more than 8, but less than 24 hours.*

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

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

1 SECTION 1. Section 1799.111 of the Health and Safety Code  
2 is amended to read:

3 1799.111. (a) A licensed general acute care hospital, as defined  
4 by subdivision (a) of Section 1250, *that is not a county-designated*  
5 *facility pursuant to Section 5150 of the Welfare and Institutions*  
6 *Code*, a licensed acute psychiatric hospital, as defined in  
7 subdivision (b) of Section 1250, *that is not a county-designated*  
8 *facility pursuant to Section 5150 of the Welfare and Institutions*  
9 *Code*, licensed professional staff of those hospitals, or any  
10 physician and surgeon, providing emergency medical services in  
11 any department of ~~the hospital~~ *those hospitals* to a person at the  
12 hospital shall not be civilly or criminally liable for detaining a  
13 person, or for the actions of the person after release from the  
14 hospital, if all of the following conditions exist *during the*  
15 *detention*:

16 (1) The person cannot be safely released from the hospital  
17 because, in the opinion of the treating physician and surgeon, or  
18 a clinical psychologist with the medical staff privileges, clinical  
19 privileges, or professional responsibilities provided in Section  
20 1316.5, the person, as a result of a mental disorder, presents a  
21 danger to himself or herself, or others, or is gravely disabled. For  
22 purposes of this paragraph, “gravely disabled” means an inability  
23 to provide for his or her basic personal needs of food, clothing, or  
24 shelter.

25 (2) The hospital staff, treating physician and surgeon, or  
26 appropriate licensed mental health professional, have made, and  
27 documented, repeated unsuccessful efforts to find appropriate  
28 mental health treatment for the person.

29 ~~(3) The facility is a facility designated by the county under~~  
30 ~~Section 5150 of the Welfare and Institutions Code, or if not so~~  
31 ~~designated by the county, a licensed acute psychiatric hospital, or~~

1 a licensed general acute care hospital, as defined by subdivision  
2 (a) of Section 1250, that has a psychiatric inpatient unit that lacks  
3 the actual capacity or capability to provide appropriate mental  
4 health treatment for the person.

5 ~~(4)~~

6 (3) The person is not detained beyond eight 24 hours.

7 (4) *If the person is detained beyond eight hours, but less than*  
8 *24 hours, all of the following additional conditions shall be met:*

9 (A) *A transfer for appropriate mental health treatment for the*  
10 *person has been delayed because of the need for continuous and*  
11 *ongoing care, observation, or treatment that the hospital is*  
12 *providing.*

13 (B) *In the opinion of the treating physician and surgeon, or a*  
14 *clinical psychologist with the medical staff privileges or*  
15 *professional responsibilities provided for in Section 1316.5, the*  
16 *person, as a result of a mental disorder, is still a danger to himself*  
17 *or herself, or others, or is gravely disabled, as defined in*  
18 *paragraph (1) of subdivision (a).*

19 (C) *Probable cause exists for the detention.*

20 (b) *In addition to the conditions set forth in subdivision (a), a*  
21 *licensed general acute care hospital, as defined by subdivision (a)*  
22 *of Section 1250 that is not a county-designated facility pursuant*  
23 *to Section 5150 of the Welfare and Institutions Code, a licensed*  
24 *acute psychiatric hospital, as defined by subdivision (b) of Section*  
25 *1250 that is not a county-designated facility pursuant to Section*  
26 *5150 of the Welfare and Institutions Code, licensed professional*  
27 *staff of those hospitals, or any physician and surgeon, providing*  
28 *emergency medical services in any department of those hospitals*  
29 *to a person at the hospital shall not be civilly or criminally liable*  
30 *for detaining a person up to 24 hours, or for the actions of the*  
31 *person after release from the hospital, if both of the following*  
32 *conditions exist during the detention:*

33 (1) *The person has not been admitted to a licensed general acute*  
34 *care hospital or a licensed acute psychiatric hospital for evaluation*  
35 *and treatment pursuant to Section 5150 of the Welfare and*  
36 *Institutions Code.*

37 (2) *The release from the licensed general acute care hospital*  
38 *or the licensed acute psychiatric hospital is authorized by a*  
39 *physician and surgeon with the medical staff privileges or*  
40 *professional responsibilities provided for in Section 1316.5, who*

1 *determines, based on a face-to-face examination of the person*  
2 *detained, that the person does not present a danger to himself or*  
3 *herself or others and is not gravely disabled, as defined in*  
4 *paragraph (1) of subdivision (a).*

5 ~~(b)~~

6 (c) Nothing in this section shall affect the responsibility of a  
7 general acute care hospital or an acute psychiatric hospital to  
8 comply with all state laws and regulations pertaining to the use of  
9 seclusion and restraint and psychiatric medications for psychiatric  
10 patients. Persons detained under this section shall retain their legal  
11 rights regarding consent for medical treatment.

12 ~~(e)~~

13 (d) A person detained under this section shall be credited for  
14 the time detained, up to eight hours, in the event he or she is placed  
15 on a subsequent 72-hour hold pursuant to Section 5150 of the  
16 Welfare and Institutions Code.

17 ~~(d)~~

18 (e) The amendments to this section made by the act adding this  
19 subdivision shall not be construed to limit any existing duties for  
20 psychotherapists contained in Section 43.92 of the Civil Code.