

Introduced by Senator Yee
(Coauthor: Assembly Member Wolk)

February 22, 2008

An act to amend Sections 5250, 5256.4, 5257, 5346, 5347, and 5348 of, and to repeal Section 5349 of, the Welfare and Institutions Code, relating to assisted outpatient treatment services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1606, as introduced, Yee. Assisted outpatient treatment services.

(1) Existing law, Laura's Law, allows courts in participating counties to order a person suffering from a mental illness to undergo assisted outpatient treatment if the court finds by clear and convincing evidence that the requirements for assisted outpatient treatment are met. One of these requirements is that the person has been given an opportunity by the local director of mental health or his or her designee, to participate in treatment on a voluntary basis and the person fails or refuses to engage in treatment.

This bill would instead allow an order for assisted outpatient treatment for a person who had been offered any opportunity to participate in treatment but continues to fail to engage in treatment.

(2) Existing law provides for up to 14 days of intensive treatment for a mental disorder or impairment by chronic alcoholism for a person who has been involuntarily committed and received an evaluation that meets certain specified criteria. Under existing law, before a person may be certified for a 14-day intensive treatment program, he or she is entitled to a certification review hearing conducted by a court-appointed commissioner or referee, or a certification review hearing officer.

This bill would add to the list of those eligible for intensive treatment, persons who have been ordered to, or agreed to, undergo assisted

outpatient treatment. This bill would allow the releasing treatment provider or the director of the facility where a person has been certified for intensive treatment, upon release of that person, to refer him or her to the county mental health director for evaluation for assisted outpatient treatment.

This bill would allow any relevant evidence of the person's eligibility for assisted outpatient treatment to be admitted in the certification review hearing. This bill would also allow the person conducting the hearing to refer the person to the county mental health director for assessment for assisted outpatient treatment if the person does not meet the criteria for certification for intensive treatment.

(3) Under existing law, the county mental health director, or his or her designee, may be petitioned by certain specified individuals to seek a court order authorizing assisted outpatient treatment. After an investigation, the county mental health director is required to make a determination as to whether there is a reasonable likelihood that all the necessary elements to sustain the petition can be proven in a court of law by clear and convincing evidence.

This bill would only allow the county mental health director or his or her designee to file the petition with the court if he or she reasonably believes that mental health services that will improve or stabilize the person subject to the petition are available.

(4) Existing law requires the hearing on the petition to be limited to facts stated in the petition in order to ensure adequate notice to the person who is subject to the petition.

This bill would delete that requirement.

(5) Existing law allows for extensions, for up to 180 days, of a court order requiring the person subject to the order to participate in assisted outpatient treatment.

This bill would allow for extensions of up to 360 days and provides that, if the administrative process for the extension is not complete before the expiration of the current order, that order would remain in effect until the process is final.

(6) Existing law requires the director of the outpatient treatment program to file an affidavit with the court at least every 60 days stating that the person subject to the order still meets the criteria for assisted outpatient treatment.

This bill would delete this requirement.

(7) Existing law permits settlement agreements allowing persons who have been determined by a court to meet the criteria for assisted

outpatient treatment to undergo voluntary treatment, if certain conditions are met. Existing law prohibits treatment under a settlement agreement from exceeding 180 days and authorizes either party to request the court to modify the treatment plan at any time during that period.

This bill would instead provide that the 180-day limit on treatment under a settlement agreement shall only apply for an initial period of treatment and would prohibit settlement agreements for continuing assisted outpatient treatment from exceeding 360 days.

(8) Under existing law, Laura’s Law is operative only in those counties in which the county board of supervisors, by resolution, authorizes its application. Existing law requires participating counties to provide specified assisted outpatient treatment services, and to report specified data to the State Department of Mental Health.

This bill would make the law operative in all counties and would revise the types of services counties would be required to provide for assisted outpatient treatment. By imposing new duties on counties, this bill would impose a state-mandated local program.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 5250 of the Welfare and Institutions Code
2 is amended to read:
3 5250. If a person is detained for 72 hours under ~~the provisions~~
4 ~~of~~ Article 1 (commencing with Section 5150), or under court order
5 for evaluation pursuant to Article 2 (commencing with Section
6 5200) ~~or~~, Article 3 (commencing with Section 5225), *or Article 9*
7 *(commencing with Section 5345)* and has received an evaluation,
8 he or she may be certified for not more than 14 days of intensive
9 treatment related to the mental disorder or impairment by chronic
10 alcoholism, under the following conditions:

1 (a) The professional staff of the agency or facility providing
 2 evaluation services has analyzed the person’s condition and has
 3 found the person is, as a result of mental disorder or impairment
 4 by chronic alcoholism, a danger to others, or to himself or herself,
 5 or gravely disabled.

6 (b) The facility providing intensive treatment is designated by
 7 the county to provide intensive treatment, and agrees to admit the
 8 person. No facility shall be designated to provide intensive
 9 treatment unless it complies with the certification review hearing
 10 required by this article. The procedures shall be described in the
 11 county Short-Doyle plan as required by Section 5651.3.

12 (c) The person has been advised of the need for, but has not
 13 been willing or able to accept, treatment on a voluntary basis.

14 (d) (1) Notwithstanding paragraph (1) of subdivision (h) of
 15 Section 5008, a person is not “gravely disabled” if that person can
 16 survive safely without involuntary detention with the help of
 17 responsible family, friends, or others who are both willing and
 18 able to help provide for the person’s basic personal needs for food,
 19 clothing, or shelter.

20 (2) However, unless they specifically indicate in writing their
 21 willingness and ability to help, family, friends, or others shall not
 22 be considered willing or able to provide this help.

23 (3) The purpose of this subdivision is to avoid the necessity for,
 24 and the harmful effects of, requiring family, friends, and others to
 25 publicly state, and requiring the certification review officer to
 26 publicly find, that no one is willing or able to assist the mentally
 27 disordered person in providing for the person’s basic needs for
 28 food, clothing, or shelter.

29 (e) *A person who does not meet the criteria in subdivision (a),*
 30 *as determined by the professional staff of the agency or facility,*
 31 *may be referred to the county mental health director pursuant to*
 32 *Section 5346 if there is reason to believe the person may meet the*
 33 *criteria therein.*

34 SEC. 2. Section 5256.4 of the Welfare and Institutions Code
 35 is amended to read:

36 5256.4. (a) At the certification review hearing, the person
 37 certified shall have the following rights:

- 38 (1) Assistance by an attorney or advocate.
- 39 (2) To present evidence on his or her own behalf.

1 (3) To question persons presenting evidence in support of the
2 certification decision.

3 (4) To make reasonable requests for the attendance of facility
4 employees who have knowledge of, or *have* participated in, the
5 certification decision.

6 (5) If the person has received medication within 24 hours or
7 ~~such~~ *any* longer period of time as the person conducting the hearing
8 may designate prior to the beginning of the hearing, the person
9 conducting the hearing shall be informed of that fact and of the
10 probable effects of the medication.

11 (b) The hearing shall be conducted in an impartial and informal
12 manner in order to encourage free and open discussion by
13 participants. The person conducting the hearing shall not be bound
14 by rules of procedure or evidence applicable in judicial
15 proceedings.

16 (c) Reasonable attempts shall be made by the mental health
17 facility to notify family members, or any other person designated
18 by the patient, of the time and place of the certification hearing,
19 unless the patient requests that this information not be provided.
20 The patient shall be advised by the facility that is treating the
21 patient that he or she has the right to request that this information
22 not be provided.

23 (d) All evidence ~~which~~ *that* is relevant to establishing that the
24 person certified is or is not, as a result of mental disorder or
25 impairment by chronic alcoholism, a danger to others, or to himself
26 or herself, or gravely disabled, shall be admitted at the hearing and
27 considered by the hearing officer.

28 (e) *All evidence that is relevant to establishing whether the*
29 *person certified meets the conditions specified in subdivision (a)*
30 *of Section 5346 shall be admitted at the hearing and considered*
31 *by the hearing officer. If the hearing officer has probable cause*
32 *to believe that a person may meet the criteria specified in*
33 *subdivision (a) of Section 5346, the officer may make a referral*
34 *to the county mental health director for investigation pursuant to*
35 *Section 5346.*

36 (e)

37 (f) Although resistance to involuntary commitment may be a
38 product of a mental disorder, this resistance shall not, in itself,
39 imply the presence of a mental disorder or constitute evidence that

1 a person meets the criteria of being dangerous to self or others, or
2 gravely disabled.

3 SEC. 3. Section 5257 of the Welfare and Institutions Code is
4 amended to read:

5 5257. (a) During the period of intensive treatment pursuant to
6 Section 5250 or 5270.15, the person's involuntary detention shall
7 be terminated and the person shall be released only if the
8 psychiatrist directly responsible for the person's treatment believes,
9 as a result of the psychiatrist's personal observations, that the
10 person certified no longer is, as a result of mental disorder or
11 impairment by chronic alcoholism, a danger to others, or to himself
12 or herself, or gravely disabled. ~~However, in~~ *In* those situations in
13 which both a psychiatrist and psychologist have personally
14 evaluated or examined a person who is undergoing intensive
15 treatment and there is a collaborative treatment relationship
16 between the psychiatrist and the psychologist, either the psychiatrist
17 or psychologist may authorize the release of the person, but only
18 after they have consulted with one another. In the event of a clinical
19 or professional disagreement regarding the early release of a person
20 who is undergoing intensive treatment, the person may not be
21 released unless the facility's medical director overrules the decision
22 of the psychiatrist or psychologist opposing the release. Both the
23 psychiatrist and psychologist shall enter their findings, concerns,
24 or objections into the person's medical record. If any other
25 professional person who is authorized to release the person believes
26 the person should be released during the designated period of
27 intensive treatment, and the psychiatrist directly responsible for
28 the person's treatment objects, the matter shall be referred to the
29 medical director of the facility for the final decision. However, if
30 the medical director is not a psychiatrist, he or she shall appoint a
31 designee who is a psychiatrist. If the matter is referred, the person
32 shall be released during the period of intensive treatment only if
33 the psychiatrist making the final decision believes, as a result of
34 the psychiatrist's personal observations, that the person certified
35 no longer is, as a result of mental disorder or impairment by chronic
36 alcoholism, a danger to others, or to himself or herself, or gravely
37 disabled. Nothing herein shall prohibit the person from remaining
38 at the facility on a voluntary basis or prevent the facility from
39 providing the person with appropriate referral information
40 concerning mental health services.

1 (b) A person who has been certified for a period of intensive
2 treatment pursuant to Section 5250 shall be released at the end of
3 14 days unless the patient either:

- 4 (1) Agrees to receive further treatment on a voluntary basis.
- 5 (2) Is certified for an additional 14 days of intensive treatment
6 pursuant to Article 4.5 (commencing with Section 5260).
- 7 (3) Is certified for an additional 30 days of intensive treatment
8 pursuant to Article 4.7 (commencing with Section 5270.10).
- 9 (4) Is the subject of a conservatorship petition filed pursuant to
10 Chapter 3 (commencing with Section 5350).
- 11 (5) Is the subject of a petition for postcertification treatment of
12 a dangerous person filed pursuant to Article 6 (commencing with
13 Section 5300).

14 (c) *When the person who has been certified for a period of*
15 *intensive treatment pursuant to Section 5250, and whose*
16 *deteriorating condition has been stabilized or who otherwise may*
17 *meet the criteria in subdivision (a) of Section 5346, is released,*
18 *the releasing treatment provider or the director of the facility may*
19 *refer the person to the county mental health director for evaluation*
20 *pursuant to Section 5346.*

21 (e)
22 (d) The amendments to this section made by Assembly Bill 348
23 of the 2003–04 Regular Session shall not be construed to revise
24 or expand the scope of practice of psychologists, as defined in
25 Chapter 6.6 (commencing with Section 2900) of Division 2 of the
26 Business and Professions Code.

27 SEC. 4. Section 5346 of the Welfare and Institutions Code is
28 amended to read:

29 5346. (a) ~~In any county in which services are available as~~
30 ~~provided in Section 5348, a~~ A court may order a person who is the
31 subject of a petition filed pursuant to this section to obtain assisted
32 outpatient treatment if the court finds, by clear and convincing
33 evidence, that the facts stated in the verified petition filed in
34 accordance with this section are true and establish that all of the
35 requisite criteria set forth in this section are met, including, but
36 not limited to, each of the following:

- 37 (1) The person is 18 years of age or older.
- 38 (2) The person is suffering from a mental illness as defined in
39 paragraphs (2) and (3) of subdivision (b) of Section 5600.3.

1 (3) There has been a clinical determination that the person is
2 unlikely to survive safely in the community without supervision.

3 (4) The person has a history of lack of compliance with
4 treatment for his or her mental illness, in that at least one of the
5 following is true:

6 (A) The person's mental illness has, at least twice within the
7 last 36 months, been a substantial factor in necessitating
8 hospitalization, or receipt of services in a forensic or other mental
9 health unit of a state correctional facility or local correctional
10 facility, not including any period during which the person was
11 hospitalized or incarcerated immediately preceding the filing of
12 the petition.

13 (B) The person's mental illness has resulted in one or more acts
14 of serious and violent behavior toward himself or herself or
15 another, or threats, or attempts to cause serious physical harm to
16 himself or herself or another within the last 48 months, not
17 including any period in which the person was hospitalized or
18 incarcerated immediately preceding the filing of the petition.

19 (5) The person has been offered an opportunity to participate
20 ~~in a treatment plan by the director of the local mental health~~
21 ~~department, or his or her designee, provided the treatment plan~~
22 ~~includes all of the services described in Section 5348, and the~~
23 ~~person, but continues to fail to engage in, treatment.~~

24 (6) The person's condition is substantially deteriorating.

25 (7) Participation in the assisted outpatient treatment program
26 would be the least restrictive placement necessary to ensure the
27 person's recovery and stability.

28 (8) In view of the person's treatment history and current
29 behavior, the person is in need of assisted outpatient treatment in
30 order to prevent a relapse or deterioration that would be likely to
31 result in grave disability or serious harm to himself or herself, or
32 to others, as defined in Section 5150.

33 (9) It is likely that the person will benefit from assisted
34 outpatient treatment.

35 (b) (1) A petition for an order authorizing assisted outpatient
36 treatment may be filed by the county mental health director, or his
37 or her designee, in the superior court in the county in which the
38 person who is the subject of the petition is present or reasonably
39 believed to be present.

1 (2) A request may be made only by any of the following persons
2 to the county mental health department for the filing of a petition
3 to obtain an order authorizing assisted outpatient treatment:

4 (A) Any person 18 years of age or older with whom the person
5 who is the subject of the petition resides.

6 (B) Any person who is the parent, spouse, or sibling or child
7 18 years of age or older of the person who is the subject of the
8 petition.

9 (C) The director of any public or private agency, treatment
10 facility, charitable organization, or licensed residential care facility
11 providing mental health services to the person who is the subject
12 of the petition *and* in whose institution the subject of the petition
13 resides.

14 (D) The director of a hospital in which the person who is the
15 subject of the petition is hospitalized.

16 (E) A licensed mental health treatment provider who is either
17 supervising the treatment of, or treating for a mental illness, the
18 person who is the subject of the petition.

19 (F) A peace officer, parole officer, or probation officer assigned
20 to supervise the person who is the subject of the petition.

21 (G) *A court-appointed commissioner or referee, or a certified*
22 *review hearing officer pursuant to Section 5256.1.*

23 (3) Upon receiving a request pursuant to paragraph (2), the
24 county mental health director shall conduct an investigation into
25 the appropriateness of the filing of the petition. The director shall
26 file the petition only if he or she determines that there is a
27 reasonable likelihood that all the necessary elements to sustain the
28 petition can be proven in a court of law by clear and convincing
29 evidence. *The director or his or her designee may file the petition*
30 *only if he or she reasonably believes that mental health services*
31 *that will improve or stabilize the person subject to the petition are*
32 *available.*

33 (4) The petition shall state all of the following:

34 (A) Each of the criteria for assisted outpatient treatment as set
35 forth in subdivision (a).

36 (B) Facts that support the petitioner's belief that the person who
37 is the subject of the petition meets each criterion, ~~provided that~~
38 ~~the hearing on the petition shall be limited to the stated facts in~~
39 ~~the verified petition, and the petition contains all the grounds on~~

1 ~~which the petition is based, in order to ensure adequate notice to~~
2 ~~the person who is the subject of the petition and his or her counsel.~~

3 (C) That the person who is the subject of the petition is present,
4 or is reasonably believed to be present, within the county where
5 the petition is filed.

6 (D) That the person who is the subject of the petition has the
7 right to be represented by counsel in all stages of the proceeding
8 under the petition, in accordance with subdivision (c).

9 (5) The petition shall be accompanied by an affidavit of a
10 licensed mental health treatment provider designated by the local
11 mental health director who shall state, if applicable, either of the
12 following:

13 (A) That the licensed mental health treatment provider has
14 personally examined the person who is the subject of the petition
15 no more than 10 days prior to the submission of the petition, the
16 facts and reasons why the person who is the subject of the petition
17 ~~meets~~ *meet* the criteria in subdivision (a), that the licensed mental
18 health treatment provider recommends assisted outpatient treatment
19 for the person who is the subject of the petition, and that the
20 licensed mental health treatment provider is willing and able to
21 testify at the hearing on the petition.

22 (B) That no more than 10 days prior to the filing of the petition,
23 the licensed mental health treatment provider, or his or her
24 designee, has made appropriate attempts to elicit the cooperation
25 of the person who is the subject of the petition, but has not been
26 successful in persuading that person to submit to an examination,
27 that the licensed mental health treatment provider has reason to
28 believe that the person who is the subject of the petition meets the
29 criteria for assisted outpatient treatment, and that the licensed
30 mental health treatment provider is willing and able to examine
31 the person who is the subject of the petition and testify at the
32 hearing on the petition.

33 (c) The person who is the subject of the petition shall have the
34 right to be represented by counsel at all stages of a proceeding
35 commenced under this section. If the person so elects, the court
36 shall immediately appoint the public defender or other attorney to
37 assist the person in all stages of the proceedings. The person shall
38 pay the cost of the legal services if he or she is able.

39 (d) (1) Upon receipt by the court of a petition submitted
40 pursuant to subdivision (b), the court shall fix the date for a hearing

1 at a time not later than five days from the date the petition is
2 received by the court, excluding Saturdays, Sundays, and holidays.
3 The petitioner shall promptly cause service of a copy of the
4 petition, together with written notice of the hearing date, to be
5 made personally on the person who is the subject of the petition,
6 and shall send a copy of the petition and notice to the county office
7 of patient rights, and to the current health care provider appointed
8 for the person who is the subject of the petition, if any ~~such~~ *current*
9 *health care* provider is known to the petitioner. Continuances shall
10 be permitted only for good cause shown. In granting continuances,
11 the court shall consider the need for further examination by a
12 physician or the potential need to provide expeditiously assisted
13 outpatient treatment. Upon the hearing date, or upon any other
14 date or dates to which the proceeding may be continued, the court
15 shall hear testimony. If it is deemed advisable by the court, and if
16 the person who is the subject of the petition is available and has
17 received notice pursuant to this section, the court may examine,
18 in or out of court, the person who is the subject of the petition who
19 is alleged to be in need of assisted outpatient treatment. If the
20 person who is the subject of the petition does not appear at the
21 hearing, and appropriate attempts to elicit the attendance of the
22 person have failed, the court may conduct the hearing in the
23 person's absence. If the hearing is conducted without the person
24 present, the court shall set forth the factual basis for conducting
25 the hearing without the person's presence.

26 (2) The court shall not order assisted outpatient treatment unless
27 an examining licensed mental health treatment provider, who has
28 personally examined, and has reviewed the available treatment
29 history of, the person who is the subject of the petition within the
30 time period commencing 10 days before the filing of the petition,
31 testifies in person at the hearing.

32 (3) If the person who is the subject of the petition has refused
33 to be examined by a licensed mental health treatment provider,
34 the court may request that the person consent to an examination
35 by a licensed mental health treatment provider appointed by the
36 court. If the person who is the subject of the petition does not
37 consent and the court finds reasonable cause to believe that the
38 allegations in the petition are true, the court may order any person
39 designated under Section 5150 to take into custody the person who
40 is the subject of the petition and transport him or her, or cause him

1 or her to be transported, to a hospital for examination by a licensed
2 mental health treatment provider as soon as is practicable.
3 Detention of the person who is the subject of the petition under
4 the order may not exceed 72 hours. If the examination is performed
5 by another licensed mental health treatment provider, the
6 examining licensed mental health treatment provider may consult
7 with the licensed mental health treatment provider whose
8 affirmation or affidavit accompanied the petition regarding the
9 issues of whether the allegations in the petition are true and whether
10 the person meets the criteria for assisted outpatient treatment.

11 (4) The person who is the subject of the petition shall have all
12 of the following rights:

13 (A) To adequate notice of the hearings to the person who is the
14 subject of the petition, as well as to parties designated by the person
15 who is the subject of the petition.

16 (B) To receive a copy of the court-ordered evaluation.

17 (C) To counsel. If the person has not retained counsel, the court
18 shall appoint a public defender.

19 (D) To be informed of his or her right to judicial review by
20 habeas corpus.

21 (E) To be present at the hearing unless he or she waives the
22 right to be present.

23 (F) To present evidence.

24 (G) To call witnesses on his or her behalf.

25 (H) To cross-examine witnesses.

26 (I) To appeal decisions, and to be informed of his or her right
27 to appeal.

28 (5) (A) If, after hearing all relevant evidence, the court finds
29 that the person who is the subject of the petition does not meet the
30 criteria for assisted outpatient treatment, the court shall dismiss
31 the petition.

32 (B) If, after hearing all relevant evidence, the court finds that
33 the person who is the subject of the petition meets the criteria for
34 assisted outpatient treatment, and there is no appropriate and
35 feasible less restrictive alternative, the court may order the person
36 who is the subject of the petition to receive assisted outpatient
37 treatment for an initial period not to exceed six months. In
38 fashioning the order, the court shall specify that the proposed
39 treatment is the least restrictive treatment appropriate and feasible
40 for the person who is the subject of the petition. The order shall

1 state the categories of assisted outpatient treatment, as set forth in
2 Section 5348, that the person who is the subject of the petition is
3 to receive, and the court may not order treatment that has not been
4 recommended by the examining licensed mental health treatment
5 provider ~~and~~ *or* included in the written treatment plan for assisted
6 outpatient treatment as required by subdivision (e). If the person
7 has executed an advance health care directive pursuant to Chapter
8 2 (commencing with Section 4650) of Part 1 of Division 4.7 of
9 the Probate Code, any directions included in the advance health
10 care directive shall be considered in formulating the written
11 treatment plan.

12 (6) If the person who is the subject of a petition for an order for
13 assisted outpatient treatment pursuant to subparagraph (B) of
14 paragraph (5) of subdivision (d) refuses to participate in the assisted
15 outpatient treatment program, the court may order the person to
16 meet with the assisted outpatient treatment team designated by the
17 director of the assisted outpatient treatment program. The treatment
18 team shall attempt to gain the person's cooperation with treatment
19 ordered by the court. The person may be subject to a 72-hour hold
20 pursuant to subdivision (f) only after the treatment team has
21 attempted to gain the person's cooperation with treatment ordered
22 by the court, and has been unable to do so.

23 (e) Assisted outpatient treatment shall not be ordered unless the
24 licensed mental health treatment provider recommending assisted
25 outpatient treatment to the court has submitted to the court a written
26 treatment plan that includes services as set forth in Section 5348,
27 and the court finds, in consultation with the county mental health
28 director, or his or her designee, all of the following:

29 (1) ~~That the sufficient services are available from the county,~~
30 ~~or a provider approved by the county, for the duration of the court~~
31 ~~order.~~

32 ~~(2) That the services have been offered to the person by the~~
33 ~~local director of mental health, or his or her designee, and the~~
34 ~~person has been given an opportunity to participate on a voluntary~~
35 ~~basis, and the person has failed to engage in, or has refused,~~
36 ~~treatment. That the person has been offered an opportunity to~~
37 ~~participate in treatment and has continuously failed to engage in~~
38 ~~treatment.~~

39 (3) That all of the elements of the petition required by this article
40 have been met.

1 (4) That the treatment plan will be delivered to the county
2 director of mental health, or to his or her appropriate designee.

3 (f) If, in the clinical judgment of a licensed mental health
4 treatment provider, the person who is the subject of the petition
5 has failed or has refused to comply with the treatment ordered by
6 the court, and, in the clinical judgment of the licensed mental health
7 treatment provider, efforts were made to solicit compliance, and,
8 in the clinical judgment of the licensed mental health treatment
9 provider, the person may be in need of involuntary admission to
10 a hospital for evaluation, the provider may request that persons
11 designated under Section 5150 take into custody the person who
12 is the subject of the petition and transport him or her, or cause him
13 or her to be transported, to a hospital, to be held up to 72 hours for
14 examination by a licensed mental health treatment provider to
15 determine if the person is in need of treatment pursuant to Section
16 5150. Any continued involuntary retention in a hospital beyond
17 the initial 72-hour period shall be pursuant to Section 5150. If at
18 any time during the 72-hour period the person is determined not
19 to meet the criteria of Section 5150, and does not agree to stay in
20 the hospital as a voluntary patient, he or she shall be released and
21 any subsequent involuntary detention in a hospital shall be pursuant
22 to Section 5150. Failure to comply with an order of assisted
23 outpatient treatment alone may not be grounds for involuntary
24 civil commitment or a finding that the person who is the subject
25 of the petition is in contempt of court.

26 (g) If the director of the assisted outpatient treatment program
27 determines that the condition of the patient requires further assisted
28 outpatient treatment, the director shall apply to the court, prior to
29 the expiration of the period of the initial assisted outpatient
30 treatment order, for an order authorizing continued assisted
31 outpatient treatment for a period not to exceed ~~180~~ 360 days from
32 the date of the order. The procedures for obtaining any order
33 pursuant to this subdivision shall be in accordance with
34 subdivisions (a) to (f), inclusive. The period for further involuntary
35 outpatient treatment authorized by any subsequent order under this
36 subdivision may not exceed ~~180~~ 360 days from the date of the
37 order. *If the final administrative disposition of the petition does*
38 *not occur before the expiration of the current order, the current*
39 *order shall remain in effect until final disposition.*

1 ~~(h) At intervals of not less than 60 days during an assisted~~
2 ~~outpatient treatment order, the director of the outpatient treatment~~
3 ~~program shall file an affidavit with the court that ordered the~~
4 ~~outpatient treatment affirming that the person who is the subject~~
5 ~~of the order continues to meet the criteria for assisted outpatient~~
6 ~~treatment. At these times, the person who is the subject of the order~~
7 ~~shall have the right to a hearing on whether or not he or she still~~
8 ~~meets the criteria for assisted outpatient treatment if he or she~~
9 ~~disagrees with the director's affidavit. The burden of proof shall~~
10 ~~be on the director.~~

11 ~~(i) During each 60-day period specified in subdivision (h), if~~
12 ~~(h) If the person who is the subject of the order believes that he~~
13 ~~or she is being wrongfully retained in the assisted outpatient~~
14 ~~treatment program against his or her wishes, he or she may file a~~
15 ~~petition for a writ of habeas corpus, thus requiring the director of~~
16 ~~the assisted outpatient treatment program to prove that the person~~
17 ~~who is the subject of the order continues to meet the criteria for~~
18 ~~assisted outpatient treatment.~~

19 ~~(j)~~
20 ~~(i) Any person ordered to undergo assisted outpatient treatment~~
21 ~~pursuant to this article, who was not present at the hearing at which~~
22 ~~the order was issued, may immediately petition the court for a writ~~
23 ~~of habeas corpus. Treatment under the order for assisted outpatient~~
24 ~~treatment may not commence until the resolution of that petition.~~

25 SEC. 5. Section 5347 of the Welfare and Institutions Code is
26 amended to read:

27 ~~5347. (a) In any county in which services are available~~
28 ~~pursuant to Section 5348, any~~ Any person who is determined by
29 the court to be subject to subdivision (a) of Section 5346 may
30 voluntarily enter into an agreement for services under this section.

31 ~~(b) (1) After a petition for an order for assisted outpatient~~
32 ~~treatment is filed, but before the conclusion of the hearing on the~~
33 ~~petition, the~~ A person who is the subject of ~~the~~ a petition for
34 ~~assisted outpatient treatment,~~ or the person's legal counsel with
35 the person's consent, may waive the right to an assisted outpatient
36 treatment hearing for the purpose of obtaining treatment under a
37 settlement agreement, provided that an examining licensed mental
38 health treatment provider states that the person can survive safely
39 in the community. ~~The~~ A settlement agreement ~~for an initial period~~
40 ~~of assisted outpatient treatment~~ may not exceed 180 days in

1 duration and shall be agreed to by all parties. *A settlement*
2 *agreement for continued assisted outpatient treatment shall not*
3 *exceed 360 days.*

4 (2) The settlement agreement shall be in writing, shall be
5 approved by the court, and shall include a treatment plan developed
6 by the community-based program that will provide services that
7 provide treatment in the least restrictive manner consistent with
8 the needs of the person who is the subject of the petition.

9 (3) Either party may request that the court modify the treatment
10 plan at any time ~~during the 180-day period.~~

11 (4) The court shall designate the appropriate county department
12 to monitor the person's treatment under, and compliance with, the
13 settlement agreement. If the person fails to comply with the
14 treatment according to the agreement, the designated county
15 department shall notify the counsel designated by the county and
16 the person's counsel of the person's noncompliance.

17 (5) A settlement agreement approved by the court pursuant to
18 this section shall have the same force and effect as an order for
19 assisted outpatient treatment pursuant to Section 5346.

20 ~~(6) At a hearing on the issue of noncompliance with the~~
21 ~~agreement, the written statement of noncompliance submitted shall~~
22 ~~be prima facie evidence that a violation of the conditions of the~~
23 ~~agreement has occurred. If the person who is the subject of the~~
24 ~~petition denies any of the facts as stated in the statement, he or she~~
25 ~~has the burden of proving by a preponderance of the evidence that~~
26 ~~the alleged facts are false.~~

27 SEC. 6. Section 5348 of the Welfare and Institutions Code is
28 amended to read:

29 5348. (a) ~~For purposes of subdivision (e) of Section 5346, any~~
30 ~~county that chooses to provide assisted outpatient treatment~~
31 ~~services pursuant to this article shall offer assisted outpatient~~
32 ~~treatment services including, but not limited to, all of the following:~~
33 *The treatment plan shall state that, to the best of the knowledge*
34 *of the licensed mental health treatment provider who developed*
35 *the plan, the services specified in the plan are available from the*
36 *county or a provider approved by the county.*

37 ~~(1) Community-based, mobile, multidisciplinary, highly trained~~
38 ~~mental health teams that use high staff-to-client ratios of no more~~
39 ~~than 10 clients per team member for those subject to court-ordered~~
40 ~~services pursuant to Section 5346.~~

1 ~~(2) A service planning and delivery process that includes the~~
2 ~~following:~~

3 ~~(A) Determination of the numbers of persons to be served and~~
4 ~~the programs and services that will be provided to meet their needs.~~
5 ~~The local director of mental health shall consult with the sheriff,~~
6 ~~the police chief, the probation officer, the mental health board,~~
7 ~~contract agencies, and family, client, ethnic, and citizen~~
8 ~~constituency groups as determined by the director.~~

9 ~~(B) Plans for services, including outreach to families whose~~
10 ~~severely mentally ill adult is living with them, design of mental~~
11 ~~health services, coordination and access to medications, psychiatric~~
12 ~~and psychological services, substance abuse services, supportive~~
13 ~~housing or other housing assistance, vocational rehabilitation, and~~
14 ~~veterans' services. Plans shall also contain evaluation strategies,~~
15 ~~that shall consider cultural, linguistic, gender, age, and special~~
16 ~~needs of minorities and those based on any characteristic listed or~~
17 ~~defined in Section 11135 of the Government Code in the target~~
18 ~~populations. Provision shall be made for staff with the cultural~~
19 ~~background and linguistic skills necessary to remove barriers to~~
20 ~~mental health services as a result of having~~
21 ~~limited-English-speaking ability and cultural differences.~~
22 ~~Recipients of outreach services may include families, the public,~~
23 ~~primary care physicians, and others who are likely to come into~~
24 ~~contact with individuals who may be suffering from an untreated~~
25 ~~severe mental illness who would be likely to become homeless if~~
26 ~~the illness continued to be untreated for a substantial period of~~
27 ~~time. Outreach to adults may include adults voluntarily or~~
28 ~~involuntarily hospitalized as a result of a severe mental illness.~~

29 ~~(C) Provisions for services to meet the needs of persons who~~
30 ~~are physically disabled.~~

31 ~~(D) Provision for services to meet the special needs of older~~
32 ~~adults.~~

33 ~~(E) Provision for family support and consultation services,~~
34 ~~parenting support and consultation services, and peer support or~~
35 ~~self-help group support, where appropriate.~~

36 ~~(F) Provision for services to be client-directed and that employ~~
37 ~~psychosocial rehabilitation and recovery principles.~~

38 ~~(G) Provision for psychiatric and psychological services that~~
39 ~~are integrated with other services and for psychiatric and~~
40 ~~psychological collaboration in overall service planning.~~

1 (H) ~~Provision for services specifically directed to seriously~~
2 ~~mentally ill young adults 25 years of age or younger who are~~
3 ~~homeless or at significant risk of becoming homeless. These~~
4 ~~provisions may include continuation of services that would still~~
5 ~~be received through other funds had eligibility not been terminated~~
6 ~~as a result of age.~~

7 (I) ~~Services reflecting special needs of women from diverse~~
8 ~~cultural backgrounds, including supportive housing that accepts~~
9 ~~children, personal services coordinator therapeutic treatment, and~~
10 ~~substance treatment programs that address gender specific trauma~~
11 ~~and abuse in the lives of persons with mental illness, and vocational~~
12 ~~rehabilitation programs that offer job training programs free of~~
13 ~~gender bias and sensitive to the needs of women.~~

14 (J) ~~Provision for housing for clients that is immediate,~~
15 ~~transitional, permanent, or all of these.~~

16 (K) ~~Provision for clients who have been suffering from an~~
17 ~~untreated severe mental illness for less than one year, and who do~~
18 ~~not require the full range of services, but are at risk of becoming~~
19 ~~homeless unless a comprehensive individual and family support~~
20 ~~services plan is implemented. These clients shall be served in a~~
21 ~~manner that is designed to meet their needs.~~

22 (3) ~~Each client shall have a clearly designated mental health~~
23 ~~personal services coordinator who may be part of a~~
24 ~~multidisciplinary treatment team who is responsible for providing~~
25 ~~or assuring needed services. Responsibilities include complete~~
26 ~~assessment of the client's needs, development of the client's~~
27 ~~personal services plan, linkage with all appropriate community~~
28 ~~services, monitoring of the quality and follow through of services,~~
29 ~~and necessary advocacy to ensure each client receives those~~
30 ~~services which are agreed to in the personal services plan. Each~~
31 ~~client shall participate in the development of his or her personal~~
32 ~~services plan, and responsible staff shall consult with the designated~~
33 ~~conservator, if one has been appointed, and, with the consent of~~
34 ~~the client, shall consult with the family and other significant~~
35 ~~persons as appropriate.~~

36 (4)

37 (b) ~~The individual personal services treatment plan shall include,~~
38 ~~at a minimum, case management services and ensure that persons~~
39 ~~subject to assisted outpatient treatment programs receive age-~~

1 , ~~gender~~ *gender-*, and culturally appropriate services, to the extent
2 feasible, that are designed to enable recipients to:

3 (A)

4 (1) Live in the most independent, least restrictive housing
5 feasible in the local community, and, for clients with children, to
6 live in a supportive housing environment that strives for
7 reunification with their children or assists clients in maintaining
8 custody of their children, as is appropriate.

9 (B)

10 (2) Engage in the highest level of work or productive activity
11 appropriate to their abilities and experience.

12 (C)

13 (3) Create and maintain a support system consisting of friends,
14 family, and participation in community activities.

15 (D)

16 (4) Access an appropriate level of academic education or
17 vocational training.

18 (E)

19 (5) Obtain an adequate income.

20 (F)

21 (6) Self-manage their illnesses and exert as much control as
22 possible over both the day-to-day and long-term decisions that
23 affect their lives.

24 (G)

25 (7) Access necessary physical health care and maintain the best
26 possible physical health.

27 (H)

28 (8) Reduce or eliminate serious antisocial or criminal behavior,
29 and thereby reduce or eliminate their contact with the criminal
30 justice system.

31 (I)

32 (9) Reduce or eliminate the distress caused by the symptoms of
33 mental illness.

34 (J)

35 (10) Have freedom from dangerous addictive substances.

36 ~~(5) The individual personal services plan shall describe the~~
37 ~~service array that meets the requirements of paragraph (4), and to~~
38 ~~the extent applicable to the individual, the requirements of~~
39 ~~paragraph (2).~~

1 ~~(b) Any county that provides assisted outpatient treatment~~
2 ~~services pursuant to this article also shall offer the same services~~
3 ~~on a voluntary basis.~~

4 (c) ~~Involuntary medication allowed~~ *Medication may be ordered*
5 *but shall not be administered over objection* absent a separate order
6 by the court pursuant to Sections 5332 to 5336, inclusive.

7 (d) ~~Each county that operates an assisted outpatient treatment~~
8 ~~program pursuant to this article~~ shall provide data to the State
9 Department of Mental Health and, based on the data, the
10 department shall report to the Legislature on or before May 1 of
11 each year in which the county provides services pursuant to this
12 ~~article~~. The report shall include, at a minimum, an evaluation of
13 the effectiveness of the strategies employed by each program
14 operated pursuant to this article in reducing homelessness and
15 hospitalization of persons in the program and in reducing
16 involvement with local law enforcement by persons in the program.
17 The evaluation and report shall also include any other measures
18 identified by the department regarding persons in the program and
19 all of the following, based on information that is available:

20 (1) The number of persons served by the program and, of those,
21 the number who are able to maintain housing and the number who
22 maintain contact with the treatment system.

23 (2) The number of persons in the program with contacts with
24 local law enforcement, and the extent to which local and state
25 incarceration of persons in the program has been reduced or
26 avoided.

27 (3) The number of persons in the program participating in
28 employment services programs, including competitive employment.

29 (4) The days of hospitalization of persons in the program that
30 have been reduced or avoided.

31 (5) Adherence to prescribed treatment by persons in the program.

32 (6) Other indicators of successful engagement, if any, by persons
33 in the program.

34 (7) Victimization of persons in the program.

35 (8) Violent behavior of persons in the program.

36 (9) Substance abuse by persons in the program.

37 (10) Type, intensity, and frequency of treatment of persons in
38 the program.

39 (11) Extent to which enforcement mechanisms are used by the
40 program, when applicable.

- 1 (12) Social functioning of persons in the program.
- 2 (13) Skills in independent living of persons in the program.
- 3 (14) Satisfaction with program services both by those receiving
- 4 them and by their families, when relevant.

5 SEC. 7. Section 5349 of the Welfare and Institutions Code is
6 repealed.

7 ~~5349. This article shall be operative in those counties in which~~
8 ~~the county board of supervisors, by resolution, authorizes its~~
9 ~~application and makes a finding that no voluntary mental health~~
10 ~~program serving adults, and no children's mental health program,~~
11 ~~may be reduced as a result of the implementation of this article.~~
12 ~~Compliance with this section shall be monitored by the State~~
13 ~~Department of Mental Health as part of its review and approval~~
14 ~~of county Short-Doyle plans.~~

15 SEC. 8. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.