

AMENDED IN ASSEMBLY APRIL 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 366**

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**Introduced by Assembly Member Allen**  
*(Principal coauthor: Senator Blakeslee)*

February 14, 2011

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An act to ~~add Section 4101.3 to the Welfare and Institutions Code, relating to mental health; amend Section 1370 of the Penal Code, relating to defendants.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 366, as amended, Allen. ~~Mental health: state hospitals: safety plans.~~ *Defendants: involuntary antipsychotic medication.*

*Existing law provides that if a defendant becomes mentally incompetent, a trial or judgment related to that defendant shall be suspended until he or she becomes mentally competent. Existing law establishes procedures whereby the court determines the appropriate facility where an incompetent defendant shall be delivered for treatment, and determines whether the defendant consents to the administration of antipsychotic medication, or determines whether involuntary administration of antipsychotic medication is appropriate, as specified. Existing law provides that the involuntary administration of psychotropic medication for inmates under the jurisdiction of the Department of Corrections and Rehabilitation is governed by procedures set forth in a permanent injunction, as specified, which includes a certification process allowing the involuntary administration of those medications for a 21-day period, which may be extended after a hearing conducted by an administrative law judge, as specified.*

*This bill would, for defendants who are mentally incompetent, establish a certification procedure similar to that used for inmates, as described above, and would require a court hearing for the involuntary administration of antipsychotic medication, as specified. The bill would authorize a 21-day certification period after an initial 72-hour emergency period during which time antipsychotic medication may be administered to those defendants described above. The bill would require the court to hold a hearing to determine if the involuntary administration of antipsychotic medication should continue beyond the 21-day certification period. The bill would provide that if the court finds that the defendant is gravely disabled, as defined, the court may order the administration of that medication for one year. The bill would further provide that if the court finds that the defendant is a danger to himself or herself, or to others, as specified, the court may order administration of that medication for 180 days*

~~Existing law provides for the operation of state hospitals for the mentally disordered by the State Department of Mental Health.~~

~~This bill would require the Director of Mental Health to direct the superintendent or other person in charge of each state hospital to create, implement, review, and update a system that includes measures to ensure the health and safety of both the patient population and the employees of the facility.~~

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. Section 1370 of the Penal Code is amended to  
2     read:

3     1370. (a) (1) (A) If the defendant is found mentally  
4     competent, the criminal process shall resume, the trial on the  
5     offense charged shall proceed, and judgment may be pronounced.

6     (B) If the defendant is found mentally incompetent, the trial or  
7     judgment shall be suspended until the person becomes mentally  
8     competent.

9     (i) In the meantime, the court shall order that the mentally  
10    incompetent defendant be delivered by the sheriff to a state hospital  
11    for the care and treatment of the mentally disordered, or to any  
12    other available public or private treatment facility approved by the  
13    community program director that will promote the defendant's

1 speedy restoration to mental competence, or placed on outpatient  
2 status as specified in Section 1600.

3 (ii) However, if the action against the defendant who has been  
4 found mentally incompetent is on a complaint charging a felony  
5 offense specified in Section 290, the prosecutor shall determine  
6 whether the defendant previously has been found mentally  
7 incompetent to stand trial pursuant to this chapter on a charge of  
8 a Section 290 offense, or whether the defendant is currently the  
9 subject of a pending Section 1368 proceeding arising out of a  
10 charge of a Section 290 offense. If either determination is made,  
11 the prosecutor shall so notify the court and defendant in writing.  
12 After this notification, and opportunity for hearing, the court shall  
13 order that the defendant be delivered by the sheriff to a state  
14 hospital or other secure treatment facility for the care and treatment  
15 of the mentally disordered unless the court makes specific findings  
16 on the record that an alternative placement would provide more  
17 appropriate treatment for the defendant and would not pose a  
18 danger to the health and safety of others.

19 (iii) If the action against the defendant who has been found  
20 mentally incompetent is on a complaint charging a felony offense  
21 specified in Section 290 and the defendant has been denied bail  
22 pursuant to subdivision (b) of Section 12 of Article I of the  
23 California Constitution because the court has found, based upon  
24 clear and convincing evidence, a substantial likelihood that the  
25 person's release would result in great bodily harm to others, the  
26 court shall order that the defendant be delivered by the sheriff to  
27 a state hospital for the care and treatment of the mentally disordered  
28 unless the court makes specific findings on the record that an  
29 alternative placement would provide more appropriate treatment  
30 for the defendant and would not pose a danger to the health and  
31 safety of others.

32 (iv) The clerk of the court shall notify the Department of Justice  
33 in writing of any finding of mental incompetence with respect to  
34 a defendant who is subject to clause (ii) or (iii) for inclusion in his  
35 or her state summary criminal history information.

36 (C) Upon the filing of a certificate of restoration to competence,  
37 the court shall order that the defendant be returned to court in  
38 accordance with Section 1372. The court shall transmit a copy of  
39 its order to the community program director or a designee.

1 (D) A defendant charged with a violent felony may not be  
2 delivered to a state hospital or treatment facility pursuant to this  
3 subdivision unless the state hospital or treatment facility has a  
4 secured perimeter or a locked and controlled treatment facility,  
5 and the judge determines that the public safety will be protected.

6 (E) For purposes of this paragraph, “violent felony” means an  
7 offense specified in subdivision (c) of Section 667.5.

8 (F) A defendant charged with a violent felony may be placed  
9 on outpatient status, as specified in Section 1600, only if the court  
10 finds that the placement will not pose a danger to the health or  
11 safety of others. If the court places a defendant charged with a  
12 violent felony on outpatient status, as specified in Section 1600,  
13 the court must serve copies of the placement order on defense  
14 counsel, the sheriff in the county where the defendant will be  
15 placed and the district attorney for the county in which the violent  
16 felony charges are pending against the defendant.

17 (2) Prior to making the order directing that the defendant be  
18 confined in a state hospital or other treatment facility or placed on  
19 outpatient status, the court shall proceed as follows:

20 (A) The court shall order the community program director or a  
21 designee to evaluate the defendant and to submit to the court within  
22 15 judicial days of the order a written recommendation as to  
23 whether the defendant should be required to undergo outpatient  
24 treatment, or committed to a state hospital or to any other treatment  
25 facility. No person shall be admitted to a state hospital or other  
26 treatment facility or placed on outpatient status under this section  
27 without having been evaluated by the community program director  
28 or a designee.

29 (B) The court shall hear and determine whether the defendant,  
30 with advice of his or her counsel, consents to the administration  
31 of antipsychotic medication, and shall proceed as follows:

32 (i) If the defendant, with advice of his or her counsel, consents,  
33 the court order of commitment shall include confirmation that  
34 antipsychotic medication may be given to the defendant as  
35 prescribed by a treating psychiatrist pursuant to the defendant’s  
36 consent. The commitment order shall also indicate that, if the  
37 defendant withdraws consent for antipsychotic medication, after  
38 the treating psychiatrist complies with the provisions of  
39 subparagraph (C), the defendant shall be returned to court for a

1 hearing in accordance with this subdivision regarding whether  
2 antipsychotic medication shall be administered involuntarily.

3 (ii) If the defendant does not consent to the administration of  
4 medication, the court shall hear and determine whether any of the  
5 following is true:

6 (I) The defendant lacks capacity to make decisions regarding  
7 antipsychotic medication, the defendant's mental disorder requires  
8 medical treatment with antipsychotic medication, and, if the  
9 defendant's mental disorder is not treated with antipsychotic  
10 medication, it is probable that serious harm to the physical or  
11 mental health of the patient will result. Probability of serious harm  
12 to the physical or mental health of the defendant requires evidence  
13 that the defendant is presently suffering adverse effects to his or  
14 her physical or mental health, or the defendant has previously  
15 suffered these effects as a result of a mental disorder and his or  
16 her condition is substantially deteriorating. The fact that a  
17 defendant has a diagnosis of a mental disorder does not alone  
18 establish probability of serious harm to the physical or mental  
19 health of the defendant.

20 (II) The defendant is a danger to others, in that the defendant  
21 has inflicted, attempted to inflict, or made a serious threat of  
22 inflicting substantial physical harm on another while in custody,  
23 or the defendant had inflicted, attempted to inflict, or made a  
24 serious threat of inflicting substantial physical harm on another  
25 that resulted in his or her being taken into custody, and the  
26 defendant presents, as a result of mental disorder or mental defect,  
27 a demonstrated danger of inflicting substantial physical harm on  
28 others. Demonstrated danger may be based on an assessment of  
29 the defendant's present mental condition, including a consideration  
30 of past behavior of the defendant within six years prior to the time  
31 the defendant last attempted to inflict, inflicted, or threatened to  
32 inflict substantial physical harm on another, and other relevant  
33 evidence.

34 (III) The people have charged the defendant with a serious crime  
35 against the person or property; involuntary administration of  
36 antipsychotic medication is substantially likely to render the  
37 defendant competent to stand trial; the medication is unlikely to  
38 have side effects that interfere with the defendant's ability to  
39 understand the nature of the criminal proceedings or to assist  
40 counsel in the conduct of a defense in a reasonable manner; less

1 intrusive treatments are unlikely to have substantially the same  
2 results; and antipsychotic medication is in the patient's best medical  
3 interest in light of his or her medical condition.

4 (iii) If the court finds any of the conditions described in clause  
5 (ii) to be true, the court shall issue an order authorizing the  
6 treatment facility to involuntarily administer antipsychotic  
7 medication to the defendant when and as prescribed by the  
8 defendant's treating psychiatrist. The court shall not order  
9 involuntary administration of psychotropic medication under  
10 subclause (III) of clause (ii) unless the court has first found that  
11 the defendant does not meet the criteria for involuntary  
12 administration of psychotropic medication under subclause (I) of  
13 clause (ii) and does not meet the criteria under subclause (II) of  
14 clause (ii).

15 (iv) In all cases, the treating hospital, facility or program may  
16 administer medically appropriate antipsychotic medication  
17 prescribed by a psychiatrist in an emergency as described in  
18 subdivision (m) of Section 5008 of the Welfare and Institutions  
19 Code.

20 (v) Any report made pursuant to paragraph (1) of subdivision  
21 (b) shall include a description of any antipsychotic medication  
22 administered to the defendant and its effects and side effects,  
23 including effects on the defendant's appearance or behavior that  
24 would affect the defendant's ability to understand the nature of  
25 the criminal proceedings or to assist counsel in the conduct of a  
26 defense in a reasonable manner. During the time the defendant is  
27 confined in a state hospital or other treatment facility or placed on  
28 outpatient status, either the defendant or the people may request  
29 that the court review any order made pursuant to this subdivision.  
30 The defendant, to the same extent enjoyed by other patients in the  
31 state hospital or other treatment facility, shall have the right to  
32 contact the Patients' Rights Advocate regarding his or her rights  
33 under this section.

34 (C) If the defendant consented to antipsychotic medication as  
35 described in clause (i) of subparagraph (B), but subsequently  
36 withdraws his or her consent, or, if involuntary antipsychotic  
37 medication was not ordered pursuant to clause (ii) of subparagraph  
38 (B), and the treating psychiatrist determines that antipsychotic  
39 medication has become medically necessary and appropriate, the  
40 treating psychiatrist shall make efforts to obtain informed consent

1 from the defendant for antipsychotic medication. If informed  
2 consent is not obtained from the defendant, and the treating  
3 psychiatrist is of the opinion that the defendant lacks capacity to  
4 make decisions regarding antipsychotic medication as specified  
5 in subclause (I) of clause (ii) of subparagraph (B), or that the  
6 defendant is a danger to others as specified in subclause (II) of  
7 clause (ii) of subparagraph (B), the committing court shall be  
8 notified of this, including an assessment of the current mental  
9 status of the defendant and the opinion of the treating psychiatrist  
10 that involuntary antipsychotic medication has become medically  
11 necessary and appropriate. The court shall provide notice to the  
12 prosecuting attorney and to the attorney representing the defendant  
13 and shall set a hearing to determine whether involuntary  
14 antipsychotic medication should be ordered in the manner described  
15 in subparagraph (B).

16 *(D) (i) If the treating psychiatrist determines that antipsychotic*  
17 *medication has become medically necessary and appropriate*  
18 *pursuant to subparagraph (C), and the person has been medicated*  
19 *for 72 hours or less, the person may be certified for not more than*  
20 *21 days of additional involuntary medication, pursuant to the*  
21 *procedures set forth in the order granting plaintiff's motion for*  
22 *clarification and modification of injunction and permanent*  
23 *injunction, in the case of Keyhea v. Rushen Case No. 67432, filed*  
24 *October 31, 1986, in the Superior Court of the State of California,*  
25 *in and for the County of Solano. The treating psychiatrist shall,*  
26 *concurrently with certifying the person, file a copy of the*  
27 *certification and a petition with the committing court for issuance*  
28 *of an emergency order to administer antipsychotic medication*  
29 *beyond the certification period. For purposes of this subparagraph,*  
30 *the treating psychiatrist shall not be required to pay or deposit*  
31 *any fee for the filing of the petition or other document or paper*  
32 *related to the petition.*

33 *(ii) The court shall provide notice to the prosecuting attorney*  
34 *and to the attorney representing the defendant, and shall hold a*  
35 *hearing, no later than 18 days from the date of the certification,*  
36 *to establish probable cause for grounds to administer antipsychotic*  
37 *medication beyond the certification period.*

38 *(iii) The court shall render its decision on the petition no later*  
39 *than three days after the hearing, and in any event no later than*  
40 *the expiration of the 21-day certification period.*

1 (iv) *If, as a result of the hearing, the court determines that*  
2 *probable cause continues to exist for the administration of*  
3 *antipsychotic medication, based on clear and convincing evidence,*  
4 *the court may issue an order authorizing the administration of*  
5 *that medication as follows:*

6 (I) *The court finds that the person is gravely disabled, meaning*  
7 *that as a result of a mental disorder, the person is unable to use*  
8 *the elements of life essential to health and safety including food,*  
9 *clothing, and shelter, even though provided to the inmate by others.*  
10 *The court may order the administration of antipsychotic medication*  
11 *for a period of one year.*

12 (II) *The court finds that the person is a threat to himself or*  
13 *herself, meaning that as a result of a mental disorder, while in an*  
14 *inpatient setting, the person has threatened to or attempted to take*  
15 *his or her own life or has threatened to, attempted to, or inflicted*  
16 *serious physical injury on himself or herself and continues to*  
17 *represent an imminent threat of inflicting serious physical injury*  
18 *on himself or herself. The court may order the administration of*  
19 *antipsychotic medication for a period of 180 days.*

20 (III) *The court finds that the person is a danger to others,*  
21 *meaning that as a result of a mental disorder, while in an inpatient*  
22 *setting, the person has threatened to, attempted to, or inflicted*  
23 *serious physical injury on another and continues to represent an*  
24 *imminent threat of inflicting serious physical injury on another.*  
25 *The court may order the administration of antipsychotic medication*  
26 *for a period of 180 days.*

27 (3) When the court orders that the defendant be confined in a  
28 state hospital or other public or private treatment facility, the court  
29 shall provide copies of the following documents which shall be  
30 taken with the defendant to the state hospital or other treatment  
31 facility where the defendant is to be confined:

32 (A) The commitment order, including a specification of the  
33 charges.

34 (B) A computation or statement setting forth the maximum term  
35 of commitment in accordance with subdivision (c).

36 (C) A computation or statement setting forth the amount of  
37 credit for time served, if any, to be deducted from the maximum  
38 term of commitment.

39 (D) State summary criminal history information.

1 (E) Any arrest reports prepared by the police department or  
2 other law enforcement agency.

3 (F) Any court-ordered psychiatric examination or evaluation  
4 reports.

5 (G) The community program director's placement  
6 recommendation report.

7 (H) Records of any finding of mental incompetence pursuant  
8 to this chapter arising out of a complaint charging a felony offense  
9 specified in Section 290 or any pending Section 1368 proceeding  
10 arising out of a charge of a Section 290 offense.

11 (4) When the defendant is committed to a treatment facility  
12 pursuant to clause (i) of subparagraph (B) of paragraph (1) or the  
13 court makes the findings specified in clause (ii) or (iii) of  
14 subparagraph (B) of paragraph (1) to assign the defendant to a  
15 treatment facility other than a state hospital or other secure  
16 treatment facility, the court shall order that notice be given to the  
17 appropriate law enforcement agency or agencies having local  
18 jurisdiction at the site of the placement facility of any finding of  
19 mental incompetence pursuant to this chapter arising out of a  
20 charge of a Section 290 offense.

21 (5) When directing that the defendant be confined in a state  
22 hospital pursuant to this subdivision, the court shall select the  
23 hospital in accordance with the policies established by the State  
24 Department of Mental Health.

25 (6) (A) If the defendant is committed or transferred to a state  
26 hospital pursuant to this section, the court may, upon receiving the  
27 written recommendation of the medical director of the state hospital  
28 and the community program director that the defendant be  
29 transferred to a public or private treatment facility approved by  
30 the community program director, order the defendant transferred  
31 to that facility. If the defendant is committed or transferred to a  
32 public or private treatment facility approved by the community  
33 program director, the court may, upon receiving the written  
34 recommendation of the community program director, transfer the  
35 defendant to a state hospital or to another public or private  
36 treatment facility approved by the community program director.  
37 In the event of dismissal of the criminal charges before the  
38 defendant recovers competence, the person shall be subject to the  
39 applicable provisions of the Lanterman-Petris-Short Act (Part 1  
40 (commencing with Section 5000) of Division 5 of the Welfare and

1 Institutions Code). Where either the defendant or the prosecutor  
2 chooses to contest either kind of order of transfer, a petition may  
3 be filed in the court for a hearing, which shall be held if the court  
4 determines that sufficient grounds exist. At the hearing, the  
5 prosecuting attorney or the defendant may present evidence bearing  
6 on the order of transfer. The court shall use the same standards as  
7 are used in conducting probation revocation hearings pursuant to  
8 Section 1203.2.

9 Prior to making an order for transfer under this section, the court  
10 shall notify the defendant, the attorney of record for the defendant,  
11 the prosecuting attorney, and the community program director or  
12 a designee.

13 (B) If the defendant is initially committed to a state hospital or  
14 secure treatment facility pursuant to clause (ii) or (iii) of  
15 subparagraph (B) of paragraph (1) and is subsequently transferred  
16 to any other facility, copies of the documents specified in paragraph  
17 (3) shall be taken with the defendant to each subsequent facility  
18 to which the defendant is transferred. The transferring facility shall  
19 also notify the appropriate law enforcement agency or agencies  
20 having local jurisdiction at the site of the new facility that the  
21 defendant is a person subject to clause (ii) or (iii) of subparagraph  
22 (B) of paragraph (1).

23 (b) (1) Within 90 days of a commitment made pursuant to  
24 subdivision (a), the medical director of the state hospital or other  
25 treatment facility to which the defendant is confined shall make a  
26 written report to the court and the community program director  
27 for the county or region of commitment, or a designee, concerning  
28 the defendant's progress toward recovery of mental competence.  
29 Where the defendant is on outpatient status, the outpatient treatment  
30 staff shall make a written report to the community program director  
31 concerning the defendant's progress toward recovery of mental  
32 competence. Within 90 days of placement on outpatient status, the  
33 community program director shall report to the court on this matter.  
34 If the defendant has not recovered mental competence, but the  
35 report discloses a substantial likelihood that the defendant will  
36 regain mental competence in the foreseeable future, the defendant  
37 shall remain in the state hospital or other treatment facility or on  
38 outpatient status. Thereafter, at six-month intervals or until the  
39 defendant becomes mentally competent, where the defendant is  
40 confined in a treatment facility, the medical director of the hospital

1 or person in charge of the facility shall report in writing to the  
2 court and the community program director or a designee regarding  
3 the defendant's progress toward recovery of mental competence.  
4 Where the defendant is on outpatient status, after the initial 90-day  
5 report, the outpatient treatment staff shall report to the community  
6 program director on the defendant's progress toward recovery,  
7 and the community program director shall report to the court on  
8 this matter at six-month intervals. A copy of these reports shall be  
9 provided to the prosecutor and defense counsel by the court. If the  
10 report indicates that there is no substantial likelihood that the  
11 defendant will regain mental competence in the foreseeable future,  
12 the committing court shall order the defendant to be returned to  
13 the court for proceedings pursuant to paragraph (2) of subdivision  
14 (c). The court shall transmit a copy of its order to the community  
15 program director or a designee.

16 (2) Any defendant who has been committed or has been on  
17 outpatient status for 18 months and is still hospitalized or on  
18 outpatient status shall be returned to the committing court where  
19 a hearing shall be held pursuant to the procedures set forth in  
20 Section 1369. The court shall transmit a copy of its order to the  
21 community program director or a designee.

22 (3) If it is determined by the court that no treatment for the  
23 defendant's mental impairment is being conducted, the defendant  
24 shall be returned to the committing court. The court shall transmit  
25 a copy of its order to the community program director or a  
26 designee.

27 (4) At each review by the court specified in this subdivision,  
28 the court shall determine if the security level of housing and  
29 treatment is appropriate and may make an order in accordance  
30 with its determination.

31 (c) (1) At the end of three years from the date of commitment  
32 or a period of commitment equal to the maximum term of  
33 imprisonment provided by law for the most serious offense charged  
34 in the information, indictment, or misdemeanor complaint,  
35 whichever is shorter, a defendant who has not recovered mental  
36 competence shall be returned to the committing court. The court  
37 shall notify the community program director or a designee of the  
38 return and of any resulting court orders.

39 (2) Whenever any defendant is returned to the court pursuant  
40 to paragraph (1) or (2) of subdivision (b) or paragraph (1) of this

1 subdivision and it appears to the court that the defendant is gravely  
2 disabled, as defined in subparagraph (B) of paragraph (1) of  
3 subdivision (h) of Section 5008 of the Welfare and Institutions  
4 Code, the court shall order the conservatorship investigator of the  
5 county of commitment of the defendant to initiate conservatorship  
6 proceedings for the defendant pursuant to Chapter 3 (commencing  
7 with Section 5350) of Part 1 of Division 5 of the Welfare and  
8 Institutions Code. Any hearings required in the conservatorship  
9 proceedings shall be held in the superior court in the county that  
10 ordered the commitment. The court shall transmit a copy of the  
11 order directing initiation of conservatorship proceedings to the  
12 community program director or a designee, the sheriff and the  
13 district attorney of the county in which criminal charges are  
14 pending, and the defendant's counsel of record. The court shall  
15 notify the community program director or a designee, the sheriff  
16 and district attorney of the county in which criminal charges are  
17 pending, and the defendant's counsel of record of the outcome of  
18 the conservatorship proceedings.

19 (3) If a change in placement is proposed for a defendant who  
20 is committed pursuant to subparagraph (B) of paragraph (1) of  
21 subdivision (h) of Section 5008 of the Welfare and Institutions  
22 Code, the court shall provide notice and an opportunity to be heard  
23 with respect to the proposed placement of the defendant to the  
24 sheriff and the district attorney of the county in which criminal  
25 charges are pending.

26 (4) Where the defendant is confined in a treatment facility, a  
27 copy of any report to the committing court regarding the  
28 defendant's progress toward recovery of mental competence shall  
29 be provided by the committing court to the prosecutor and to the  
30 defense counsel.

31 (d) The criminal action remains subject to dismissal pursuant  
32 to Section 1385. If the criminal action is dismissed, the court shall  
33 transmit a copy of the order of dismissal to the community program  
34 director or a designee.

35 (e) If the criminal charge against the defendant is dismissed,  
36 the defendant shall be released from any commitment ordered  
37 under this section, but without prejudice to the initiation of any  
38 proceedings that may be appropriate under the  
39 Lanterman-Petris-Short Act, Part 1 (commencing with Section  
40 5000) of Division 5 of the Welfare and Institutions Code.

1 (f) As used in this chapter, “community program director” means  
2 the person, agency, or entity designated by the State Department  
3 of Mental Health pursuant to Section 1605 of this code and Section  
4 4360 of the Welfare and Institutions Code.

5 (g) For the purpose of this section, “secure treatment facility”  
6 shall not include, except for state mental hospitals, state  
7 developmental centers, and correctional treatment facilities, any  
8 facility licensed pursuant to Chapter 2 (commencing with Section  
9 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter  
10 3.2 (commencing with Section 1569) of, Division 2 of the Health  
11 and Safety Code, or any community board and care facility.

12 ~~SECTION 1. Section 4101.3 is added to the Welfare and~~  
13 ~~Institutions Code, to read:~~

14 ~~4101.3. Consistent with the authority of the department to~~  
15 ~~operate and maintain state hospitals under its jurisdiction, the~~  
16 ~~Director of Mental Health shall direct the superintendent or other~~  
17 ~~person in charge of each state hospital to create, implement, review,~~  
18 ~~and update a system that includes measures to ensure the health~~  
19 ~~and safety of both the patient population and the employees of the~~  
20 ~~facility.~~