

Assembly Bill No. 1470

CHAPTER 24

An act to amend Sections 2728, 2728.5, 2873.6, 4115, and 4531 of the Business and Professions Code, to amend Section 1322 of the Government Code, to amend Sections 136, 1180.2, 1180.6, 1250.1, 1276.4, 1312, 1316.5, and 127400 of the Health and Safety Code, to amend Sections 290.04, 290.05, 290.06, 290.46, 667.5, 830.38, 830.5, 1026, 1174.2, 1203e, 1369.1, 1370, 1372, 1601, 1605, 1615, 1616, 1617, 1618, 2684, 2962, 2964, 2968, 2970, 2972, 2976, 2978, 3000, 3000.08, 3058.8, 3072, 3451, 5021, 5024, 6007, 6044, 13510.5, 13885.6, 14202.2, 28220, 28225, 29515, and 30105 of the Penal Code, and to amend Sections 736, 1756, 3300, 4000, 4001, 4004, 4005, 4006, 4008, 4010, 4011.5, 4012, 4012.5, 4015, 4024, 4027, 4042, 4100.2, 4101, 4101.5, 4104, 4106, 4107, 4107.1, 4109, 4109.5, 4110, 4111, 4112, 4114, 4117, 4118, 4119, 4122, 4123, 4124, 4126, 4127, 4133, 4134, 4135, 4137, 4138, 4200, 4202, 4243, 4244, 4245, 4301, 4302, 4319, 4320, 4330, 4331, 4332, 4333, 4333.5, 4334, 4335, 4341.5, 4360, 4440.1, 5008, 5008.1, 5306.5, 5328.8, 5331, 5333, 5352.5, 5355, 5366, 5402.2, 5511, 5701.2, 6000, 6600.05, 6601, 6601.3, 6602, 6602.5, 6604, 6605, 6606, 6608, 6750, 7200.06, 7201, 7202, 7206, 7207, 7226, 7228, 7230, 7231, 7232, 7250, 7251, 7252, 7253, 7254, 7276, 7277, 7278, 7281, 7282, 7282.1, 7283, 7284, 7285, 7286, 7287, 7288, 7289, 7289.1, 7290, 7292, 7293, 7294, 7300, 7301, 7303, 7304, 7325, 7328, 7329, 7352, 7353, 7354, 7356, 7357, 7359, 7362, 8050, 8051, 8053, 15630, 17601, 17601.05, and 17601.10 of, to add Section 4005.5 to, and to repeal Sections 5328.35, 5587, 6718, 7200.05, 7200.07, and 7275.1 of, the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2012. Filed with
Secretary of State June 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1470, Committee on Budget. Mental health: State Department of State Hospitals.

Existing law provides for state hospitals for the care, treatment, and education of mentally disordered persons. These hospitals are under the jurisdiction of the State Department of Mental Health, which is authorized by existing law to adopt regulations regarding the conduct and management of these facilities. Existing law establishes the Mental Health Subaccount of the Sales Tax Account in the continuously appropriated Local Revenue Fund for allocation into the mental health account of each local health and welfare trust fund, as specified. Existing law establishes the Mental Health Facilities Fund, which consists of the continuously appropriated State

Hospital Account and the continuously appropriated Institutions for Mental Disease Account, and requires disbursement monthly of funds deposited to those accounts to the State Department of Mental Health, as specified.

This bill would, instead, establish the State Department of State Hospitals, would require state hospitals to be under the jurisdiction of that department, and would require the State Department of Health Care Services to perform other specified duties instead of the State Department of Mental Health. This bill would provide that all regulations relating to state hospitals adopted by the State Department of Mental Health pursuant to authority transferred to the State Department of State Hospitals and in effect immediately preceding the operative date of this bill, shall remain in effect and be fully enforceable unless and until readopted, amended, or repealed by the Director of State Hospitals. This bill would specify the calculation for certain reimbursements for use of state hospital beds by counties that have not contracted with the State Department of State Hospitals, which are withheld from allocations from the Mental Health Subaccount of the Sales Tax Account in the Local Revenue Fund. This bill would require that funds deposited in the State Hospital Account be disbursed monthly to the State Department of State Hospitals and that funds deposited in the Institutions for Mental Disease Account be disbursed monthly to the State Department of Health Care Services. This bill would also make conforming changes and delete various obsolete provisions.

Existing law prohibits a person from being tried or adjudged to punishment while the person is mentally incompetent. Existing law allows a county jail to be designated to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder upon the concurrence of the county board of supervisors, the county mental health director, and the county sheriff. Pursuant to these provisions, existing law also provides that a treatment facility for mentally incompetent defendants may include a county jail only for the sole purpose of administering antipsychotic medication pursuant to a court order, and provided the maximum period of time a defendant may be treated in a county jail treatment facility shall not exceed 6 months. Existing law provides that these provisions shall remain in effect until January 1, 2015, and as of that date are repealed.

This bill would recast these provisions and make them operative until January 1, 2016. It would provide that a treatment facility includes a county jail without the limitation pertaining to administering antipsychotic medication pursuant to a court order. The bill would also delete an obsolete requirement that the State Department of Mental Health report to the Legislature regarding defendants that are incompetent to stand trial.

Existing law provides that a trial or judgment shall be suspended until a person becomes mentally competent, and requires that a mentally incompetent defendant either be delivered to a state hospital, a treatment facility, or be placed on outpatient status. Prior to placement, existing law requires the court to order the community program director or designee to evaluate the defendant and submit a written recommendation to the court

as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other treatment facility.

This bill would require the community program director or designee to evaluate the appropriate placement for the mentally disordered defendant to a state hospital or a local county jail treatment facility based on guidelines provided by the State Department of State Hospitals. The bill would require the State Department of State Hospitals to provide treatment at the county jail treatment facility and to reimburse the county jail treatment facility for the reasonable costs of the bed during the treatment. This bill would provide that the 6-month limitation on treatment in a county jail treatment facility shall not apply to these individuals. The bill would make an additional conforming change.

Existing law authorizes, until September 2012, the State Department of Mental Health to house up to 1,530 patients at Patton State Hospital. Existing law provides that, until a permanent housing and treatment facility is available, Atascadero State Hospital shall be used whenever a sexually violent predator, as defined, is committed to a secure facility for mental health treatment, as prescribed. Existing law permits the State Department of Mental Health to place health facility beds at Coalinga State Hospital in suspense for a period of up to 6 years in providing programming to specified individuals using an outpatient/day treatment model.

This bill would instead provide that Coalinga State Hospital shall be used when a sexually violent predator is committed to a secure facility for mental health treatment, and would instead provide that the State Department of State Hospitals may suspend health facility beds at Coalinga State Hospital in order to meet the mental health and medical needs of the patient population. This bill would extend the date the State Department of State Hospitals may house up to 1,530 patients at Patton State Hospital to September 2020.

This bill would appropriate \$1,000 to the State Department of Health Care Services for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 2728 of the Business and Professions Code is amended to read:

2728. If adequate medical and nursing supervision by a professional nurse or nurses is provided, nursing service may be given by attendants, psychiatric technicians, or psychiatric technician interim permittees in institutions under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services or subject to visitation by the State Department of Public Health or the Department of Corrections and Rehabilitation. Services so given by a psychiatric technician shall be

limited to services which he or she is authorized to perform by his or her license as a psychiatric technician. Services so given by a psychiatric technician interim permittee shall be limited to skills included in his or her basic course of study and performed under the supervision of a licensed psychiatric technician or registered nurse.

The Director of State Hospitals, the Director of Developmental Services, and the State Public Health Officer shall determine what shall constitute adequate medical and nursing supervision in any institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services or subject to visitation by the State Department of Public Health.

Notwithstanding any other provision of law, institutions under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services may utilize graduates of accredited psychiatric technician training programs who are not licensed psychiatric technicians or psychiatric technician interim permittees to perform skills included in their basic course of study when supervised by a licensed psychiatric technician or registered nurse, for a period not to exceed nine months.

SEC. 2. Section 2728.5 of the Business and Professions Code is amended to read:

2728.5. Except for those provisions of law relating to directors of nursing services, nothing in this chapter or any other provision of law shall prevent the utilization of a licensed psychiatric technician or psychiatric technician interim permittee in performing services used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or developmentally disabled persons within the scope of practice for which he or she is licensed or authorized in facilities under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services or licensed by the State Department of Public Health, that he or she is licensed to perform as a psychiatric technician, or authorized to perform as a psychiatric technician interim permittee including any nursing services under Section 2728, in facilities under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services or subject to visitation by the State Department of Public Health.

SEC. 3. Section 2873.6 of the Business and Professions Code is amended to read:

2873.6. (a) Any person who on the effective date of this section is employed as a medical technical assistant or as a senior medical technical assistant by the Department of Corrections and Rehabilitation, who served on active duty in the medical corps of any of the Armed Forces of the United States or who served in the United States Public Health Service, in which no less than an aggregate of 12 months was spent in rendering patient care, who completed the basic course of instruction in nursing required by the United States Public Health Service, or by his or her particular branch of the armed forces, and who was honorably discharged therefrom, shall be granted an employment restricted license upon proof that he or she possesses

the necessary qualifications of this section as set forth in his or her service and discharge records. An employment restricted license issued pursuant to this subdivision shall authorize the holder thereof to practice vocational nursing only within a facility of the Department of Corrections and Rehabilitation and shall be valid only for the period of employment. In order to obtain a nonrestricted license as a vocational nurse, a medical technical assistant shall apply and take the examination as required and normally administered by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(b) On and after the effective date of this section, no person shall be appointed as a medical technical assistant by the Department of Corrections and Rehabilitation unless the person complies with one of the following:

(1) Is a licensed vocational nurse or a registered nurse.

(2) Has served on active duty in the medical corps of any of the Armed Forces of the United States or who served in the United States Public Health Service, in which no less than an aggregate of 12 months was spent in rendering patient care, who completed the basic course of instruction in nursing required by the United States Public Health Service, or by his or her particular branch of the armed forces, and who has been honorably discharged therefrom. The Department of Corrections and Rehabilitation is authorized only to hire persons who are eligible for licensure, and as a condition of employment shall require that those persons obtain a license as a vocational nurse within six months of employment. He or she shall be supervised by a registered nurse or physician and surgeon and shall not administer medications until licensed.

(c) Notwithstanding subdivision (a), any person who was granted a restricted vocational nurse's license pursuant to that subdivision and who was employed in the psychiatric unit of the California Medical Facility at the time of the unit's transfer from the Department of Corrections to the State Department of Mental Health on July 1, 1988, shall continue to hold his or her license.

SEC. 4. Section 4115 of the Business and Professions Code is amended to read:

4115. (a) A pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of a pharmacist.

(b) This section does not authorize the performance of any tasks specified in subdivision (a) by a pharmacy technician without a pharmacist on duty.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that employs a pharmacy technician shall do so in conformity with the regulations adopted by the board.

(e) No person shall act as a pharmacy technician without first being licensed by the board as a pharmacy technician.

(f) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of Corrections and Rehabilitation, and for a person receiving treatment in a facility operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. No entity employing a pharmacist may discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

(g) Notwithstanding subdivisions (a) and (b), the board shall by regulation establish conditions to permit the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the Industrial Welfare Commission without closing the pharmacy. During these temporary absences, a pharmacy technician may, at the discretion of the pharmacist, remain in the pharmacy but may only perform nondiscretionary tasks. The pharmacist shall be responsible for a pharmacy technician and shall review any task performed by a pharmacy technician during the pharmacist's temporary absence. Nothing in this subdivision shall be construed to authorize a pharmacist to supervise pharmacy technicians in greater ratios than those described in subdivision (f).

(h) The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician supervised by that pharmacist.

SEC. 5. Section 4531 of the Business and Professions Code is amended to read:

4531. The course of instruction of an approved school shall consist of not less than the number of hours or semester units of instruction required for the other program administered by the board. The subjects of instruction shall include the principles of the care of the mentally disabled and the developmentally disabled. Clinical inpatient experience shall be an integral part of that prescribed or equivalent course of study and training. The experience shall be obtained in a state hospital, except where the board finds that the requirement is not feasible due either to the distance of a state hospital from the school or the unavailability, as determined by the State Department of Developmental Services or the State Department of State Hospitals, of state hospital clinical training placements.

SEC. 6. Section 1322 of the Government Code is amended to read:

1322. In addition to any other statutory provisions requiring confirmation by the Senate of officers appointed by the Governor, the appointments by the Governor of the following officers and the appointments by him or her to the listed boards and commissions are subject to confirmation by the Senate:

- (1) California Horse Racing Board.
- (2) Court Reporters Board of California.
- (3) Chief, Division of Occupational Safety and Health.
- (4) Chief, Division of Labor Standards Enforcement.
- (5) Commissioner of Corporations.
- (6) Contractors State License Board.
- (7) Director of Fish and Game.
- (8) Director of Health Care Services.
- (9) Chief Deputy, State Department of Health Care Services.
- (10) Real Estate Commissioner.
- (11) State Athletic Commissioner.
- (12) State Board of Barbering and Cosmetology Examiners.
- (13) State Librarian.
- (14) Director of Social Services.
- (15) Chief Deputy, State Department of Social Services.
- (16) Director of State Hospitals.
- (17) Chief Deputy, State Department of State Hospitals.
- (18) Director of Developmental Services.
- (19) Chief Deputy, State Department of Developmental Services.
- (20) Director of Alcohol and Drug Abuse.
- (21) Director of Rehabilitation.
- (22) Chief Deputy, Department of Rehabilitation.
- (23) Director of the Office of Statewide Health Planning and Development.
- (24) Deputy, Health and Welfare Agency.
- (25) Director, Department of Managed Health Care.

- (26) Patient Advocate, Department of Managed Health Care.
- (27) State Public Health Officer, State Department of Public Health.
- (28) Chief Deputy, State Department of Public Health.

SEC. 7. Section 136 of the Health and Safety Code is amended to read:

136. (a) The California Health and Human Services Agency shall establish an interagency task force on women's health composed of representatives of the State Department of Health Care Services, the State Department of Public Health, the State Department of Developmental Services, the State Department of Social Services, and the Major Risk Medical Insurance Program.

(b) The State Department of Education, the Department of Housing and Community Development, the office of the Attorney General, the State Department of State Hospitals, and the Department of Corrections and Rehabilitation may participate with the interagency task force on women's health when necessary to implement the state strategy developed pursuant to Section 137.

SEC. 8. Section 1180.2 of the Health and Safety Code is amended to read:

1180.2. (a) This section shall apply to the state hospitals operated by the State Department of State Hospitals and facilities operated by the State Department of Developmental Services that utilize seclusion or behavioral restraints.

(b) The State Department of State Hospitals and the State Department of Developmental Services shall develop technical assistance and training programs to support the efforts of facilities described in subdivision (a) to reduce or eliminate the use of seclusion and behavioral restraints in those facilities.

(c) Technical assistance and training programs should be designed with the input of stakeholders, including clients and direct care staff, and should be based on best practices that lead to the avoidance of the use of seclusion and behavioral restraints, including, but not limited to, all of the following:

(1) Conducting an intake assessment that is consistent with facility policies and that includes issues specific to the use of seclusion and behavioral restraints as specified in Section 1180.4.

(2) Utilizing strategies to engage clients collaboratively in assessment, avoidance, and management of crisis situations in order to prevent incidents of the use of seclusion and behavioral restraints.

(3) Recognizing and responding appropriately to underlying reasons for escalating behavior.

(4) Utilizing conflict resolution, effective communication, deescalation, and client-centered problem solving strategies that diffuse and safely resolve emerging crisis situations.

(5) Individual treatment planning that identifies risk factors, positive early intervention strategies, and strategies to minimize time spent in seclusion or behavioral restraints. Individual treatment planning should include input from the person affected.

(6) While minimizing the duration of time spent in seclusion or behavioral restraints, using strategies to mitigate the emotional and physical discomfort and ensure the safety of the person involved in seclusion or behavioral restraints, including input from the person about what would alleviate his or her distress.

(7) Training in conducting an effective debriefing meeting as specified in Section 1180.5, including the appropriate persons to involve, the voluntary participation of the person who has been in seclusion or behavioral restraints, and strategic interventions to engage affected persons in the process. The training should include strategies that result in maximum participation and comfort for the involved parties to identify factors that lead to the use of seclusion and behavioral restraints and factors that would reduce the likelihood of future incidents.

(d) (1) The State Department of State Hospitals and the State Department of Developmental Services shall take steps to establish a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of seclusion and behavioral restraints in facilities described in this section. It is the intent of the Legislature that data be compiled in a manner that allows for standard statistical comparison.

(2) The State Department of State Hospitals and the State Department of Developmental Services shall develop a mechanism for making this information publicly available on the Internet.

(3) Data collected pursuant to this section shall include all of the following:

(A) The number of deaths that occur while persons are in seclusion or behavioral restraints, or where it is reasonable to assume that a death was proximately related to the use of seclusion or behavioral restraints.

(B) The number of serious injuries sustained by persons while in seclusion or subject to behavioral restraints.

(C) The number of serious injuries sustained by staff that occur during the use of seclusion or behavioral restraints.

(D) The number of incidents of seclusion.

(E) The number of incidents of use of behavioral restraints.

(F) The duration of time spent per incident in seclusion.

(G) The duration of time spent per incident subject to behavioral restraints.

(H) The number of times an involuntary emergency medication is used to control behavior, as defined by the State Department of State Hospitals.

(e) A facility described in subdivision (a) shall report each death or serious injury of a person occurring during, or related to, the use of seclusion or behavioral restraints. This report shall be made to the agency designated in subdivision (i) of Section 4900 of the Welfare and Institutions Code no later than the close of the business day following the death or injury. The report shall include the encrypted identifier of the person involved, and the name, street address, and telephone number of the facility.

SEC. 9. Section 1180.6 of the Health and Safety Code is amended to read:

1180.6. The State Department of Health Care Services, the State Department of State Hospitals, the State Department of Social Services, and the State Department of Developmental Services shall annually provide information to the Legislature, during Senate and Assembly budget committee hearings, about the progress made in implementing this division. This information shall include the progress of implementation and barriers to achieving full implementation.

SEC. 10. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. (a) The department shall adopt regulations that define all of the following bed classifications for health facilities:

- (1) General acute care.
- (2) Skilled nursing.
- (3) Intermediate care—developmental disabilities.
- (4) Intermediate care—other.
- (5) Acute psychiatric.
- (6) Specialized care, with respect to special hospitals only.
- (7) Chemical dependency recovery.
- (8) Intermediate care facility/developmentally disabled habilitative.
- (9) Intermediate care facility/developmentally disabled nursing.
- (10) Congregate living health facility.
- (11) Pediatric day health and respite care facility, as defined in Section 1760.2.

(12) Correctional treatment center. For correctional treatment centers that provide psychiatric and psychological services provided by county mental health agencies in local detention facilities, the State Department of State Hospitals shall adopt regulations specifying acute and nonacute levels of 24-hour care. Licensed inpatient beds in a correctional treatment center shall be used only for the purpose of providing health services.

(b) Except as provided in Section 1253.1, beds classified as intermediate care beds, on September 27, 1978, shall be reclassified by the department as intermediate care—other. This reclassification shall not constitute a “project” within the meaning of Section 127170 and shall not be subject to any requirement for a certificate of need under Chapter 1 (commencing with Section 127125) of Part 2 of Division 107, and regulations of the department governing intermediate care prior to the effective date shall continue to be applicable to the intermediate care—other classification unless and until amended or repealed by the department.

SEC. 11. Section 1276.4 of the Health and Safety Code is amended to read:

1276.4. (a) By January 1, 2002, the State Department of Public Health shall adopt regulations that establish minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit for all health facilities licensed pursuant to subdivision (a), (b), or (f) of Section 1250. The State Department of Public Health shall adopt these regulations in accordance with the department’s licensing and certification regulations as stated in Sections 70053.2, 70215, and 70217

of Title 22 of the California Code of Regulations, and the professional and vocational regulations in Section 1443.5 of Title 16 of the California Code of Regulations. The department shall review these regulations five years after adoption and shall report to the Legislature regarding any proposed changes. Flexibility shall be considered by the department for rural general acute care hospitals in response to their special needs. As used in this subdivision, “hospital unit” means a critical care unit, burn unit, labor and delivery room, postanesthesia service area, emergency department, operating room, pediatric unit, step-down/intermediate care unit, specialty care unit, telemetry unit, general medical care unit, subacute care unit, and transitional inpatient care unit. The regulation addressing the emergency department shall distinguish between regularly scheduled core staff licensed nurses and additional licensed nurses required to care for critical care patients in the emergency department.

(b) These ratios shall constitute the minimum number of registered and licensed nurses that shall be allocated. Additional staff shall be assigned in accordance with a documented patient classification system for determining nursing care requirements, including the severity of the illness, the need for specialized equipment and technology, the complexity of clinical judgment needed to design, implement, and evaluate the patient care plan and the ability for self-care, and the licensure of the personnel required for care.

(c) “Critical care unit” as used in this section means a unit that is established to safeguard and protect patients whose severity of medical conditions requires continuous monitoring, and complex intervention by licensed nurses.

(d) All health facilities licensed under subdivision (a), (b), or (f) of Section 1250 shall adopt written policies and procedures for training and orientation of nursing staff.

(e) No registered nurse shall be assigned to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area, and has demonstrated current competence in providing care in that area.

(f) The written policies and procedures for orientation of nursing staff shall require that all temporary personnel shall receive orientation and be subject to competency validation consistent with Sections 70016.1 and 70214 of Title 22 of the California Code of Regulations.

(g) Requests for waivers to this section that do not jeopardize the health, safety, and well-being of patients affected and that are needed for increased operational efficiency may be granted by the department to rural general acute care hospitals meeting the criteria set forth in Section 70059.1 of Title 22 of the California Code of Regulations.

(h) In case of conflict between this section and any provision or regulation defining the scope of nursing practice, the scope of practice provisions shall control.

(i) The regulations adopted by the department shall augment and not replace existing nurse-to-patient ratios that exist in regulation or law for the intensive care units, the neonatal intensive care units, or the operating room.

(j) The regulations adopted by the department shall not replace existing licensed staff-to-patient ratios for hospitals operated by the State Department of State Hospitals.

(k) The regulations adopted by the department for health facilities licensed under subdivision (b) of Section 1250 that are not operated by the State Department of State Hospitals shall take into account the special needs of the patients served in the psychiatric units.

(l) The department may take into consideration the unique nature of the University of California teaching hospitals as educational institutions when establishing licensed nurse-to-patient ratios. The department shall coordinate with the Board of Registered Nursing to ensure that staffing ratios are consistent with the Board of Registered Nursing approved nursing education requirements. This includes nursing clinical experience incidental to a work-study program rendered in a University of California clinical facility approved by the Board of Registered Nursing provided there will be sufficient direct care registered nurse preceptors available to ensure safe patient care.

SEC. 12. Section 1312 of the Health and Safety Code is amended to read:

1312. Before a person who is required to register as a sex offender under Section 290 of the Penal Code is released into a long-term health care facility, as defined in Section 1418, the Department of Corrections and Rehabilitation, the State Department of State Hospitals, or any other official in charge of the place of confinement, shall notify the facility, in writing, that the sex offender is being released to reside at the facility.

SEC. 13. Section 1316.5 of the Health and Safety Code is amended to read:

1316.5. (a) (1) Each health facility owned and operated by the state offering care or services within the scope of practice of a psychologist shall establish rules and medical staff bylaws that include provisions for medical staff membership and clinical privileges for clinical psychologists within the scope of their licensure as psychologists, subject to the rules and medical staff bylaws governing medical staff membership or privileges as the facility shall establish. The rules and regulations shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology within the scope of the member's respective licensure. Each of these health facilities owned and operated by the state shall establish a staff comprised of physicians and surgeons, dentists, podiatrists, psychologists, or any combination thereof, that shall regulate the admission, conduct, suspension, or termination of the staff appointment of psychologists employed by the health facility.

(2) With regard to the practice of psychology in health facilities owned and operated by the state offering care or services within the scope of practice of a psychologist, medical staff status shall include and provide for the right to pursue and practice full clinical privileges for holders of a doctoral degree of psychology within the scope of their respective licensure. These rights and privileges shall be limited or restricted only upon the basis of an

individual practitioner's demonstrated competence. Competence shall be determined by health facility rules and medical staff bylaws that are necessary and are applied in good faith, equally and in a nondiscriminatory manner, to all practitioners, regardless of whether they hold an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology.

(3) Nothing in this subdivision shall be construed to require a health facility owned and operated by the state to offer a specific health service or services not otherwise offered. If a health service is offered in such a health facility that includes provisions for medical staff membership and clinical privileges for clinical psychologists, the facility shall not discriminate between persons holding an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology who are authorized by law to perform the service within the scope of the person's respective licensure.

(4) The rules and medical staff bylaws of a health facility owned and operated by the state that include provisions for medical staff membership and clinical privileges for medical staff and duly licensed clinical psychologists shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology within the scope of the member's respective licensure. The health facility staff of these health facilities who process, review, evaluate, and determine qualifications for staff privileges for medical staff shall include, if possible, staff members who are clinical psychologists.

(b) (1) The rules of a health facility not owned or operated by this state may enable the appointment of clinical psychologists on the terms and conditions that the facility shall establish. In these health facilities, clinical psychologists may hold membership and serve on committees of the medical staff and carry professional responsibilities consistent with the scope of their licensure and their competence, subject to the rules of the health facility.

(2) Nothing in this subdivision shall be construed to require a health facility not owned or operated by this state to offer a specific health service or services not otherwise offered. If a health service is offered by a health facility with both licensed physicians and surgeons and clinical psychologists on the medical staff, which both licensed physicians and surgeons and clinical psychologists are authorized by law to perform, the service may be performed by either, without discrimination.

(3) This subdivision shall not prohibit a health facility that is a clinical teaching facility owned or operated by a university operating a school of medicine from requiring that a clinical psychologist have a faculty teaching appointment as a condition for eligibility for staff privileges at that facility.

(4) In any health facility that is not owned or operated by this state that provides staff privileges to clinical psychologists, the health facility staff who process, review, evaluate, and determine qualifications for staff privileges for medical staff shall include, if possible, staff members who are clinical psychologists.

(c) No classification of health facilities by the department, nor any other classification of health facilities based on quality of service or otherwise, by any person, body, or governmental agency of this state or any subdivision

thereof shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any classification of these facilities be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff. No classification of health facilities by any governmental agency of this state or any subdivision thereof pursuant to any law, whether enacted prior or subsequent to the effective date of this section, for the purposes of ascertaining eligibility for compensation, reimbursement, or other benefit for treatment of patients shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any classification of these facilities be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff which govern the psychologists' use of the facilities.

(d) "Clinical psychologist," as used in this section, means a psychologist licensed by this state who meets both of the following requirements:

(1) Possesses an earned doctorate degree in psychology from an educational institution meeting the criteria of subdivision (b) of Section 2914 of the Business and Professions Code.

(2) Has not less than two years clinical experience in a multidisciplinary facility licensed or operated by this or another state or by the United States to provide health care, or, is listed in the latest edition of the National Register of Health Service Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology.

(e) Nothing in this section is intended to expand the scope of licensure of clinical psychologists. Notwithstanding the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code), the Public Employment Relations Board is precluded from creating any additional bargaining units for the purpose of exclusive representation of state psychologist employees that might result because of medical staff membership and/or privilege changes for psychologists due to the enactment of provisions by Assembly Bill No. 3141 of the 1995-96 Regular Session.

SEC. 14. Section 127400 of the Health and Safety Code is amended to read:

127400. As used in this article, the following terms have the following meanings:

(a) "Allowance for financially qualified patient" means, with respect to services rendered to a financially qualified patient, an allowance that is applied after the hospital's charges are imposed on the patient, due to the patient's determined financial inability to pay the charges.

(b) "Federal poverty level" means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(c) "Financially qualified patient" means a patient who is both of the following:

(1) A patient who is a self-pay patient, as defined in subdivision (f) or a patient with high medical costs, as defined in subdivision (g).

(2) A patient who has a family income that does not exceed 350 percent of the federal poverty level.

(d) “Hospital” means a facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, except a facility operated by the State Department of State Hospitals or the Department of Corrections and Rehabilitation.

(e) “Office” means the Office of Statewide Health Planning and Development.

(f) “Self-pay patient” means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers’ compensation, automobile insurance, or other insurance as determined and documented by the hospital. Self-pay patients may include charity care patients.

(g) “A patient with high medical costs” means a person whose family income does not exceed 350 percent of the federal poverty level, as defined in subdivision (b), if that individual does not receive a discounted rate from the hospital as a result of his or her third-party coverage. For these purposes, “high medical costs” means any of the following:

(1) Annual out-of-pocket costs incurred by the individual at the hospital that exceed 10 percent of the patient’s family income in the prior 12 months.

(2) Annual out-of-pocket expenses that exceed 10 percent of the patient’s family income, if the patient provides documentation of the patient’s medical expenses paid by the patient or the patient’s family in the prior 12 months.

(3) A lower level determined by the hospital in accordance with the hospital’s charity care policy.

(h) “Patient’s family” means the following:

(1) For persons 18 years of age and older, spouse, domestic partner, as defined in Section 297 of the Family Code, and dependent children under 21 years of age, whether living at home or not.

(2) For persons under 18 years of age, parent, caretaker relatives, and other children under 21 years of age of the parent or caretaker relative.

SEC. 15. Section 290.04 of the Penal Code is amended to read:

290.04. (a) (1) The sex offender risk assessment tools authorized by this section for use with selected populations shall be known, with respect to each population, as the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). If a SARATSO has not been selected for a given population pursuant to this section, no duty to administer the SARATSO elsewhere in this code shall apply with respect to that population. Every person required to register as a sex offender shall be subject to assessment with the SARATSO as set forth in this section and elsewhere in this code.

(2) A representative of the Department of Corrections and Rehabilitation, in consultation with a representative of the State Department of State Hospitals and a representative of the Attorney General’s office, shall comprise the SARATSO Review Committee. The purpose of the committee,

which shall be staffed by the Department of Corrections and Rehabilitation, shall be to ensure that the SARATSO reflects the most reliable, objective, and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated and cross validated, and is, or is reasonably likely to be, widely accepted by the courts. The committee shall consult with experts in the fields of risk assessment and the use of actuarial instruments in predicting sex offender risk, sex offending, sex offender treatment, mental health, and law, as it deems appropriate.

(b) (1) Commencing January 1, 2007, the SARATSO for adult males required to register as sex offenders shall be the STATIC-99 risk assessment scale, which shall be the SARATSO static tool for adult males.

(2) The SARATSO Review Committee shall determine whether the STATIC-99 should be supplemented with an empirically derived instrument that measures dynamic risk factors or whether the STATIC-99 should be replaced as the SARATSO with a different risk assessment tool. The SARATSO Review Committee shall select an empirically derived instrument that measures dynamic risk factors and an empirically derived instrument that measures risk of future violence. The selected instruments shall be the SARATSO dynamic tool for adult males and the SARATSO future violence tool for adult males. If the committee unanimously agrees on changes to be made to a designated SARATSO, it shall advise the Governor and the Legislature of the changes, and the Department of Corrections and Rehabilitation shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult males.

(c) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for adult females required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult females.

(d) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for male juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for male juveniles.

(e) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for female juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days

after the decision is posted, the selected tool shall become the SARATSO for female juveniles.

(f) The committee shall periodically evaluate the SARATSO static, dynamic, and risk of future violence tools for each specified population. If the committee unanimously agrees on a change to the SARATSO for any population, it shall advise the Governor and the Legislature of the selected tool, and the Department of Corrections and Rehabilitation shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for that population.

(g) The committee shall perform other functions consistent with the provisions of this act or as may be otherwise required by law, including, but not limited to, defining tiers of risk based on the SARATSO. The committee shall be immune from liability for good faith conduct under this act.

SEC. 16. Section 290.05 of the Penal Code is amended to read:

290.05. (a) The SARATSO Training Committee shall be comprised of a representative of the State Department of State Hospitals, a representative of the Department of Corrections and Rehabilitation, a representative of the Attorney General's Office, and a representative of the Chief Probation Officers of California.

(b) On or before January 1, 2008, the SARATSO Training Committee, in consultation with the Corrections Standards Authority and the Commission on Peace Officer Standards and Training, shall develop a training program for persons authorized by this code to administer the static SARATSO, as set forth in Section 290.04.

(c) (1) The Department of Corrections and Rehabilitation shall be responsible for overseeing the training of persons who will administer the static SARATSO pursuant to paragraph (1) or (2) of subdivision (a) of Section 290.06.

(2) The State Department of State Hospitals shall be responsible for overseeing the training of persons who will administer the static SARATSO pursuant to paragraph (3) of subdivision (a) of Section 290.06.

(3) The Correction Standards Authority shall be responsible for developing standards for the training of persons who will administer the static SARATSO pursuant to paragraph (5) or (6) of subdivision (a) of Section 290.06.

(4) The Commission on Peace Officer Standards and Training shall be responsible for developing standards for the training of persons who will administer the static SARATSO pursuant to subdivision (b) of Section 290.06.

(d) The training shall be conducted by experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk. Subject to requirements established by the committee, the Department of Corrections and Rehabilitation, the State Department of State Hospitals, probation departments, and authorized local law enforcement agencies shall designate key persons within their organizations to attend training and, as authorized by the department, to train others within their organizations

designated to perform risk assessments as required or authorized by law. Any person who administers the static SARATSO shall receive training no less frequently than every two years.

(e) If the agency responsible for scoring the static SARATSO believes an individual score does not represent the person's true risk level, based on factors in the offender's record, the agency may submit the case to the experts retained by the SARATSO Review Committee to monitor the scoring of the SARATSO. Those experts shall be guided by empirical research in determining whether to raise or lower the risk level. Agencies that score the static SARATSO shall develop a protocol for submission of risk level override requests to the experts retained in accordance with this subdivision.

(f) The static SARATSO may be performed for purposes authorized by statute only by persons trained pursuant to this section. Persons who administer the dynamic SARATSO and the future violence SARATSO shall be trained to administer the dynamic and future violence SARATSO tools as required in Section 290.09. Probation officers or parole agents may be trained by SARATSO experts on the dynamic SARATSO tool and perform assessments on that tool only if authorized by the SARATSO Training Committee to do so after successful completion of training.

SEC. 17. Section 290.06 of the Penal Code is amended to read:

290.06. The static SARATSO, as set forth in Section 290.04, shall be administered as follows:

(a) (1) The Department of Corrections and Rehabilitation shall assess every eligible person who is incarcerated in state prison. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to release from incarceration.

(2) The department shall assess every eligible person who is on parole if the person was not assessed prior to release from state prison. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to termination of parole. The department shall record in a database the risk assessment scores of persons assessed pursuant to this paragraph and paragraph (1), and any risk assessment score that was submitted to the department by a probation officer pursuant to Section 1203.

(3) The department shall assess every person on parole transferred from any other state or by the federal government to this state who has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290. The assessment required by this paragraph shall occur no later than 60 days after a determination by the Department of Justice that the person is required to register as a sex offender in California pursuant to Section 290.005.

(4) The State Department of State Hospitals shall assess every eligible person who is committed to that department. Whenever possible, the assessment shall take place at least four months, but no sooner than 10 months, prior to release from commitment. The State Department of State Hospitals shall record in a database the risk assessment scores of persons

assessed pursuant to this paragraph and any risk assessment score that was submitted to the department by a probation officer pursuant to Section 1203.

(5) Commencing January 1, 2010, the Department of Corrections and Rehabilitation and the State Department of State Hospitals shall send the scores obtained in accordance with paragraphs (2), (3), and (4) to the Department of Justice Sex Offender Tracking Program not later than 30 days after the date of the assessment. The risk assessment score of an offender shall be made part of his or her file maintained by the Department of Justice Sex Offender Tracking Program as soon as possible without financial impact, but no later than January 1, 2012.

(6) Each probation department shall, prior to sentencing, assess every eligible person as defined in subdivision (c), whether or not a report is prepared pursuant to Section 1203.

(7) Each probation department shall assess every eligible person under its supervision who was not assessed pursuant to paragraph (6). The assessment shall take place prior to the termination of probation, but no later than January 1, 2010.

(b) Eligible persons not assessed pursuant to subdivision (a) may be assessed as follows:

(1) Upon request of the law enforcement agency in the jurisdiction in which the person is registered pursuant to Sections 290 to 290.023, inclusive, the person shall be assessed. The law enforcement agency may enter into a memorandum of understanding with a probation department to perform the assessment. In the alternative, the law enforcement agency may arrange to have personnel trained to perform the risk assessment in accordance with subdivision (d) of Section 290.05.

(2) Eligible persons not assessed pursuant to subdivision (a) may request that a risk assessment be performed. A request form shall be available at registering law enforcement agencies. The person requesting the assessment shall pay a fee for the assessment that shall be sufficient to cover the cost of the assessment. The risk assessment so requested shall be performed either by the probation department, if a memorandum of understanding is established between the law enforcement agency and the probation department, or by personnel who have been trained to perform risk assessment in accordance with subdivision (d) of Section 290.05.

(c) For purposes of this section, “eligible person” means a person who was convicted of an offense that requires him or her to register as a sex offender pursuant to the Sex Offender Registration Act and who is eligible for assessment, pursuant to the official Coding Rules designated for use with the risk assessment instrument by the author of any risk assessment instrument (SARATSO) selected by the SARATSO Review Committee.

(d) Persons authorized to perform risk assessments pursuant to this section, Section 1203, and Section 706 of the Welfare and Institutions Code shall be immune from liability for good faith conduct under this act.

SEC. 18. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons

who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivision (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice

of that fact in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The State Department of State Hospitals shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before January 1, 2013, the department shall make available to the public via the Internet Web site his or her static SARATSO score and information on an elevated risk level based on the SARATSO future violence tool.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289.

(B) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(D) Paragraph (2) or (6) of subdivision (a) of Section 261.

(E) Section 264.1.

(F) Section 269.

(G) Subdivision (c) or (d) of Section 286.

(H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(I) Subdivision (c) or (d) of Section 288a.

(J) Section 288.3, provided that the offense is a felony.

(K) Section 288.4, provided that the offense is a felony.

(L) Section 288.5.

(M) Subdivision (a) or (j) of Section 289.

(N) Section 288.7.

(O) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(P) A felony violation of Section 311.1.

(Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

(R) A felony violation of Section 311.3.

(S) A felony violation of subdivision (a), (b), or (c) of Section 311.4.

(T) Section 311.10.

(U) A felony violation of Section 311.11.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in subdivision (c) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in subdivision (c) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

- (G) Section 288.3, provided that the offense is a misdemeanor.
- (H) Section 288.4, provided that the offense is a misdemeanor.
- (I) Section 626.81.
- (J) Section 647.6.
- (K) Section 653c.

(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subdivision (c) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) A felony violation of Section 311.1, subdivision (b), (c), or (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if the person submits to the department a certified copy of a probation report filed in court that clearly states that all victims involved in the commission of the offense were at least 16 years of age or older at the time of the commission of the offense.

(D) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly

demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate-low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, “offense” includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subdivision (c) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment pursuant to subdivision (h) of Section 1170.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars (\$1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(l) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than

two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(o) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Internet Web site, and any other resource that promotes public education about these offenders.

SEC. 19. Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail under subdivision (h) of Section 1170 is imposed or is not suspended, in addition and consecutive to any other sentence therefor, the court shall impose a one-year term for each prior separate prison term or county jail term imposed under subdivision (h) of Section 1170 or when sentence is

not suspended for any felony; provided that no additional term shall be imposed under this subdivision for any prison term or county jail term imposed under subdivision (h) of Section 1170 or when sentence is not suspended prior to a period of five years in which the defendant remained free of both the commission of an offense which results in a felony conviction, and prison custody or the imposition of a term of jail custody imposed under subdivision (h) of Section 1170 or any felony sentence that is not suspended. A term imposed under the provisions of paragraph (5) of subdivision (h) of Section 1170, wherein a portion of the term is suspended by the court to allow postrelease supervision, shall qualify as a prior county jail term for the purposes of the one-year enhancement.

(c) For the purpose of this section, “violent felony” shall mean any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole, whichever first occurs, including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison or in county jail under subdivision (h) of Section 1170.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison or in county jail under subdivision (h) of Section 1170 if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of State Hospitals as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Secretary of the Department of Corrections and Rehabilitation is incarcerated at a facility operated by the Division of

Juvenile Justice, that incarceration shall be deemed to be a term served in state prison.

(k) (1) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

(2) This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SEC. 20. Section 830.38 of the Penal Code is amended to read:

830.38. The officers of a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services appointed pursuant to Section 4313 or 4493 of the Welfare and Institutions Code, are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code provided that the primary duty of the peace officers shall be the enforcement of the law as set forth in Sections 4311, 4313, 4491, and 4493 of the Welfare and Institutions Code. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency.

SEC. 21. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code, as amended by Section 44 of Chapter 1124 of the Statutes of 2002. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole, probation, or postrelease community supervision by any person in this state on parole, probation, or postrelease community supervision.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole, probation, or postrelease community supervision.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.

(5) (A) To the rendering of mutual aid to any other law enforcement agency.

(B) For the purposes of this subdivision, “parole agent” shall have the same meaning as parole officer of the Department of Corrections and Rehabilitation or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(C) Any parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall develop a policy for arming peace officers of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, who comprise “high-risk transportation details” or “high-risk escape details” no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

(D) The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall train and arm those peace officers who comprise tactical teams at each facility for use during “high-risk escape details.”

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of State Hospitals or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson

may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain his or her eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

(e) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The secretary shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the secretary, or his or her designee. The secretary, or his or her designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) "Transportation detail" as used in this section shall include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

(i) This section is operative January 1, 2012.

SEC. 22. Section 1026 of the Penal Code is amended to read:

1026. (a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in that trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In that trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding is that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be

confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the community program director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2.

(b) Prior to making the order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be placed on outpatient status or confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. If, however, it appears to the court that the sanity of the defendant has been recovered fully, the defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of the patient from one state hospital to any other state hospital by proper authority. Nothing in this section shall prevent the transfer of the patient to a hospital in another state in the manner provided in Section 4119 of the Welfare and Institutions Code.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, order the defendant transferred to a state hospital or to another public or private treatment facility approved by the community program director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing which shall be held if the court determines that sufficient grounds exist. At that hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same procedures and standards of proof as used in conducting probation revocation hearings pursuant to Section 1203.2.

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

(e) When the court, after considering the placement recommendation of the community program director required in subdivision (b), orders that the defendant be confined in a state hospital or other public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other treatment facility where the defendant is to be confined:

- (1) The commitment order, including a specification of the charges.
- (2) A computation or statement setting forth the maximum term of commitment in accordance with Section 1026.5.
- (3) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.
- (4) State summary criminal history information.
- (5) Any arrest reports prepared by the police department or other law enforcement agency.
- (6) Any court-ordered psychiatric examination or evaluation reports.
- (7) The community program director's placement recommendation report.

(f) If the defendant is confined in a state hospital or other treatment facility as an inpatient, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the community program director of the county of commitment, or a designee, setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

(g) When directing that the defendant be confined in a state hospital pursuant to subdivision (a), the court shall select the state hospital in accordance with the policies established by the State Department of State Hospitals.

(h) For purposes of this section and Sections 1026.1 to 1026.6, inclusive, "community program director" means the person, agency, or entity designated by the State Department of State Hospitals pursuant to Section 1605 of this code and Section 5709.8 of the Welfare and Institutions Code.

SEC. 23. Section 1174.2 of the Penal Code is amended to read:

1174.2. (a) Notwithstanding any other law, the unencumbered balance of Item 5240-311-751 of Section 2 of the Budget Act of 1990 shall revert to the unappropriated surplus of the 1990 Prison Construction Fund. The sum of fifteen million dollars (\$15,000,000) is hereby appropriated to the Department of Corrections from the 1990 Prison Construction Fund for site acquisition, site studies, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items for the purpose of constructing facilities for pregnant and parenting women's alternative sentencing programs. These funds shall not be expended for any operating costs, including those costs reimbursed by the department pursuant to subdivision (c) of Section 1174.3. Funds not expended pursuant to this chapter shall be used for planning, construction, renovation, or remodeling by, or under the supervision of, the Department of Corrections and Rehabilitation, of community-based facilities for programs designed to reduce drug use and recidivism, including, but not limited to, restitution

centers, facilities for the incarceration and rehabilitation of drug offenders, multipurpose correctional centers, and centers for intensive programs for parolees. These funds shall not be expended until legislation authorizing the establishment of these programs is enacted. If the Legislature finds that the Department of Corrections and Rehabilitation has made a good faith effort to site community-based facilities, but funds designated for these community-based facilities are unexpended as of January 1, 1998, the Legislature may appropriate these funds for other Level I housing.

(b) The Department of Corrections and Rehabilitation shall purchase, design, construct, and renovate facilities in counties or multicounty areas with a population of more than 450,000 people pursuant to this chapter. The department shall target for selection, among other counties, Los Angeles County, San Diego County, and a bay area, central valley, and an inland empire county as determined by the Secretary of the Department of Corrections and Rehabilitation. The department, in consultation with the State Department of Alcohol and Drug Programs, shall design core alcohol and drug treatment programs, with specific requirements and standards. Residential facilities shall be licensed by the State Department of Alcohol and Drug Programs in accordance with provisions of the Health and Safety Code governing licensure of alcoholism or drug abuse recovery or treatment facilities. Residential and nonresidential programs shall be certified by the State Department of Alcohol and Drug Programs as meeting its standards for perinatal services. Funds shall be awarded to selected agency service providers based upon all of the following criteria and procedures:

(1) A demonstrated ability to provide comprehensive services to pregnant women or women with children who are substance abusers consistent with this chapter. Criteria shall include, but not be limited to, each of the following:

(A) The success records of the types of programs proposed based upon standards for successful programs.

(B) Expertise and actual experience of persons who will be in charge of the proposed program.

(C) Cost-effectiveness, including the costs per client served.

(D) A demonstrated ability to implement a program as expeditiously as possible.

(E) An ability to accept referrals and participate in a process with the probation department determining eligible candidates for the program.

(F) A demonstrated ability to seek and obtain supplemental funding as required in support of the overall administration of this facility from any county, state, or federal source that may serve to support this program, including the State Department of Alcohol and Drug Programs, the California Emergency Management Agency, the State Department of Social Services, the State Department of State Hospitals, or any county public health department. In addition, the agency shall also attempt to secure other available funding from all county, state, or federal sources for program implementation.

(G) An ability to provide intensive supervision of the program participants to ensure complete daily programming.

(2) Staff from the department shall be available to selected agencies for consultation and technical services in preparation and implementation of the selected proposals.

(3) The department shall consult with existing program operators that are then currently delivering similar program services, the State Department of Alcohol and Drug Programs, and others it may identify in the development of the program.

(4) Funds shall be made available by the department to the agencies selected to administer the operation of this program.

(5) Agencies shall demonstrate an ability to provide offenders a continuing supportive network of outpatient drug treatment and other services upon the women's completion of the program and reintegration into the community.

(6) The department may propose any variation of types and sizes of facilities to carry out the purposes of this chapter.

(7) The department shall secure all other available funding for its eligible population from all county, state, or federal sources.

(8) Each program proposal shall include a plan for the required 12-month residential program, plus a 12-month outpatient transitional services program to be completed by participating women and children.

SEC. 24. Section 1203e of the Penal Code is amended to read:

1203e. (a) Commencing June 1, 2010, the probation department shall compile a Facts of Offense Sheet for every person convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290 who is referred to the department pursuant to Section 1203. The Facts of Offense Sheet shall contain the following information concerning the offender: name; CII number; criminal history, including all arrests and convictions for any registerable sex offenses or any violent offense; circumstances of the offense for which registration is required, including, but not limited to, weapons used and victim pattern; and results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO), as set forth in Section 290.04, if required. The Facts of Offense Sheet shall be included in the probation officer's report.

(b) The defendant may move the court to correct the Facts of Offense Sheet. Any corrections to that sheet shall be made consistent with procedures set forth in Section 1204.

(c) The probation officer shall send a copy of the Facts of Offense Sheet to the Department of Justice High Risk Sex Offender Program within 30 days of the person's sex offense conviction, and it shall be made part of the registered sex offender's file maintained by the Sex Offender Tracking Program. The Facts of Offense Sheet shall thereafter be made available to law enforcement by the Department of Justice, which shall post it with the offender's record on the Department of Justice Internet Web site maintained pursuant to Section 290.46, and shall be accessible only to law enforcement.

(d) If the registered sex offender is sentenced to a period of incarceration, at either the state prison or a county jail, the Facts of Offense Sheet shall be sent by the Department of Corrections and Rehabilitation or the county sheriff to the registering law enforcement agency in the jurisdiction where the registered sex offender will be paroled or will live on release, within three days of the person's release. If the registered sex offender is committed to the State Department of State Hospitals, the Facts of Offense Sheet shall be sent by the State Department of State Hospitals to the registering law enforcement agency in the jurisdiction where the person will live on release, within three days of release.

SEC. 25. Section 1369.1 of the Penal Code is amended to read:

1369.1. (a) As used in this chapter, "treatment facility" includes a county jail. Upon the concurrence of the county board of supervisors, the county mental health director, and the county sheriff, the jail may be designated to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder, pursuant to this chapter. In the case of Madera, Napa, and Santa Clara Counties, the concurrence shall be with the board of supervisors, the county mental health director, and the county sheriff or the chief of corrections. The provisions of Sections 1370 and 1370.01 shall apply to antipsychotic medications provided in a county jail, provided, however, that the maximum period of time a defendant may be treated in a treatment facility pursuant to this section shall not exceed six months.

(b) This section does not abrogate or limit any provision of law enacted to ensure the due process rights set forth in *Sell v. United States* (2003) 539 U.S. 166.

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 26. Section 1370 of the Penal Code, as amended by Section 1 of Chapter 654 of the Statutes of 2011, is amended to read:

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

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

(i) In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered, or to any other available public or private treatment facility, including a local county jail treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600.

(ii) However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to

this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made, the prosecutor shall so notify the court and defendant in writing. After this notification, and opportunity for hearing, the court shall order that the defendant be delivered by the sheriff to a state hospital or other secure treatment facility for the care and treatment of the mentally disordered unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.

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

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

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

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

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

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

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

(A) The court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. The community program director or designee shall evaluate the appropriate placement for the defendant between a state hospital or a local county jail treatment facility based upon guidelines provided by the State Department of State Hospitals. If a local county jail treatment facility is selected, the State Department of State Hospitals shall provide treatment at the county jail treatment facility and reimburse the county jail treatment facility for the reasonable costs of the bed during the treatment. The six-month limitation in Section 1369.1 shall not apply to individuals deemed incompetent to stand trial who are being treated to restore competency within a county jail treatment facility pursuant to this section.

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

(i) If the defendant, with advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with this subdivision regarding whether antipsychotic medication shall be administered involuntarily.

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

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

(II) The defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on

another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.

(III) The people have charged the defendant with a serious crime against the person or property, involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial, the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner, less intrusive treatments are unlikely to have substantially the same results, and antipsychotic medication is in the patient's best medical interest in light of his or her medical condition.

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

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

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

(C) If the defendant consented to antipsychotic medication as described in clause (i) of subparagraph (B), but subsequently withdraws his or her consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (ii) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and

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

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

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

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

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

(D) State summary criminal history information.

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

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

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

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

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

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

(6) (A) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written

recommendation of the medical director of the state hospital and the community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the community program director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). Where either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.

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

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

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

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

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

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

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

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

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

attorney of the county in which criminal charges are pending, and the defendant's counsel of record of the outcome of the conservatorship proceedings.

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

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

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

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

(f) As used in this chapter, "community program director" means the person, agency, or entity designated by the State Department of State Hospitals pursuant to Section 1605 of this code and Section 4360 of the Welfare and Institutions Code.

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

(h) This section shall remain in effect only until July 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2012, deletes or extends that date.

SEC. 27. Section 1370 of the Penal Code, as added by Section 2 of Chapter 654 of the Statutes of 2011, is amended to read:

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

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

(i) In the meantime, the court shall order that the mentally incompetent defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered, or to any other available public or private treatment facility, including a local county jail treatment facility, approved by the community program director that will promote the

defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600.

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

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

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

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

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

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

(F) A defendant charged with a violent felony may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. If the court places a defendant charged with a violent felony on outpatient status, as specified in Section 1600, the court must serve copies of the placement order on

defense counsel, the sheriff in the county where the defendant will be placed and the district attorney for the county in which the violent felony charges are pending against the defendant.

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

(A) The court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. The community program director or designee shall evaluate the appropriate placement for the defendant between a state hospital or a local county jail treatment facility based upon guidelines provided by the State Department of State Hospitals. If a local county jail treatment facility is selected, the State Department of State Hospitals shall provide treatment at the county jail treatment facility and reimburse the county jail treatment facility for the reasonable costs of the bed during the treatment. The six-month limitation in Section 1369.1 shall not apply to individuals deemed incompetent to stand trial who are being treated to restore competency within a county jail treatment facility pursuant to this section.

(B) The court shall hear and determine whether the defendant lacks capacity to make decisions regarding the administration of antipsychotic medication, and shall proceed as follows:

(i) The court shall hear and determine whether any of the following is true:

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

(II) The defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in his or her being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm on others. Demonstrated

danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.

(III) The people have charged the defendant with a serious crime against the person or property, involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial, the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner, less intrusive treatments are unlikely to have substantially the same results, and antipsychotic medication is in the patient's best medical interest in light of his or her medical condition.

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

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

(iv) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication, and if the defendant, with advice of his or her counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with subparagraphs (C) and (D) regarding whether antipsychotic medication shall be administered involuntarily.

(v) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication and if the defendant, with advice from his or her counsel, does not consent, the court order for commitment shall indicate that, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with subparagraphs (C) and (D) regarding whether antipsychotic medication shall be administered involuntarily.

(vi) Any report made pursuant to paragraph (1) of subdivision (b) shall include a description of any antipsychotic medication administered to the

defendant and its effects and side effects, including effects on the defendant's appearance or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner. During the time the defendant is confined in a state hospital or other treatment facility or placed on outpatient status, either the defendant or the people may request that the court review any order made pursuant to this subdivision. The defendant, to the same extent enjoyed by other patients in the state hospital or other treatment facility, shall have the right to contact the patients' rights advocate regarding his or her rights under this section.

(C) If the defendant consented to antipsychotic medication as described in clause (iv) of subparagraph (B), but subsequently withdraws his or her consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (v) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and appropriate, the treating psychiatrist shall make efforts to obtain informed consent from the defendant for antipsychotic medication. If informed consent is not obtained from the defendant, and the treating psychiatrist is of the opinion that the defendant lacks capacity to make decisions regarding antipsychotic medication based on the conditions described in subclause (I) or (II) of clause (i) of subparagraph (B), the treating psychiatrist shall certify whether the lack of capacity and any applicable conditions described above exist. That certification shall contain an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate.

(D) (i) If the treating psychiatrist certifies that antipsychotic medication has become medically necessary and appropriate pursuant to subparagraph (C), antipsychotic medication may be administered to the defendant for not more than 21 days, provided, however, that, within 72 hours of the certification, the defendant is provided a medication review hearing before an administrative law judge to be conducted at the facility where the defendant is receiving treatment. The treating psychiatrist shall present the case for the certification for involuntary treatment and the defendant shall be represented by an attorney or a patients' rights advocate. The attorney or patients' rights advocate shall be appointed to meet with the defendant no later than one day prior to the medication review hearing to review the defendant's rights at the medication review hearing, discuss the process, answer questions or concerns regarding involuntary medication or the hearing, assist the defendant in preparing for the hearing and advocating for his or her interests at the hearing, review the panel's final determination following the hearing, advise the defendant of his or her right to judicial review of the panel's decision, and provide the defendant with referral information for legal advice on the subject. The defendant shall also have the following rights with respect to the medication review hearing:

- (I) To being given timely access to the defendant's records.
- (II) To be present at the hearing, unless the defendant waives that right.

- (III) To present evidence at the hearing.
- (IV) To question persons presenting evidence supporting involuntary medication.
- (V) To make reasonable requests for attendance of witnesses on the defendant's behalf.
- (VI) To a hearing conducted in an impartial and informal manner.
 - (i) If the administrative law judge determines that the defendant either meets the criteria specified in subclause (I) of clause (i) of subparagraph (B), or meets the criteria specified in subclause (II) of clause (i) of subparagraph (B), then antipsychotic medication may continue to be administered to the defendant for the 21-day certification period. Concurrently with the treating psychiatrist's certification, the treating psychiatrist shall file a copy of the certification and a petition with the court for issuance of an order to administer antipsychotic medication beyond the 21-day certification period. For purposes of this subparagraph, the treating psychiatrist shall not be required to pay or deposit any fee for the filing of the petition or other document or paper related to the petition.
 - (ii) If the administrative law judge disagrees with the certification, medication may not be administered involuntarily until the court determines that antipsychotic medication should be administered pursuant to this section.
 - (iii) The court shall provide notice to the prosecuting attorney and to the attorney representing the defendant, and shall hold a hearing, no later than 18 days from the date of the certification, to determine whether antipsychotic medication should be ordered beyond the certification period.
 - (iv) If, as a result of the hearing, the court determines that antipsychotic medication should be administered beyond the certification period, the court shall issue an order authorizing the administration of that medication.
 - (v) The court shall render its decision on the petition and issue its order no later than three calendar days after the hearing and, in any event, no later than the expiration of the 21-day certification period.
- (3) When the court orders that the defendant be confined in a state hospital or other public or private treatment facility, the court shall provide copies of the following documents which shall be taken with the defendant to the state hospital or other treatment facility where the defendant is to be confined:
 - (A) The commitment order, including a specification of the charges.
 - (B) A computation or statement setting forth the maximum term of commitment in accordance with subdivision (c).
 - (C) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.
 - (D) State summary criminal history information.
 - (E) Any arrest reports prepared by the police department or other law enforcement agency.
 - (F) Any court-ordered psychiatric examination or evaluation reports.
 - (G) The community program director's placement recommendation report.

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

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

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

(6) (A) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the community program director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). Where either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.

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

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

defendant is a person subject to clause (ii) or (iii) of subparagraph (B) of paragraph (1).

(7) An order by the court authorizing involuntary medication of the defendant shall be valid for no more than one year. The court shall review the order six months after the order was made to determine if the grounds for the authorization remain. In the review, the court shall consider the reports of the treating psychiatrist or psychiatrists and the defendant's patients' rights advocate or attorney. The court may require testimony from the treating psychiatrist or psychiatrists and the patients' rights advocate or attorney, if necessary. The court may continue the order authorizing involuntary medication for up to another six months, or vacate the order, or make any other appropriate order.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other treatment facility to which the defendant is confined shall make a written report to the court and the community program director for the county or region of commitment, or a designee, concerning the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the community program director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the community program director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood that the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, where the defendant is confined in a treatment facility, the medical director of the hospital or person in charge of the facility shall report in writing to the court and the community program director or a designee regarding the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the community program director on the defendant's progress toward recovery, and the community program director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the community program director or a designee.

(2) Where the court has issued an order authorizing the treating facility to involuntarily administer antipsychotic medication to the defendant, the reports made at six-month intervals concerning the defendant's progress toward regaining competency shall also consider the issue of involuntary medication. Each report shall include, but is not limited to, all the following:

(A) Whether or not the defendant has the capacity to make decisions concerning antipsychotic medication.

(B) If the defendant lacks capacity to make decisions concerning antipsychotic medication, whether the defendant risks serious harm to his or her physical or mental health if not treated with antipsychotic medication.

(C) Whether or not the defendant presents a danger to others if he or she is not treated with antipsychotic medication.

(D) Whether the defendant has a mental illness for which medications are the only effective treatment.

(E) Whether there are any side effects from the medication currently being experienced by the defendant that would interfere with the defendant's ability to collaborate with counsel.

(F) Whether there are any effective alternatives to medication.

(G) How quickly the medication is likely to bring the defendant to competency.

(H) Whether the treatment plan includes methods other than medication to restore the defendant to competency.

(I) A statement, if applicable, that no medication is likely to restore the defendant to competency.

(3) After reviewing the reports, the court shall determine whether or not grounds for the order authorizing involuntary administration of antipsychotic medication still exist and shall do one of the following:

(A) If the original grounds for involuntary medication still exist, the order authorizing the treating facility to involuntarily administer antipsychotic medication to the defendant shall remain in effect.

(B) If the original grounds for involuntary medication no longer exist, and there is no other basis for involuntary administration of antipsychotic medication, the order for the involuntary administration of antipsychotic medication shall be vacated.

(C) If the original grounds for involuntary medication no longer exist, and the report states that there is another basis for involuntary administration of antipsychotic medication, the court shall set a hearing within 21 days to determine whether the order for the involuntary administration of antipsychotic medication shall be vacated or whether a new order for the involuntary administration of antipsychotic medication shall be issued. The hearing shall proceed as set forth in subparagraph (B) of paragraph (2) of subdivision (a).

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

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

(6) At each review by the court specified in this subdivision, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination. If the court determines that the defendant shall continue to be treated in the state hospital or on an outpatient basis, the court shall determine issues concerning administration of antipsychotic medication, as set forth in subparagraph (B) of paragraph (2) of subdivision (a).

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

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

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

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

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

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but

without prejudice to the initiation of any proceedings that may be appropriate under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

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

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

(h) Nothing in this section shall preclude a defendant from filing a petition for habeas corpus to challenge the continuing validity of an order authorizing a treatment facility or outpatient program to involuntarily administer antipsychotic medication to a person being treated as incompetent to stand trial.

(i) This section shall become operative on July 1, 2012.

SEC. 28. Section 1372 of the Penal Code is amended to read:

1372. (a) (1) If the medical director of the state hospital or other facility to which the defendant is committed, or the community program director, county mental health director, or regional center director providing outpatient services, determines that the defendant has regained mental competence, the director shall immediately certify that fact to the court by filing a certificate of restoration with the court by certified mail, return receipt requested. For purposes of this section, the date of filing shall be the date on the return receipt.

(2) The court’s order committing an individual to a state hospital or other treatment facility pursuant to Section 1370 shall include direction that the sheriff shall redeliver the patient to the court without any further order from the court upon receiving from the state hospital or treatment facility a copy of the certificate of restoration.

(3) The defendant shall be returned to the committing court in the following manner:

(A) A patient who remains confined in a state hospital or other treatment facility shall be redelivered to the sheriff of the county from which the patient was committed. The sheriff shall immediately return the person from the state hospital or other treatment facility to the court for further proceedings.

(B) The patient who is on outpatient status shall be returned by the sheriff to court through arrangements made by the outpatient treatment supervisor.

(C) In all cases, the patient shall be returned to the committing court no later than 10 days following the filing of a certificate of restoration. The state shall only pay for 10 hospital days for patients following the filing of a certificate of restoration of competency. The State Department of State Hospitals shall report to the fiscal and appropriate policy committees of the

Legislature on an annual basis in February, on the number of days that exceed the 10-day limit prescribed in this subparagraph. This report shall include, but not be limited to, a data sheet that itemizes by county the number of days that exceed this 10-day limit during the preceding year.

(b) If the defendant becomes mentally competent after a conservatorship has been established pursuant to the applicable provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, and Section 1370, the conservator shall certify that fact to the sheriff and district attorney of the county in which the defendant's case is pending, defendant's attorney of record, and the committing court.

(c) When a defendant is returned to court with a certification that competence has been regained, the court shall notify either the community program director, the county mental health director, or the regional center director and the Director of Developmental Services, as appropriate, of the date of any hearing on the defendant's competence and whether or not the defendant was found by the court to have recovered competence.

(d) If the committing court approves the certificate of restoration to competence as to a person in custody, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on own recognizance status pending conclusion of the proceedings. If the superior court approves the certificate of restoration to competence regarding a person on outpatient status, unless it appears that the person has refused to come to court, that person shall remain released either on own recognizance status, or, in the case of a developmentally disabled person, either on the defendant's promise or on the promise of a responsible adult to secure the person's appearance in court for further proceedings. If the person has refused to come to court, the court shall set bail and may place the person in custody until bail is posted.

(e) A defendant subject to either subdivision (a) or (b) who is not admitted to bail or released under subdivision (d) may, at the discretion of the court, upon recommendation of the director of the facility where the defendant is receiving treatment, be returned to the hospital or facility of his or her original commitment or other appropriate secure facility approved by the community program director, the county mental health director, or the regional center director. The recommendation submitted to the court shall be based on the opinion that the person will need continued treatment in a hospital or treatment facility in order to maintain competence to stand trial or that placing the person in a jail environment would create a substantial risk that the person would again become incompetent to stand trial before criminal proceedings could be resumed.

(f) Notwithstanding subdivision (e), if a defendant is returned by the court to a hospital or other facility for the purpose of maintaining competency to stand trial and that defendant is already under civil commitment to that hospital or facility from another county pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or as a developmentally

disabled person committed pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, the costs of housing and treating the defendant in that facility following return pursuant to subdivision (e) shall be the responsibility of the original county of civil commitment.

SEC. 29. Section 1601 of the Penal Code is amended to read:

1601. (a) In the case of any person charged with and found incompetent on a charge of, convicted of, or found not guilty by reason of insanity of murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 in which the victim suffers intentionally inflicted great bodily injury, robbery or carjacking with a deadly or dangerous weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, a violation of paragraph (1) or (4) of subdivision (a) of Section 262, a violation of Section 459 in the first degree, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section 18715, 18725, 18740, 18745, 18750, or 18755, or any felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, outpatient status under this title shall not be available until that person has actually been confined in a state hospital or other treatment facility for 180 days or more after having been committed under the provisions of law specified in Section 1600.

(b) In the case of any person charged with, and found incompetent on a charge of, or convicted of, any misdemeanor or any felony other than those described in subdivision (a), or found not guilty of any misdemeanor by reason of insanity, outpatient status under this title may be granted by the court prior to actual confinement in a state hospital or other treatment facility under the provisions of law specified in Section 1600.

SEC. 30. Section 1605 of the Penal Code is amended to read:

1605. (a) In accordance with Section 1615 of this code and Section 5709.8 of the Welfare and Institutions Code, the State Department of State Hospitals shall be responsible for the supervision of persons placed on outpatient status under this title. The State Department of State Hospitals shall designate, for each county or region comprised of two or more counties, a community program director who shall be responsible for administering the community treatment programs for persons committed from that county or region under the provisions specified in Section 1600.

(b) The State Department of State Hospitals shall notify in writing the superior court, the district attorney, the county public defender or public defense agency, and the county mental health director of each county as to the person designated to be the community program director for that county, and timely written notice shall be given whenever a new community program director is to be designated.

(c) The community program director shall be the outpatient treatment supervisor of persons placed on outpatient status under this title. The community program director may delegate the outpatient treatment supervision responsibility to a designee.

(d) The outpatient treatment supervisor shall, at 90-day intervals following the beginning of outpatient treatment, submit to the court, the prosecutor and defense counsel, and to the community program director, where appropriate, a report setting forth the status and progress of the defendant.

SEC. 31. Section 1615 of the Penal Code is amended to read:

1615. Pursuant to Section 5709.8 of the Welfare and Institutions Code, the State Department of State Hospitals shall be responsible for the community treatment and supervision of judicially committed patients. These services shall be available on a county or regional basis. The department may provide these services directly or through contract with private providers or counties. The program or programs through which these services are provided shall be known as the Forensic Conditional Release Program.

The department shall contact all county mental health programs by January 1, 1986, to determine their interest in providing an appropriate level of supervision and treatment of judicially committed patients at reasonable cost. County mental health agencies may agree or refuse to operate such a program.

The State Department of State Hospitals shall ensure consistent data gathering and program standards for use statewide by the Forensic Conditional Release Program.

SEC. 32. Section 1616 of the Penal Code is amended to read:

1616. The state shall contract with a research agency which shall determine the prevalence of severe mental disorder among the state prison inmates and parolees, including persons admitted to prison, the resident population, and those discharged to parole. An evaluation of the array of services shall be performed, including the correctional, state hospital, and local inpatient programs; residential-level care and partial day care within the institutions as well as in the community; and the individual and group treatment which may be provided within the correctional setting and in the community upon release. The review shall include the interrelationship between the security and clinical staff, as well as the architectural design which aids meeting the treatment needs of these mentally ill offenders while maintaining a secure setting. Administration of these programs within the institutions and in the community shall be reviewed by the contracting agency. The ability of treatment programs to prevent reoffenses by inmates with severe mental disorders shall also be addressed. The process for evaluating inmates and parolees to determine their need for treatment and the ability to differentiate those who will benefit from treatment and those who will not shall be reviewed.

The State Department of State Hospitals, the Department of Corrections and Rehabilitation, and the Department of Justice shall cooperate with the research agency conducting this study.

The research agency conducting this study shall consult with the State Department of State Hospitals, the Department of Corrections and Rehabilitation, the Department of Justice, and the Forensic Mental Health Association of California in the design of the study.

SEC. 33. Section 1617 of the Penal Code is amended to read:

1617. The State Department of State Hospitals shall research the demographic profiles and other related information pertaining to persons receiving supervision and treatment in the Forensic Conditional Release Program. An evaluation of the program shall determine its effectiveness in successfully reintegrating these persons into society after release from state institutions. This evaluation of program effectiveness shall include, but not be limited to, a determination of the rates of reoffense while these persons are served by the program and after their discharge. This evaluation shall also address the effectiveness of the various treatment components of the program and their intensity.

The State Department of State Hospitals may contract with an independent research agency to perform this research and evaluation project. Any independent research agency conducting this research shall consult with the Forensic Mental Health Association concerning the development of the research and evaluation design.

SEC. 34. Section 1618 of the Penal Code is amended to read:

1618. The administrators and the supervision and treatment staff of the Forensic Conditional Release Program shall not be held criminally or civilly liable for any criminal acts committed by the persons on parole or judicial commitment status who receive supervision or treatment. This waiver of liability shall apply to employees of the State Department of State Hospitals, the Board of Parole Hearings, and the agencies or persons under contract to those agencies, who provide screening, clinical evaluation, supervision, or treatment to mentally ill parolees or persons under judicial commitment or considered for placement under a hold by the Board of Parole Hearings.

SEC. 35. Section 2684 of the Penal Code is amended to read:

2684. (a) If, in the opinion of the Secretary of the Department of Corrections and Rehabilitation, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, the Secretary of the Department of Corrections and Rehabilitation, with the approval of the Board of Parole Hearings for persons sentenced pursuant to subdivision (b) of Section 1168, shall certify that fact to the director of the appropriate department who shall evaluate the prisoner to determine if he or she would benefit from care and treatment in a state hospital. If the director of the appropriate department so determines, the superintendent of the hospital shall receive the prisoner and keep him or her until in the opinion of the superintendent the person has been treated to the extent that he or she will not benefit from further care and treatment in the state hospital.

(b) Whenever the Secretary of the Department of Corrections and Rehabilitation receives a recommendation from the court that a defendant convicted of a violation of Section 646.9 and sentenced to confinement in the state prison would benefit from treatment in a state hospital pursuant to subdivision (a), the secretary shall consider the recommendation. If

appropriate, the secretary shall certify that the rehabilitation of the defendant may be expedited by treatment in a state hospital and subdivision (a) shall apply.

SEC. 36. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of State Hospitals, and the State Department of State Hospitals shall provide the necessary treatment:

(a) (1) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

(2) The term “severe mental disorder” means an illness or disease or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term “severe mental disorder” as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

(3) The term “remission” means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person “cannot be kept in remission without treatment” if during the year prior to the question being before the Board of Parole Hearings or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner’s parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of State Hospitals have evaluated the prisoner at a facility of the Department of Corrections and Rehabilitation, and a chief psychiatrist of the Department of Corrections and Rehabilitation has certified to the Board of Parole Hearings that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner’s criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, and that by reason of his or

her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of State Hospitals pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections and Rehabilitation, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections and Rehabilitation.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Parole Hearings pursuant to this paragraph, then the Board of Parole Hearings shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) If at least one of the independent professionals who evaluate the prisoner pursuant to paragraph (2) concurs with the chief psychiatrist's certification of the issues described in paragraph (2), this subdivision shall be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) Any robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(E) Carjacking, as defined in subdivision (a) of Section 215, if it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the carjacking.

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(G) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(H) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(I) Lewd acts on a child under the age of 14 years in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 where the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 where the act posed a substantial danger of physical harm to others.

(M) Any felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section 18745.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in such a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph, substantial physical harm shall not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) As used in this chapter, "substantial danger of physical harm" does not require proof of a recent overt act.

SEC. 37. Section 2964 of the Penal Code is amended to read:

2964. (a) The treatment required by Section 2962 shall be inpatient unless the State Department of State Hospitals certifies to the Board of Parole Hearings that there is reasonable cause to believe the parolee can be safely and effectively treated on an outpatient basis, in which case the Board of Parole Hearings shall permit the State Department of State Hospitals to place the parolee in an outpatient treatment program specified by the State Department of State Hospitals. Any prisoner who is to be required to accept treatment pursuant to Section 2962 shall be informed in writing of his or her right to request a hearing pursuant to Section 2966. Prior to placing a parolee in a local outpatient program, the State Department of State Hospitals shall consult with the local outpatient program as to the appropriate treatment plan. Notwithstanding any other law, a parolee ordered to have outpatient treatment pursuant to this section may be placed in an outpatient treatment program used to provide outpatient treatment under Title 15 (commencing with Section 1600) of Part 2, but the procedural provisions of Title 15 shall not apply. The community program director or a designee of an outpatient program used to provide treatment under Title 15 in which a parolee is placed, may place the parolee, or cause the parolee to be placed, in a secure mental health facility if the parolee can no longer be safely or effectively treated in the outpatient program, and until the parolee can be safely and effectively treated in the program. Upon the request of the community program director or a designee, a peace officer shall take the parolee into custody and transport the parolee, or cause the parolee to be taken into

custody and transported, to a facility designated by the community program director, or a designee, for confinement under this section. Within 15 days after placement in a secure facility the State Department of State Hospitals shall conduct a hearing on whether the parolee can be safely and effectively treated in the program unless the patient or the patient's attorney agrees to a continuance, or unless good cause exists that prevents the State Department of State Hospitals from conducting the hearing within that period of time. If good cause exists, the hearing shall be held within 21 days after placement in a secure facility. For purposes of this section, "good cause" means the inability to secure counsel, an interpreter, or witnesses for the hearing within the 15-day time period. Before deciding to seek revocation of the parole of a parolee receiving mental health treatment pursuant to Section 2962, and return him or her to prison, the parole officer shall consult with the director of the parolee's outpatient program. Nothing in this section shall prevent hospitalization pursuant to Section 5150, 5250, or 5353 of the Welfare and Institutions Code.

(b) If the State Department of State Hospitals has not placed a parolee on outpatient treatment within 60 days after receiving custody of the parolee or after parole is continued pursuant to Section 3001, the parolee may request a hearing before the Board of Parole Hearings, and the board shall conduct a hearing to determine whether the prisoner shall be treated as an inpatient or an outpatient. At the hearing, the burden shall be on the State Department of State Hospitals to establish that the prisoner requires inpatient treatment as described in this subdivision. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978.

SEC. 38. Section 2968 of the Penal Code is amended to read:

2968. If the prisoner's severe mental disorder is put into remission during the parole period, and can be kept in remission, the Director of State Hospitals shall notify the Board of Parole Hearings and the State Department of State Hospitals shall discontinue treating the parolee.

SEC. 39. Section 2970 of the Penal Code is amended to read:

2970. Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital which is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Secretary of the Department of Corrections and Rehabilitation, shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital, the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits.

The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be

accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State Department of State Hospitals either in a state hospital or in an outpatient program. The petition shall also specify that the prisoner has a severe mental disorder, that the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued, and that, by reason of his or her severe mental disorder, the prisoner represents a substantial danger of physical harm to others.

SEC. 40. Section 2972 of the Penal Code is amended to read:

2972. (a) The court shall conduct a hearing on the petition under Section 2970 for continued treatment. The court shall advise the person of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing, however, in order to reduce costs the rules of criminal discovery, as well as civil discovery, shall be applicable.

The standard of proof under this section shall be proof beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless the time is waived by the person or unless good cause is shown.

(b) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(c) If the court or jury finds that the patient has a severe mental disorder, that the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and that by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which he or she was being treated at the time the petition was filed, or committed to the State Department of State Hospitals if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in Section 2970. Time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment or toward the person's term of extended commitment.

(d) A person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this subdivision, the provisions of Title 15 (commencing with Section 1600) of Part 2, shall apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 shall be that the person cannot be safely and effectively treated on an outpatient basis.

(e) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others. The recommitment proceeding shall be conducted in accordance with the provisions of this section.

(f) Any commitment under this article places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

(g) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and he or she shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health, or its successor, the State Department of State Hospitals, may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is being held. This subdivision and the regulations adopted pursuant thereto shall become operative on January 1, 1987, except that regulations may be adopted prior to that date.

SEC. 41. Section 2976 of the Penal Code is amended to read:

2976. (a) The cost of inpatient or outpatient treatment under Section 2962 or 2972 shall be a state expense while the person is under the jurisdiction of the Department of Corrections and Rehabilitation or the State Department of State Hospitals.

(b) Any person placed outside of a facility of the Department of Corrections and Rehabilitation for the purposes of inpatient treatment under this article shall not be deemed to be released from imprisonment or from the custody of the Department of Corrections and Rehabilitation prior to the expiration of the maximum term of imprisonment of the person.

SEC. 42. Section 2978 of the Penal Code is amended to read:

2978. (a) Any independent professionals appointed by the Board of Parole Hearings for purposes of this article shall not be state government employees; shall have at least five years of experience in the diagnosis and treatment of mental disorders; and shall include psychiatrists, and licensed psychologists who have a doctoral degree in psychology.

(b) On July 1 of each year the Department of Corrections and Rehabilitation and the State Department of State Hospitals shall submit to the Board of Parole Hearings a list of 20 or more independent professionals on which both departments concur. The professionals shall not be state government employees and shall have at least five years of experience in the diagnosis and treatment of mental disorders and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. For purposes of this article, when the Board of Parole Hearings receives the list, it shall only appoint independent professionals from the list. The list shall not be binding on the Board of Parole Hearings until it

has received the list, and shall not be binding after June 30 following receipt of the list.

SEC. 43. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the effective supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence resulting in imprisonment in the state prison pursuant to Section 1168 or 1170 shall include a period of parole supervision or postrelease community supervision, unless waived, or as otherwise provided in this article.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) For any person subject to a sexually violent predator proceeding pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, an order issued by a judge pursuant to Section 6601.5 of the Welfare and Institutions Code, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release, shall toll the period of parole of that person, from the date that person is released by the Department of Corrections and Rehabilitation as follows:

(A) If the person is committed to the State Department of State Hospitals as a sexually violent predator and subsequently a court orders that the person be unconditionally discharged, the parole period shall be tolled until the date the judge enters the order unconditionally discharging that person.

(B) If the person is not committed to the State Department of State Hospitals as a sexually violent predator, the tolling of the parole period shall be abrogated and the parole period shall be deemed to have commenced on the date of release from the Department of Corrections and Rehabilitation.

(5) Paragraph (4) applies to persons released by the Department of Corrections and Rehabilitation on or after January 1, 2012. Persons released by the Department of Corrections and Rehabilitation prior to January 1, 2012, shall continue to be subject to the law governing the tolling of parole in effect on December 31, 2011.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply to any inmate subject to Section 3000.08:

(1) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(2) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding 10 years, unless a longer period of parole is specified in Section 3000.1.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to subdivision (b) of Section 209, with the intent to commit a specified sex offense, or Section 667.51, 667.61, or 667.71, the period of parole shall be 10 years, unless a longer period of parole is specified in Section 3000.1.

(4) (A) Notwithstanding paragraphs (1) to (3), inclusive, in the case of a person convicted of and required to register as a sex offender for the commission of an offense specified in Section 261, 262, 264.1, 286, 288a, paragraph (1) of subdivision (b) of Section 288, Section 288.5, or 289, in which one or more of the victims of the offense was a child under 14 years of age, the period of parole shall be 20 years and six months unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of this determination and transmit a copy of it to the parolee.

(B) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter.

(C) There shall be a board hearing consistent with the procedures set forth in Sections 3041.5 and 3041.7 within 12 months of the date of any order returning the parolee to custody to consider the release of the inmate on parole, and notwithstanding the provisions of paragraph (2) of subdivision (b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(D) The provisions of Section 3042 shall not apply to any hearing held pursuant to this subdivision.

(5) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(6) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), (3), or (4), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), (3), and (4) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

(7) The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority or the department, whichever is applicable, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the department or the parole authority, whichever is applicable. The Department of Corrections and Rehabilitation or the board may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(8) For purposes of this chapter, the board shall be considered the parole authority.

(9) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the board, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

(10) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

SEC. 44. Section 3000.08 of the Penal Code, as amended by Section 17 of Chapter 12 of the First Extraordinary Session of the Statutes of 2011, is amended to read:

3000.08. (a) Persons released from state prison on or after October 1, 2011, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to the jurisdiction of and parole supervision by the Department of Corrections and Rehabilitation:

- (1) A serious felony as described in subdivision (c) of Section 1192.7.
- (2) A violent felony as described in subdivision (c) of Section 667.5.
- (3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.
- (4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.
- (5) Any crime where the person is required, as a condition of parole, to undergo treatment by the State Department of State Hospitals pursuant to Section 2962.

(b) Notwithstanding any other provision of law, all other offenders released from prison shall be placed on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450).

(c) Notwithstanding subdivision (a), any of the following persons released from state prison shall be subject to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation for a period of parole up to three years or the parole term the person was subject to at the time of the commission of the offense, whichever is greater:

(1) The person is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, and was subject to a period of parole exceeding three years at the time he or she committed a felony for which they were convicted and subsequently sentenced to state prison.

(2) The person was subject to parole for life pursuant to Section 3000.1 at the time of the commission of the offense that resulted in a conviction and state prison sentence.

(d) Except as described in subdivision (c), any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision.

(e) This section shall be operative only until July 1, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 45. Section 3000.08 of the Penal Code, as amended by Section 18 of Chapter 12 of the First Extraordinary Session of the Statutes of 2011, is amended to read:

3000.08. (a) Persons released from state prison prior to or on or after July 1, 2013, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be

subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody:

(1) A serious felony as described in subdivision (c) of Section 1192.7.
(2) A violent felony as described in subdivision (c) of Section 667.5.
(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.

(5) Any crime where the person is required, as a condition of parole, to undergo treatment by the State Department of State Hospitals pursuant to Section 2962.

(b) Notwithstanding any other provision of law, all other offenders released from prison shall be placed on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450).

(c) At any time during the period of parole of a person subject to this section, if any parole agent or peace officer has probable cause to believe that the parolee is violating any term or condition of his or her parole, the agent or officer may, without warrant or other process and at any time until the final disposition of the case, arrest the person and bring him or her before the parole authority, or the parole authority may, in its discretion, issue a warrant for that person's arrest.

(d) Upon review of the alleged violation and a finding of good cause that the parolee has committed a violation of law or violated his or her conditions of parole, the parole authority may impose additional and appropriate conditions of supervision, including rehabilitation and treatment services and appropriate incentives for compliance, and impose immediate, structured, and intermediate sanctions for parole violations, including flash incarceration in a county jail. Periods of "flash incarceration," as defined in subdivision (e) are encouraged as one method of punishment for violations of a parolee's conditions of parole. Nothing in this section is intended to preclude referrals to a reentry court pursuant to Section 3015.

(e) "Flash incarceration" is a period of detention in county jail due to a violation of a parolee's conditions of parole. The length of the detention period can range between one and 10 consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee's conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention.

(f) If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising agency shall petition the revocation hearing officer appointed pursuant to Section 71622.5 of the Government Code in the county in which the parolee is being supervised to revoke parole. At any point during the process initiated pursuant to this

section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the revocation hearing officer shall have authority to do any of the following:

(1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail.

(2) Revoke parole and order the person to confinement in the county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(g) Confinement pursuant to paragraphs (1) and (2) of subdivision (f) shall not exceed a period of 180 days in the county jail.

(h) Notwithstanding any other provision of law, in any case where Section 3000.1 applies to a person who is on parole and there is good cause to believe that the person has committed a violation of law or violated his or her conditions of parole, and there is imposed a period of imprisonment of longer than 30 days, that person shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

(i) Notwithstanding subdivision (a), any of the following persons released from state prison shall be subject to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation for a period of parole up to three years or the parole term the person was subject to at the time of the commission of the offense, whichever is greater:

(1) The person is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, and was subject to a period of parole exceeding three years at the time he or she committed a felony for which they were convicted and subsequently sentenced to state prison.

(2) The person was subject to parole for life pursuant to Section 3000.1 at the time of the commission of the offense that resulted in a conviction and state prison sentence.

(j) Parolees subject to this section who are being held for a parole violation in a county jail on July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings.

(k) Except as described in subdivision (c), any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision.

(l) This section shall become operative on July 1, 2013.

SEC. 46. Section 3058.8 of the Penal Code is amended to read:

3058.8. (a) At the time a notification is sent pursuant to subdivision (a) of Section 3058.6, the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the designated agency responsible for notification, as the case may be, shall also notify persons described in Section 679.03 who have requested a notice informing those persons of the fact that the person who committed the violent offense is scheduled to be released from the Department of Corrections and Rehabilitation or from the State Department of State Hospitals, including, but not limited to, conditional release, and specifying the proposed date of release. Notice of the community in which the person is scheduled to reside shall also be given if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notification, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the board or department shall provide the witness, victim, or next of kin with the revised information.

(b) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the department or board informed of his or her current contact information.

(c) The board or department, when sending out notices regarding an offender's release on parole, shall use the information provided by the requesting party pursuant to subdivision (b) of Section 679.03, unless that information is no longer current. If the information is no longer current, the department shall make a reasonable attempt to contact the person and to notify him or her of the impending release.

SEC. 47. Section 3072 of the Penal Code is amended to read:

3072. (a) The Department of Corrections and Rehabilitation, subject to the legislative appropriation of the necessary funds, may establish and operate, after January 1, 2007, a specialized sex offender treatment pilot program for inmates whom the department determines pose a high risk to the public of committing violent sex crimes.

(b) (1) The program shall be based upon the relapse prevention model and shall include referral to specialized services, such as substance abuse treatment, for offenders needing those specialized services.

(2) Except as otherwise required under Section 645, the department may provide medication treatments for selected offenders, as determined by medical protocols, and only on a voluntary basis and with the offender's informed consent.

(c) (1) The program shall be targeted primarily at adult sex offenders who meet the following conditions:

(A) The offender is within five years of being released on parole. An inmate serving a life term may be excluded from treatment until he or she receives a parole date and is within five years of that parole date, unless the department determines that the treatment is necessary for the public safety.

(B) The offender has been clinically assessed.

(C) A review of the offender's criminal history indicates that the offender poses a high risk of committing new sex offenses upon his or her release on parole.

(D) Based upon the clinical assessment, the offender may be amenable to treatment.

(2) The department may include other appropriate offenders in the treatment program if doing so facilitates the effectiveness of the treatment program.

(3) Notwithstanding any other provision of law, inmates who are condemned to death or sentenced to life without the possibility of parole are ineligible to participate in treatment.

(d) The program under this section shall be established with the assistance and supervision of the staff of the department primarily by obtaining the services of specially trained sex offender treatment providers, as determined by the secretary of the department and the Director of State Hospitals.

(e) (1) The program under this section, upon full implementation, shall provide for the treatment of inmates who are deemed to pose a high risk to the public of committing sex crimes, as determined by the State-Authorized Risk Assessment Tool for Sex Offenders, pursuant to Sections 290.04 to 290.06, inclusive.

(2) To the maximum extent that is practical and feasible, offenders participating in the treatment program shall be held in a separate area of the prison facility, segregated from any non-sex offenders held at the same prison, and treatment in the pilot program shall be provided in program space segregated, to the maximum extent that is practical and feasible, from program space for any non-sex offenders held at the same prison.

(f) (1) The State Department of Mental Health, or its successor, the State Department of State Hospitals, by January 1, 2012, shall provide a report evaluating the program to the fiscal and public safety policy committees of both houses of the Legislature, and to the Joint Legislative Budget Committee.

(2) The report shall initially evaluate whether the program under this section is operating effectively, is having a positive clinical effect on participating sex offenders, and is cost effective for the state.

(3) In conducting its evaluation, the State Department of Mental Health, or its successor, the State Department of State Hospitals, shall consider the effects of treatment of offenders while in prison and while subsequently on parole.

(4) The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall advise the Legislature as to whether the program should be continued past its expiration date, expanded, or concluded.

SEC. 48. Section 3451 of the Penal Code is amended to read:

3451. (a) Notwithstanding any other law and except for persons serving a prison term for any crime described in subdivision (b), all persons released from prison on and after October 1, 2011, or, whose sentence has been deemed served pursuant to Section 2900.5 after serving a prison term for a

felony shall, upon release from prison and for a period not exceeding three years immediately following release, be subject to community supervision provided by a county agency designated by each county's board of supervisors which is consistent with evidence-based practices, including, but not limited to, supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under postrelease supervision.

(b) This section shall not apply to any person released from prison after having served a prison term for any of the following:

- (1) A serious felony described in subdivision (c) of Section 1192.7.
- (2) A violent felony described in subdivision (c) of Section 667.5.
- (3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.
- (4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.
- (5) Any crime where the person is required, as a condition of parole, to undergo treatment by the State Department of State Hospitals pursuant to Section 2962.

(c) (1) Postrelease supervision under this title shall be implemented by a county agency according to a postrelease strategy designated by each county's board of supervisors.

(2) The Department of Corrections and Rehabilitation shall inform every prisoner subject to the provisions of this title, upon release from state prison, of the requirements of this title and of his or her responsibility to report to the county agency responsible for serving that inmate. The department shall also inform persons serving a term of parole for a felony offense who are subject to this section of the requirements of this title and of his or her responsibility to report to the county agency responsible for serving that parolee. Thirty days prior to the release of any person subject to postrelease supervision by a county, the department shall notify the county of all information that would otherwise be required for parolees under subdivision (e) of Section 3003.

SEC. 49. Section 5021 of the Penal Code is amended to read:

5021. (a) Any death that occurs in any facility operated by the Department of Corrections and Rehabilitation, the State Department of State Hospitals, a city, county, or city and county, including county juvenile facilities, or any facility which is under contract with any of these entities for the incarceration, rehabilitation, holding, or treatment of persons accused or convicted of crimes, shall be reported within a reasonable time, not to exceed two hours, of its discovery by authorities in the facility to the county sheriff, or his or her designated representative, and to the coroner's office, of the county in which the facility is located, as provided in Section 27491 of the Government Code. These deaths shall also be reported to the district attorney, or his or her designated representative, of the county in which the facility is located as soon as a representative of the district attorney's office is on duty. If the facility is located within the city limits of an incorporated

city, the report shall also be made to the chief of police in that city, or to his or her designated representative, within a reasonable time, not to exceed two hours, of its discovery.

Any death of a person in a facility operated by the Department of Corrections and Rehabilitation shall also be reported to the Chief of Medical Services in the Central Office of the Department of Corrections and Rehabilitation, or his or her designated representative, as soon as a representative of that office is on duty.

(b) The initial report of the death of a person required in subdivision (a) may be transmitted by telephone, direct contact, or by written notification, and shall outline all pertinent facts known at the time the report is made and all persons to contact, in addition to any other information the reporting person or officer deems pertinent.

(c) The initial report of the death of a person as required in subdivision (a) shall be supplemented by a written report, which shall be submitted to the entities listed in subdivision (a) within eight hours of the discovery of the death. This written report shall include all circumstances and details of the death that were known at the time the report was prepared, and shall include the names of all persons involved in the death, and all persons with knowledge of the circumstances surrounding the death.

SEC. 50. Section 5024 of the Penal Code is amended to read:

5024. (a) The Legislature finds and declares that:

(1) State costs for purchasing drugs and medical supplies for the health care of offenders in state custody have grown rapidly in recent years and will amount to almost seventy-five million dollars (\$75,000,000) annually in the 1999–2000 fiscal year.

(2) The Bureau of State Audits found in a January 2000 audit report that the state could save millions of dollars annually by improving its current processes for the procurement of drugs for inmate health care and by pursuing alternative procurement methods.

(3) It is the intent of the Legislature that the Department of Corrections and Rehabilitation, in cooperation with the Department of General Services and other appropriate state agencies, take prompt action to adopt cost-effective reforms in its drug and medical supply procurement processes by establishing a program to obtain rebates from drug manufacturers, implementing alternative contracting and procurement reforms, or by some combination of these steps.

(b) (1) The Secretary of the Department of Corrections and Rehabilitation, pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt regulations requiring manufacturers of drugs to pay the department a rebate for the purchase of drugs for offenders in state custody that is at least equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)). Any such regulation shall, at a minimum, specify the procedures for notifying drug manufacturers of the rebate requirements and for collecting rebate payments.

(2) If a rebate program is implemented, the secretary shall develop, maintain, and update as necessary a list of drugs to be provided under the rebate program, and establish a rate structure for reimbursement of each drug included in the rebate program. Rates shall not be less than the actual cost of the drug. However, the secretary may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug. In order to minimize state administrative costs and maximize state benefits for the rebate program, the secretary may establish a program that focuses upon obtaining rebates for those drugs that it determines are purchased by the department in relatively large volumes.

(3) If a rebate program is implemented, the department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by this subdivision. Drugs may be removed from the list for failure to pay the rebate required by this subdivision, unless the department determines that purchase of the drug is a medical necessity or that purchase of the drug is necessary to comply with a court order to ensure the appropriate provision of quality health care to offenders in state custody.

(4) In order to minimize state administrative costs and maximize state benefits for such a rebate program, if one is implemented, the Department of Corrections and Rehabilitation may enter into interagency agreements with the Department of General Services, the State Department of Health Care Services, the State Department of State Hospitals, or the State Department of Developmental Services, the University of California, another appropriate state department, or with more than one of those entities, for joint participation in a rebate program, collection and monitoring of necessary drug price and rebate data, the billing of manufacturers for rebates, the resolution of any disputes over rebates, and any other services necessary for the cost-effective operation of the rebate program.

(5) The Department of Corrections and Rehabilitation, separately or in cooperation with other state agencies, may contract for the services of a pharmaceutical benefits manager for any services necessary for the cost-effective operation of the rebate program, if one is implemented, or for other services to improve the contracting and procurement of drugs and medical supplies for inmate health care.

(c) Nothing in this section shall prohibit the department, as an alternative to or in addition to establishing a rebate program for drugs for inmate health care, from implementing, in cooperation with the Department of General Services and other appropriate state agencies, other cost-effective strategies for procurement of drugs and medical supplies for offenders in state custody, including, but not limited to:

(1) Improvements in the existing statewide master agreement procedures for purchasing contract and noncontract drugs at a discount from drug manufacturers.

(2) Participation by offenders in state custody infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immunodeficiency syndrome (AIDS), in the AIDS Drug Assistance Program.

(3) Membership in the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) or other cooperative purchasing arrangements with other governmental entities.

(4) Greater centralization or standardization of procurement of drugs and medical supplies among individual prisons in the Department of Corrections and Rehabilitation prison system.

(d) The Bureau of State Audits shall report to the Legislature and the Governor by January 10, 2002, its findings in regard to:

(1) An evaluation of the trends in state costs for the procurement of drugs and medical supplies for offenders in state custody, and an assessment of the major factors affecting those trends.

(2) A summary of the steps taken by the Department of Corrections and Rehabilitation, the Department of General Services, and other appropriate state agencies to implement this section.

(3) An evaluation of the compliance by these state agencies with the findings and recommendations of the January 2000 Bureau of State Audits report for reform of procurement of drugs and medical supplies for offenders in state custody.

(4) Any further recommendations of the Bureau of State Audits for reform of state drug procurement practices, policies, or statutes.

SEC. 51. Section 6007 of the Penal Code is amended to read:

6007. (a) No person shall be employed initially by the department unless that person, after an offer of employment, completes an examination, a test, or a medical evaluation and is found to be free of tuberculosis in an infectious or contagious stage prior to assuming work duties.

(b) As a condition of continued employment with the department, those employees who are skin-test negative shall receive an examination or test at least once a year, or more often if directed by the department, for as long as the employee remains skin-test negative. If an employee has a documented positive skin test, the employee shall have a medical evaluation to determine the need for followup care. An employee with a positive skin test shall follow the department's guidelines for tuberculosis control.

(c) The department shall ensure that all examinations or tests and medical evaluations, as defined in subdivisions (b) and (c) of Section 6006.5, to diagnose and assess the health conditions of the person, meet the following conditions:

(1) Are made available to the employee promptly at a reasonable time and place.

(2) Are made available at no cost to the employee.

(3) Are performed by, or under the supervision of, a licensed health care professional.

(d) The examinations or tests or medical evaluations required pursuant to this chapter shall be offered by the department. The department may contract with a medical provider to administer the examinations or tests or medical evaluations. Employees who elect not to accept the department's offer shall obtain the examinations or tests or medical evaluations through their personal health care providers at no cost to the department.

The requirements of this section apply to the Department of Corrections and Rehabilitation and the Board of Parole Hearings. Notwithstanding any other provision of law, each department or board shall be responsible for the costs of the testing or evaluation required by this section for its own employees or potential employees.

(e) Followup care for tuberculosis infection or treatment for tuberculosis disease shall be pursued through the workers' compensation system as provided in Division 4 (commencing with Section 3200) and Division 5 (commencing with Section 6300) of the Labor Code for job-related incidents or through the employee's health insurance plan for non-job-related incidents. The department shall file a first report of injury for an employee whose examination or test for tuberculosis is positive. In addition, the department shall follow the guidelines, policies, and procedures of the workers' compensation early intervention program pursuant to Section 3214 of the Labor Code.

(f) Each employee, including employees who are employed initially, shall submit a signed certificate to the department annually that may be reviewed by the chief medical officer of the department.

(g) The department shall maintain a file containing an up-to-date certificate for each employee.

(h) Nothing in this section shall prevent the department from requiring and providing more extensive or more frequent examinations or tests.

(i) The department shall not discriminate against any employee because the employee tested positive for tuberculosis.

(j) All volunteers of the department shall be required to furnish the department with a certificate prior to assuming their volunteer duties and annually thereafter, showing that the volunteer has been examined and found to be free of tuberculosis in an infectious or contagious stage.

(k) The department shall maintain a file containing an up-to-date certificate for each volunteer.

(l) Employees from other state agencies, including, but not limited to, the State Department of State Hospitals and the Department of Forestry and Fire Protection, who are assigned to work in an institution, as defined in subdivision (h) of Section 6006.5, or who are assigned to work with inmates or wards on a regular basis, as defined in the department's guidelines, shall comply with the following requirements:

(1) Receive an examination or test prior to assuming their duties and at least once a year thereafter, or more often if directed by the department, for as long as the employee remains skin-test negative.

(2) Receive a medical evaluation to determine the need for followup care and follow the department's guidelines for tuberculosis control if an employee has a documented positive skin test.

(3) Submit a signed certificate to the department prior to assuming his or her duties and annually thereafter, showing that the employee has been found to be free of tuberculosis in an infectious or contagious state.

(4) Pursue followup care for tuberculosis infection or treatment for tuberculosis disease through the appropriate programs in their agency or department.

(m) The department shall offer the examinations, tests, or medical evaluations required pursuant to this chapter to employees of other state agencies or departments and may contract with a medical provider to administer the examinations, tests, or medical evaluations. Employees of other state agencies or departments who elect not to accept the department's offer shall obtain the examinations, tests, or medical evaluations from their personal health care provider at no cost to the department.

(n) The department shall maintain a file containing an up-to-date certificate for each employee from other state agencies who works in an institution.

SEC. 52. Section 6044 of the Penal Code is amended to read:

6044. (a) The Council on Mentally Ill Offenders is hereby established within the Department of Corrections and Rehabilitation. The council shall be composed of 12 members, one of whom shall be the secretary of the department who shall be designated as the chairperson, one of whom shall be the Director of State Hospitals, one of whom shall be the Director of Health Care Services, and nine of whom shall be appointed. The Governor shall appoint three members, at least one of whom shall represent mental health. The Senate Committee on Rules shall appoint two members, one representing law enforcement and one representing mental health. The Speaker of the Assembly shall appoint two members, one representing law enforcement and one representing mental health. The Attorney General shall appoint one member. The Chief Justice of the California Supreme Court shall appoint one member who shall be a superior court judge.

(b) The council shall select a vice chairperson from among its members. Six members of the council shall constitute a quorum.

(c) The Director of State Hospitals and the Director of Health Care Services shall serve as the liaison to the California Health and Human Services Agency and any departments within that agency necessary to further the purposes of this article.

(d) Members of the council shall receive no compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the board shall be deemed performance by a member of the duties of his or her state or local government employment.

(e) The goal of the council shall be to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who are likely to become offenders or who have a history of offending. The council shall:

(1) Identify strategies for preventing adults and juveniles with mental health needs from becoming offenders.

(2) Identify strategies for improving the cost-effectiveness of services for adults and juveniles with mental health needs who have a history of offending.

(3) Identify incentives to encourage state and local criminal justice, juvenile justice, and mental health programs to adopt cost-effective approaches for serving adults and juveniles with mental health needs who are likely to offend or who have a history of offending.

(f) The council shall consider strategies that:

(1) Improve service coordination among state and local mental health, criminal justice, and juvenile justice programs.

(2) Improve the ability of adult and juvenile offenders with mental health needs to transition successfully between corrections-based, juvenile justice-based, and community-based treatment programs.

(g) The Secretary of the Department of Corrections and Rehabilitation, the Director of State Hospitals, and the Director of Health Care Services may furnish for the use of the council those facilities, supplies, and personnel as may be available therefor. The council may secure the assistance of any state agency, department, or instrumentality in the course of its work.

(h) (1) The Council on Mentally Ill Offenders shall file with the Legislature, not later than December 31 of each year, a report that shall provide details of the council's activities during the preceding year. The report shall include recommendations for improving the cost-effectiveness of mental health and criminal justice programs.

(2) After the first year of operation, the council may recommend to the Legislature and Governor modifications to its jurisdiction, composition, and membership that will further the purposes of this article.

(i) The Council on Mentally Ill Offenders is authorized to apply for any funds that may be available from the federal government or other sources to further the purposes of this article.

(j) (1) For purposes of this article, the council shall address the needs of adults and juveniles who meet the following criteria: persons who have been arrested, detained, incarcerated, or are at a significant risk of being arrested, detained, or incarcerated, and who have a mental disorder as defined in Section 1830.205 of Title 9 of the California Code of Regulations.

(2) The council may expand its purview to allow it to identify strategies that are preventive in nature and could be directed to identifiable categories of adults and juveniles that fall outside of the above definitions.

SEC. 53. Section 13510.5 of the Penal Code is amended to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards for training of peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by any railroad company, the California State Police Division, the University of California Police Department, a California State University police department, the Department of Alcoholic Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and Game, the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, the Department of Motor Vehicles, the California Horse Racing Board, the Bureau of Food and Drug, the Division of Labor Law

Enforcement, the Director of Parks and Recreation, the State Department of Health Care Services, the Department of Toxic Substances Control, the State Department of Social Services, the State Department of State Hospitals, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Office of Statewide Health Planning and Development, and the Department of Justice. All rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 54. Section 13885.6 of the Penal Code is amended to read:

13885.6. The Department of Justice shall establish and maintain a comprehensive file of existing information maintained by law enforcement agencies, probation departments, the Department of Corrections and Rehabilitation, the State Department of State Hospitals, the Department of Motor Vehicles, and the Department of Justice. The Department of Justice may request the Department of Corrections and Rehabilitation, the State Department of State Hospitals, the Department of Motor Vehicles, law enforcement agencies, and probation departments to provide existing information from their files regarding persons identified by the Department of Justice as high risk sex offenders pursuant to Section 13885.4. The Department of Corrections and Rehabilitation, the State Department of State Hospitals, the Department of Motor Vehicles, law enforcement agencies, and probation departments, when requested by the Department of Justice, shall provide copies of existing information maintained in their files regarding persons identified by the Department of Justice as high risk sex offenders and shall provide followup information to the Department of Justice as it becomes available, unless otherwise prohibited by federal law. This information shall include, but is not limited to, criminal histories, Facts of Offense Sheets, sex offender registration records, police reports, probation and presentencing reports, judicial records and case files, juvenile records, psychological evaluations and psychological hospital reports, and sexually violent predator treatment program reports. This information shall also include records that have been sealed. This information shall be provided to the Department of Justice in a manner and format jointly approved by the submitting department and the Department of Justice. This high risk sex offender file shall be maintained by the Department of Justice High Risk Sex Offender Program and shall contain a complete physical description and method of operation of the high risk sex offender, information describing his or her interaction with criminal justice agencies, and his or her prior criminal record. The Department of Justice also shall prepare a bulletin on each high risk sex offender for distribution to law enforcement agencies.

SEC. 55. Section 14202.2 of the Penal Code is amended to read:

14202.2. (a) The Department of Justice, in conjunction with the Department of Corrections and Rehabilitation, shall update any supervised release file that is available to law enforcement on the California Law Enforcement Telecommunications System every 10 days to reflect the most recent inmates paroled from facilities under the jurisdiction of the Department of Corrections and Rehabilitation.

(b) Commencing on July 1, 2001, The Department of Justice, in consultation with the State Department of Mental Health, or its successor, the State Department of State Hospitals, shall also update any supervised release file that is available to law enforcement on the California Law Enforcement Telecommunications System every 10 days to reflect patients undergoing community mental health treatment and supervision through the Forensic Conditional Release Program administered by the State Department of Mental Health, or its successor, the State Department of State Hospitals, other than individuals committed as incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.

SEC. 56. Section 28220 of the Penal Code is amended to read:

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold

delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

SEC. 57. Section 28225 of the Penal Code is amended to read:

28225. (a) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(b) The fee under subdivision (a) shall be no more than is necessary to fund the following:

- (1) The department for the cost of furnishing this information.
- (2) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.
- (3) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.
- (4) The State Department of State Hospitals for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.
- (5) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.
- (6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.
- (7) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.
- (8) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.
- (9) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(10) The department for the costs associated with subdivisions (d) and (e) of Section 27560.

(11) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, possession, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(c) The fee established pursuant to this section shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (3) of subdivision (b), the costs of the State Department of State Hospitals for complying with the requirements imposed by paragraph (4) of subdivision (b), the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (5) of subdivision (b), the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subdivisions (d) and (e) of Section 27560, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, possession, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(d) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in this section to the department.

SEC. 58. Section 29515 of the Penal Code is amended to read:

29515. (a) Upon receipt of an initial or renewal application submitted as specified in Sections 29505, 29520, and 29525, the department shall examine its records, records the department is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, and records of the National Instant Criminal Background Check System as described in subsection (t) of Section 922 of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or receiving firearms.

(b) The department shall issue an entertainment firearms permit only if the records indicate that the applicant is not prohibited from possessing or receiving firearms pursuant to any federal, state, or local law.

SEC. 59. Section 30105 of the Penal Code is amended to read:

30105. (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the personal information required by Section 28160 or 28165, as applicable, but not any information

regarding any firearm, to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars (\$20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department.

(d) Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department's notification shall state either "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed."

(e) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(f) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's Internet Web site.

(g) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(h) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(i) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (d) the following statements:

"No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 30105 of the Penal Code. A violation of these provisions is a misdemeanor."

“If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required.”

SEC. 60. Section 736 of the Welfare and Institutions Code is amended to read:

736. (a) Except as provided in Section 733, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall accept a ward committed to it pursuant to this article if the Chief Deputy Secretary for the Division of Juvenile Justice believes that the ward can be materially benefited by the division’s reformatory and educational discipline, and if the division has adequate facilities, staff, and programs to provide that care. A ward subject to this section shall not be transported to any facility under the jurisdiction of the division until the superintendent of the facility has notified the committing court of the place to which that ward is to be transported and the time at which he or she can be received.

(b) To determine who is best served by the Division of Juvenile Facilities, and who would be better served by the State Department of State Hospitals, the Chief Deputy Secretary for the Division of Juvenile Justice and the Director of State Hospitals shall, at least annually, confer and establish policy with respect to the types of cases that should be the responsibility of each department.

SEC. 61. Section 1756 of the Welfare and Institutions Code is amended to read:

1756. Notwithstanding any other provision of law, if, in the opinion of the Chief Deputy Secretary for the Division of Juvenile Justice, the rehabilitation of any mentally disordered, or developmentally disabled person confined in a state correctional school may be expedited by treatment at one of the state hospitals under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, the Chief Deputy Secretary for the Division of Juvenile Justice shall certify that fact to the director of the appropriate department who may authorize receipt of the person at one of the hospitals for care and treatment. Upon notification from the director that the person will no longer benefit from further care and treatment in the state hospital, the Chief Deputy Secretary for the Division of Juvenile Justice shall immediately send for, take, and receive the person back into a state correctional school. Any person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his or her commitment unless a petition for detention of that person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 62. Section 3300 of the Welfare and Institutions Code is amended to read:

3300. There is hereby established an institution and branches, under the jurisdiction of the Department of Corrections and Rehabilitation, to be known as the California Rehabilitation Center. Branches may be established in existing institutions of the Department of Corrections and Rehabilitation,

Division of Adult Operations, in halfway houses as described in Section 3153, in such other facilities as may be made available on the grounds of other state institutions, and in city and county correctional facilities where treatment facilities are available. Branches shall not be established on the grounds of such other institutions in any manner which will result in the placement of patients of such institutions into inferior facilities. Branches placed in a facility of the State Department of State Hospitals shall have prior approval of the Director of State Hospitals, and branches placed in a facility of the State Department of Developmental Services shall have the prior approval of the Director of Developmental Services. Commencing July 1, 2005, the branches in the Department of Corrections and Rehabilitation, Division of Juvenile Facilities shall be established by order of the secretary, and shall be subject to his or her administrative direction. Branches placed in city or county facilities shall have prior approval of the legislative body of the city or county.

Persons confined pursuant to this section in branches established in city and county correctional facilities shall be housed separately from the prisoners therein, and shall be entitled to receive treatment substantially equal to that which would be afforded those persons if confined in the main institution of the California Rehabilitation Center.

SEC. 63. Section 4000 of the Welfare and Institutions Code is amended to read:

4000. There is in the California Health and Human Services Agency a State Department of State Hospitals.

SEC. 64. Section 4001 of the Welfare and Institutions Code is amended to read:

4001. As used in this division "state hospital" means any hospital specified in Section 4100.

SEC. 65. Section 4004 of the Welfare and Institutions Code is amended to read:

4004. The department is under the control of an executive officer known as the Director of State Hospitals.

SEC. 66. Section 4005 of the Welfare and Institutions Code is amended to read:

4005. With the consent of the Senate, the Governor shall appoint, to serve at his or her pleasure, the Director of State Hospitals. He or she shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

SEC. 67. Section 4005.5 is added to the Welfare and Institutions Code, to read:

4005.5. All regulations relating to state hospitals previously adopted by the State Department of Mental Health pursuant to authority now vested in the State Department of State Hospitals by Section 4005.1 and in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Director of State Hospitals.

SEC. 68. Section 4006 of the Welfare and Institutions Code is amended to read:

4006. With the approval of the Department of Finance and for use in the furtherance of the work of the State Department of State Hospitals, the director may accept any or all of the following:

- (a) Grants of interest in real property.
- (b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.
- (c) Gifts of money from public agencies or from persons, organizations, or associations interested in the scientific, educational, charitable, or mental health fields.

SEC. 69. Section 4008 of the Welfare and Institutions Code is amended to read:

4008. (a) The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

(b) For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for officers and employees of the department for which these officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

(1) Attending meetings of any national or regional association or organization having as its principal purpose the study of matters relating to the care and treatment of mentally ill persons.

(2) Conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management.

(3) Obtaining information from organizations, associations, or persons described in paragraphs (1) and (2) which would be useful in the conduct of the activities of the State Department of State Hospitals.

SEC. 70. Section 4010 of the Welfare and Institutions Code is amended to read:

4010. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of State Hospitals.

SEC. 71. Section 4011.5 of the Welfare and Institutions Code is amended to read:

4011.5. In counties where hospitals under the jurisdiction of the State Department of State Hospitals are located, the state hospitals shall ensure

that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of Division 4 of Title 2 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

SEC. 72. Section 4012 of the Welfare and Institutions Code is amended to read:

4012. The State Department of State Hospitals, the State Department of Health Care Services, and other departments as necessary, may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental illness.

(b) Upon request, advise all public officers, organizations and agencies interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental health facilities throughout the state.

(d) Coordinate state activities involving other departments whose actions affect mentally ill persons.

(e) Coordinate with, and provide information to, other states and national organizations, on issues involving mental health.

(f) Disseminate information and federal and private foundation funding opportunities to counties and cities that administer mental health programs.

SEC. 73. Section 4012.5 of the Welfare and Institutions Code is amended to read:

4012.5. The State Department of State Hospitals may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

SEC. 74. Section 4015 of the Welfare and Institutions Code is amended to read:

4015. (a) The State Department of State Hospitals shall, in coordination with the task force described in subdivision (c) and with other state entities, including, but not limited to, the Department of General Services, the State Department of Developmental Services, the Secretary of State, and the California State Library, do all of the following:

(1) Conduct and complete inventories of all of the following:

(A) All materials and records necessary to create the most complete record of persons who died while residing at any state hospital as defined in Section 7200, or any developmental center as defined in Section 4440.

(B) Within existing resources, identify the location of all gravesites at existing state hospitals and developmental center lands and of gravesites not located on state lands but designated by the state for burial of state hospital or developmental center residents. This shall include the location of remains that may have been moved from their original burial site and the location of grave markers that may have been moved from gravesites.

(C) Within existing resources, identify the names of patients whose remains were donated for medical research, the entity to which the remains were donated, and the final disposition of those remains.

(2) Assist and cooperate with the California Memorial Project in conducting research regarding the records of deaths and burials of persons at state hospitals and developmental centers and cemeteries based on the grounds of these facilities. This assistance shall, subject to paragraph (3), include the granting of access to those state records as necessary to perform the inventories described in this section.

(3) Notwithstanding Sections 4514 and 5328 or any other provision of law regarding confidentiality of patient records, the information described in this section shall be limited to the name, date of birth, date of death, and photographic images of any person who died while in residency at any state hospital or developmental center and shall be made available for the purposes of the implementation of this section. The exportation and use of these records or photographic images from state facilities shall be limited to the information delineated within, and the purposes of, this section.

(4) Assist the California Memorial Project in developing a plan for the restoration of gravesites and cemeteries at state hospitals and developmental centers and gravesites not located on state lands but designated by the state for burial of state hospital or developmental center residents.

(5) Notwithstanding Sections 4514 and 5328 or any other provision of law governing the confidentiality of patient records, with respect to any monument or memorial erected consistent with this section, the department may include, if available, the name, date of birth, and date of death, of any person being memorialized who died while in residency at a state hospital or developmental center and who was buried by the state.

(6) Develop a protocol for the future interment of patients who die while residing at a state hospital or developmental center and are unclaimed by a family member.

(b) The department may develop a protocol to coordinate the efforts of the state entities described in subdivision (a).

(c) (1) The department shall establish a task force to provide leadership and direction in carrying out the activities described in this section. The task force shall consist of representatives selected by each of the following entities:

(A) The Peer Self-Advocacy Unit of Disability Rights California.

(B) California Network of Mental Health Clients.

(C) Capitol People First.

(2) To the extent that funding is available, task force members shall be reimbursed for necessary travel expenses associated with serving on the task force. When requested by a task force member with a disability, the state shall pay the cost of a facilitator chosen by the task force member.

(d) In implementing this section, the state shall make no structural changes to existing gravesites on state hospital or developmental center lands prior to the submission of, and which do not conform with, the restoration plan described in paragraph (4) of subdivision (a).

(e) Pursuant to the plan described in paragraph (4) of subdivision (a), the department shall seek funding for this section from the California Cultural and Historical Endowment, in addition to any other resources that may be available to the department, excluding General Fund moneys, to restore, preserve, and memorialize the gravesite located at Napa State Hospital.

SEC. 75. Section 4024 of the Welfare and Institutions Code is amended to read:

4024. The State Department of State Hospitals proposed allocations for level-of-care staffing in state hospitals that serve persons with mental disabilities shall be submitted to the Department of Finance for review and approval in July and again on a quarterly basis. Each quarterly report shall include an analysis of client characteristics of admissions and discharges in addition to information on any changes in characteristics of current residents.

The State Department of State Hospitals shall submit by January 1 and May 1 to the Department of Finance for its approval: (a) all assumptions underlying estimates of state hospital mentally disabled population; and (b) a comparison of the actual and estimated population levels for the year to date. If the actual population differs from the estimated population by 50 or more, the department shall include in its reports an analysis of the causes of the change and the fiscal impact. The Department of Finance shall approve or modify the assumptions underlying all population estimates within 15 working days of their submission. If the Department of Finance does not approve or modify the assumptions by that date, the assumptions, as presented by the submitting department, shall be deemed to be accepted by the Department of Finance as of that date. The estimates of populations and the comparison of actual versus estimated population levels shall be made available to the Joint Legislative Budget Committee immediately following approval by the Department of Finance.

The Department of Finance shall also make available to the Joint Legislative Budget Committee a listing of all of the approved assumptions and the impact of each assumption, as well as all supporting data provided by the State Department of State Hospitals or developed independently by the Department of Finance. However, the departmental estimates, assumptions, and other supporting data as have been prepared shall be forwarded to the Joint Legislative Budget Committee not later than January 15 or May 15 by the State Department of State Hospitals in the event this information has not been released earlier.

SEC. 76. Section 4027 of the Welfare and Institutions Code is amended to read:

4027. The State Department of State Hospitals may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of this code, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.

SEC. 77. Section 4042 of the Welfare and Institutions Code is amended to read:

4042. The State Department of State Hospitals shall cooperate and coordinate with other state and local agencies engaged in research and evaluation studies. Effort shall be made to coordinate with research, evaluation, and demonstration efforts of local mental health programs, state hospitals serving the mentally disordered, the Department of Rehabilitation, the State Department of Alcohol and Drug Programs, the State Department of Developmental Services, the State Department of Health Care Services, universities, and other special projects conducted or contracted for by the State Department of State Hospitals.

SEC. 78. Section 4100.2 of the Welfare and Institutions Code is amended to read:

4100.2. (a) Commencing January 10, 2009, and each year thereafter, the State Department of Mental Health, or its successor, the State Department of State Hospitals, shall provide the fiscal committees of the Legislature with a fiscal estimate package for the current year and budget year for the state hospitals by January 10 and at the time of the Governor's May Revision.

(b) At a minimum, the estimate package shall address patient caseload by commitment category, non-level-of-care and level-of-care staffing requirements, and operating expenses and equipment.

(c) In addition to subdivision (b), each estimate submitted shall include all of the following:

(1) A statement articulating the assumptions and methodologies used for calculating the patient caseload factors, all staffing costs, and operating expenses and equipment.

(2) Where applicable, individual policy changes shall contain a narrative and basis for its proposed and estimated costs.

(3) Fiscal bridge charts shall be included to provide the basis for the year-to-year changes.

(d) The department may provide any additional information as deemed appropriate to provide a comprehensive fiscal perspective to the Legislature for analysis and deliberations for purposes of appropriation.

SEC. 79. Section 4101 of the Welfare and Institutions Code is amended to read:

4101. Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the State Department of State Hospitals shall be governed by uniform rule and regulation of the State Department of State Hospitals and all of the provisions of this chapter shall apply to the conduct and management of those institutions.

SEC. 80. Section 4101.5 of the Welfare and Institutions Code is amended to read:

4101.5. (a) Notwithstanding any other law, the State Department of State Hospitals may contract with providers of health care services and health care network providers, including, but not limited to, health plans, preferred provider organizations, and other health care network managers. Hospitals that do not contract with the department for emergency health

care services shall provide these services to the department on the same basis as they are required to provide these services pursuant to Section 489.24 of Title 42 of the Code of Federal Regulations.

(b) The department may only reimburse a noncontract provider of hospital or physician services at a rate equal to or less than the amount payable under the Medicare Fee Schedule, regardless of whether the hospital is located within or outside of California. An entity that provides ambulance or any other emergency or nonemergency response service to the department, and that does not contract with the department for that service, shall be reimbursed for the service at the rate payable under the Medicare Fee Schedule, regardless of whether the provider is located within or outside of California.

(c) Until regulations or emergency regulations are adopted in accordance with subdivision (g), the department shall not reimburse a contract provider of hospital services at a rate that exceeds 130 percent of the amount payable under the Medicare Fee Schedule, a contract provider of physician services at a rate that exceeds 110 percent of the amount payable under the Medicare Fee Schedule, or a contract provider of ambulance services at a rate that exceeds 120 percent of the amount payable under the Medicare Fee Schedule. The maximum rates established by this subdivision shall not apply to reimbursement for administrative days, transplant services, services provided pursuant to competitively bid contracts, or services provided pursuant to a contract executed prior to September 1, 2009.

(d) The maximum rates set forth in this section shall not apply to contracts entered into through the department's designated health care network provider, if any. The rates for those contracts shall be negotiated at the lowest rate possible under the circumstances.

(e) The department and its designated health care network provider may enter into exclusive or nonexclusive contracts on a bid or negotiated basis for hospital, physician, and ambulance services contracts.

(f) The Director of State Hospitals may adopt regulations to implement this section. The adoption, amendment, or repeal of a regulation authorized by this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(g) The Director of State Hospitals may change the maximum rates set forth in this section by regulation or emergency regulation, adopted in accordance with the Administrative Procedure Act, but no sooner than 30 days after notification to the Joint Legislative Budget Committee. Those changes may include, but are not limited to, increasing or decreasing rates, or adding location-based differentials such as those provided to small and rural hospitals as defined in Section 124840 of the Health and Safety Code. The adoption, amendment, repeal, or readoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the director is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

(h) For persons who are transferred from the Department of Corrections and Rehabilitation to, or are housed in, a state hospital or psychiatric program under the jurisdiction of the State Department of State Hospitals, and while these persons remain under the jurisdiction of the Department of Corrections and Rehabilitation as inmates or parolees, health care or emergency services provided for these persons outside of a State Department of State Hospitals state hospital or psychiatric program shall continue to be paid for or reimbursed by the Department of Corrections and Rehabilitation in accordance with Section 5023.5 of the Penal Code.

SEC. 81. Section 4104 of the Welfare and Institutions Code is amended to read:

4104. All lands necessary for the use of the state hospitals specified in Section 4100, except those acquired by gift, devise, or purchase, shall be acquired by condemnation as lands for other public uses are acquired.

The terms of every purchase shall be approved by the State Department of State Hospitals. No public street or road for railway or other purposes, except for hospital use, shall be opened through the lands of any state hospital, unless the Legislature by special enactment consents thereto.

SEC. 82. Section 4106 of the Welfare and Institutions Code is amended to read:

4106. Notwithstanding the provisions of Section 4104, the Director of General Services, with the consent of the State Department of State Hospitals, may grant to the County of Napa a right-of-way for public road purposes over the northerly portion of the Napa State Hospital lands for the widening of Imola Avenue between Penny Lane and Fourth Avenue, upon such terms and conditions as the Director of General Services may deem for the best interests of the state.

SEC. 83. Section 4107 of the Welfare and Institutions Code is amended to read:

4107. (a) The security of patients committed pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, the Penal Code, and former Sections 6316 and 6321, at Patton State Hospital shall be the responsibility of the Secretary of the Department of Corrections and Rehabilitation.

(b) The Department of Corrections and Rehabilitation and the State Department of Mental Health shall jointly develop a plan to transfer all patients committed to Patton State Hospital pursuant to the provisions in subdivision (a) from Patton State Hospital no later than January 1, 1986, and shall transmit this plan to the Senate Committee on Judiciary and to the Assembly Committee on Criminal Justice, and to the Senate Health and Welfare Committee and Assembly Health Committee by June 30, 1983. The plan shall address whether the transferred patients shall be moved to other state hospitals or to correctional facilities, or both, for commitment and treatment.

(c) Notwithstanding any other provision of law, the State Department of State Hospitals shall house no more than 1,336 patients at Patton State

Hospital. However, until September 2020, up to 1,530 patients may be housed at the hospital.

(d) This section shall remain in effect only until all patients committed, pursuant to the provisions enumerated in subdivision (a), have been removed from Patton State Hospital and shall have no force or effect on or after that date.

SEC. 84. Section 4107.1 of the Welfare and Institutions Code is amended to read:

4107.1. Consistent with the authority of the State Department of State Hospitals to maintain and operate state hospitals under its jurisdiction, the State Department of State Hospitals shall provide internal security for the patient population at Patton State Hospital. The State Department of State Hospitals may employ hospital police at Patton State Hospital for this purpose.

This section is not intended to increase or decrease the duties and responsibilities of the Department of Corrections and Rehabilitation at Patton State Hospital.

SEC. 85. Section 4109 of the Welfare and Institutions Code is amended to read:

4109. The State Department of State Hospitals has general control and direction of the property and concerns of each state hospital specified in Section 4100. The department shall:

(a) Take care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

(b) Establish such bylaws, rules, and regulations as it deems necessary and expedient for regulating the duties of officers and employees of the hospital, and for its internal government, discipline, and management.

(c) Maintain an effective inspection of the hospital.

SEC. 86. Section 4109.5 of the Welfare and Institutions Code is amended to read:

4109.5. (a) Whenever the department proposes the closure of a state hospital, it shall submit as part of the Governor's proposed budget to the Legislature a complete program, to be developed jointly by the State Department of State Hospitals and the county in which the state hospital is located, for absorbing as many of the staff of the hospital into the local mental health programs as may be needed by the county. Those programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians for treatment of the mentally disordered, developmentally disabled, drug abusers, and alcoholics.

(b) The Director of State Hospitals shall submit all plans for the closure of state hospitals as a report with the department's budget. This report shall include all of the following:

- (1) The land and buildings affected.
- (2) The number of patients affected.
- (3) Alternative plans for patients presently in the facilities.

(4) Alternative plans for patients who would have been served by the facility assuming it was not closed.

(5) A joint statement of the impact of the closure by the department and affected local treatment programs.

(c) These plans may be submitted to the Legislature until April 1 of each budget year. Any plans submitted after that date shall not be considered until the fiscal year following that in which it is being considered.

(d) The plan shall not be placed into effect unless the Legislature specifically approves the plan.

(e) This section shall not apply to the proposed closure of a developmental center.

SEC. 87. Section 4110 of the Welfare and Institutions Code is amended to read:

4110. The executive director shall provide detailed expenditure estimates of all anticipated hospital expenditures, all supplies, expenses, buildings, and improvements as required for the best interests of the hospital, and for the improvement of the hospital and of the grounds and buildings connected with the hospital. These estimates shall be submitted to the State Department of State Hospitals, which may revise them. The department shall certify that it has carefully examined the estimates, and that the supplies, expenses, buildings, and improvements contained in the estimates, as approved by it, are required for the best interests of the hospital. The department shall thereupon proceed to purchase the supplies, make the expenditures, or conduct the improvements or buildings in accordance with law.

SEC. 88. Section 4111 of the Welfare and Institutions Code is amended to read:

4111. The state hospitals may manufacture supplies and materials necessary or required to be used in any of the state hospitals which can be economically manufactured therein. The necessary cost and expense of providing for and conducting the manufacture of such supplies and materials shall be paid in the same manner as other expenses of the hospitals. No hospital shall enter into or engage in manufacturing any supplies or materials unless permission for the same is obtained from the State Department of State Hospitals. If, at any time, it appears to the department that the manufacture of any article is not being or cannot be economically carried on at a state hospital, the department may suspend or stop the manufacture of the article, and on receipt of a certified copy of the order directing the suspension or stopping of its manufacture, by the medical superintendent, the hospital shall cease from manufacturing the article.

SEC. 89. Section 4112 of the Welfare and Institutions Code is amended to read:

4112. (a) All money belonging to the state and received by state hospitals from any source, except appropriations, shall, at the end of each month, be deposited in the State Treasury, to the credit of the General Fund. This section shall not apply to the funds known as the industrial or amusement funds.

(b) There is hereby continuously appropriated from the General Fund to the State Department of State Hospitals that amount which is necessary to pay the premium, as specified in Section 7353, for third-party health coverage for Medicare beneficiaries who are patients at state hospitals under the jurisdiction of the State Department of State Hospitals. It is the intent of the Legislature that the General Fund expenditures authorized by this subdivision not exceed the proceeds to be deposited in the General Fund from Medicare payments to the State Department of State Hospitals in any fiscal year.

SEC. 90. Section 4114 of the Welfare and Institutions Code is amended to read:

4114. The executive director or other person in charge of a hospital shall, within 10 days after the admission of any person to the hospital, cause an abstract of the medical certificate and order on which the person was received and a list of all property, books, and papers of value found in the possession of or belonging to the person to be forwarded to the office of the department, and when a patient is discharged, transferred, or dies, the superintendent or person in charge shall within three days thereafter, send the information to the office of the department, in accordance with the form prescribed by it.

SEC. 91. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, Section 2972, or Section 2966 of the Penal Code, Section 7361 of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the appropriate financial officer or other designated official of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county and the statement of mental health treatment costs shall be sent to the State Department of State Hospitals and the statement of all nontreatment costs shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health treatment costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition, the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the

money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Commencing January 1, 2012, the nontreatment costs associated with Section 2966 of the Penal Code and approved by the Controller, as required by subdivision (a), shall be paid by the Department of Corrections and Rehabilitation pursuant to Section 4750 of the Penal Code.

(c) Whenever a hearing is held pursuant to Section 1604, 1608, 1609, or 2966 of the Penal Code, all transportation costs to and from a state hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this subdivision. The appropriate financial officer or other designated official of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county, which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

As used in this subdivision the community program director is the person designated pursuant to Section 1605 of the Penal Code.

SEC. 92. Section 4118 of the Welfare and Institutions Code is amended to read:

4118. The State Department of State Hospitals shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital.

SEC. 93. Section 4119 of the Welfare and Institutions Code is amended to read:

4119. The State Department of State Hospitals shall investigate and examine all nonresident persons residing in any state hospital for the mentally disordered and shall cause these persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer that action by reason of a patient's medical condition.

Prior to returning the judicially committed nonresident to his or her proper state of residency, the department shall do either of the following:

(a) Obtain the written consent of the prosecuting attorney of the committing county, the judicially committed nonresident person, and the attorney of record for the judicially committed nonresident person.

(b) In the department's discretion request a hearing in the superior court of the committing county requesting a judicial determination of the proposed transfer, notify the court that the state of residence has agreed to the transfer, and file the department's recommendation with a report explaining the reasons for its recommendation.

The court shall give notice of such a hearing to the prosecuting attorney, the judicially committed nonresident person, the attorney of record for the judicially committed nonresident person and the department, no less than 30 days before the hearing. At the hearing, the prosecuting attorney and the

judicially committed nonresident person may present evidence bearing on the intended transfer. After considering all evidence presented, the court shall determine whether the intended transfer is in the best interest of and for the proper protection of the nonresident person and the public. The court shall use the same procedures and standard of proof as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

For the purpose of facilitating the prompt and humane return of such persons, the State Department of State Hospitals may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of persons residing in any state hospital for the mentally disordered in one state whose legal residence is in the other, and it may in these reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state hospital for the mentally disordered of this state. When a resident is returned to this state pursuant to this chapter, he or she may be admitted as a voluntary patient to any institution of the department as designated by the Director of State Hospitals. If he or she is mentally disordered and is a danger to himself or herself or others, or he or she is gravely disabled, he or she may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 94. Section 4122 of the Welfare and Institutions Code is amended to read:

4122. The State Department of State Hospitals, when it deems it necessary, may, under conditions prescribed by the director, transfer any patients of a state institution under its jurisdiction to another institution. Transfers of patients of state hospitals shall be made in accordance with the provisions of Section 7300.

Transfer of a conservatee shall only be with the consent of the conservator.

The expense of any transfer shall be paid from the moneys available by law for the support of the department or for the support of the institution from which the patient is transferred. Liability for the care, support, and maintenance of a patient so transferred in the institution to which he or she has been transferred shall be the same as if he or she had originally been committed to the institution. The State Department of State Hospitals shall present to the county, not more frequently than monthly, a claim for the amount due the state for care, support, and maintenance of any such patients and which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 95. Section 4123 of the Welfare and Institutions Code is amended to read:

4123. The Director of State Hospitals may authorize the transfer of persons from any institution within the department to any institution authorized by the federal government to receive the person.

SEC. 96. Section 4124 of the Welfare and Institutions Code is amended to read:

4124. The State Department of State Hospitals shall send to the Department of Veterans Affairs whenever requested a list of all persons who have been patients for six months or more in each state institution within the jurisdiction of the State Department of State Hospitals and who are known to have served in the Armed Forces of the United States.

SEC. 97. Section 4126 of the Welfare and Institutions Code is amended to read:

4126. Whenever any patient in any state institution subject to the jurisdiction of the State Department of State Hospitals dies, and any personal funds or property of the patient remains in the hands of the superintendent thereof, and no demand is made upon the superintendent by the owner of the funds or property or his or her legally appointed representative all money and other personal property of the decedent remaining in the custody or possession of the superintendent thereof shall be held by him or her for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of the decedent.

Upon the expiration of the one-year period, any money remaining unclaimed in the custody or possession of the superintendent shall be delivered by him or her to the Treasurer for deposit in the Unclaimed Property Fund under the provision of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of said one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the superintendent, shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him or her to the Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he or she deems it expedient to do so, the superintendent may accumulate the property of several decedents and sell the property in lots that he or she may determine, provided that he or she makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the superintendent may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in subdivision (a), (b), or (c), shall be delivered by the superintendent to the Controller for deposit in the State Treasury under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

SEC. 98. Section 4127 of the Welfare and Institutions Code is amended to read:

4127. (a) Whenever any patient in any state institution subject to the jurisdiction of the State Department of State Hospitals escapes, is discharged, or is on leave of absence from the institution, and any personal funds or property of the patient remains in the hands of the superintendent, and no demand is made upon the superintendent by the owner of the funds or property or his or her legally appointed representative, all money and other intangible personal property of the patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent shall be held by him or her for a period of seven years from the date of the escape, discharge, or leave of absence, for the benefit of the patient or his or her successors in interest. Unclaimed personal funds or property of minors on leave of absence may be exempted from this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of State Hospitals.

(b) Upon the expiration of the seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(c) Upon the expiration of one year from the date of the escape, discharge, or parole, the following shall apply:

(1) All deeds, contracts, or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the patient.

(2) All tangible personal property other than money, remaining unclaimed in the superintendent's custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him or her subject to Section 4125 of this code and Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If the superintendent deems it expedient to do so, the superintendent may accumulate the property of several patients and may sell the property in lots that the superintendent determines, provided that the superintendent makes a determination as to each patient's share of the proceeds.

(d) If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value or its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

SEC. 99. Section 4133 of the Welfare and Institutions Code is amended to read:

4133. All day hospitals and rehabilitation centers maintained by the State Department of State Hospitals shall be subject to the provisions of this code pertaining to the admission, transfer, and discharge of patients at the state hospitals, except that all admissions to those facilities shall be subject to the approval of the chief officer thereof. Charges for services rendered to patients at those facilities shall be determined pursuant to Section

4025. The liability for the charges shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 2 of Division 7, except at the hospitals maintained by the State Department of Developmental Services the liability shall be governed by the provisions of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 and Chapter 3 (commencing with Section 7500) of Division 7.

SEC. 100. Section 4134 of the Welfare and Institutions Code is amended to read:

4134. The state mental hospitals under the jurisdiction of the State Department of State Hospitals shall comply with the California Food Sanitation Act, Article 1 (commencing with Section 111950) of Chapter 4 of Part 6 of Division 104 of the Health and Safety Code.

The state mental hospitals under the jurisdiction of the State Department of State Hospitals shall also comply with the California Retail Food Code (Chapter 4 (commencing with Section 113700) of Part 7 of Division 104 of the Health and Safety Code).

Sanitation, health and hygiene standards that have been adopted by a city, county, or city and county that are more strict than those of the California Retail Food Code or the California Food Sanitation Act shall not be applicable to state mental hospitals that are under the jurisdiction of the State Department of State Hospitals.

SEC. 101. Section 4135 of the Welfare and Institutions Code is amended to read:

4135. Any person committed to the State Department of State Hospitals as a mentally abnormal sex offender shall remain a patient committed to the department for the period specified in the court order of commitment or until discharged by the medical director of the state hospital in which the person is a patient, whichever occurs first. The medical director may grant the patient a leave of absence upon the terms and conditions as the medical director deems proper. The petition for commitment of a person as a mentally abnormal sex offender, the reports, the court orders, and other court documents filed in the court in connection therewith shall not be open to inspection by any other than the parties to the proceeding, the attorneys for the party or parties, and the State Department of State Hospitals, except upon the written authority of a judge of the superior court of the county in which the proceedings were had.

Records of the supervision, care, and treatment given to each person committed to the State Department of State Hospitals as a mentally abnormal sex offender shall not be open to the inspection of any person not in the employ of the department or of the state hospital, except that a judge of the superior court may by order permit examination of those records.

The charges for the care and treatment rendered to persons committed as mentally abnormal sex offenders shall be in accordance with the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

SEC. 102. Section 4137 of the Welfare and Institutions Code is amended to read:

4137. Whenever a patient dies in a state mental hospital and the coroner finds that the death was by accident or at the hands of another person other than by accident, the State Department of State Hospitals shall determine upon review of the coroner's investigation if the death resulted from the negligence, recklessness, or intentional act of a state employee. If it is determined that the death directly resulted from the negligence, recklessness, or intentional act of a state employee, the department shall immediately notify the State Personnel Board and any appropriate licensing agency and shall terminate the employment of the employee as provided by law. In addition, if the state employee is a licensed mental health professional, the appropriate licensing board shall inquire into the circumstances of the death, examine the findings of the coroner's investigation, and make a determination of whether the mental health professional should have his or her license revoked or suspended or be subject to other disciplinary action. "Licensed mental health professional," as used in this section, means a person licensed by any board, bureau, department, or agency pursuant to a state law and employed in a state mental hospital.

SEC. 103. Section 4138 of the Welfare and Institutions Code is amended to read:

4138. (a) Upon receiving a request from the director of a state hospital listed in Section 4100, the Director of State Hospitals may prohibit the possession or use of tobacco products on the grounds of the requesting facility. The Director of State Hospitals shall provide an implementation plan that shall include a phase-in period for any of the state hospitals listed in Section 4100 that prohibits the possession or use of tobacco products by patients or any other persons on hospital grounds, except on the premises of residential staff housing where patients are not present.

(b) This prohibition shall include an exemption for departmentally approved religious ceremonies.

(c) As part of the implementation plan, the department shall provide any requesting patient with a smoking cessation plan that may include, at minimum, an individual medical treatment plan, counseling, prescription drugs, or nicotine replacement, as determined to be medically necessary and appropriate.

(d) Nothing in this section shall be construed to restrict the outside activity time currently available to hospital patients.

(e) If an implementation plan is adopted pursuant to subdivision (a), the store or canteen at any facility subject to the prohibition shall not sell tobacco products.

SEC. 104. Section 4200 of the Welfare and Institutions Code is amended to read:

4200. (a) Each state hospital under the jurisdiction of the State Department of State Hospitals shall have a hospital advisory board of eight members appointed by the Governor from a list of nominations submitted to him or her by the boards of supervisors of counties within each hospital's designated service area. If a state hospital provides services for both the mentally disordered and the developmentally disabled, there shall be a

separate advisory board for the program provided the mentally disordered and a separate board for the program provided the developmentally disabled. To the extent feasible, an advisory board serving a hospital for the mentally disordered shall consist of one member who has been a patient in a state mental hospital and two members shall be the parents, spouse, siblings, or adult children of persons who are or have been patients in a state mental hospital, three representatives of different professional disciplines selected from primary user counties for patients under Part 1 (commencing with Section 5000) of Division 5, and two representatives of the general public who have demonstrated an interest in services to the mentally disordered.

(b) Of the members first appointed after the operative date of the amendments made to this section during the 1975–76 legislative session, one shall be appointed for a term of two years, and one for three years. Thereafter, each appointment shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

(c) Notwithstanding any provision of this section, members serving on the hospital advisory board on the operative date of the amendments made to this section during the 1987–88 legislative session, may continue to serve on the board until the expiration of their term. The Legislature intends that changes in the composition of the board required by these amendments apply to future vacancies on the board.

SEC. 105. Section 4202 of the Welfare and Institutions Code is amended to read:

4202. The advisory boards of the several state hospitals are advisory to the State Department of State Hospitals and the Legislature with power of visitation and advice with respect to the conduct of the hospitals and coordination with community mental health programs. The members of the boards shall serve without compensation other than necessary expenses incurred in the performance of duty. They shall organize and elect a chairman. They shall meet at least once every three months and at such other times as they are called by the chairman, by the medical director, by the head of the department or a majority of the board. No expenses shall be allowed except in connection with meetings so held.

SEC. 106. Section 4243 of the Welfare and Institutions Code is amended to read:

4243. (a) All funds appropriated for the purposes of this chapter shall be used to contract with an organization to establish a statewide network of families who have mentally disordered family members for the purpose of providing information, advice, support, and other assistance to these families.

(b) A request for proposal shall be issued seeking applicants who are capable of supplying the services specified in Section 4244. The respondent organizations shall demonstrate that they:

- (1) Focus their activities exclusively on the seriously mentally disordered.
- (2) Have experience in successfully working with state agencies, including, but not limited to, the State Department of State Hospitals.

(3) Have the ability to reach and involve the target population as active members.

(4) Have proven experience providing structured self-help services that benefit the target population.

(5) Have experience holding statewide and local conferences to educate families and professionals regarding the needs of the mentally disordered.

(6) Have the financial and organizational structure and experience to manage the funds provided under the proposed contract.

SEC. 107. Section 4244 of the Welfare and Institutions Code is amended to read:

4244. The Director of State Hospitals shall enter into a contract with the successful bidder to provide services which shall include, but not be necessarily limited to, all of the following:

(a) Production and statewide dissemination of information to families regarding methods of obtaining and evaluating services needed by mentally disordered family members.

(b) Provision of timely advice, counseling, and other supportive services to assist families in coping with emotional stress and to enable them to care for or otherwise assist mentally disordered family members.

(c) Organizing family self-help services in local communities, accessible to families throughout the state.

(d) Conducting training programs for mental health practitioners and college and university students to inform current and future mental health professionals of the needs of families and methods of utilizing family resources to assist mentally disordered clients.

SEC. 108. Section 4245 of the Welfare and Institutions Code is amended to read:

4245. Contracts entered in pursuant to this chapter shall:

(a) Have an annual contract period from July 1 through June 30 of each fiscal year unless the Director of State Hospitals or the contractor terminates the contract earlier.

(b) Require an annual report by the contractor accounting for all expenditures and program accomplishments.

SEC. 109. Section 4301 of the Welfare and Institutions Code is amended to read:

4301. (a) The Director of State Hospitals shall appoint and define the duties, subject to the laws governing civil service, of the clinical director and the hospital administrator for each state hospital. The director shall appoint either the clinical director or the hospital administrator to be the hospital director.

(b) Director of State Hospitals shall appoint a program director for each program at a state hospital.

SEC. 110. Section 4302 of the Welfare and Institutions Code is amended to read:

4302. The Director of State Hospitals shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals.

SEC. 111. Section 4319 of the Welfare and Institutions Code is amended to read:

4319. To ensure a continuous level of competency for all state hospital treatment personnel under the jurisdiction of the State Department of State Hospitals, the department shall provide adequate in-service training programs for such state hospital treatment personnel.

SEC. 112. Section 4320 of the Welfare and Institutions Code is amended to read:

4320. To ensure an adequate supply of licensed psychiatric technicians for state hospitals for the mentally disordered, the State Department of State Hospitals, to the extent necessary, shall establish in state hospitals for the mentally disordered a course of study and training equivalent, as determined by the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to the minimum requirements of an accredited program for psychiatric technicians in the state. No unlicensed psychiatric technician trainee shall be permitted to perform the duties of a licensed psychiatric technician as provided by Section 4502 of the Business and Professions Code unless the trainee performs the duties pursuant to a plan of supervision approved by the Board of Vocational Nursing and Psychiatric Technicians of the State of California as part of the equivalency trainee program. This section shall not be construed to reduce the effort presently expended by the community college system or private colleges in training psychiatric technicians.

SEC. 113. Section 4330 of the Welfare and Institutions Code is amended to read:

4330. The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall be reimbursed for use of state hospital beds by counties pursuant to Part 1 (commencing with Section 5000) of Division 5 as follows:

(a) (1) For the 1991–92 fiscal year, the department shall receive reimbursement in accordance with subdivision (b) of Section 17601. This total may be adjusted to reflect any and all amounts previously unallocated or held in reserve for use by small counties and any adjustments made pursuant to Chapter 1341 of the Statutes of 1990.

(2) It is the intent of the Legislature to encourage and allow greater flexibility with respect to resources during the first transitional year, and, to this end, the Director of Mental Health, or his or her successor, the Director of State Hospitals, may implement proposals for purchase in or purchase out of, state hospital beds which were proposed in accordance with Chapter 1341 of the Statutes of 1990.

(3) Funds and bed days historically allocated to small counties shall be allocated to counties with no allocation.

(b) Each fiscal year, the State Department of Mental Health, or its successor, the State Department of State Hospitals, shall be reimbursed in accordance with the contracts entered into pursuant to Section 4331.

(c) The rate of reimbursement which shall apply each fiscal year shall be determined by the State Department of Mental Health, or its successor,

the State Department of State Hospitals, and shall include all actual costs determined by hospital and by type of service provided. Any costs resulting from overexpenditure in the previous year shall be clearly separated from actual costs projected for the contract year and identified as a part of the rate negotiation. Costs shall not include costs incurred for capital outlay relating to existing facilities or capacity, which shall remain the responsibility of the state. Costs for capital outlay related to future expansions or construction of new facilities requested by any county or cost related to innovative arrangements under Section 4355 shall be a cost to the county unless the expansion, construction or innovative arrangements are determined to be of statewide benefit. Pursuant to Section 11343 of the Government Code, the rate of reimbursement shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) After final determination of state hospital costs for patients covered under Part 1 (commencing with Section 5000) of Division 5, funds that remain unencumbered at the close of the fiscal year shall be made available to counties that used fewer state hospital beds than their contracted number, proportional to the contracted amount not used, but this amount shall not exceed the value of the unused contracted amount. These funds shall be used for mental health purposes.

SEC. 114. Section 4331 of the Welfare and Institutions Code is amended to read:

4331. (a) No later than July 1, 1992, and in each subsequent year, each county acting singly or in combination with other counties shall contract with the State Department of Mental Health, or its successor, the State Department of State Hospitals, for the number and types of state hospital beds that the department will make available to the county or counties during the fiscal year. Each county contract shall be subject to the provisions of this chapter, as well as other applicable provisions of law, but shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Administrative Manual, or the Public Contract Code and shall not be subject to review and approval by the Department of General Services.

(b) (1) No later than January 1, 1992, each county acting singly or in combination with other counties, shall notify the State Department of Mental Health in writing as to the number and type of state hospital beds the county or counties will contract for with the state in the 1992–93 fiscal year.

(2) No later than July 1, 1992, and no later than July 1 of each subsequent year, each county acting singly or in combination with other counties shall give the State Department of Mental Health, or its successor, the State Department of State Hospitals, preliminary written notification of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year. Counties may include in their notification a request for additional beds beyond their previous year's contract.

(3) No later than January 1, 1993, and no later than January 1 of each subsequent year, each county acting singly or in combination with other counties shall give the State Department of Mental Health, or its successor, the State Department of State Hospitals, final written notifications of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year. These notifications shall not preclude subsequent changes agreed to by both the state and the county in the contract negotiation process.

(4) The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall provide counties with preliminary cost and utilization information based on the best data possible, 60 days in advance of the preliminary notification deadline, and a proposed final cost estimate, based on the best data possible, 60 days in advance of the final deadline. Final rates shall be subject to contract agreement.

(c) There shall be no increase in the number of beds provided to a county or group of counties during a fiscal year unless the contract between the State Department of Mental Health, or its successor, the State Department of State Hospitals, and that county or group of counties is amended by mutual agreement. Any significant change in services requested by a county shall require amendment of the contract.

(d) If a county or group of counties has not contracted with the State Department of Mental Health, or its successor, the State Department of State Hospitals, by July 1 of any given year, the number of beds to be provided that fiscal year shall be the same as the number provided the previous fiscal year, unless the department and a county have formally agreed otherwise, and the rate of reimbursement that shall be paid to the department shall be at the amount set by the department for the fiscal year commencing July 1 of that year. The department shall provide a mechanism for formal agreement of bed levels no later than June 15 of each year. However, after July 1 the department and a county or group of counties may enter into a contract pursuant to this chapter and the contract shall govern the number of state hospital beds and rates of reimbursement for the fiscal year commencing July 1 of that year.

SEC. 115. Section 4332 of the Welfare and Institutions Code is amended to read:

4332. (a) Contracts entered into pursuant to Section 4331 shall do all of the following:

- (1) Specify the number of beds to be provided.
- (2) Specify the rate or rates of reimbursement.
- (3) Set forth the specific type of services requested by the county, in detail.
- (4) Specify procedures for admission and discharge.
- (5) Include any other pertinent terms as agreed to by the department and the county.

(b) The department shall consult, in advance, with the counties regarding any changes in state hospital facilities or operations which would

significantly impact access to care or quality of care, or significantly increase costs.

(c) The department shall make available to counties upon request the basis upon which its rates have been set, including any indirect cost allocation formulas.

SEC. 116. Section 4333 of the Welfare and Institutions Code is amended to read:

4333. (a) In the event a county or counties elect to reduce their state hospital resources, beginning July 1, 1992, systemwide state hospital net bed reduction in any one year may not exceed 10 percent of the total for patients under Part 1 (commencing with Section 5000) of Division 5 in the prior year without the specific approval of the Director of State Hospitals.

(b) Net bed reductions at any one hospital may not exceed 10 percent of its contracted beds without specific approval of the Director of State Hospitals.

(c) If the proposed reduction in any year exceeds the maximum permitted amount, the department, with the assistance of counties, shall make every effort to contract for beds with other purchasers.

(d) If total county requests for bed reduction in any one year or at any one facility still exceed the amount of reduction allowed, each county's share of the reduction shall be determined by taking the ratio of its contracted beds to the total contracted and multiplying this by the total beds permitted to be reduced.

(e) (1) Small counties shall be exempted from the limitations of this section and shall have the amount of their reduction determined by the Director of State Hospitals.

(2) For purposes of this chapter, "small counties" means counties with a population of 125,000 or less based on the most recent available estimates of population data determined by the Population Research Unit of the Department of Finance.

(f) It is the intent of the Legislature that counties have maximum flexibility in planning the use of these resources, which includes making full use of existing facilities and that the Director of State Hospitals enforce his or her exemption authority in a manner consistent with this intent. Because freed-up beds may be purchased by other counties or may be used for other purposes, it is anticipated that individual county flexibility will be substantially greater than the 10-percent figure described in subdivisions (a) and (b).

(g) Counties may annually contract for state hospital beds as single entities or in combination with other counties. For purposes of this section, small counties, as defined in subdivision (e):

(1) Are encouraged to establish regional authorities to pool their resources to assure their ability to provide the necessary array of services to their mentally ill populations not otherwise available to them on an individual basis.

(2) May receive loans from the General Fund when emergency state hospital beds are needed, not to exceed one year in duration, with interest

payable at the same rate as that earned through the Pooled Money Investment Fund. Any interest due may be waived based upon a finding of emergency by the Secretary of California Health and Human Services and the Director of Finance.

SEC. 117. Section 4333.5 of the Welfare and Institutions Code is amended to read:

4333.5. (a) The State Department of State Hospitals shall encourage the counties to use state hospital facilities, in addition to utilizing state hospital beds pursuant to contract, for additional treatment programs through contracts, on either an individual county or regional basis.

(b) For purposes of contracts entered into through encouragement provided by the department pursuant to subdivision (a), costs shall be based on the actual costs to the state, and shall be prorated on an annual lease basis.

SEC. 118. Section 4334 of the Welfare and Institutions Code is amended to read:

4334. The State Department of State Hospitals, in collaboration with counties, shall do all of the following:

(a) Prepare and publish a catalogue of available state hospital services. The catalogue shall be updated annually.

(b) Develop a process by which a county or group of counties constituting the primary user of a particular hospital may, upon their request individually, or through selected representatives, participate in long-range planning and program development to ensure the provision of appropriate services.

(c) Ensure direct county involvement in admission to, and discharge from, beds contracted for patients under Part 1 (commencing with Section 5000) of Division 5.

SEC. 119. Section 4335 of the Welfare and Institutions Code is amended to read:

4335. Nothing in this chapter is intended to prevent the department from entering into innovative arrangements with counties for delivery of state hospital services. The Director of State Hospitals may contract with a county, or group of counties, for excess state hospital space for purposes of staffing and operating their own program.

SEC. 120. Section 4341.5 of the Welfare and Institutions Code is amended to read:

4341.5. In order to ensure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of State Hospitals shall, to the extent resources are available, plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills, and recommend appropriate incentive measures, such as state scholarships.

SEC. 121. Section 4360 of the Welfare and Institutions Code is amended to read:

4360. (a) The State Department of State Hospitals shall provide mental health treatment and supervision in the community for judicially committed

persons. The program established and administered by the department under this chapter to provide these services shall be known as the Forensic Conditional Release Program and may be used by the department in accordance with this section to provide services in the community to other patient populations for which the department has direct responsibility.

(b) The State Department of State Hospitals may provide directly, or through contract with private providers or counties, for these services, including administrative and ancillary services related to the provision of direct services. These contracts shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services. Subject to approval by the State Department of State Hospitals, a county or private provider under contract to the department to provide these services may subcontract with private providers for those services.

(c) Notwithstanding Section 5328, programs providing services pursuant to this section may inform a local law enforcement agency of the names and addresses of program participants who reside within that agency's jurisdiction. Providing notice under this subdivision does not relieve a person or entity of any statutory duty.

SEC. 122. Section 4440.1 of the Welfare and Institutions Code is amended to read:

4440.1. The department may contract with the State Department of State Hospitals to provide services to persons with developmental disabilities in state hospitals under the jurisdiction of the State Department of State Hospitals.

SEC. 123. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to

prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) “Referral” is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person’s behalf, discussing the person’s problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. These services may be provided through county welfare departments, State Department of State Hospitals, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) “Crisis intervention” consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) “Prepetition screening” is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) “Conservatorship investigation” means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3

(commencing with Section 5350), “gravely disabled” means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), “gravely disabled” means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term “gravely disabled” does not include mentally retarded persons by reason of being mentally retarded alone.

(i) “Peace officer” means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) “Postcertification treatment” means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) “Court,” unless otherwise specified, means a court of record.

(l) “Antipsychotic medication” means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) “Emergency” means a situation in which action to impose treatment over the person’s objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

SEC. 124. Section 5008.1 of the Welfare and Institutions Code is amended to read:

5008.1. As used in this division and in Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 6 (commencing with Section 6000), Division 7 (commencing with Section 7100), and Division 8 (commencing with Section 8000), the term “judicially committed” means all of the following:

(a) Persons who are mentally disordered sex offenders placed in a state hospital or institutional unit for observation or committed to the State Department of State Hospitals pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6.

(b) Developmentally disabled persons who are admitted to a state hospital upon application or who are committed to the State Department of Developmental Services by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6.

(c) Persons committed to the State Department of State Hospitals or a state hospital pursuant to the Penal Code.

SEC. 125. Section 5306.5 of the Welfare and Institutions Code is amended to read:

5306.5. (a) If at any time during the outpatient period, the outpatient treatment supervisor is of the opinion that the person receiving treatment requires extended inpatient treatment or refuses to accept further outpatient treatment and supervision, the county mental health director shall notify the superior court in either the county which approved outpatient status or in the county where outpatient treatment is being provided of such opinion by means of a written request for revocation of outpatient status. The county mental health director shall furnish a copy of this request to the counsel of the person named in the request for revocation and to the public officer, pursuant to Section 5114, in both counties if the request is made in the county of treatment, rather than the county of commitment.

(b) Within 15 judicial days, the court where the request was filed shall hold a hearing and shall either approve or disapprove the request for revocation of outpatient status. If the court approves the request for revocation, the court shall order that the person be confined in a state hospital or other treatment facility approved by the county mental health director. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of State Hospitals. Where the county of treatment and the county of commitment differ and revocation occurs in the county of treatment, the court shall enter the name of the committing county and its case number on the order of revocation and shall send a copy of the order to the committing court and the public officer, pursuant to Section 5114, and counsel of the person named in the request for revocation in the county of commitment.

SEC. 126. Section 5328.35 of the Welfare and Institutions Code is repealed.

SEC. 127. Section 5328.8 of the Welfare and Institutions Code is amended to read:

5328.8. The State Department of State Hospitals, the physician in charge of the patient, or the professional person in charge of the facility or his or her designee, shall, except as otherwise provided in this section, release information obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to the coroner when a patient dies from any cause, natural or otherwise, while hospitalized in a

state mental hospital. The State Department of State Hospitals, the physician in charge of the patient, or the professional person in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the patient and health professional personnel of the hospital relating to the personal life of the patient which is not related to the diagnosis and treatment of the patient's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

SEC. 128. Section 5331 of the Welfare and Institutions Code is amended to read:

5331. No person may be presumed to be incompetent because he or she has been evaluated or treated for mental disorder or chronic alcoholism, regardless of whether such evaluation or treatment was voluntarily or involuntarily received. Any person who leaves a public or private mental health facility following evaluation or treatment for mental disorder or chronic alcoholism, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a statement of California law as stated in this paragraph.

Any person who has been, or is, discharged from a state hospital and received voluntary or involuntary treatment under former provisions of this code relating to inebriates or the mentally ill shall, upon request to the state hospital executive director or the State Department of State Hospitals, be given a statement of California law as stated in this section unless the person is found to be incompetent under proceedings for conservatorship or guardianship.

SEC. 129. Section 5333 of the Welfare and Institutions Code is amended to read:

5333. (a) Persons subject to capacity hearings pursuant to Section 5332 shall have a right to representation by an advocate or legal counsel. "Advocate," as used in this section, means a person who is providing mandated patients' rights advocacy services pursuant to Chapter 6.2 (commencing with Section 5500), and this chapter. If the State Department of State Hospitals provides training to patients' rights advocates, that training shall include issues specific to capacity hearings.

(b) Petitions for capacity hearings pursuant to Section 5332 shall be filed with the superior court. The director of the treatment facility or his or her designee shall personally deliver a copy of the notice of the filing of the petition for a capacity hearing to the person who is the subject of the petition.

(c) The mental health professional delivering the copy of the notice of the filing of the petition to the court for a capacity hearing shall, at the time of delivery, inform the person of his or her legal right to a capacity hearing, including the right to the assistance of the patients' rights advocate or an attorney to prepare for the hearing and to answer any questions or concerns.

(d) As soon after the filing of the petition for a capacity hearing is practicable, an attorney or a patients' rights advocate shall meet with the person to discuss the capacity hearing process and to assist the person in

preparing for the capacity hearing and to answer questions or to otherwise assist the person, as is appropriate.

SEC. 130. Section 5352.5 of the Welfare and Institutions Code is amended to read:

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or a designee, or professional person in charge of the local mental health facility, or a designee, or the local mental health director, or a designee, to the conservatorship investigator of the county of residence of the person prior to his or her admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the jurisdiction of the State Department of State Hospitals pursuant to Section 2684 of the Penal Code by the recommendation of the medical director of the state hospital to the conservatorship investigator of the county of residence of the person or of the county in which the state hospital is located.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or on parole from a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, by the Chief Deputy Secretary for Juvenile Justice or a designee, to the conservatorship investigator of the county of residence of the person or of the county in which the facility is situated.

The county mental health program providing conservatorship investigation services and conservatorship case management services for any persons except those transferred pursuant to Section 4011.6 of the Penal Code shall be reimbursed for the expenditures made by it for the services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of the expenditures. Each county Short-Doyle plan shall include provision for the services in the plan.

SEC. 131. Section 5355 of the Welfare and Institutions Code is amended to read:

5355. If the conservatorship investigation results in a recommendation for conservatorship, the recommendation shall designate the most suitable person, corporation, state or local agency or county officer, or employee designated by the county to serve as conservator. No person, corporation, or agency shall be designated as conservator whose interests, activities, obligations or responsibilities are such as to compromise his or her or their ability to represent and safeguard the interests of the conservatee. Nothing in this section shall be construed to prevent the State Department of State

Hospitals from serving as guardian pursuant to Section 7284, or the function of the conservatorship investigator and conservator being exercised by the same public officer or employee.

When a public guardian is appointed conservator, his or her official bond and oath as public guardian are in lieu of the conservator's bond and oath on the grant of letters of conservatorship. No bond shall be required of any other public officer or employee appointed to serve as conservator.

SEC. 132. Section 5366 of the Welfare and Institutions Code is amended to read:

5366. On or before June 30, 1970, the medical director of each state hospital for the mentally disordered shall compile a roster of those mentally disordered or chronic alcoholic patients within the institution who are gravely disabled. The roster shall indicate the county from which each such patient was admitted to the hospital or, if the hospital records indicate that the county of residence of the patient is a different county, the county of residence. The officer providing conservatorship investigation for each county shall be given a copy of the names and pertinent records of the patients from that county and shall investigate the need for conservatorship for those patients as provided in this chapter. After his or her investigation and on or before July 1, 1972, the county officer providing conservatorship shall file a petition of conservatorship for those patients that he or she determines may need conservatorship. Court commitments under the provisions of law in effect prior to July 1, 1969, of those patients for whom a petition of conservatorship is not filed shall terminate and the patient shall be released unless he or she agrees to accept treatment on a voluntary basis.

Each state hospital and the State Department of State Hospitals shall make their records concerning those patients available to the officer providing conservatorship investigation.

SEC. 133. Section 5402.2 of the Welfare and Institutions Code is amended to read:

5402.2. The Director of State Hospitals shall develop a master plan for the utilization of state hospital facilities identifying levels of care. The level of care shall be either general acute care, skilled nursing care, subacute, intermediate care, or residential care.

SEC. 134. Section 5511 of the Welfare and Institutions Code is amended to read:

5511. The Director of State Hospitals or the executive director of each state hospital serving mentally disordered persons may contract with independent persons or agencies to perform patients' rights advocacy services in state hospitals.

SEC. 135. Section 5587 of the Welfare and Institutions Code is repealed.

SEC. 136. Section 5701.2 of the Welfare and Institutions Code is amended to read:

5701.2. (a) The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall maintain records of any transfer of funds or state hospital beds made pursuant to Chapter 1341 of the Statutes of 1991.

(b) Commencing with the 1991–92 fiscal year, the State Department of Mental Health, or its successor, the State Department of State Hospitals, shall maintain records that set forth that portion of each county’s allocation of state mental health moneys that represent the dollar equivalent attributed to each county’s state hospital beds or bed days, or both, that were allocated as of May 1, 1991. The State Department of Mental Health, or its successor, the State Department of State Hospitals, shall provide a written summary of these records to the appropriate committees of the Legislature and the California Mental Health Directors Association within 30 days after the enactment of the annual Budget Act.

(c) Nothing in this section is intended to change the counties’ base allocations as provided in subdivisions (a) and (b) of Section 17601.

SEC. 137. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. Pursuant to applicable rules and regulations established by the State Department of State Hospitals or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in the hospital, as a boarder and patient, any person who is a suitable person for care and treatment in the hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he or she is in such condition of mind as to render him or her competent to make it or, if he or she is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5358 to place his or her conservatee in a state hospital, by his or her conservator.

(b) In the case of a minor person, the application shall be made by his or her parents, or by the parent, guardian, conservator, or other person entitled to his or her custody to any mental hospitals as may be designated by the Director of State Hospitals or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place the conservatee in a state hospital the application for the minor shall be made by his or her conservator.

Any person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of State Hospitals or the State Department of Developmental Services the record of the voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of the patient to the hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his or her desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his or her conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire to remove him or her from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his or her minority shall be detained therein after he or she reaches the age of majority, but any person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of State Hospitals or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

SEC. 138. Section 6600.05 of the Welfare and Institutions Code is amended to read:

6600.05. (a) Coalinga State Hospital shall be used whenever a person is committed to a secure facility for mental health treatment pursuant to this article and is placed in a state hospital under the direction of the State Department of State Hospitals unless there are unique circumstances that would preclude the placement of a person at that facility. If a state hospital is not used, the facility to be used shall be located on a site or sites determined by the Secretary of the Department of Corrections and Rehabilitation and the Director of State Hospitals. In no case shall a person committed to a secure facility for mental health treatment pursuant to this article be placed at Metropolitan State Hospital or Napa State Hospital.

(b) The State Department of State Hospitals shall be responsible for operation of the facility, including the provision of treatment.

SEC. 139. Section 6601 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 359 of the Statutes of 2011, is amended to read:

6601. (a) (1) Whenever the Secretary of the Department of Corrections and Rehabilitation determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine

months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of State Hospitals in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of State Hospitals for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of State Hospitals shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of State Hospitals, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of State Hospitals, one or both of whom may be independent professionals as defined in subdivision (g). If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of State Hospitals shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of State Hospitals shall arrange for further

examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of State Hospitals for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of State Hospitals determines that the person is a sexually violent predator as defined in this article, the Director of State Hospitals shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) An order issued by a judge pursuant to Section 6601.5, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release, shall toll that person's parole pursuant to paragraph (4) of subdivision (a) of Section 3000 of the Penal Code, if that individual is determined to be a sexually violent predator.

(l) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of State

Hospitals of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

(m) (1) The department shall provide the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance, with a semiannual update on the progress made to hire qualified state employees to conduct the evaluation required pursuant to subdivision (d). The first update shall be provided no later than July 10, 2009.

(2) On or before January 2, 2010, the department shall report to the Legislature on all of the following:

(A) The costs to the department for the sexual offender commitment program attributable to the provisions in Proposition 83 of the November 2006 general election, otherwise known as Jessica's Law.

(B) The number and proportion of inmates evaluated by the department for commitment to the program as a result of the expanded evaluation and commitment criteria in Jessica's Law.

(C) The number and proportion of those inmates who have actually been committed for treatment in the program.

(3) This section shall remain in effect and be repealed on the date that the director executes a declaration, which shall be provided to the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance, specifying that sufficient qualified state employees have been hired to conduct the evaluations required pursuant to subdivision (d), or January 1, 2013, whichever occurs first.

SEC. 140. Section 6601.3 of the Welfare and Institutions Code is amended to read:

6601.3. (a) Upon a showing of good cause, the Board of Parole Hearings may order that a person referred to the State Department of State Hospitals pursuant to subdivision (b) of Section 6601 remain in custody for no more than 45 days beyond the person's scheduled release date for full evaluation pursuant to subdivisions (c) to (i), inclusive, of Section 6601.

(b) For purposes of this section, good cause means circumstances where there is a recalculation of credits or a restoration of denied or lost credits, a resentencing by a court, the receipt of the prisoner into custody, or equivalent exigent circumstances which result in there being less than 45 days prior to the person's scheduled release date for the full evaluation described in subdivisions (c) to (i), inclusive, of Section 6601.

SEC. 141. Section 6602 of the Welfare and Institutions Code is amended to read:

6602. (a) A judge of the superior court shall review the petition and shall determine whether there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. The person named in the petition shall be entitled to assistance of counsel at the probable cause hearing. Upon the commencement of the probable cause hearing, the person shall remain in custody pending the completion of the probable cause hearing. If the

judge determines there is not probable cause, he or she shall dismiss the petition and any person subject to parole shall report to parole. If the judge determines that there is probable cause, the judge shall order that the person remain in custody in a secure facility until a trial is completed and shall order that a trial be conducted to determine whether the person is, by reason of a diagnosed mental disorder, a danger to the health and safety of others in that the person is likely to engage in acts of sexual violence upon his or her release from the jurisdiction of the Department of Corrections and Rehabilitation or other secure facility.

(b) The probable cause hearing shall not be continued except upon a showing of good cause by the party requesting the continuance.

(c) The court shall notify the State Department of State Hospitals of the outcome of the probable cause hearing by forwarding to the department a copy of the minute order of the court within 15 days of the decision.

SEC. 142. Section 6602.5 of the Welfare and Institutions Code is amended to read:

6602.5. (a) No person may be placed in a state hospital pursuant to the provisions of this article until there has been a determination pursuant to Section 6601.3 or 6602 that there is probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior.

(b) The State Department of State Hospitals shall identify each person for whom a petition pursuant to this article has been filed who is in a state hospital on or after January 1, 1998, and who has not had a probable cause hearing pursuant to Section 6602. The State Department of State Hospitals shall notify the court in which the petition was filed that the person has not had a probable cause hearing. Copies of the notice shall be provided by the court to the attorneys of record in the case. Within 30 days of notice by the State Department of State Hospitals, the court shall either order the person removed from the state hospital and returned to local custody or hold a probable cause hearing pursuant to Section 6602.

(c) In no event shall the number of persons referred pursuant to subdivision (b) to the superior court of any county exceed 10 in any 30-day period, except upon agreement of the presiding judge of the superior court, the district attorney, the public defender, the sheriff, and the Director of State Hospitals.

(d) This section shall be implemented in Los Angeles County pursuant to a letter of agreement between the Department of State Hospitals, the Los Angeles County district attorney, the Los Angeles County public defender, the Los Angeles County sheriff, and the Los Angeles County Superior Court. The number of persons referred to the Superior Court of Los Angeles County pursuant to subdivision (b) shall be governed by the letter of agreement.

SEC. 143. Section 6604 of the Welfare and Institutions Code is amended to read:

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent

predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for an indeterminate term to the custody of the State Department of State Hospitals for appropriate treatment and confinement in a secure facility designated by the Director of State Hospitals. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections and Rehabilitation.

SEC. 144. Section 6605 of the Welfare and Institutions Code is amended to read:

6605. (a) A person found to be a sexually violent predator and committed to the custody of the State Department of State Hospitals shall have a current examination of his or her mental condition made at least once every year. The annual report shall include consideration of whether the committed person currently meets the definition of a sexually violent predator and whether conditional release to a less restrictive alternative or an unconditional release is in the best interest of the person and conditions can be imposed that would adequately protect the community. The State Department of State Hospitals shall file this periodic report with the court that committed the person under this article. The report shall be in the form of a declaration and shall be prepared by a professionally qualified person. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person. The person may retain, or if he or she is indigent and so requests, the court may appoint, a qualified expert or professional person to examine him or her, and the expert or professional person shall have access to all records concerning the person.

(b) If the State Department of State Hospitals determines that either: (1) the person's condition has so changed that the person no longer meets the definition of a sexually violent predator, or (2) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the director shall authorize the person to petition the court for conditional release to a less restrictive alternative or for an unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall order a show cause hearing at which the court can consider the petition and any accompanying documentation provided by the medical director, the prosecuting attorney, or the committed person.

(c) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court shall set a hearing on the issue.

(d) At the hearing, the committed person shall have the right to be present and shall be entitled to the benefit of all constitutional protections that were

afforded to him or her at the initial commitment proceeding. The attorney designated by the county pursuant to subdivision (i) of Section 6601 shall represent the state and shall have the right to demand a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person also shall have the right to demand a jury trial and to have experts evaluate him or her on his or her behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be on the state to prove beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged. Where the person's failure to participate in or complete treatment is relied upon as proof that the person's condition has not changed, and there is evidence to support that reliance, the jury shall be instructed substantially as follows:

"The committed person's failure to participate in or complete the State Department of State Hospitals Sex Offender Commitment Program (SOCP) are facts that, if proved, may be considered as evidence that the committed person's condition has not changed. The weight to be given that evidence is a matter for the jury to determine."

(e) If the court or jury rules against the committed person at the hearing conducted pursuant to subdivision (d), the term of commitment of the person shall run for an indeterminate period from the date of this ruling. If the court or jury rules for the committed person, he or she shall be unconditionally released and unconditionally discharged.

(f) In the event that the State Department of State Hospitals has reason to believe that a person committed to it as a sexually violent predator is no longer a sexually violent predator, it shall seek judicial review of the person's commitment pursuant to the procedures set forth in Section 7250 in the superior court from which the commitment was made. If the superior court determines that the person is no longer a sexually violent predator, he or she shall be unconditionally released and unconditionally discharged.

SEC. 145. Section 6606 of the Welfare and Institutions Code is amended to read:

6606. (a) A person who is committed under this article shall be provided with programming by the State Department of State Hospitals which shall afford the person with treatment for his or her diagnosed mental disorder. Persons who decline treatment shall be offered the opportunity to participate in treatment on at least a monthly basis.

(b) Amenability to treatment is not required for a finding that any person is a person described in Section 6600, nor is it required for treatment of that person. Treatment does not mean that the treatment be successful or potentially successful, nor does it mean that the person must recognize his or her problem and willingly participate in the treatment program.

(c) The programming provided by the State Department of State Hospitals in facilities shall be consistent with current institutional standards for the treatment of sex offenders, and shall be based on a structured treatment protocol developed by the State Department of State Hospitals. The protocol

shall describe the number and types of treatment components that are provided in the program, and shall specify how assessment data will be used to determine the course of treatment for each individual offender. The protocol shall also specify measures that will be used to assess treatment progress and changes with respect to the individual's risk of reoffense.

(d) Notwithstanding any other provision of law, except as to requirements relating to fire and life safety of persons with mental illness, and consistent with information and standards described in subdivision (c), the State Department of State Hospitals is authorized to provide the programming using an outpatient/day treatment model, wherein treatment is provided by licensed professional clinicians in living units not licensed as health facility beds within a secure facility setting, on less than a 24-hour a day basis. The State Department of State Hospitals shall take into consideration the unique characteristics, individual needs, and choices of persons committed under this article, including whether or not a person needs antipsychotic medication, whether or not a person has physical medical conditions, and whether or not a person chooses to participate in a specified course of offender treatment. The State Department of State Hospitals shall ensure that policies and procedures are in place that address changes in patient needs, as well as patient choices, and respond to treatment needs in a timely fashion. The State Department of State Hospitals, in implementing this subdivision, shall be allowed by the State Department of Public Health to place health facility beds at Coalinga State Hospital in suspense in order to meet the mental health and medical needs of the patient population. Coalinga State Hospital may remove all or any portion of its voluntarily suspended beds into active license status by request to the State Department of Public Health. The facility's request shall be granted unless the suspended beds fail to comply with current operational requirements for licensure.

(e) The department shall meet with each patient who has chosen not to participate in a specific course of offender treatment during monthly treatment planning conferences. At these conferences the department shall explain treatment options available to the patient, offer and re-offer treatment to the patient, seek to obtain the patient's cooperation in the recommended treatment options, and document these steps in the patient's health record. The fact that a patient has chosen not to participate in treatment in the past shall not establish that the patient continues to choose not to participate.

SEC. 146. Section 6608 of the Welfare and Institutions Code is amended to read:

6608. (a) Nothing in this article shall prohibit the person who has been committed as a sexually violent predator from petitioning the court for conditional release or an unconditional discharge without the recommendation or concurrence of the Director of State Hospitals. If a person has previously filed a petition for conditional release without the concurrence of the director and the court determined, either upon review of the petition or following a hearing, that the petition was frivolous or that the committed person's condition had not so changed that he or she would not be a danger to others in that it is not likely that he or she will engage in

sexually violent criminal behavior if placed under supervision and treatment in the community, then the court shall deny the subsequent petition unless it contains facts upon which a court could find that the condition of the committed person had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the concurrence of the director, the court shall endeavor whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, shall deny the petition without a hearing. The person petitioning for conditional release and unconditional discharge under this subdivision shall be entitled to assistance of counsel. The person petitioning for conditional release or unconditional discharge shall serve a copy of the petition on the State Department of State Hospitals at the time the petition is filed with the court.

(b) The court shall give notice of the hearing date to the attorney designated in subdivision (i) of Section 6601, the retained or appointed attorney for the committed person, and the Director of State Hospitals at least 30 court days before the hearing date.

(c) No hearing upon the petition shall be held until the person who is committed has been under commitment for confinement and care in a facility designated by the Director of State Hospitals for not less than one year from the date of the order of commitment.

(d) The court shall hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community. If the court at the hearing determines that the committed person would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court shall order the committed person placed with an appropriate forensic conditional release program operated by the state for one year. A substantial portion of the state-operated forensic conditional release program shall include outpatient supervision and treatment. The court shall retain jurisdiction of the person throughout the course of the program. At the end of one year, the court shall hold a hearing to determine if the person should be unconditionally released from commitment on the basis that, by reason of a diagnosed mental disorder, he or she is not a danger to the health and safety of others in that it is not likely that he or she will engage in sexually violent criminal behavior. The court shall not make this determination until the person has completed at least one year in the state-operated forensic conditional release program. The court shall notify the Director of State Hospitals of the hearing date.

(e) Before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of State Hospitals shall submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the committed person. If the court does not accept the community program director's

recommendation, the court shall specify the reason or reasons for its order on the record. The procedures described in Sections 1605 to 1610, inclusive, of the Penal Code shall apply to the person placed in the forensic conditional release program.

(f) If the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or his or her designee, shall make the necessary placement arrangements and, within 30 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court.

(g) If the court rules against the committed person at the trial for unconditional release from commitment, the court may place the committed person on outpatient status in accordance with the procedures described in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(h) If the court denies the petition to place the person in an appropriate forensic conditional release program or if the petition for unconditional discharge is denied, the person may not file a new application until one year has elapsed from the date of the denial.

(i) In any hearing authorized by this section, the petitioner shall have the burden of proof by a preponderance of the evidence.

(j) If the petition for conditional release is not made by the director of the treatment facility to which the person is committed, no action on the petition shall be taken by the court without first obtaining the written recommendation of the director of the treatment facility.

(k) Time spent in a conditional release program pursuant to this section shall not count toward the term of commitment under this article unless the person is confined in a locked facility by the conditional release program, in which case the time spent in a locked facility shall count toward the term of commitment.

SEC. 147. Section 6718 of the Welfare and Institutions Code is repealed.

SEC. 148. Section 6750 of the Welfare and Institutions Code is amended to read:

6750. The superior court judge of each county may grant certificates in accordance with the form prescribed by the State Department of State Hospitals, showing that the persons named therein are reputable physicians licensed in this state, and have been in active practice of their profession at least five years. When certified copies of such certificates have been filed with the department, it shall issue to such persons certificates or commissions, and the persons therein named shall be known as "medical examiners." There shall at all times be at least two such medical examiners in each county. The certificate may be revoked by the department for incompetency or neglect, and shall not be again granted without the consent of the department.

SEC. 149. Section 7200.05 of the Welfare and Institutions Code is repealed.

SEC. 150. Section 7200.06 of the Welfare and Institutions Code is amended to read:

7200.06. (a) Of the 1,362 licensed beds at Napa State Hospital, at least 20 percent of these beds shall be available in any given fiscal year for use by counties for contracted services. Of the remaining beds, in no case shall the population of patients whose placement has been required pursuant to the Penal Code exceed 980.

(b) After construction of the perimeter security fence is completed at Napa State Hospital, no patient whose placement has been required pursuant to the Penal Code shall be placed outside the perimeter security fences, with the exception of placements in the general acute care and skilled nursing units. The State Department of State Hospitals shall ensure that appropriate security measures are in place for the general acute care and skilled nursing units.

(c) Any alteration to the security perimeter structure or policies shall be made in conjunction with representatives of the City of Napa, the County of Napa, and local law enforcement agencies.

SEC. 151. Section 7200.07 of the Welfare and Institutions Code is repealed.

SEC. 152. Section 7201 of the Welfare and Institutions Code is amended to read:

7201. All of the institutions under the jurisdiction of the State Department of State Hospitals shall be governed by the uniform rules and regulations of the State Department of State Hospitals and all of the provisions of Part 2 (commencing with Section 4100) of Division 4 of this code on the administration of state institutions for the mentally disordered shall apply to the conduct and management of the state hospitals for the mentally disordered. All of the institutions under the jurisdiction of the State Department of Developmental Services shall be governed by the uniform rules and regulations of the State Department of Developmental Services and, except as provided in Chapter 4 (commencing with Section 7500) of this division, all of the provisions of Part 2 (commencing with Section 4440) of Division 4.1 of this code on the administration of state institutions for the developmentally disabled shall apply to the conduct and management of the state hospitals for the developmentally disabled.

SEC. 153. Section 7202 of the Welfare and Institutions Code is amended to read:

7202. The State Department of State Hospitals shall regularly consult with the Napa State Hospital Task Force, which consists of local community representatives, on proposed policy or structural modifications to Napa State Hospital that may affect the Napa community, including, but not limited to, all of the following:

- (a) Changes in the patient population mix.
- (b) Construction of, or significant alterations to, facility structures.
- (c) Changes in the hospital security plan.

SEC. 154. Section 7206 of the Welfare and Institutions Code is amended to read:

7206. Notwithstanding the provisions of Section 4444, the Director of General Services, with the consent of the Director of State Hospitals, may grant a right-of-way for road purposes to the County of San Bernardino over and along a portion of the Patton State Hospital property adjacent to Arden Way and Pacific Street upon such terms and conditions and with such reservations and exceptions as in the opinion of the Director of General Services will be for the best interests of the state.

SEC. 155. Section 7207 of the Welfare and Institutions Code is amended to read:

7207. The Director of General Services, with the consent of the State Department of State Hospitals, may grant to the Regents of the University of California, upon such terms, conditions, and with such reservations and exceptions as in the opinion of the Director of General Services may be for the best interest of the state, the necessary easements and rights-of-way for a utilities relocation and campus access road on the Langley Porter Neuropsychiatric Institute property. The right-of-way shall be across, along and upon the following described property:

A strip of land approximately 40' in width extending from the southerly line of Parnassus Avenue beginning at a point on the southerly boundary of Parnassus Avenue 331' from the westerly boundary of said parcel of land described by deed dated October 1, 1940, and extending in a southerly direction to the south boundary of Langley Porter property.

SEC. 156. Section 7226 of the Welfare and Institutions Code is amended to read:

7226. The State Department of State Hospitals may admit to any state hospital for the mentally disordered, if there is room therein, any mentally disordered soldier or sailor in the service of the United States on such terms as are agreed upon between the department and the properly authorized agents, officers, or representatives of the United States government.

SEC. 157. Section 7228 of the Welfare and Institutions Code is amended to read:

7228. Prior to admission to the Napa State Hospital or the Metropolitan State Hospital, the State Department of State Hospitals shall evaluate each patient committed pursuant to Section 1026 or 1370 of the Penal Code. A patient determined to be a high security risk shall be treated in the department's most secure facilities. A Penal Code patient not needing this level of security shall be treated as near to the patient's community as possible if an appropriate treatment program is available.

SEC. 158. Section 7230 of the Welfare and Institutions Code is amended to read:

7230. Those patients determined to be high security risk patients, as described in Section 7228, shall be treated at Atascadero State Hospital or Patton State Hospital, a correctional facility, or other secure facility as defined by the State Department of State Hospitals, but shall not be treated at Metropolitan State Hospital or Napa State Hospital. Metropolitan State Hospital and Napa State Hospital shall treat only low- to moderate-risk patients, as defined by the State Department of State Hospitals.

SEC. 159. Section 7231 of the Welfare and Institutions Code is amended to read:

7231. (a) The State Department of Mental Health shall develop policies and procedures, by no later than 30 days following the effective date of the Budget Act of 1997, at each state hospital, to notify appropriate law enforcement agencies in the event of a patient escape or walkaway. Local law enforcement agencies, including local police and county sheriff departments, shall review the policies and procedures prior to final implementation by the department.

(b) Commencing July 1, 2012, the State Department of State Hospitals may adopt the policies and procedures developed by the State Department of Mental Health pursuant to subdivision (a).

SEC. 160. Section 7232 of the Welfare and Institutions Code is amended to read:

7232. (a) The State Department of Mental Health shall issue a state hospital administrative directive by no later than 30 days following the effective date of the Budget Act of 1997 to require patients whose placement has been required pursuant to the Penal Code, and other patients within the secured perimeter at each state hospital, to wear clothing that enables these patients to be readily identified.

(b) Commencing July 1, 2012, the State Department of State Hospitals may adopt the state hospital administrative directive issued by the State Department of Mental Health pursuant to subdivision (a).

SEC. 161. Section 7250 of the Welfare and Institutions Code is amended to read:

7250. Any person who has been committed is entitled to a writ of habeas corpus, upon a proper application made by the State Department of State Hospitals or the State Department of Developmental Services, by that person, or by a relative or friend in his or her behalf to the judge of the superior court of the county in which the hospital is located, or if the person has been found incompetent to stand trial and has been committed pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, judicial review shall be in the superior court for the county that determined the question of the mental competence of the person. All documents requested by the court in the county of confinement shall be forwarded from the county of commitment to the court. Upon the return of the writ, the truth of the allegations under which he or she was committed shall be inquired into and determined. The medical history of the person as it appears in the clinical records shall be given in evidence, and the superintendent in charge of the state hospital wherein the person is held in custody and any other person who has knowledge of the facts shall be sworn and shall testify relative to the mental condition of the person.

SEC. 162. Section 7251 of the Welfare and Institutions Code is amended to read:

7251. Every executive director of a state hospital, shall, within three days after the reception of a patient, make or cause to be made a thorough physical and mental examination of the patient, and state the result thereof,

on blanks prepared and exclusively set apart for that purpose. During the time the patient remains under his or her care he or she shall also make, or cause to be made, from time to time, examination of the mental state, bodily condition, and medical treatment of the patient at such intervals and in such manner, and state its result, upon blank forms, as are approved by the department. In the event of the death or discharge of a patient, the superintendent, or person in charge of the state hospital, shall state the circumstances thereof upon forms as are required by the department.

SEC. 163. Section 7252 of the Welfare and Institutions Code is amended to read:

7252. Any patient in a state hospital, upon the consent of the executive director and medical director of the hospital, may voluntarily donate blood to any nonprofit blood bank duly licensed by the State Department of Public Health.

SEC. 164. Section 7253 of the Welfare and Institutions Code is amended to read:

7253. Every patient in a state hospital under this chapter may be permitted to keep for his or her own use articles of handiwork and other finished products suitable primarily for personal use, as determined by the executive director, which have been fabricated by the patient.

SEC. 165. Section 7254 of the Welfare and Institutions Code is amended to read:

7254. Notwithstanding any other provision of law, the State Department of State Hospitals shall have the authority to require that patients committed to a state mental health facility pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, and Sections 6316 and 6321 of this code shall wear identifiable clothing in a secured area of the facility.

SEC. 166. Section 7275.1 of the Welfare and Institutions Code is repealed.

SEC. 167. Section 7276 of the Welfare and Institutions Code is amended to read:

7276. (a) The charge for the care and treatment of all mentally disordered persons at state hospitals for the mentally disordered for whom there is liability to pay therefor shall be determined pursuant to Section 4025. The Director of State Hospitals may reduce, cancel or remit the amount to be paid by the estate or the relatives, as the case may be, liable for the care and treatment of any mentally disordered person or alcoholic who is a patient at a state hospital for the mentally disordered, on satisfactory proof that the estate or relatives, as the case may be, are unable to pay the cost of that care and treatment or that the amount is uncollectible. In any case where there has been a payment under this section, and the payment or any part thereof is refunded because of the death, leave of absence, or discharge of any patient of the hospital, that amount shall be paid by the hospital or the State Department of State Hospitals to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be itemized and the aggregate deducted from the amount to be paid into the

State Treasury, as provided by law. If any person dies at any time while his or her estate is liable for his or her care and treatment at a state hospital, the claim for the amount due may be presented to the executor or administrator of his or her estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

(b) If the Director of State Hospitals delegates to the county the responsibility for determining the ability of a minor child and his or her parents to pay for state hospital services, the requirements of Sections 5710 and 7275.1 and the policies and procedures established and maintained by the director, including those relating to the collection and accounting of revenue, shall be followed by each county to which that responsibility is delegated.

SEC. 168. Section 7277 of the Welfare and Institutions Code is amended to read:

7277. The State Department of State Hospitals shall collect all the costs and charges mentioned in Section 7275, and shall determine, pursuant to Section 7275, and collect the charges for care and treatment rendered persons in any community mental hygiene clinics maintained by the department and may take action as is necessary to effect their collection within or without the state. The Director of State Hospitals may, however, at his or her discretion, refuse to accept payment of charges for the care and treatment in a state hospital of any mentally disordered person or inebriate who is eligible for deportation by the federal immigration authorities.

SEC. 169. Section 7278 of the Welfare and Institutions Code is amended to read:

7278. The State Department of State Hospitals shall, following the admission of a patient into a state hospital for the mentally disordered cause an investigation to be made to determine the moneys, property, or interest in property, if any, the patient has, and whether he or she has a duly appointed and acting guardian to protect his or her property and his or her property interests. The department shall also make an investigation to determine whether the patient has any relative or relatives responsible under the provisions of this code for the payment of the costs of transportation and maintenance, and shall ascertain the financial condition of the relative or relatives to determine whether in each case the relative or relatives are in fact financially able to pay the charges. All reports in connection with the investigation, together with the findings of the department, shall be records of the department, and may be inspected by interested relatives, their agents, or representatives at any time upon application.

SEC. 170. Section 7281 of the Welfare and Institutions Code is amended to read:

7281. There is at each institution under the jurisdiction of the State Department of State Hospitals and at each institution under the jurisdiction of the State Department of Developmental Services, a fund known as the patients' personal deposit fund. Any funds coming into the possession of the superintendent, belonging to any patient in that institution, shall be deposited in the name of that patient in the patients' personal deposit fund,

except that if a guardian or conservator of the estate is appointed for the patient then he or she shall have the right to demand and receive the funds. Whenever the sum belonging to any one patient, deposited in the patients' personal deposit fund, exceeds the sum of five hundred dollars (\$500), the excess may be applied to the payment of the care, support, maintenance, and medical attention of the patient. After the death of the patient any sum remaining in his or her personal deposit account in excess of burial costs may be applied for payment of care, support, maintenance, and medical attention. Any of the funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals for the patient or may be applied in an amount not exceeding five hundred dollars (\$500) to the payment of his or her burial expenses.

SEC. 171. Section 7282 of the Welfare and Institutions Code is amended to read:

7282. The State Department of State Hospitals with respect to a state hospital under its jurisdiction, or the State Department of Developmental Services with respect to a state hospital under its jurisdiction, may in its own name bring an action to enforce payment for the cost and charges of transportation of a person to a state hospital against any person, guardian, conservator, or relative liable for transportation. The department also may in its own name bring an action to recover for the use and benefit of any state hospital or for the state the amount due for the care, support, maintenance, and expenses of any patient therein, against any county, or officer thereof, or against any person, guardian, conservator, or relative, liable for the care, support, maintenance, or expenses.

SEC. 172. Section 7282.1 of the Welfare and Institutions Code is amended to read:

7282.1. If a person who is or has been a recipient of services provided by the State Department of Developmental Services or the State Department of State Hospitals in a state hospital, or the guardian, conservator, or personal representative of the person, brings an action or claim against a third party for an injury, disorder, or disability, which resulted in the need for care, maintenance, or treatment in a state hospital, the person or the guardian, conservator, or personal representative shall within 30 days of filing the action or claim give to the Director of Developmental Services, for hospitals under the jurisdiction of the State Department of Developmental Services, or the Director of State Hospitals, for hospitals under the jurisdiction of the State Department of State Hospitals, written notice of the action or claim and of the name of the court or agency in which the action or claim is to be brought. Proof of the notice shall be filed in the action or claim. For pending actions or claims filed prior to January 1, 1986, proof of the notice shall be filed by February 1, 1986.

Any judgment, award, or settlement arising out of the action or claim shall be subject to a lien in favor of the Director of Developmental Services or the Director of State Hospitals, for hospitals under the jurisdiction of that department, for the cost of state hospital care and treatment furnished with respect to the subject of the action or claim, however:

(a) A lien shall not attach to that portion of a money judgment awarded for pain and suffering.

(b) A lien shall not attach if over 180 days has elapsed between the time when notice was given to the department and the time when the department has filed its lien with the court or agency in which the action or claim has been brought.

(c) A lien authorized by this section shall not be placed for services which have been paid through the state Medi-Cal program.

(d) This section shall not apply to actions or claims in which a final judgment, award, or settlement has been entered into prior to January 1, 1986.

SEC. 173. Section 7283 of the Welfare and Institutions Code is amended to read:

7283. All moneys collected by the State Department of State Hospitals and the State Department of Developmental Services for the cost and charges of transportation of persons to state hospitals shall be remitted by the department to the State Treasury for credit to, and shall become a part of, the current appropriation from the General Fund of the state for the transportation of the mentally disordered, correctional school, or other state hospital patients and shall be available for expenditure for those purposes. In lieu of exact calculations of moneys collected for transportation charges the department may determine the amount of collections by the use of those estimates or formula as may be approved by the Department of Finance.

SEC. 174. Section 7284 of the Welfare and Institutions Code is amended to read:

7284. If any incompetent person, who has no guardian or conservator of the estate and who has been admitted or committed to the State Department of State Hospitals for placement in any state hospital for the mentally disordered, is the owner of any property, the State Department of State Hospitals, acting through its designated officer, may apply to the superior court of the proper county for its appointment as guardian or conservator of the estate of the incompetent person.

For the purposes of this section, the State Department of State Hospitals is hereby made a corporation and may act as executor, administrator, guardian or conservator of estates, assignee, receiver, depository or trustee, under appointment of any court or by authority of any law of this state, and may transact business in that capacity in like manner as an individual, and for this purpose may sue and be sued in any of the courts of this state.

If a person admitted or committed to the State Department of State Hospitals dies, leaving any estate, and having no relatives at the time residing within this state, the State Department of State Hospitals may apply for letters of administration of his or her estate, and, in the discretion of the court, letters of administration may be issued to the department. When the State Department of State Hospitals is appointed as guardian, conservator, or administrator, the department shall be appointed as guardian or conservator or administrator without bond. The officer designated by the department shall be required to give a surety bond in such amount as may

be deemed necessary from time to time by the director, but in no event shall the initial bond be less than ten thousand dollars (\$10,000), which bond shall be for the joint benefit of the several estates and the State of California. The State Department of State Hospitals shall receive any reasonable fees for its services as the guardian, conservator, or administrator as the court allows. The fees paid to the State Department of State Hospitals for its services as guardian, conservator, or administrator of the various estates may be used as a trust account from which may be drawn expenses for filing fees, bond premiums, court costs, and other expenses required in the administration of the various estates. Whenever the balance remaining in the trust fund account shall exceed a sum deemed necessary by the department for the payment of expenses, the excess shall be paid quarterly by the department into the State Treasury to the credit of the General Fund.

SEC. 175. Section 7285 of the Welfare and Institutions Code is amended to read:

7285. The State Department of State Hospitals may invest funds held as executor, administrator, guardian or conservator of estates, or trustee, in bonds or obligations issued or guaranteed by the United States or the State of California. Such investments may be made and such bonds or obligations may be sold or exchanged for similar bonds or obligations without notice or court authorization.

SEC. 176. Section 7286 of the Welfare and Institutions Code is amended to read:

7286. The State Department of State Hospitals may establish one or more common trusts for investment of funds held as executor, administrator, guardian or conservator of estates, or trustee and may designate from time to time the amount of participation of each estate in such trusts. The funds in such trusts may be invested only in bonds or obligations issued or guaranteed by the United States or the State of California.

The income and profits of each trust shall be the property of the estates participating and shall be distributed, when received, in proportion to the amount of participation of each estate in such trust. The losses of each trust shall be the losses of the estates participating and shall be apportioned, as the same occur, upon the same basis as income and profits.

SEC. 177. Section 7287 of the Welfare and Institutions Code is amended to read:

7287. Upon the death of an incompetent person over whom the State Department of State Hospitals has obtained jurisdiction pursuant to Section 7284, the department may make proper disposition of the remains, and pay for the disposition of the remains together with any indebtedness existing at the time of the death of the person from the assets of the guardianship or conservatorship estate, and thereupon it shall file its final account with the court or otherwise close its administration of the estate of the person.

SEC. 178. Section 7288 of the Welfare and Institutions Code is amended to read:

7288. Whenever it appears that a person who has been admitted to a state institution and remains under the jurisdiction of the State Department

of State Hospitals or the State Department of Developmental Services does not have a guardian or conservator of the estate and owns personal property which requires safekeeping for the benefit of the patient, the State Department of State Hospitals or the State Department of Developmental Services may remove or cause to be removed the personal property from wherever located to a place of safekeeping.

Whenever it appears that the patient does not own property of a value which would warrant guardianship or conservatorship proceedings, the expenses of removal and safekeeping shall be paid from funds appropriated for the support of the institution in which the patient is receiving care and treatment; provided, however, that if the sum on deposit to the credit of the patient in the patients' personal deposit fund exceeds the sum of three hundred dollars (\$300), the excess may be applied to the payment of the expenses of removal and safekeeping.

When it is determined by the superintendent, at any time after the removal for safekeeping of the personal property, that the patient is incurable or is likely to remain in a state institution indefinitely, then any of those articles of personal property which cannot be used by the patient at the institution may be sold at public auction and the proceeds therefrom shall first be applied in reimbursement of the expenses so incurred, and the balance shall be deposited to the patient's credit in the patients' personal deposit fund. All moneys so received as reimbursement shall be deposited in the State Treasury in augmentation of the appropriation from which the expenses were paid.

SEC. 179. Section 7289 of the Welfare and Institutions Code is amended to read:

7289. When a person who is a client of a state hospital or developmental center in the State Department of State Hospitals or the State Department of Developmental Services has no guardian or conservator of the estate and has money due or owing to him or her, the executive director of the institution of which the person is a client may, during the client's residence at the institution, collect an amount not to exceed three thousand dollars (\$3,000) of any money so due or owing upon furnishing to the person, representative, officer, body or corporation in possession of or owing any sums, an affidavit executed by the executive director or acting executive director. The affidavit shall contain the name of the institution of which the person is a client, and the statement that the total amount requested pursuant to the affidavit does not exceed the sum of three thousand dollars (\$3,000). Payments from retirement systems and annuity plans which are due or owing to the clients may also be collected by the executive director of the institution of which the person is a client, upon the furnishing of an affidavit executed by the executive director or acting executive director, containing the name of the institution of which the person is a client and the statement that the person is entitled to receive the payments. These sums shall be delivered to the executive director and shall be deposited by him or her in the clients' personal deposit fund as provided in Section 7281.

The receipt of the executive director shall constitute sufficient acquittance for any payment of money made pursuant to this section and shall fully discharge the person, representative, officer, body or corporation from any further liability with reference to the amount of money so paid.

The executive director of each institution shall render reports and accounts annually or more often as may be required by the department having jurisdiction over the hospital or the Department of Finance of all moneys of clients deposited in the clients' personal deposit accounts of the institution.

SEC. 180. Section 7289.1 of the Welfare and Institutions Code is amended to read:

7289.1. (a) The amount of three thousand dollars (\$3,000) as set forth in Section 7289, shall be adjusted annually, on January 1 by the State Department of Developmental Services as it applies to state hospitals or developmental centers under its jurisdiction, and by the State Department of State Hospitals as it applies to state hospitals under its jurisdiction, to reflect any increases or decreases in the cost of living occurring after December 31, 1967, so that the first adjustment becomes effective January 1, 1990. The indices of the California Consumer Price Index—All Urban as prepared by the Department of Industrial Relations, shall be used as the basis for determining the changes in the cost of living.

(b) In implementing the cost-of-living provisions of this section, the State Department of Developmental Services and the State Department of State Hospitals shall use the most recent December for computation of the percentage change in the cost of living after December 31, 1967. The amount of this adjustment shall be made by comparing the average index for the most recent December with the average index for December 1967. The product of any percentage increase or decrease in the average index and the amount set forth in Section 7289 shall be the adjusted amount subject to affidavit pursuant to the provisions of Section 7289.

SEC. 181. Section 7290 of the Welfare and Institutions Code is amended to read:

7290. The State Department of State Hospitals or the State Department of Developmental Services may enter into a special agreement, secured by a properly executed bond, with the relatives, guardian, conservator, or friend of any patient therein, for his or her care, support, maintenance, or other expenses at the institution. Such agreement and bond shall be to the people of the State of California and action to enforce the same may be brought thereon by the department. All charges due under the provisions of this section, including the monthly rate for the patient's care and treatment as established by or pursuant to law, shall be collected monthly. No patient, however, shall be permitted to occupy more than one room in any state institution.

SEC. 182. Section 7292 of the Welfare and Institutions Code is amended to read:

7292. The cost of such care shall be determined and fixed from time to time by the Director of State Hospitals, but in no case shall it exceed the rate of forty dollars (\$40) per month.

SEC. 183. Section 7293 of the Welfare and Institutions Code is amended to read:

7293. The State Department of State Hospitals shall present to the county, not more frequently than monthly, a claim for the amount due the state under Section 7291 which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 184. Section 7294 of the Welfare and Institutions Code is amended to read:

7294. Any person who has been committed as a defective or psychopathic delinquent may be paroled or granted a leave of absence by the medical superintendent of the institution wherein the person is confined whenever the medical superintendent is of the opinion that the person has improved to such an extent that he or she is no longer a menace to the health and safety of others or that the person will receive benefit from the parole or leave of absence, and after the medical superintendent and the Director of State Hospitals have certified the opinion to the committing court.

If within 30 days after the receipt of the certification the committing court orders the return of the person, the person shall be returned forthwith to await further action of the court. If within 30 days after the receipt of the certification the committing court does not order the return of the person to await the further action of the court, the medical superintendent may thereafter parole the person under the terms and conditions as may be specified by the superintendent. Any paroled inmate may at any time during the parole period be recalled to the institution. The period of parole shall in no case be less than five years, and shall be on the same general rules and conditions as parole of the mentally disordered.

When any person has been paroled for five consecutive years, if in the opinion of the medical superintendent and the Director of State Hospitals the person is no longer a menace to the health, person, or property of himself or herself or of any other person, the medical superintendent, subject to the approval of the Director of State Hospitals, may discharge the person. The committing court shall be furnished with a certified copy of the discharge and shall thereupon make such disposition of the court case as it deems necessary and proper.

When, in the opinion of the medical superintendent, a person previously committed as a defective or psychopathic delinquent will not benefit by further care and treatment under any facilities of the department and should be returned to the jurisdiction of the court, the superintendent of the institution and the Director of State Hospitals shall certify the opinion to the committing court including therein a report, diagnosis and recommendation concerning the person's future care, supervision, or treatment. Upon receipt of the certification, the committing court shall forthwith order the return of the person to the court. The person shall be entitled to a court hearing and to present witnesses in his or her own behalf, to be represented by counsel and to cross-examine any witness who testifies against him or her. After considering all the evidence before it, the court

may make a further order or commitment with reference to the person as may be authorized by law.

SEC. 185. Section 7300 of the Welfare and Institutions Code is amended to read:

7300. It shall be the policy of the department to make available to all persons admitted to a state hospital prior to July 1, 1969, and to all persons judicially committed or remanded to its jurisdiction all of the facilities under the control of the department. Whenever, in the opinion of the Director of State Hospitals, it appears that a person admitted prior to July 1, 1969, or that a person judicially committed or remanded to the State Department of State Hospitals for placement in an institution would be benefited by a transfer from that institution to another institution in the department, the director may cause the transfer of the patient from that institution to another institution under the jurisdiction of the department. Preference shall be given in any such transfer to an institution in an adjoining rather than a remote district.

However, before any inmate of a correctional school may be transferred to a state hospital for the mentally disordered he or she shall first be returned to a court of competent jurisdiction, and, if subject to commitment, after hearing, may be committed to a state hospital for the mentally disordered in accordance with law.

The expense of such transfers is chargeable to the state, and the bills for the same, when approved by the Director of State Hospitals, shall be paid by the Treasurer on the warrant of the Controller, out of any moneys provided for the care or support of the patients or out of the moneys provided for the support of the department, in the discretion of the department.

SEC. 186. Section 7301 of the Welfare and Institutions Code is amended to read:

7301. Whenever, in the opinion of the Director of State Hospitals and with the approval of the Secretary of the Department of Corrections and Rehabilitation, any person who has been committed to a state hospital pursuant to provisions of the Penal Code or who has been placed in a state hospital temporarily for observation pursuant to, or who has been committed to a state hospital pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of this code needs care and treatment under conditions of custodial security which can be better provided within the Department of Corrections and Rehabilitation, the person may be transferred for those purposes from an institution under the jurisdiction of the State Department of State Hospitals to an institution under the jurisdiction of the Department of Corrections and Rehabilitation.

Persons so transferred shall not be subject to the provisions of Section 4500, 4501, 4501.5, 4502, 4530, or 4531 of the Penal Code. However, they shall be subject to the general rules of the Secretary of the Department of Corrections and Rehabilitation and of the facility where they are confined and any correctional employee dealing with those persons during the course of an escape or attempted escape, a fight or a riot, shall have the same rights,

privileges and immunities as if the person transferred had been committed to the Secretary of the Department of Corrections and Rehabilitation.

Whenever a person is transferred to an institution under the jurisdiction of the Department of Corrections and Rehabilitation pursuant to this section, any report, opinion, or certificate required or authorized to be filed with the court which committed the person to a state hospital, or ordered the person placed therein, shall be prepared and filed with the court by the head of the institution in which the person is actually confined or by the designee of the head of the institution.

SEC. 187. Section 7303 of the Welfare and Institutions Code is amended to read:

7303. Whenever a person, committed to the care of the State Department of State Hospitals or the State Department of Developmental Services under one of the commitment laws which provides for reimbursement for care and treatment to the state by the county of commitment of the person, is transferred under Section 7300 to an institution under the jurisdiction of the department where the state rather than the county is liable for the support and care of patients, the county of commitment may have the original commitment vacated and a new commitment issued, designating the institution to which the person has been transferred, in order to absolve the county from liability under the original commitment.

SEC. 188. Section 7304 of the Welfare and Institutions Code is amended to read:

7304. Whenever a person, committed to the State Department of State Hospitals or the State Department of Developmental Services under one of the commitment laws providing for no reimbursement for care and treatment to the state by the county of commitment, is transferred under Section 6700 to an institution under the jurisdiction of the department where the county is required to reimburse the state for such care and treatment, the State Department of State Hospitals or the State Department of Developmental Services may have the original commitment vacated and a new commitment issued, designating the institution to which the person has been transferred, in order to make the county liable for the care and treatment of the committed person to the extent provided by Sections 7511 and 7512.

SEC. 189. Section 7325 of the Welfare and Institutions Code is amended to read:

7325. (a) When any patient committed by a court to a state hospital or other institution on or before June 30, 1969, or when any patient who is judicially committed on or after July 1, 1969, or when any patient who is involuntarily detained pursuant to Part 1 (commencing with Section 5000) of Division 5 escapes from any state hospital, any hospital or facility operated by or under the Veterans' Administration of the United States government, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5, or any facility into which the patient has been placed by his or her conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, or when a judicially committed patient's return from leave of absence has been authorized or

ordered by the State Department of State Hospitals, or the State Department of Developmental Services, or the facility of the Veterans' Administration, any peace officer, upon written request of the state hospital, veterans' facility, or the facility designated by a county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, shall, without the necessity of a warrant or court order, or any officer or employee of the State Department of State Hospitals, or of the State Department of Developmental Services, designated to perform these duties may, apprehend, take into custody, and deliver the patient to the state hospital or to a facility of the Veterans' Administration, or the facility designated by a county, or to any person or place authorized by the State Department of State Hospitals, the State Department of Developmental Services, the Veterans' Administration, the local director of the county mental health program of the county in which is located the facility designated by the county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, as the case may be, to receive him or her. Every officer or employee of the State Department of State Hospitals, or of the State Department of Developmental Services, designated to apprehend or return those patients has the powers and privileges of peace officers so far as necessary to enforce this section.

(b) As used in this section, "peace officer" means a person as specified in Section 830.1 of the Penal Code.

(c) Any officer or employee of a state hospital, hospital or facility operated by or under the Veterans' Administration, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5 shall provide any peace officer with any information concerning any patient who escapes from the hospital or facility that is necessary to assist in the apprehension and return of the patient. The written notification of the escape required by this section shall include the name and physical description of the patient, his or her home address, the degree of dangerousness of the patient, including specific information about the patient if he or she is deemed likely to cause harm to himself or herself or to others, and any additional information that is necessary to apprehend and return the patient. If the escapee has been charged with any crime involving physical harm to children, the notice shall be provided by the law enforcement agency to school districts in the vicinity of the hospital or other facility in which the escapee was being held, in the area the escapee is known or is likely to frequent, and in the area where the escapee resided immediately prior to confinement.

(d) The person in charge of the hospital or facility, or his or her designee, may provide telephonic notification of the escape to the law enforcement agency of the county or city in which the hospital or facility is located. If that notification is given, the time and date of notification, the person notified, and the person making the notification shall be noted in the written notification required by this section.

(e) Photocopying is not required in order to satisfy the requirements of this section.

(f) No public or private entity or public or private employee shall be liable for damages caused, or alleged to be caused, by the release of information or the failure to release information pursuant to this section.

SEC. 190. Section 7328 of the Welfare and Institutions Code is amended to read:

7328. Whenever a person who is committed to an institution subject to the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, under one of the commitment laws that provides for reimbursement for care and treatment to the state by the county of commitment of the person, is accused of committing a crime while confined in the institution and is committed by the court in which the crime is charged to another institution under the jurisdiction of the State Department of State Hospitals or the Department of Corrections and Rehabilitation, the state rather than the county of commitment shall bear the subsequent cost of supporting and caring for the person.

SEC. 191. Section 7329 of the Welfare and Institutions Code is amended to read:

7329. When any patient, who is subject to judicial commitment, has escaped from any public mental hospital in a state of the United States other than California and is present in this state, any peace officer, health officer, county physician, or assistant county physician may take the person into custody within five years after the escape. The person may be admitted and detained in the quarters provided in any county hospital or state hospital upon application of the peace officer, health officer, county physician, or assistant county physician. The application shall be in writing and shall state the identity of the person, the name and place of the institution from which he or she escaped and the approximate date of the escape, and the fact that the person has been apprehended pursuant to this section.

As soon as possible after the person is apprehended, the district attorney of the county in which the person is present shall file a petition in the superior court alleging the facts of the escape, and requesting an immediate hearing on the question of whether the person has escaped from a public mental hospital in another state within five years prior to his or her apprehension. The hearing shall be held within three days after the day on which the person was taken into custody. If the court finds that the person has not escaped from such a hospital within five years prior to his or her apprehension, he or she shall be released immediately.

If the court finds that the person did escape from a public mental hospital in another state within five years prior to his or her apprehension, the superintendent or physician in charge of the quarters provided in the county hospital or state hospital may care for and treat the person, and the district attorney of the county in which the person is present immediately shall present to a judge of the superior court a petition asking that the person be judicially committed to a state hospital in this state. The hearing on the petition shall be held within seven days after the court's determination in the original hearing that the person did escape from a public mental hospital in another state within five years prior to his apprehension. Proceedings

shall thereafter be conducted as on a petition for judicial commitment of the particular type of person subject to judicial commitment. If the court finds that the person is subject to judicial commitment it shall order him or her judicially committed to a state hospital in this state; otherwise, it shall order him or her to be released. It shall be the duty of the superintendent of the state hospital to accept custody of the person, if he or she has been determined to be subject to judicial commitment. The State Department of State Hospitals will promptly cause the person to be returned to the institution from which he or she escaped if the authorities in charge of the institution agree to accept him or her. If the authorities refuse to accept the person, the superintendent of the state hospital in which the person is confined shall continue to care for and treat the person in the same manner as any other person judicially committed to the hospital as mentally disordered.

SEC. 192. Section 7352 of the Welfare and Institutions Code is amended to read:

7352. The medical director of a state hospital for the mentally disordered may grant a leave of absence to any judicially committed patient, except as provided in Section 7350, under general conditions prescribed by the State Department of State Hospitals.

The State Department of State Hospitals may continue to render services to patients placed on leave of absence prior to July 1, 1969, to the extent such services are authorized by law in effect immediately preceding July 1, 1969.

SEC. 193. Section 7353 of the Welfare and Institutions Code is amended to read:

7353. The State Department of State Hospitals shall pay the premium for third-party health coverage for Medicare beneficiaries who are patients at state hospitals under the jurisdiction of the State Department of State Hospitals. The department shall, when a mental health state hospital patient's coverage would lapse due to lack of sufficient income or financial resources, or any other reason, continue the health coverage by paying the costs of continuation or group coverage pursuant to federal law or converting from a group to an individual plan.

SEC. 194. Section 7354 of the Welfare and Institutions Code is amended to read:

7354. Any mentally disordered person may be granted care in a licensed institution or other suitable licensed or certified facility. The State Department of State Hospitals may pay for that care at a rate not exceeding the average cost of care of patients in the state hospitals as determined by the Director of State Hospitals. The payments shall be made from funds available to the State Department of State Hospitals for that purpose.

The State Department of State Hospitals may make payments for services for mentally disordered patients in private facilities released or discharged from state hospitals on the basis of reimbursement for reasonable cost, using the same standards and rates consistent with those established by the State Department of Health Care Services for similar types of care. The payments

shall be made within the limitation of funds appropriated to the State Department of State Hospitals for that purpose.

No payments for care or services of a mentally disordered patient shall be made by the State Department of State Hospitals pursuant to this section unless the care or services are requested by the local director of the mental health services of the county of the patient's residence, unless provision for the care or services is made in the county Short-Doyle plan of the county under which the county shall reimburse the department for 10 percent of the amount expended by the department, exclusive of the portion of the cost that is provided by the federal government.

The provision for the 10-percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

SEC. 195. Section 7356 of the Welfare and Institutions Code is amended to read:

7356. The charges for the care and keeping of persons on leave of absence from a state hospital where the State Department of State Hospitals, the State Department of Developmental Services, or the State Department of Social Services pays for the care shall be a liability of the person, his or her estate, and relatives, to the same extent that the liability exists for patients in state hospitals.

The State Department of State Hospitals shall collect or adjust the charges in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of this division.

SEC. 196. Section 7357 of the Welfare and Institutions Code is amended to read:

7357. The superintendent of a state hospital, on filing his or her written certificate with the Director of State Hospitals, may discharge any patient who, in his or her judgment, has recovered or was not, at time of admission, mentally disordered.

SEC. 197. Section 7359 of the Welfare and Institutions Code is amended to read:

7359. The superintendent of a state hospital, on filing his or her written certificate with the Director of State Hospitals, may discharge as improved, or may discharge as unimproved, as the case may be, any judicially committed patient who is not recovered, but whose discharge, in the judgment of the superintendent, will not be detrimental to the public welfare, or injurious to the patient.

SEC. 198. Section 7362 of the Welfare and Institutions Code is amended to read:

7362. The medical superintendent of a state hospital, on filing his or her written certificate with the Director of State Hospitals, may on his or her own motion, and shall on the order of the State Department of State Hospitals, discharge any patient who comes within any of the following descriptions:

- (a) Who is not a proper case for treatment therein.

(b) Who is developmentally disabled or is affected with a chronic harmless mental disorder.

The person, when discharged, shall be returned to the county of his or her residence at the expense of the county, and delivered to the sheriff or other appropriate county official to be designated by the board of supervisors, for delivery to the official or agency in that county charged with the responsibility for the person. Should the person be a poor and indigent person, he or she shall be cared for by the county as are other indigent poor.

No person who has been discharged from any state hospital under the provisions of subdivision (b) above shall be again committed to any state hospital for the mentally disordered unless he or she is subject to judicial commitment.

SEC. 199. Section 8050 of the Welfare and Institutions Code is amended to read:

8050. The State Department of State Hospitals shall plan, conduct, and cause to be conducted scientific research into sex crimes against children and into methods of identifying those who commit sexual offenses.

SEC. 200. Section 8051 of the Welfare and Institutions Code is amended to read:

8051. Upon the recommendation of the superintendent of the Langley Porter Clinic, the State Department of State Hospitals may enter into contracts with the Regents of the University of California for the conduct, by either for the other, of all or any portion of the research provided for in this chapter.

SEC. 201. Section 8053 of the Welfare and Institutions Code is amended to read:

8053. The State Department of State Hospitals with the approval of the Director of Finance may accept gifts or grants from any source for the accomplishment of the objects and purposes of this chapter. The provisions of Section 16302 of the Government Code do not apply to such gifts or grants and the money so received shall be expended to carry out the purposes of this chapter, subject to any limitation contained in such gift or grant.

SEC. 202. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has

experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsperson or the local law enforcement agency.

The local ombudsperson and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication

that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsperson, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsperson program. Except in an emergency, the local ombudsperson shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report or Internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and

age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.

(i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.

SEC. 203. Section 17601 of the Welfare and Institutions Code is amended to read:

17601. On or before the 27th day of each month, the Controller shall allocate to the mental health account of each local health and welfare trust fund the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Mental Health Subaccount of the Sales Tax Account in the Local Revenue Fund in accordance with the following schedules:

(a) (1) Schedule A—State Hospital and Community Mental Health Allocations.

| Jurisdiction | Allocation Percentage |
|-------------------|-----------------------|
| Alameda | 4.882 |
| Alpine | 0.018 |
| Amador | 0.070 |
| Butte | 0.548 |
| Calaveras | 0.082 |
| Colusa | 0.073 |
| Contra Costa..... | 2.216 |
| Del Norte | 0.088 |
| El Dorado | 0.285 |
| Fresno | 2.045 |
| Glenn | 0.080 |
| Humboldt | 0.465 |
| Imperial | 0.342 |
| Inyo | 0.104 |
| Kern | 1.551 |
| Kings | 0.293 |
| Lake | 0.167 |
| Lassen | 0.087 |
| Los Angeles | 28.968 |
| Madera | 0.231 |
| Marin | 0.940 |
| Mariposa | 0.054 |
| Mendocino | 0.332 |
| Merced | 0.546 |
| Modoc | 0.048 |
| Mono | 0.042 |
| Monterey | 0.950 |
| Napa | 0.495 |
| Nevada | 0.191 |
| Orange | 4.868 |
| Placer | 0.391 |
| Plumas | 0.068 |
| Riverside | 2.394 |
| Sacramento | 3.069 |

| | |
|-----------------------|-------|
| San Benito | 0.090 |
| San Bernardino..... | 3.193 |
| San Diego | 5.603 |
| San Francisco | 4.621 |
| San Joaquin | 1.655 |
| San Luis Obispo | 0.499 |
| San Mateo | 2.262 |
| Santa Barbara | 0.949 |
| Santa Clara | 4.112 |
| Santa Cruz | 0.558 |
| Shasta | 0.464 |
| Sierra | 0.026 |
| Siskiyou | 0.137 |
| Solano | 1.027 |
| Sonoma | 1.068 |
| Stanislaus | 1.034 |
| Sutter/Yuba | 0.420 |
| Tehama | 0.181 |
| Trinity | 0.055 |
| Tulare | 0.941 |
| Tuolumne | 0.121 |
| Ventura | 1.472 |
| Yolo | 0.470 |
| Berkeley | 0.190 |
| Tri-City | 0.165 |

The amounts allocated in accordance with Schedule A for the 1991–92 fiscal year shall be considered the base allocations for the 1992–93 fiscal year.

(2) The funds allocated pursuant to Schedule B shall be increased to reflect the addition of percentages for the institutions for mental disease allocation pursuant to paragraph (1) of subdivision (c).

(3) The Controller shall allocate three million seven hundred thousand dollars (\$3,700,000) to the counties pursuant to a percentage schedule developed by the Director of Health Care Services as specified in subdivision (c) of Section 4095. The funds allocated pursuant to Schedule A shall be increased to reflect the addition of this schedule.

(4) (A) The State Department of Health Care Services may amend Schedule A in order to restore counties funds associated with multicounty regional programs.

(B) Notwithstanding any other provision of law, the State Department of Health Care Services shall amend Schedule A for the purpose of establishing mental health base allocations for each county for the 1994–95 fiscal year and fiscal years thereafter, in order to ensure that mental health base allocations for each county do not fall below 75 percent of the allocations for the 1989–90 fiscal year. The money specified in subdivision (c) of Section 17605.05 shall be used for this purpose.

(b) (1) Schedule B—State Hospital Payment Schedule.

From the amounts allocated in accordance with Schedule A, each county and city shall reimburse the Controller for reimbursement to the State Department of Mental Health, or its successor, the State Department of State Hospitals, for the 1991–92 fiscal year only, an amount equal to one-ninth of the amount identified in Schedule B as modified to reflect adjustments pursuant to paragraph (2) of subdivision (a) of Section 4330. The reimbursements shall be due the 24th day of each month and the first payment shall be due on October 24, 1991. During the 1992–93 fiscal year and fiscal years thereafter, each monthly reimbursement shall be one-twelfth of the total amount of the county’s contract with the State Department of Mental Health, or its successor, the State Department of State Hospitals, for state hospital services. If a county has not contracted with the State Department of State Hospitals by July 1 of any given fiscal year, each monthly reimbursement shall be an amount equal to one-twelfth the number of beds provided to the county the previous fiscal year multiplied by the current state rate as determined by the State Department of State Hospitals.

| Jurisdiction | First Year State Hospital Withholding |
|---------------------|---|
| Alameda | \$ 15,636,372 |
| Berkeley City | 0 |
| Alpine | 95,379 |
| Amador | 148,915 |
| Butte | 650,238 |
| Calaveras | 100,316 |
| Colusa | 189,718 |
| Contra Costa | 8,893,339 |
| Del Norte | 94,859 |
| El Dorado | 236,757 |
| Fresno | 1,429,379 |
| Glenn | 51,977 |
| Humboldt | 727,684 |
| Imperial | 259,887 |
| Inyo | 363,842 |
| Kern | 4,024,613 |
| Kings | 266,904 |
| Lake | 292,373 |
| Lassen | 167,367 |
| Los Angeles | 102,458,700 |
| Tri-City | 0 |
| Madera | 131,243 |
| Marin | 3,248,590 |
| Mariposa | 117,989 |
| Mendocino | 471,955 |
| Merced | 404,125 |

| | |
|-----------------------|------------|
| Modoc | 94,859 |
| Mono | 94,859 |
| Monterey | 2,079,097 |
| Napa | 2,338,985 |
| Nevada | 493,786 |
| Orange | 14,066,133 |
| Placer | 847,232 |
| Plumas | 130,463 |
| Riverside | 4,891,077 |
| Sacramento | 4,547,506 |
| San Benito | 259,887 |
| San Bernardino | 5,587,574 |
| San Diego | 6,734,976 |
| San Francisco | 23,615,688 |
| San Joaquin | 927,018 |
| San Luis Obispo | 719,887 |
| San Mateo | 6,497,179 |
| Santa Barbara | 2,168,758 |
| Santa Clara | 7,106,095 |
| Santa Cruz | 1,403,391 |
| Shasta | 1,169,492 |
| Sierra | 94,859 |
| Siskiyou | 129,944 |
| Solano | 5,332,885 |
| Sonoma | 2,669,041 |
| Stanislaus | 1,740,205 |
| Sutter/Yuba | 363,842 |
| Tehama | 363,842 |
| Trinity | 94,859 |
| Tulare | 675,707 |
| Tuolumne | 304,328 |
| Ventura | 3,378,533 |
| Yolo | 1,169,492 |

(2) (A) (i) During the 1992–93 fiscal year, in lieu of making the reimbursement required by paragraph (1), a county may elect to authorize the Controller to reimburse the State Hospital Account of the Mental Health Facilities Fund a pro rata share each month computed by multiplying the ratio of the reimbursement amount owed by the county as specified in Schedule B to the total amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county’s health and welfare trust fund.

(ii) The reimbursement shall be made monthly on the same day the Controller allocates funds to the local health and welfare trust funds.

(B) During the 1992–93 fiscal year and thereafter, the amount to be reimbursed each month shall be computed by multiplying the ratio of the county’s contract for state hospital services to the amount of money projected

to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(C) All reimbursements, deposits, and transfers made to the Mental Health Facilities Fund pursuant to a county election shall be deemed to be deposits to the local health and welfare trust fund.

(3) (A) Counties shall notify the Controller, in writing, by October 15, 1991, upon making the election pursuant to paragraph (2). The election shall be binding for the fiscal year. The pro rata share of allocations made prior to the election by the county shall be withheld from allocations in subsequent months until paid.

(B) For the 1992–93 fiscal year and fiscal years thereafter, counties shall notify the Controller, in writing, by July 1 of the fiscal year for which the election is made, upon making the election pursuant to paragraph (2).

(4) Regardless of the reimbursement option elected by a county, no county shall be required to reimburse the Mental Health Facilities Fund by an amount greater than the amount identified in Schedule B as modified to reflect adjustments pursuant to paragraph (2) of subdivision (a) of Section 4330.

(c) (1) For the 1991–92 fiscal year, the Controller shall distribute monthly beginning in October from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the mental health account of each local health and welfare trust fund one-ninth of the amount allocated to the county in accordance with the institutions for mental disease allocation schedule established by the State Department of Mental Health.

(2) Each county shall forward to the Controller, monthly, an amount equal to one-ninth of the amount identified in the schedule established by the State Department of Mental Health. The reimbursements shall be due by the 24th day of the month to which they apply, and the first payment shall be due October 24, 1991. These amounts shall be deposited in the Institutions for Mental Disease Account in the Mental Health Facilities Fund.

(3) (A) (i) During the 1991–92 fiscal year, in lieu of making the reimbursement required by paragraph (1), a county may elect to authorize the Controller to reimburse the Institutions for Mental Disease Account of the Mental Health Facilities Fund a pro rata share each month computed by multiplying the ratio of the reimbursement amount owed by the county as specified in Schedule B to the total amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(ii) The reimbursement shall be made monthly on the same day the Controller allocates funds to the local health and welfare trust funds.

(B) During the 1992–93 fiscal year and thereafter, the amount to be reimbursed each month shall be computed by multiplying the ratio of the county's contract for mental health services to the amount of money projected to be allocated to the county pursuant to Schedule A by the funds

available for deposit in the mental health account of the county's health and welfare trust fund.

(C) All reimbursements, deposits, and transfers made to the Mental Health Facilities Fund pursuant to a county election shall be deemed to be deposits to the local health and welfare trust fund.

(4) (A) Counties shall notify the Controller, in writing, by October 15, 1991, upon making the election pursuant to paragraph (3). The election shall be binding for the fiscal year. The pro rata share of allocations made prior to the election by the county shall be withheld from allocations in subsequent months until paid.

(B) For the 1992–93 fiscal year and fiscal years thereafter, counties shall notify the Controller, in writing, by July 1 of the fiscal year for which the election is made, upon making the election pursuant to paragraph (2).

(5) Regardless of the reimbursement option elected by a county, no county shall be required to reimburse the Institutions for Mental Disease Account in the Mental Health Facilities Fund an amount greater than the amount identified in the schedule developed by the State Department of Mental Health pursuant to paragraph (1).

(d) The Controller shall withhold the allocation of funds pursuant to subdivision (a) in any month a county does not meet the requirements of paragraph (1) of subdivision (b) or paragraph (2) of subdivision (c), in the amount of the obligation and transfer the funds withheld to the State Department of State Hospitals and the State Department of Health Care Services for deposit in the State Hospital Account or the Institutions for Mental Disease Account in the Mental Health Facilities Fund, as appropriate.

SEC. 204. Section 17601.05 of the Welfare and Institutions Code is amended to read:

17601.05. (a) There is hereby created the Mental Health Facilities Fund, which shall have the following accounts:

(1) The State Hospital Account.

(2) The Institutions for Mental Disease Account.

(b) Funds deposited in the State Hospital Account are continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of State Hospitals for costs incurred pursuant to Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Funds deposited in the Institutions for Mental Disease Account of the Mental Health Facilities Fund are continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Health Care Services for costs incurred pursuant to Part 5 (commencing with Section 5900) of Division 4.

SEC. 205. Section 17601.10 of the Welfare and Institutions Code is amended to read:

17601.10. (a) The State Department of State Hospitals may request a loan from the General Fund in an amount that shall not exceed one hundred million dollars (\$100,000,000) for the purposes of meeting cashflow needs

in its state hospital operations due to delays in the receipt of reimbursements from counties.

(b) The Controller shall liquidate any loan, in accordance with Section 16314 of the Government Code, from the next available deposits into the State Hospital Account in the Mental Health Facilities Fund.

(c) If a loan remains outstanding at the end of any fiscal year, the State Department of State Hospitals shall determine the amount of the loan attributable to a shortfall in payments by counties against the amount due in Schedule B in the 1991–92 fiscal year or the contract amount for beds purchased in each subsequent fiscal year. The State Department of State Hospitals shall determine any amounts due to counties pursuant to subdivision (d) of Section 4330. The State Department of State Hospitals shall invoice each county for any outstanding balance. Sixty days after an invoice has been provided and upon notice to the Controller by the State Department of State Hospitals, the Controller shall collect an amount from the county's allocation to the mental health account of the local health and welfare trust fund that is sufficient to pay any outstanding balance of the invoice. If these amounts do not provide sufficient funds to repay the outstanding loan, the Controller shall liquidate the balance from the next available deposits into the Mental Health Subaccount in the Sales Tax Account in the Local Revenue Fund.

SEC. 206. (a) It is the intent of the Legislature that any changes in staffing ratios at the state's mental hospitals address adequate staff and patient safety standards, and that staffing ratios may vary based on patient acuity.

(b) It is further the intent of the Legislature that adult education in the state hospitals is not to be eliminated or substantially reduced.

SEC. 207. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the State Department of Health Care Services for administration.

SEC. 208. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.