

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 60

Introduced by Senator Evans

December 22, 2010

~~An act relating to mental health.~~ *An act to amend Sections 7228 and 7301 of the Welfare and Institutions Code, relating to mental health.*

LEGISLATIVE COUNSEL'S DIGEST

SB 60, as amended, Evans. Mental health: ~~worker and patient safety~~ *state hospitals.*

Existing law provides for state mental hospitals for the care, treatment, and education of the mentally disordered, including Napa State Hospital and Metropolitan State Hospital. These hospitals are under the jurisdiction of the State Department of Mental Health. Existing law authorizes the transfer of specified patients at a state hospital for the mentally disordered who need care and treatment under conditions of custodial security that can be better provided within the Department of Corrections and Rehabilitation, to an institution under the jurisdiction of the Department of Corrections and Rehabilitation.

This bill would prohibit a person who was transferred because he or she, while housed in the state hospital, committed an act that resulted in the death, rape, or life threatening injury of another patient or a staff member of the state hospital, from being returned to the state hospital until a court has determined in a hearing that the person does not represent a substantial risk of harm to himself, herself, or others. The bill would require the Department of Corrections and Rehabilitation to make regular assessments of these persons and would authorize the department to petition the court for the return of the patient to a state

hospital, as specified, if the department determines that the person is not a threat to himself, herself, or others.

Existing law, prior to admission to Napa State Hospital or the Metropolitan State Hospital, requires the department to evaluate patients committed under specified sections of the Penal Code. Existing law requires a patient determined to be a high-security risk to be treated in the department’s most secure facilities.

This bill would require a risk evaluation, as specified, prior to the commitment to any state hospital, of a patient who is being committed pursuant to any provision of the Penal Code. The bill would require a patient determined to be a high-security or violence risk to be placed in a treatment unit within a state hospital, correctional facility, state prison psychiatric facility, or other secure facility with sufficient enhanced security and treatment options to ensure the security of the patient, the other patients, and the staff, and to appropriately provide treatment to address the underlying causes of the risk, consistent with generally accepted professional standards.

~~Under existing law the State Department of Mental Health has jurisdiction over various state hospitals.~~

~~This bill would express the intent of the Legislature to enact legislation that would address the safety of workers and patients in state hospitals under the jurisdiction of the State Department of Mental Health.~~

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

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

- 1 SECTION 1. Section 7228 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 7228. (a) Prior to admission to ~~the Napa State Hospital or the~~
- 4 ~~Metropolitan State Hospital~~ a state hospital, the State Department
- 5 of Mental Health shall evaluate each patient committed pursuant
- 6 to ~~Section 1026 or 1370~~ any section of the Penal Code to determine
- 7 that patient’s security and violence risk. The risk assessments shall
- 8 be completed by both security and clinical personnel and shall
- 9 include a review of the patient’s criminal history, psychological
- 10 factors, and incidents of aggression or elopement since being
- 11 incarcerated or committed. ~~A~~
- 12 (b) A patient determined to be a ~~high-security~~ high-security or
- 13 violence risk pursuant to subdivision (a) shall be ~~treated in the~~

1 ~~department's most secure facilities~~ placed in a treatment unit within
2 a state hospital, correctional facility, state prison psychiatric
3 facility, or other secure facility with sufficient enhanced security
4 and treatment options to ensure the security of the patient, the
5 other patients, and the staff, as well as to appropriately provide
6 treatment to address the underlying causes of the risk, consistent
7 with generally accepted professional standards. A ~~Penal Code~~
8 patient ~~not needing this level of security~~ shall be treated as near
9 to the patient's community as possible, if an appropriate treatment
10 program is available.

11 (c) *The risk level of the patient shall be assessed at the time of*
12 *commitment, prior to any transfer, annually, and after any serious*
13 *security incident.*

14 *SEC. 2. Section 7301 of the Welfare and Institutions Code is*
15 *amended to read:*

16 7301. (a) Whenever, in the opinion of the Director of Mental
17 Health and with the approval of the Director of Corrections *and*
18 *Rehabilitation*, ~~any~~ a person who has been committed to a state
19 hospital pursuant to provisions of the Penal Code, or who has been
20 placed in a state hospital temporarily for observation pursuant to,
21 or who has been committed to a state hospital pursuant to, Article
22 1 (commencing with Section 6300) of Chapter 2 of Part 2 of
23 Division 6 of this code, needs care and treatment under conditions
24 of custodial security, which can be better provided within the
25 Department of Corrections *and Rehabilitation*, ~~such~~ that person
26 may be transferred for ~~such~~ those purposes from an institution
27 under the jurisdiction of the State Department of Mental Health
28 to an institution under the jurisdiction of the Department of
29 Corrections *and Rehabilitation*.

30 (b) *If a person is transferred pursuant to subdivision (a) because*
31 *he or she, while housed in the state hospital, committed an act that*
32 *resulted in the death, rape, or life threatening injury of another*
33 *patient or a staff member of the state hospital, the person shall*
34 *not be returned to the state hospital until a court has determined*
35 *in a hearing that the person does not represent a substantial risk*
36 *of harm to himself, herself, or others. After transfer to custodial*
37 *care, the Department of Corrections and Rehabilitation shall make*
38 *regular assessments as to whether the individual continues to*
39 *represent a substantial danger to himself, herself, or others such*
40 *that the individual cannot be returned to a state hospital. If the*

1 *Department of Corrections and Rehabilitation determines that the*
 2 *person no longer represents a threat to himself, herself, or others,*
 3 *the department may petition the court to return the patient to a*
 4 *state hospital that has sufficient security in place to protect the*
 5 *patient, other patients, and hospital staff.*

6 ~~Persons so~~

7 *(c) A person transferred pursuant to subdivision (a) shall not*
 8 *be subject to the provisions of Section 4500, 4501, 4501.5, 4502,*
 9 *4530, or 4531 of the Penal Code. However, ~~they~~ *he or she shall*
 10 *be subject to the general rules of the Director of Corrections and*
 11 *Rehabilitation and of the facility where ~~they are~~ *he or she is**
 12 *confined, and any correctional employee dealing with ~~such persons~~*
 13 *that person during the course of an escape or attempted escape, a*
 14 *fight, or a riot, shall have the same rights, privileges and immunities*
 15 *as if the person transferred had been committed to the Director of*
 16 *Corrections and Rehabilitation.**

17 ~~Whenever~~

18 *(d) Whenever a person is transferred to an institution under the*
 19 *jurisdiction of the Department of Corrections and Rehabilitation*
 20 *pursuant to this section, any report, opinion, or certificate required*
 21 *or authorized to be filed with the court ~~which~~ *that committed ~~such~~**
 22 *the person to a state hospital, or ordered ~~such~~ *the person placed**
 23 *therein, shall be prepared and filed with the court by the head of*
 24 *the institution in which the person is actually confined or by ~~the~~*
 25 *his or her designee ~~of such head.~~*

26 ~~SECTION 1. It is the intent of the Legislature to enact~~
 27 ~~legislation that would address the safety of workers and patients~~
 28 ~~in state hospitals under the jurisdiction of the State Department of~~
 29 ~~Mental Health.~~