

AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 60

Introduced by Senator Evans

December 22, 2010

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: 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.

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

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

1 SECTION 1. Section 7228 of the Welfare and Institutions Code
2 is amended to read:
3 7228. (a) Prior to admission to a state hospital, the State
4 Department of Mental Health shall evaluate each patient committed
5 pursuant to any section of the Penal Code to determine ~~that~~
6 ~~patient's security and violence risk~~ *the security and violence risk*
7 *that patient presents to other patients and staff and the risks to the*
8 *patient's safety and security that he or she faces upon admission*
9 *to the state hospital.* The risk assessments shall be completed by
10 both security and clinical personnel and shall include a review of
11 the patient's criminal history, psychological factors, and incidents
12 of aggression or elopement since being incarcerated or committed.
13 (b) A patient determined to be a high security or violence risk
14 pursuant to subdivision (a) shall be placed in a treatment unit within
15 a state hospital, correctional facility, state prison psychiatric
16 facility, or other secure facility with sufficient enhanced security
17 and treatment options to ensure the security of the patient, the other
18 patients, and the staff, as well as to appropriately provide treatment

1 to address the underlying causes of the risk, consistent with
2 generally accepted professional standards. A patient shall be treated
3 as near to the patient's community as possible, if an appropriate
4 treatment program is available.

5 (c) The risk level of the patient shall be assessed at the time of
6 commitment, prior to any transfer, annually, and after any serious
7 security incident.

8 SEC. 2. Section 7301 of the Welfare and Institutions Code is
9 amended to read:

10 7301. (a) Whenever, in the opinion of the Director of Mental
11 Health and with the approval of the Director of Corrections and
12 Rehabilitation, a person who has been committed to a state hospital
13 pursuant to provisions of the Penal Code, or who has been placed
14 in a state hospital temporarily for observation pursuant to, or who
15 has been committed to a state hospital pursuant to, Article 1
16 (commencing with Section 6300) of Chapter 2 of Part 2 of Division
17 6 of this code, needs care and treatment under conditions of
18 custodial security, which can be better provided within the
19 Department of Corrections and Rehabilitation, that person may be
20 transferred for those purposes from an institution under the
21 jurisdiction of the State Department of Mental Health to an
22 institution under the jurisdiction of the Department of Corrections
23 and Rehabilitation.

24 (b) If a person is transferred pursuant to subdivision (a) because
25 he or she, while housed in the state hospital, committed an act that
26 resulted in the death, rape, or life threatening injury of another
27 patient or a staff member of the state hospital, the person shall not
28 be returned to the state hospital until a court has determined in a
29 hearing that the person does not represent a substantial risk of harm
30 to himself, herself, or others. After transfer to custodial care, the
31 Department of Corrections and Rehabilitation shall make regular
32 assessments as to whether the individual continues to represent a
33 substantial danger to himself, herself, or others such that the
34 individual cannot be returned to a state hospital. If the Department
35 of Corrections and Rehabilitation determines that the person no
36 longer represents a threat to himself, herself, or others, the
37 department may petition the court to return the patient to a state
38 hospital that has sufficient security in place to protect the patient,
39 other patients, and hospital staff.

1 (c) A person transferred pursuant to subdivision (a) shall not be
2 subject to the provisions of Section 4500, 4501, 4501.5, 4502,
3 4530, or 4531 of the Penal Code. However, he or she shall be
4 subject to the general rules of the Director of Corrections and
5 Rehabilitation and of the facility where he or she is confined, and
6 any correctional employee dealing with that person during the
7 course of an escape or attempted escape, a fight, or a riot, shall
8 have the same rights, privileges, and immunities as if the person
9 transferred had been committed to the Director of Corrections and
10 Rehabilitation.

11 (d) Whenever a person is transferred to an institution under the
12 jurisdiction of the Department of Corrections and Rehabilitation
13 pursuant to this section, any report, opinion, or certificate required
14 or authorized to be filed with the court that committed the person
15 to a state hospital, or ordered the person placed therein, shall be
16 prepared and filed with the court by the head of the institution in
17 which the person is actually confined or by his or her designee.