

Introduced by Committee on Budget and Fiscal Review

February 6, 2012

An act relating to the Budget Act of 2012 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 .

LEGISLATIVE COUNSEL'S DIGEST

SB 1010, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2012. 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 or the State Department of Social Services, as applicable, to perform 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.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.

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

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

- 1 *SECTION 1. Section 2728 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 *2728. If adequate medical and nursing supervision by a*
- 4 *professional nurse or nurses is provided, nursing service may be*
- 5 *given by attendants, psychiatric technicians, or psychiatric*
- 6 *technician interim permittees in institutions under the jurisdiction*
- 7 *of the State Department of ~~Mental Health~~ State Hospitals or the*
- 8 *State Department of Developmental Services or subject to visitation*
- 9 *by the State Department of ~~Health Services~~ Public Health or the*

1 Department of Corrections *and Rehabilitation*. Services so given
2 by a psychiatric technician shall be limited to services which he
3 or she is authorized to perform by his or her license as a psychiatric
4 technician. Services so given by a psychiatric technician interim
5 permittee shall be limited to skills included in his or her basic
6 course of study and performed under the supervision of a licensed
7 psychiatric technician or registered nurse.

8 ~~The Directors of Mental Health, Director of State Hospitals, the~~
9 ~~Director of Developmental Services, and Health Services, and the~~
10 ~~State Public Health Officer~~ shall determine what shall constitute
11 adequate medical and nursing supervision in any institution under
12 the jurisdiction of the State Department of ~~Mental Health~~ *State*
13 *Hospitals* or the State Department of Developmental Services or
14 subject to visitation by the State Department of ~~Health Services~~
15 *Public Health*.

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

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

27 2728.5. Except for those provisions of law relating to directors
28 of nursing services, nothing in this chapter or any other provision
29 of law shall prevent the utilization of a licensed psychiatric
30 technician or psychiatric technician interim permittee in performing
31 services used in the care, treatment, and rehabilitation of mentally
32 ill, emotionally disturbed, or developmentally disabled persons
33 within the scope of practice for which he or she is licensed or
34 authorized in facilities under the jurisdiction of the State
35 Department of ~~Mental Health~~ *State Hospitals* or the State
36 Department of Developmental Services or licensed by the State
37 Department of ~~Public Health Services~~, that he or she is licensed
38 to perform as a psychiatric technician, or authorized to perform as
39 a psychiatric technician interim permittee including any nursing
40 services under Section 2728, in facilities under the jurisdiction of

1 the State Department of ~~Mental Health~~ *State Hospitals* or the State
 2 Department of Developmental Services or subject to visitation by
 3 the State Department of *Public Health Services*.

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

6 2873.6. (a) Any person who on the effective date of this section
 7 is employed as a medical technical assistant or as a senior medical
 8 technical assistant by the Department of Corrections ~~or the~~
 9 ~~Department of the Youth Authority~~ *and Rehabilitation*, who served
 10 on active duty in the medical corps of any of the ~~armed forces~~
 11 *Armed Forces* of the United States or who served in the United
 12 States Public Health Service, in which no less than an aggregate
 13 of 12 months was spent in rendering patient care, who completed
 14 the basic course of instruction in nursing required by the United
 15 States Public Health Service, or by his or her particular branch of
 16 the armed forces, and who was honorably discharged therefrom,
 17 shall be granted an employment restricted license upon proof that
 18 he or she possesses the necessary qualifications of this section as
 19 set forth in his or her service and discharge records. An
 20 employment restricted license issued pursuant to this subdivision
 21 shall authorize the holder thereof to practice vocational nursing
 22 only within a facility of the Department of Corrections ~~or the~~
 23 ~~Department of the Youth Authority~~ *and Rehabilitation* and shall
 24 be valid only for the period of employment. In order to obtain a
 25 nonrestricted license as a vocational nurse, a medical technical
 26 assistant shall apply and take the examination as required and
 27 normally administered by the Board of Vocational Nursing and
 28 Psychiatric Technicians *of the State of California*.

29 (b) On and after the effective date of this section, no person
 30 shall be appointed as a medical technical assistant by the
 31 Department of Corrections ~~or the~~ ~~Department of the Youth~~
 32 ~~Authority~~ *and Rehabilitation* unless the person complies with one
 33 of the following:

- 34 (1) Is a licensed vocational nurse or a registered nurse.
- 35 (2) Has served on active duty in the medical corps of any of the
 36 ~~armed forces~~ *Armed Forces* of the United States or who served in
 37 the United States Public Health Service, in which no less than an
 38 aggregate of 12 months was spent in rendering patient care, who
 39 completed the basic course of instruction in nursing required by
 40 the United States Public Health Service, or by his or her particular

1 branch of the armed forces, and who has been honorably discharged
2 therefrom. The Department of Corrections and the Department of
3 the Youth Authority are *and Rehabilitation is* authorized only to
4 hire persons who are eligible for licensure, and as a condition of
5 employment shall require that those persons obtain a license as a
6 vocational nurse within six months of employment. He or she shall
7 be supervised by a registered nurse or physician and surgeon and
8 shall not administer medications until licensed.

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

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

17 4115. (a) A pharmacy technician may perform packaging,
18 manipulative, repetitive, or other nondiscretionary tasks, only while
19 assisting, and while under the direct supervision and control of a
20 pharmacist.

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

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

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

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

34 (f) (1) A pharmacy with only one pharmacist shall have no
35 more than one pharmacy technician performing the tasks specified
36 in subdivision (a). The ratio of pharmacy technicians performing
37 the tasks specified in subdivision (a) to any additional pharmacist
38 shall not exceed 2:1, except that this ratio shall not apply to
39 personnel performing clerical functions pursuant to Section 4116
40 or 4117. This ratio is applicable to all practice settings, except for

1 an inpatient of a licensed health facility, a patient of a licensed
2 home health agency, as specified in paragraph (2), an inmate of a
3 correctional facility of ~~the Department of the Youth Authority or~~
4 ~~the Department of Corrections and Rehabilitation~~, and for a person
5 receiving treatment in a facility operated by the State Department
6 of ~~Mental Health State Hospitals~~, the State Department of
7 Developmental Services, or the Department of Veterans Affairs.

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

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

34 (g) Notwithstanding subdivisions (a) and (b), the board shall
35 by regulation establish conditions to permit the temporary absence
36 of a pharmacist for breaks and lunch periods pursuant to Section
37 512 of the Labor Code and the orders of the Industrial Welfare
38 Commission without closing the pharmacy. During these temporary
39 absences, a pharmacy technician may, at the discretion of the
40 pharmacist, remain in the pharmacy but may only perform

1 nondiscretionary tasks. The pharmacist shall be responsible for a
2 pharmacy technician and shall review any task performed by a
3 pharmacy technician during the pharmacist's temporary absence.
4 Nothing in this subdivision shall be construed to authorize a
5 pharmacist to supervise pharmacy technicians in greater ratios
6 than those described in subdivision (f).

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

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

11 4531. The course of instruction of an approved school shall
12 consist of not less than the number of hours or semester units of
13 instruction required for the other program administered by the
14 board. The subjects of instruction shall include the principles of
15 the care of the mentally disabled and the developmentally disabled.
16 Clinical inpatient experience shall be an integral part of that
17 prescribed or equivalent course of study and training. The
18 experience shall be obtained in a state hospital, except where the
19 board finds that the requirement is not feasible due either to the
20 distance of a state hospital from the school or the unavailability,
21 as determined by the State Department of Developmental Services
22 or the State Department of ~~Mental Health~~ *State Hospitals*, of state
23 hospital clinical training placements.

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

26 1322. In addition to any other statutory provisions requiring
27 confirmation by the Senate of officers appointed by the Governor,
28 the appointments by the Governor of the following officers and
29 the appointments by him or her to the listed boards and
30 commissions are subject to confirmation by the Senate:

- 31 (1) California Horse Racing Board.
- 32 (2) Court Reporters Board of California.
- 33 (3) Chief, Division of Occupational Safety and Health.
- 34 (4) Chief, Division of Labor Standards Enforcement.
- 35 (5) Commissioner of Corporations.
- 36 (6) Contractors State License Board.
- 37 (7) Director of Fish and Game.
- 38 (8) ~~State~~ Director of Health Care Services.
- 39 (9) Chief Deputy, State Department of Health Care Services.
- 40 (10) Real Estate Commissioner.

- 1 (11) State Athletic Commissioner.
2 (12) State Board of Barbering and Cosmetology Examiners.
3 (13) State Librarian.
4 (14) Director of Social Services.
5 (15) Chief Deputy, State Department of Social Services.
6 (16) Director of ~~Mental Health~~ *State Hospitals*.
7 (17) Chief Deputy, State Department of ~~Mental Health~~ *State*
8 *Hospitals*.
9 (18) Director of Developmental Services.
10 (19) Chief Deputy, State Department of Developmental Services.
11 (20) Director of Alcohol and Drug Abuse.
12 (21) Director of Rehabilitation.
13 (22) Chief Deputy, Department of Rehabilitation.
14 (23) Director of the Office of Statewide Health Planning and
15 Development.
16 (24) Deputy, Health and Welfare Agency.
17 (25) Director, Department of Managed Health Care.
18 (26) Patient Advocate, Department of Managed Health Care.
19 (27) State Public Health Officer, State Department of Public
20 Health.
21 (28) Chief Deputy, State Department of Public Health.
22 *SEC. 7. Section 136 of the Health and Safety Code is amended*
23 *to read:*
24 136. (a) The California Health and Human Services Agency
25 shall establish an interagency task force on women’s health
26 composed of representatives of the State Department of Health
27 Care Services, the State Department of Public Health, the State
28 Department of Developmental Services, the State Department of
29 Social Services, ~~the State Department of Alcohol and Drug~~
30 ~~Programs~~, and the Major Risk Medical Insurance Program.
31 (b) The State Department of Education, the Department of
32 Housing and Community Development, the office of the Attorney
33 General, the State Department of ~~Mental Health~~ *State Hospitals*,
34 and the Department of Corrections *and Rehabilitation* may
35 participate with the interagency task force on women’s health when
36 necessary to implement the state strategy developed pursuant to
37 Section 137.
38 *SEC. 8. Section 1180.2 of the Health and Safety Code is*
39 *amended to read:*

1 1180.2. (a) This section shall apply to the state hospitals
2 operated by the State Department of ~~Mental Health~~ *State Hospitals*
3 and facilities operated by the State Department of Developmental
4 Services that utilize seclusion or behavioral restraints.

5 (b) The State Department of ~~Mental Health~~ *State Hospitals* and
6 the State Department of Developmental Services shall develop
7 technical assistance and training programs to support the efforts
8 of facilities described in subdivision (a) to reduce or eliminate the
9 use of seclusion and behavioral restraints in those facilities.

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

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

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

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

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

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

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

36 (7) Training in conducting an effective debriefing meeting as
37 specified in Section 1180.5, including the appropriate persons to
38 involve, the voluntary participation of the person who has been in
39 seclusion or behavioral restraints, and strategic interventions to
40 engage affected persons in the process. The training should include

1 strategies that result in maximum participation and comfort for
2 the involved parties to identify factors that lead to the use of
3 seclusion and behavioral restraints and factors that would reduce
4 the likelihood of future incidents.

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

12 (2) The State Department of ~~Mental Health~~ *State Hospitals* and
13 the State Department of Developmental Services shall develop a
14 mechanism for making this information publicly available on the
15 Internet.

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

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

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

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

26 (D) The number of incidents of seclusion.

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

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

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

31 (H) The number of times an involuntary emergency medication
32 is used to control behavior, as defined by the State Department of
33 ~~Mental Health~~ *State Hospitals*.

34 (e) A facility described in subdivision (a) shall report each death
35 or serious injury of a person occurring during, or related to, the
36 use of seclusion or behavioral restraints. This report shall be made
37 to the agency designated in subdivision ~~(h)~~ (i) of Section 4900 of
38 the Welfare and Institutions Code no later than the close of the
39 business day following the death or injury. The report shall include

1 the encrypted identifier of the person involved, and the name, street
2 address, and telephone number of the facility.

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

5 1180.6. The State Department of Health Care Services, the
6 State Department of ~~Mental Health~~ *State Hospitals*, the State
7 Department of Social Services, and the State Department of
8 Developmental Services shall annually provide information to the
9 Legislature, during Senate and Assembly budget committee
10 hearings, about the progress made in implementing this division.
11 This information shall include the progress of implementation and
12 barriers to achieving full implementation.

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

15 1250.1. (a) The ~~state~~ department shall adopt regulations that
16 define all of the following bed classifications for health facilities:

- 17 (1) General acute care.
- 18 (2) Skilled nursing.
- 19 (3) Intermediate care—developmental disabilities.
- 20 (4) Intermediate care—other.
- 21 (5) Acute psychiatric.
- 22 (6) Specialized care, with respect to special hospitals only.
- 23 (7) Chemical dependency recovery.
- 24 (8) Intermediate care facility/developmentally disabled
25 habilitative.
- 26 (9) Intermediate care facility/developmentally disabled nursing.
- 27 (10) Congregate living health facility.
- 28 (11) Pediatric day health and respite care facility, as defined in
29 Section 1760.2.
- 30 (12) Correctional treatment center. For correctional treatment
31 centers that provide psychiatric and psychological services
32 provided by county mental health agencies in local detention
33 facilities, the State Department of ~~Mental Health~~ *State Hospitals*
34 shall adopt regulations specifying acute and nonacute levels of
35 24-hour care. Licensed inpatient beds in a correctional treatment
36 center shall be used only for the purpose of providing health
37 services.

38 (b) Except as provided in Section 1253.1, beds classified as
39 intermediate care beds, on September 27, 1978, shall be reclassified
40 by the ~~state~~ department as intermediate care—other. This

1 reclassification shall not constitute a “project” within the meaning
2 of Section 127170 and shall not be subject to any requirement for
3 a certificate of need under Chapter 1 (commencing with Section
4 127125) of Part 2 of Division 107, and regulations of the ~~state~~
5 department governing intermediate care prior to the effective date
6 shall continue to be applicable to the intermediate care—other
7 classification unless and until amended or repealed by the ~~state~~
8 department.

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

11 1276.4. (a) By January 1, 2002, the State Department of ~~Health~~
12 ~~Services~~ *Public Health* shall adopt regulations that establish
13 minimum, specific, and numerical licensed nurse-to-patient ratios
14 by licensed nurse classification and by hospital unit for all health
15 facilities licensed pursuant to subdivision (a), (b), or (f) of Section
16 1250. ~~The department~~ *State Department of Public Health* shall
17 adopt these regulations in accordance with the department’s
18 licensing and certification regulations as stated in Sections 70053.2,
19 70215, and 70217 of Title 22 of the California Code of Regulations,
20 and the professional and vocational regulations in Section 1443.5
21 of Title 16 of the California Code of Regulations. The department
22 shall review these regulations five years after adoption and shall
23 report to the Legislature regarding any proposed changes.
24 Flexibility shall be considered by the department for rural general
25 acute care hospitals in response to their special needs. As used in
26 this subdivision, “hospital unit” means a critical care unit, burn
27 unit, labor and delivery room, postanesthesia service area,
28 emergency department, operating room, pediatric unit,
29 step-down/intermediate care unit, specialty care unit, telemetry
30 unit, general medical care unit, subacute care unit, and transitional
31 inpatient care unit. The regulation addressing the emergency
32 department shall distinguish between regularly scheduled core
33 staff licensed nurses and additional licensed nurses required to
34 care for critical care patients in the emergency department.

35 (b) These ratios shall constitute the minimum number of
36 registered and licensed nurses that shall be allocated. Additional
37 staff shall be assigned in accordance with a documented patient
38 classification system for determining nursing care requirements,
39 including the severity of the illness, the need for specialized
40 equipment and technology, the complexity of clinical judgment

1 needed to design, implement, and evaluate the patient care plan
2 and the ability for self-care, and the licensure of the personnel
3 required for care.

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

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

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

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

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

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

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

34 (j) The regulations adopted by the department shall not replace
35 existing licensed staff-to-patient ratios for hospitals operated by
36 the State Department of ~~Mental Health~~ *State Hospitals*.

37 (k) The regulations adopted by the department for health
38 facilities licensed under subdivision (b) of Section 1250 that are
39 not operated by the State Department of ~~Mental Health~~ *State*

1 *Hospitals* shall take into account the special needs of the patients
2 served in the psychiatric units.

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

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

16 1312. Before a person who is required to register as a sex
17 offender under Section 290 of the Penal Code is released into a
18 long-term health care facility, as defined in Section 1418, the
19 Department of Corrections and Rehabilitation, the State Department
20 of ~~Mental Health~~ *State Hospitals*, or any other official in charge
21 of the place of confinement, shall notify the facility, in writing,
22 that the sex offender is being released to reside at the facility.

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

25 1316.5. (a) (1) Each health facility owned and operated by
26 the state offering care or services within the scope of practice of
27 a psychologist shall establish rules and medical staff bylaws that
28 include provisions for medical staff membership and clinical
29 privileges for clinical psychologists within the scope of their
30 licensure as psychologists, subject to the rules and medical staff
31 bylaws governing medical staff membership or privileges as the
32 facility shall establish. The rules and regulations shall not
33 discriminate on the basis of whether the staff member holds an
34 M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology
35 within the scope of the member's respective licensure. Each of
36 these health facilities owned and operated by the state shall
37 establish a staff comprised of physicians and surgeons, dentists,
38 podiatrists, psychologists, or any combination thereof, that shall
39 regulate the admission, conduct, suspension, or termination of the
40 staff appointment of psychologists employed by the health facility.

1 (2) With regard to the practice of psychology in health facilities
2 owned and operated by the state offering care or services within
3 the scope of practice of a psychologist, medical staff status shall
4 include and provide for the right to pursue and practice full clinical
5 privileges for holders of a doctoral degree of psychology within
6 the scope of their respective licensure. These rights and privileges
7 shall be limited or restricted only upon the basis of an individual
8 practitioner's demonstrated competence. Competence shall be
9 determined by health facility rules and medical staff bylaws that
10 are necessary and are applied in good faith, equally and in a
11 nondiscriminatory manner, to all practitioners, regardless of
12 whether they hold an M.D., D.O., D.D.S., D.P.M., or doctoral
13 degree in psychology.

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

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

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

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

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

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

19 (c) No classification of health facilities by the department, nor
20 any other classification of health facilities based on quality of
21 service or otherwise, by any person, body, or governmental agency
22 of this state or any subdivision thereof shall be affected by a health
23 facility's provision for use of its facilities by duly licensed clinical
24 psychologists, nor shall any classification of these facilities be
25 affected by the subjection of the psychologists to the rules and
26 regulations of the organized professional staff. No classification
27 of health facilities by any governmental agency of this state or any
28 subdivision thereof pursuant to any law, whether enacted prior or
29 subsequent to the effective date of this section, for the purposes
30 of ascertaining eligibility for compensation, reimbursement, or
31 other benefit for treatment of patients shall be affected by a health
32 facility's provision for use of its facilities by duly licensed clinical
33 psychologists, nor shall any classification of these facilities be
34 affected by the subjection of the psychologists to the rules and
35 regulations of the organized professional staff which govern the
36 psychologists' use of the facilities.

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

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

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

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

20 ~~(f) The State Department of Mental Health, the State~~
21 ~~Department of Developmental Services, and the Department of~~
22 ~~Corrections shall report to the Legislature no later than January 1,~~
23 ~~2006, on the impact of medical staff membership and privileges~~
24 ~~for clinical psychologists on quality of care, and on~~
25 ~~cost-effectiveness issues.~~

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

28 127400. As used in this article, the following terms have the
29 following meanings:

30 (a) “Allowance for financially qualified patient” means, with
31 respect to services rendered to a financially qualified patient, an
32 allowance that is applied after the hospital’s charges are imposed
33 on the patient, due to the patient’s determined financial inability
34 to pay the charges.

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

1 (c) “Financially qualified patient” means a patient who is both
2 of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 290.04. (a) (1) The sex offender risk assessment tools
6 authorized by this section for use with selected populations shall
7 be known, with respect to each population, as the State-Authorized
8 Risk Assessment Tool for Sex Offenders (SARATSO). If a
9 SARATSO has not been selected for a given population pursuant
10 to this section, no duty to administer the SARATSO elsewhere in
11 this code shall apply with respect to that population. Every person
12 required to register as a sex offender shall be subject to assessment
13 with the SARATSO as set forth in this section and elsewhere in
14 this code.

15 (2) A representative of the Department of Corrections and
16 Rehabilitation, in consultation with a representative of the State
17 Department of ~~Mental Health~~ *State Hospitals* and a representative
18 of the Attorney General's office, shall comprise the SARATSO
19 Review Committee. The purpose of the committee, which shall
20 be staffed by the Department of Corrections and Rehabilitation,
21 shall be to ensure that the SARATSO reflects the most reliable,
22 objective, and well-established protocols for predicting sex offender
23 risk of recidivism, has been scientifically validated and cross
24 validated, and is, or is reasonably likely to be, widely accepted by
25 the courts. The committee shall consult with experts in the fields
26 of risk assessment and the use of actuarial instruments in predicting
27 sex offender risk, sex offending, sex offender treatment, mental
28 health, and law, as it deems appropriate.

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

33 (2) The SARATSO Review Committee shall determine whether
34 the STATIC-99 should be supplemented with an empirically
35 derived instrument that measures dynamic risk factors or whether
36 the STATIC-99 should be replaced as the SARATSO with a
37 different risk assessment tool. The SARATSO Review Committee
38 shall select an empirically derived instrument that measures
39 dynamic risk factors and an empirically derived instrument that
40 measures risk of future violence. The selected instruments shall

1 be the SARATSO dynamic tool for adult males and the SARATSO
2 future violence tool for adult males. If the committee unanimously
3 agrees on changes to be made to a designated SARATSO, it shall
4 advise the Governor and the Legislature of the changes, and the
5 Department of Corrections and Rehabilitation shall post the
6 decision on its Internet Web site. Sixty days after the decision is
7 posted, the selected tool shall become the SARATSO for adult
8 males.

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

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

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

36 (f) The committee shall periodically evaluate the SARATSO
37 static, dynamic, and risk of future violence tools for each specified
38 population. If the committee unanimously agrees on a change to
39 the SARATSO for any population, it shall advise the Governor
40 and the Legislature of the selected tool, and the Department of

1 Corrections and Rehabilitation shall post the decision on its Internet
2 Web site. Sixty days after the decision is posted, the selected tool
3 shall become the SARATSO for that population.

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

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

10 290.05. (a) The SARATSO Training Committee shall be
11 comprised of a representative of the State Department of ~~Mental~~
12 ~~Health~~ *State Hospitals*, a representative of the Department of
13 Corrections and Rehabilitation, a representative of the Attorney
14 General's Office, and a representative of the Chief Probation
15 Officers of California.

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

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

26 (2) The State Department of ~~Mental Health~~ *State Hospitals* shall
27 be responsible for overseeing the training of persons who will
28 administer the static SARATSO pursuant to paragraph (3) of
29 subdivision (a) of Section 290.06.

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

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

38 (d) The training shall be conducted by experts in the field of
39 risk assessment and the use of actuarial instruments in predicting
40 sex offender risk. Subject to requirements established by the

1 committee, the Department of Corrections and Rehabilitation, the
2 State Department of ~~Mental Health~~ *State Hospitals*, probation
3 departments, and authorized local law enforcement agencies shall
4 designate key persons within their organizations to attend training
5 and, as authorized by the department, to train others within their
6 organizations designated to perform risk assessments as required
7 or authorized by law. Any person who administers the static
8 SARATSO shall receive training no less frequently than every two
9 years.

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

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

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

31 290.06. The static SARATSO, as set forth in Section 290.04,
32 shall be administered as follows:

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

38 (2) The department shall assess every eligible person who is on
39 parole if the person was not assessed prior to release from state
40 prison. Whenever possible, the assessment shall take place at least

1 four months, but no sooner than 10 months, prior to termination
2 of parole. The department shall record in a database the risk
3 assessment scores of persons assessed pursuant to this paragraph
4 and paragraph (1), and any risk assessment score that was
5 submitted to the department by a probation officer pursuant to
6 Section 1203.

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

17 (4) The State Department of ~~Mental Health~~ *State Hospitals* shall
18 assess every eligible person who is committed to that department.
19 Whenever possible, the assessment shall take place at least four
20 months, but no sooner than 10 months, prior to release from
21 commitment. The State Department of ~~Mental Health~~ *State*
22 *Hospitals* shall record in a database the risk assessment scores of
23 persons assessed pursuant to this paragraph and any risk assessment
24 score that was submitted to the department by a probation officer
25 pursuant to Section 1203.

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

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

38 (7) Each probation department shall assess every eligible person
39 under its supervision who was not assessed pursuant to paragraph

1 (6). The assessment shall take place prior to the termination of
2 probation, but no later than January 1, 2010.

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

5 (1) Upon request of the law enforcement agency in the
6 jurisdiction in which the person is registered pursuant to Sections
7 290 to 290.023, inclusive, the person shall be assessed. The law
8 enforcement agency may enter into a memorandum of
9 understanding with a probation department to perform the
10 assessment. In the alternative, the law enforcement agency may
11 arrange to have personnel trained to perform the risk assessment
12 in accordance with subdivision (d) of Section 290.05.

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

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

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

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

35 290.46. (a) (1) On or before the dates specified in this section,
36 the Department of Justice shall make available information
37 concerning persons who are required to register pursuant to Section
38 290 to the public via an Internet Web site as specified in this
39 section. The department shall update the Internet Web site on an
40 ongoing basis. All information identifying the victim by name,

1 birth date, address, or relationship to the registrant shall be
2 excluded from the Internet Web site. The name or address of the
3 person's employer and the listed person's criminal history other
4 than the specific crimes for which the person is required to register
5 shall not be included on the Internet Web site. The Internet Web
6 site shall be translated into languages other than English as
7 determined by the department.

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

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

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

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

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

24 (B) (i) Any state facility that releases from incarceration a
25 person who was incarcerated because of a crime for which he or
26 she is required to register as a sex offender pursuant to Section
27 290 shall, within 30 days of release, provide the year of release
28 for his or her most recent offense requiring registration to the
29 Department of Justice in a manner and format approved by the
30 department.

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

36 (iii) Any state facility that, prior to January 1, 2007, released
37 from incarceration a person who was incarcerated because of a
38 crime for which he or she is required to register as a sex offender
39 pursuant to Section 290 shall provide the year of release for his or
40 her most recent offense requiring registration to the Department

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

5 (iv) Any state facility that, prior to January 1, 2007, released a
6 person who is required to register pursuant to Section 290 from
7 incarceration whose incarceration was for a felony committed
8 subsequently to the offense for which he or she is required to
9 register shall advise the Department of Justice of that fact in a
10 manner and format approved by the department. The information
11 provided by the Department of Corrections and Rehabilitation
12 shall be limited to information that is currently maintained in an
13 electronic format.

14 (3) The State Department of ~~Mental Health~~ *State Hospitals* shall
15 provide to the Department of Justice Sex Offender Tracking
16 Program the names of all persons committed to its custody pursuant
17 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
18 2 of Division 6 of the Welfare and Institutions Code, within 30
19 days of commitment, and shall provide the names of all of those
20 persons released from its custody within five working days of
21 release.

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

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

38 (A) Section 187 committed in the perpetration, or an attempt to
39 perpetrate, rape or any act punishable under Section 286, 288,
40 288a, or 289.

- 1 (B) Section 207 committed with intent to violate Section 261,
2 286, 288, 288a, or 289.
- 3 (C) Section 209 committed with intent to violate Section 261,
4 286, 288, 288a, or 289.
- 5 (D) Paragraph (2) or (6) of subdivision (a) of Section 261.
- 6 (E) Section 264.1.
- 7 (F) Section 269.
- 8 (G) Subdivision (c) or (d) of Section 286.
- 9 (H) Subdivision (a), (b), or (c) of Section 288, provided that the
10 offense is a felony.
- 11 (I) Subdivision (c) or (d) of Section 288a.
- 12 (J) Section 288.3, provided that the offense is a felony.
- 13 (K) Section 288.4, provided that the offense is a felony.
- 14 (L) Section 288.5.
- 15 (M) Subdivision (a) or (j) of Section 289.
- 16 (N) Section 288.7.
- 17 (O) Any person who has ever been adjudicated a sexually violent
18 predator, as defined in Section 6600 of the Welfare and Institutions
19 Code.
- 20 (P) A felony violation of Section 311.1.
- 21 (Q) A felony violation of subdivision (b), (c), or (d) of Section
22 311.2.
- 23 (R) A felony violation of Section 311.3.
- 24 (S) A felony violation of subdivision (a), (b), or (c) of Section
25 311.4.
- 26 (T) Section 311.10.
- 27 (U) A felony violation of Section 311.11.
- 28 (c) (1) On or before July 1, 2005, with respect to a person who
29 has been convicted of the commission or the attempted commission
30 of any of the offenses listed in paragraph (2), the Department of
31 Justice shall make available to the public via the Internet Web site
32 his or her name and known aliases, a photograph, a physical
33 description, including gender and race, date of birth, criminal
34 history, the community of residence and ZIP Code in which the
35 person resides or the county in which the person is registered as a
36 transient, and any other information that the Department of Justice
37 deems relevant, but not the information excluded pursuant to
38 subdivision (a). On or before July 1, 2006, the Department of
39 Justice shall determine whether any person convicted of an offense
40 listed in paragraph (2) also has one or more prior or subsequent

1 convictions of an offense listed in subdivision (c) of Section 290,
2 and, for those persons, the Department of Justice shall make
3 available to the public via the Internet Web site the address at
4 which the person resides. However, the address at which the person
5 resides shall not be disclosed until a determination is made that
6 the person is, by virtue of his or her additional prior or subsequent
7 conviction of an offense listed in subdivision (c) of Section 290,
8 subject to this subdivision.

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

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

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

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

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

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

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

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

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

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

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

35 (D) Section 266j.

36 (E) Section 267.

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

39 (G) Section 288.3, provided that the offense is a misdemeanor.

40 (H) Section 288.4, provided that the offense is a misdemeanor.

1 (I) Section 626.81.

2 (J) Section 647.6.

3 (K) Section 653c.

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

13 (e) (1) If a person has been convicted of the commission or the
14 attempted commission of any of the offenses listed in this
15 subdivision, and he or she has been convicted of no other offense
16 listed in subdivision (b), (c), or (d) other than those listed in this
17 subdivision, that person may file an application with the
18 Department of Justice, on a form approved by the department, for
19 exclusion from the Internet Web site. If the department determines
20 that the person meets the requirements of this subdivision, the
21 department shall grant the exclusion and no information concerning
22 the person shall be made available via the Internet Web site
23 described in this section. He or she bears the burden of proving
24 the facts that make him or her eligible for exclusion from the
25 Internet Web site. However, a person who has filed for or been
26 granted an exclusion from the Internet Web site is not relieved of
27 his or her duty to register as a sex offender pursuant to Section
28 290 nor from any otherwise applicable provision of law.

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

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

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

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

38 (D) (i) An offense for which the offender successfully
39 completed probation, provided that the offender submits to the
40 department a certified copy of a probation report, presentencing

1 report, report prepared pursuant to Section 288.1, or other official
2 court document that clearly demonstrates that the offender was
3 the victim's parent, stepparent, sibling, or grandparent and that the
4 crime did not involve either oral copulation or penetration of the
5 vagina or rectum of either the victim or the offender by the penis
6 of the other or by any foreign object.

7 (ii) An offense for which the offender is on probation at the
8 time of his or her application, provided that the offender submits
9 to the department a certified copy of a probation report,
10 presentencing report, report prepared pursuant to Section 288.1,
11 or other official court document that clearly demonstrates that the
12 offender was the victim's parent, stepparent, sibling, or grandparent
13 and that the crime did not involve either oral copulation or
14 penetration of the vagina or rectum of either the victim or the
15 offender by the penis of the other or by any foreign object.

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

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

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

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

39 (f) The Department of Justice shall make a reasonable effort to
40 provide notification to persons who have been convicted of the

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

8 (g) (1) A designated law enforcement entity, as defined in
9 subdivision (f) of Section 290.45, may make available information
10 concerning persons who are required to register pursuant to Section
11 290 to the public via an Internet Web site as specified in paragraph
12 (2).

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

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

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

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

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

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

5 (k) Any person who is required to register pursuant to Section
6 290 who enters an Internet Web site established pursuant to this
7 section shall be punished by a fine not exceeding one thousand
8 dollars (\$1,000), imprisonment in a county jail for a period not to
9 exceed six months, or by both that fine and imprisonment.

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

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

16 (A) Health insurance.

17 (B) Insurance.

18 (C) Loans.

19 (D) Credit.

20 (E) Employment.

21 (F) Education, scholarships, or fellowships.

22 (G) Housing or accommodations.

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

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

31 (4) (A) Any use of information disclosed pursuant to this section
32 for purposes other than those provided by paragraph (1) or in
33 violation of paragraph (2) shall make the user liable for the actual
34 damages, and any amount that may be determined by a jury or a
35 court sitting without a jury, not exceeding three times the amount
36 of actual damage, and not less than two hundred fifty dollars
37 (\$250), and attorney's fees, exemplary damages, or a civil penalty
38 not exceeding twenty-five thousand dollars (\$25,000).

39 (B) Whenever there is reasonable cause to believe that any
40 person or group of persons is engaged in a pattern or practice of

1 misuse of the information available via an Internet Web site
2 established pursuant to this section in violation of paragraph (2),
3 the Attorney General, any district attorney, or city attorney, or any
4 person aggrieved by the misuse is authorized to bring a civil action
5 in the appropriate court requesting preventive relief, including an
6 application for a permanent or temporary injunction, restraining
7 order, or other order against the person or group of persons
8 responsible for the pattern or practice of misuse. The foregoing
9 remedies shall be independent of any other remedies or procedures
10 that may be available to an aggrieved party under other provisions
11 of law, including Part 2 (commencing with Section 43) of Division
12 1 of the Civil Code.

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

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

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

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

30 667.5. Enhancement of prison terms for new offenses because
31 of prior prison terms shall be imposed as follows:

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

1 custody and the commission of an offense which results in a felony
2 conviction.

3 (b) Except where subdivision (a) applies, where the new offense
4 is any felony for which a prison sentence or a sentence of
5 imprisonment in a county jail under subdivision (h) of Section
6 1170 is imposed or is not suspended, in addition and consecutive
7 to any other sentence therefor, the court shall impose a one-year
8 term for each prior separate prison term or county jail term imposed
9 under subdivision (h) of Section 1170 or when sentence is not
10 suspended for any felony; provided that no additional term shall
11 be imposed under this subdivision for any prison term or county
12 jail term imposed under subdivision (h) of Section 1170 or when
13 sentence is not suspended prior to a period of five years in which
14 the defendant remained free of both the commission of an offense
15 which results in a felony conviction, and prison custody or the
16 imposition of a term of jail custody imposed under subdivision (h)
17 of Section 1170 or any felony sentence that is not suspended. A
18 term imposed under the provisions of paragraph (5) of subdivision
19 (h) of Section 1170, wherein a portion of the term is suspended
20 by the court to allow postrelease supervision, shall qualify as a
21 prior county jail term for the purposes of the one-year enhancement.

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

24 (1) Murder or voluntary manslaughter.

25 (2) Mayhem.

26 (3) Rape as defined in paragraph (2) or (6) of subdivision (a)
27 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
28 262.

29 (4) Sodomy as defined in subdivision (c) or (d) of Section 286.

30 (5) Oral copulation as defined in subdivision (c) or (d) of Section
31 288a.

32 (6) Lewd or lascivious act as defined in subdivision (a) or (b)
33 of Section 288.

34 (7) Any felony punishable by death or imprisonment in the state
35 prison for life.

36 (8) Any felony in which the defendant inflicts great bodily injury
37 on any person other than an accomplice which has been charged
38 and proved as provided for in Section 12022.7, 12022.8, or 12022.9
39 on or after July 1, 1977, or as specified prior to July 1, 1977, in
40 Sections 213, 264, and 461, or any felony in which the defendant

- 1 uses a firearm which use has been charged and proved as provided
2 in subdivision (a) of Section 12022.3, or Section 12022.5 or
3 12022.55.
- 4 (9) Any robbery.
- 5 (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- 6 (11) Sexual penetration as defined in subdivision (a) or (j) of
7 Section 289.
- 8 (12) Attempted murder.
- 9 (13) A violation of Section 18745, 18750, or 18755.
- 10 (14) Kidnapping.
- 11 (15) Assault with the intent to commit a specified felony, in
12 violation of Section 220.
- 13 (16) Continuous sexual abuse of a child, in violation of Section
14 288.5.
- 15 (17) Carjacking, as defined in subdivision (a) of Section 215.
- 16 (18) Rape, spousal rape, or sexual penetration, in concert, in
17 violation of Section 264.1.
- 18 (19) Extortion, as defined in Section 518, which would constitute
19 a felony violation of Section 186.22 of the Penal Code.
- 20 (20) Threats to victims or witnesses, as defined in Section 136.1,
21 which would constitute a felony violation of Section 186.22 of the
22 Penal Code.
- 23 (21) Any burglary of the first degree, as defined in subdivision
24 (a) of Section 460, wherein it is charged and proved that another
25 person, other than an accomplice, was present in the residence
26 during the commission of the burglary.
- 27 (22) Any violation of Section 12022.53.
- 28 (23) A violation of subdivision (b) or (c) of Section 11418. The
29 Legislature finds and declares that these specified crimes merit
30 special consideration when imposing a sentence to display society's
31 condemnation for these extraordinary crimes of violence against
32 the person.
- 33 (d) For the purposes of this section, the defendant shall be
34 deemed to remain in prison custody for an offense until the official
35 discharge from custody or until release on parole, whichever first
36 occurs, including any time during which the defendant remains
37 subject to reimprisonment for escape from custody or is
38 reimprisoned on revocation of parole. The additional penalties
39 provided for prior prison terms shall not be imposed unless they

1 are charged and admitted or found true in the action for the new
2 offense.

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

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

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

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

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

34 (j) For the purposes of this section, when a person subject to
35 the custody, control, and discipline of the ~~Director of Corrections~~
36 *Secretary of the Department of Corrections and Rehabilitation* is
37 incarcerated at a facility operated by the ~~Department of the Youth~~
38 *Authority Division of Juvenile Justice*, that incarceration shall be
39 deemed to be a term served in state prison.

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

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

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

13 830.38. The officers of a state hospital under the jurisdiction
14 of the State Department of ~~Mental Health~~ *State Hospitals* or the
15 State Department of Developmental Services appointed pursuant
16 to Section 4313 or 4493 of the Welfare and Institutions Code, are
17 peace officers whose authority extends to any place in the state
18 for the purpose of performing their primary duty or when making
19 an arrest pursuant to Section 836 as to any public offense with
20 respect to which there is immediate danger to person or property,
21 or of the escape of the perpetrator of that offense, or pursuant to
22 Section 8597 or 8598 of the Government Code provided that the
23 primary duty of the peace officers shall be the enforcement of the
24 law as set forth in Sections 4311, 4313, 4491, and 4493 of the
25 Welfare and Institutions Code. Those peace officers may carry
26 firearms only if authorized and under terms and conditions
27 specified by their employing agency.

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

29 830.5. The following persons are peace officers whose authority
30 extends to any place in the state while engaged in the performance
31 of the duties of their respective employment and for the purpose
32 of carrying out the primary function of their employment or as
33 required under Sections 8597, 8598, and 8617 of the Government
34 Code, as amended by Section 44 of Chapter 1124 of the ~~Statutes~~
35 *Statutes* of 2002. Except as specified in this section, these peace
36 officers may carry firearms only if authorized and under those
37 terms and conditions specified by their employing agency:

38 (a) A parole officer of the Department of Corrections and
39 Rehabilitation, or the Department of Corrections and
40 Rehabilitation, Division of Juvenile Parole Operations, probation

1 officer, deputy probation officer, or a board coordinating parole
2 agent employed by the Juvenile Parole Board. Except as otherwise
3 provided in this subdivision, the authority of these parole or
4 probation officers shall extend only as follows:

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

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

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

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

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

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

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

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

37 (b) A correctional officer employed by the Department of
38 Corrections and Rehabilitation, or of the Department of Corrections
39 and Rehabilitation, Division of Juvenile Justice, having custody
40 of wards or any employee of the Department of Corrections and

1 Rehabilitation designated by the secretary or any correctional
2 counselor series employee of the Department of Corrections and
3 Rehabilitation or any medical technical assistant series employee
4 designated by the secretary or designated by the secretary and
5 employed by the State Department of ~~Mental Health~~ *State*
6 *Hospitals* or any employee of the Board of Parole Hearings
7 designated by the secretary or employee of the Department of
8 Corrections and Rehabilitation, Division of Juvenile Justice,
9 designated by the secretary or any superintendent, supervisor, or
10 employee having custodial responsibilities in an institution operated
11 by a probation department, or any transportation officer of a
12 probation department.

13 (c) The following persons may carry a firearm while not on
14 duty: a parole officer of the Department of Corrections and
15 Rehabilitation, or the Department of Corrections and
16 Rehabilitation, Division of Juvenile Justice, a correctional officer
17 or correctional counselor employed by the Department of
18 Corrections and Rehabilitation, or an employee of the Department
19 of Corrections and Rehabilitation, Division of Juvenile Justice,
20 having custody of wards or any employee of the Department of
21 Corrections and Rehabilitation designated by the secretary. A
22 parole officer of the Juvenile Parole Board may carry a firearm
23 while not on duty only when so authorized by the chairperson of
24 the board and only under the terms and conditions specified by
25 the chairperson. Nothing in this section shall be interpreted to
26 require licensure pursuant to Section 25400. The director or
27 chairperson may deny, suspend, or revoke for good cause a
28 person's right to carry a firearm under this subdivision. That person
29 shall, upon request, receive a hearing, as provided for in the
30 negotiated grievance procedure between the exclusive employee
31 representative and the Department of Corrections and
32 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole
33 Board, to review the director's or the chairperson's decision.

34 (d) Persons permitted to carry firearms pursuant to this section,
35 either on or off duty, shall meet the training requirements of Section
36 832 and shall qualify with the firearm at least quarterly. It is the
37 responsibility of the individual officer or designee to maintain his
38 or her eligibility to carry concealable firearms off duty. Failure to
39 maintain quarterly qualifications by an officer or designee with
40 any concealable firearms carried off duty shall constitute good

1 cause to suspend or revoke that person's right to carry firearms
2 off duty.

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

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

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

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

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

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

24 1026. (a) When a defendant pleads not guilty by reason of
25 insanity, and also joins with it another plea or pleas, the defendant
26 shall first be tried as if only such other plea or pleas had been
27 entered, and in that trial the defendant shall be conclusively
28 presumed to have been sane at the time the offense is alleged to
29 have been committed. If the jury shall find the defendant guilty,
30 or if the defendant pleads only not guilty by reason of insanity,
31 then the question whether the defendant was sane or insane at the
32 time the offense was committed shall be promptly tried, either
33 before the same jury or before a new jury in the discretion of the
34 court. In that trial, the jury shall return a verdict either that the
35 defendant was sane at the time the offense was committed or was
36 insane at the time the offense was committed. If the verdict or
37 finding is that the defendant was sane at the time the offense was
38 committed, the court shall sentence the defendant as provided by
39 law. If the verdict or finding be that the defendant was insane at
40 the time the offense was committed, the court, unless it shall appear

1 to the court that the sanity of the defendant has been recovered
2 fully, shall direct that the defendant be confined in a state hospital
3 for the care and treatment of the mentally disordered or any other
4 appropriate public or private treatment facility approved by the
5 community program director, or the court may order the defendant
6 placed on outpatient status pursuant to Title 15 (commencing with
7 Section 1600) of Part 2.

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

33 (c) If the defendant is committed or transferred to a state hospital
34 pursuant to this section, the court may, upon receiving the written
35 recommendation of the medical director of the state hospital and
36 the community program director that the defendant be transferred
37 to a public or private treatment facility approved by the community
38 program director, order the defendant transferred to that facility.
39 If the defendant is committed or transferred to a public or private
40 treatment facility approved by the community program director,

1 the court may, upon receiving the written recommendation of the
2 community program director, order the defendant transferred to a
3 state hospital or to another public or private treatment facility
4 approved by the community program director. Where either the
5 defendant or the prosecuting attorney chooses to contest either
6 kind of order of transfer, a petition may be filed in the court
7 requesting a hearing which shall be held if the court determines
8 that sufficient grounds exist. At that hearing, the prosecuting
9 attorney or the defendant may present evidence bearing on the
10 order of transfer. The court shall use the same procedures and
11 standards of proof as used in conducting probation revocation
12 hearings pursuant to Section 1203.2.

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

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

24 (1) The commitment order, including a specification of the
25 charges.

26 (2) A computation or statement setting forth the maximum term
27 of commitment in accordance with Section 1026.5.

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

31 (4) State Summary Criminal History information.

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

34 (6) Any court-ordered psychiatric examination or evaluation
35 reports.

36 (7) The community program director's placement
37 recommendation report.

38 (f) If the defendant is confined in a state hospital or other
39 treatment facility as an inpatient, the medical director of the facility
40 shall, at six-month intervals, submit a report in writing to the court

1 and the community program director of the county of commitment,
2 or a designee, setting forth the status and progress of the defendant.
3 The court shall transmit copies of these reports to the prosecutor
4 and defense counsel.

5 (g) When directing that the defendant be confined in a state
6 hospital pursuant to subdivision (a), the court shall select the state
7 hospital in accordance with the policies established by the State
8 Department of ~~Mental Health~~ *State Hospitals*.

9 (h) For purposes of this section and Sections 1026.1 to 1026.6,
10 inclusive, “community program director” means the person,
11 agency, or entity designated by the State Department of ~~Mental~~
12 ~~Health~~ *State Hospitals* pursuant to Section 1605 of this code and
13 Section 5709.8 of the Welfare and Institutions Code.

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

15 1174.2. (a) Notwithstanding any other law, the unencumbered
16 balance of Item 5240-311-751 of Section 2 of the Budget Act of
17 1990 shall revert to the unappropriated surplus of the 1990 Prison
18 Construction Fund. The sum of fifteen million dollars
19 (\$15,000,000) is hereby appropriated to the Department of
20 Corrections from the 1990 Prison Construction Fund for site
21 acquisition, site studies, environmental studies, master planning,
22 architectural programming, schematics, preliminary plans, working
23 drawings, construction, and long lead and equipment items for the
24 purpose of constructing facilities for pregnant and parenting
25 women’s alternative sentencing programs. These funds shall not
26 be expended for any operating costs, including those costs
27 reimbursed by the department pursuant to subdivision (c) of Section
28 1174.3. Funds not expended pursuant to this chapter shall be used
29 for planning, construction, renovation, or remodeling by, or under
30 the supervision of, the Department of Corrections and
31 Rehabilitation, of community-based facilities for programs
32 designed to reduce drug use and recidivism, including, but not
33 limited to, restitution centers, facilities for the incarceration and
34 rehabilitation of drug offenders, multipurpose correctional centers,
35 and centers for intensive programs for parolees. These funds shall
36 not be expended until legislation authorizing the establishment of
37 these programs is enacted. If the Legislature finds that the
38 Department of Corrections and Rehabilitation has made a good
39 faith effort to site community-based facilities, but funds designated
40 for these community-based facilities are unexpended as of January

1 1, 1998, the Legislature may appropriate these funds for other
2 Level I housing.

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

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

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

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

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

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

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

36 (F) A demonstrated ability to seek and obtain supplemental
37 funding as required in support of the overall administration of this
38 facility from any county, state, or federal source that may serve to
39 support this program, including the State Department of Alcohol
40 and Drug Programs, the California Emergency Management

1 Agency, the State Department of Social Services, the State
2 Department of ~~Mental Health~~ *State Hospitals*, or any county public
3 health department. In addition, the agency shall also attempt to
4 secure other available funding from all county, state, or federal
5 sources for program implementation.

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

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

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

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

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

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

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

25 (8) Each program proposal shall include a plan for the required
26 12-month residential program, plus a 12-month outpatient
27 transitional services program to be completed by participating
28 women and children.

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

30 1203e. (a) Commencing June 1, 2010, the probation
31 department shall compile a Facts of Offense Sheet for every person
32 convicted of an offense that requires him or her to register as a sex
33 offender pursuant to Section 290 who is referred to the department
34 pursuant to Section 1203. The Facts of Offense Sheet shall contain
35 the following information concerning the offender: name; CII
36 number; criminal history, including all arrests and convictions for
37 any registerable sex offenses or any violent offense; circumstances
38 of the offense for which registration is required, including, but not
39 limited to, weapons used and victim pattern; and results of the
40 State-Authorized Risk Assessment Tool for Sex Offenders

1 (SARATSO), as set forth in Section 290.04, if required. The Facts
2 of Offense Sheet shall be included in the probation officer's report.

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

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

16 (d) If the registered sex offender is sentenced to a period of
17 incarceration, at either the state prison or a county jail, the Facts
18 of Offense Sheet shall be sent by the Department of Corrections
19 and Rehabilitation or the county sheriff to the registering law
20 enforcement agency in the jurisdiction where the registered sex
21 offender will be paroled or will live on release, within three days
22 of the person's release. If the registered sex offender is committed
23 to the ~~State Department of Mental Health State Hospitals~~, the Facts
24 of Offense Sheet shall be sent by the ~~State Department of Mental~~
25 ~~Health State Hospitals~~ to the registering law enforcement agency
26 in the jurisdiction where the person will live on release, within
27 three days of release.

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

29 1369.1. (a) As used in this chapter, ~~for the sole purpose of~~
30 ~~administering antipsychotic medication pursuant to a court order,~~
31 "treatment facility" includes a county jail. Upon the concurrence
32 of the county board of supervisors, the county mental health
33 director, and the county sheriff, the jail may be designated to
34 provide medically approved medication to defendants found to be
35 mentally incompetent and unable to provide informed consent due
36 to a mental disorder, pursuant to this chapter. In the case of Madera,
37 Napa, and Santa Clara Counties, the concurrence shall be with the
38 board of supervisors, the county mental health director, and the
39 county sheriff or the chief of corrections. The provisions of
40 Sections 1370 and 1370.01 shall apply to antipsychotic medications

1 provided in a county jail, provided, however, that the maximum
2 period of time a defendant may be treated in a treatment facility
3 pursuant to this section shall not exceed six months.

4 ~~(b) The State Department of Mental Health shall report to the~~
5 ~~Legislature on or before January 1, 2009, on all of the following:~~

6 ~~(1) The number of defendants in the state who are incompetent~~
7 ~~to stand trial.~~

8 ~~(2) The resources available at state hospitals and local mental~~
9 ~~health facilities, other than jails, for returning these defendants to~~
10 ~~competence.~~

11 ~~(3) Additional resources that are necessary to reasonably treat,~~
12 ~~in a reasonable period of time, at the state and local levels,~~
13 ~~excluding jails, defendants who are incompetent to stand trial.~~

14 ~~(4) What, if any, statewide standards and organizations exist~~
15 ~~concerning local treatment facilities that could treat defendants~~
16 ~~who are incompetent to stand trial.~~

17 ~~(5) Address the concerns regarding defendants who are~~
18 ~~incompetent to stand trial who are currently being held in jail~~
19 ~~awaiting treatment.~~

20 (e)

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

24 ~~(d)~~

25 (c) This section shall remain in effect only until January 1, 2015
26 2016, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2015 2016, deletes or extends
28 that date.

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

32 1370. (a) (1) (A) If the defendant is found mentally
33 competent, the criminal process shall resume, the trial on the
34 offense charged shall proceed, and judgment may be pronounced.

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

38 (i) In the meantime, the court shall order that the mentally
39 incompetent defendant be delivered by the sheriff to a state hospital
40 for the care and treatment of the mentally disordered, or to any

1 other available public or private treatment facility, *including a*
2 *local county jail treatment facility*, approved by the community
3 program director that will promote the defendant's speedy
4 restoration to mental competence, or placed on outpatient status
5 as specified in Section 1600.

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

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

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

39 (C) Upon the filing of a certificate of restoration to competence,
40 the court shall order that the defendant be returned to court in

1 accordance with Section 1372. The court shall transmit a copy of
2 its order to the community program director or a designee.

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

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

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

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

22 (A) The court shall order the community program director or a
23 designee to evaluate the defendant and to submit to the court within
24 15 judicial days of the order a written recommendation as to
25 whether the defendant should be required to undergo outpatient
26 treatment, or committed to a state hospital or to any other treatment
27 facility. No person shall be admitted to a state hospital or other
28 treatment facility or placed on outpatient status under this section
29 without having been evaluated by the community program director
30 or a designee. *The community program director or designee shall*
31 *evaluate the appropriate placement for the defendant between a*
32 *state hospital or a local county jail treatment facility based upon*
33 *guidelines provided by the State Department of State Hospitals.*
34 *If a local county jail treatment facility is selected, the State*
35 *Department of State Hospitals shall provide treatment at the county*
36 *jail treatment facility and reimburse the county jail treatment*
37 *facility for the reasonable costs of the bed during the treatment.*
38 *The six-month limitation in Section 1369.1 shall not apply to*
39 *individuals deemed incompetent to stand trial who are being*

1 *treated to restore competency within a county jail treatment facility*
2 *pursuant to this section.*

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

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

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

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

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

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

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

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

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

33 (v) Any report made pursuant to paragraph (1) of subdivision
34 (b) shall include a description of any antipsychotic medication
35 administered to the defendant and its effects and side effects,
36 including effects on the defendant's appearance or behavior that
37 would affect the defendant's ability to understand the nature of
38 the criminal proceedings or to assist counsel in the conduct of a
39 defense in a reasonable manner. During the time the defendant is
40 confined in a state hospital or other treatment facility or placed on

1 outpatient status, either the defendant or the people may request
2 that the court review any order made pursuant to this subdivision.
3 The defendant, to the same extent enjoyed by other patients in the
4 state hospital or other treatment facility, shall have the right to
5 contact the Patients' Rights Advocate regarding his or her rights
6 under this section.

7 (C) If the defendant consented to antipsychotic medication as
8 described in clause (i) of subparagraph (B), but subsequently
9 withdraws his or her consent, or, if involuntary antipsychotic
10 medication was not ordered pursuant to clause (ii) of subparagraph
11 (B), and the treating psychiatrist determines that antipsychotic
12 medication has become medically necessary and appropriate, the
13 treating psychiatrist shall make efforts to obtain informed consent
14 from the defendant for antipsychotic medication. If informed
15 consent is not obtained from the defendant, and the treating
16 psychiatrist is of the opinion that the defendant lacks capacity to
17 make decisions regarding antipsychotic medication as specified
18 in subclause (I) of clause (ii) of subparagraph (B), or that the
19 defendant is a danger to others as specified in subclause (II) of
20 clause (ii) of subparagraph (B), the committing court shall be
21 notified of this, including an assessment of the current mental
22 status of the defendant and the opinion of the treating psychiatrist
23 that involuntary antipsychotic medication has become medically
24 necessary and appropriate. The court shall provide notice to the
25 prosecuting attorney and to the attorney representing the defendant
26 and shall set a hearing to determine whether involuntary
27 antipsychotic medication should be ordered in the manner described
28 in subparagraph (B).

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

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

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

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

1 (D) State summary criminal history information.

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

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

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

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

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

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

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

1 (commencing with Section 5000) of Division 5 of the Welfare and
2 Institutions Code). Where either the defendant or the prosecutor
3 chooses to contest either kind of order of transfer, a petition may
4 be filed in the court for a hearing, which shall be held if the court
5 determines that sufficient grounds exist. At the hearing, the
6 prosecuting attorney or the defendant may present evidence bearing
7 on the order of transfer. The court shall use the same standards as
8 are used in conducting probation revocation hearings pursuant to
9 Section 1203.2.

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

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

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

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

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

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

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

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

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

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

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

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

37 (e) If the criminal charge against the defendant is dismissed,
38 the defendant shall be released from any commitment ordered
39 under this section, but without prejudice to the initiation of any
40 proceedings that may be appropriate under the

1 Lanterman-Petris-Short Act, Part 1 (commencing with Section
2 5000) of Division 5 of the Welfare and Institutions Code.

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

7 (g) For the purpose of this section, “secure treatment facility”
8 shall not include, except for state mental hospitals, state
9 developmental centers, and correctional treatment facilities, any
10 facility licensed pursuant to Chapter 2 (commencing with Section
11 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter
12 3.2 (commencing with Section 1569) of, Division 2 of the Health
13 and Safety Code, or any community board and care facility.

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

17 *SEC. 27. Section 1370 of the Penal Code, as added by Section*
18 *2 of Chapter 654 of the Statutes of 2011, is amended to read:*

19 1370. (a) (1) (A) If the defendant is found mentally
20 competent, the criminal process shall resume, the trial on the
21 offense charged shall proceed, and judgment may be pronounced.

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

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

33 (ii) However, if the action against the defendant who has been
34 found mentally incompetent is on a complaint charging a felony
35 offense specified in Section 290, the prosecutor shall determine
36 whether the defendant previously has been found mentally
37 incompetent to stand trial pursuant to this chapter on a charge of
38 a Section 290 offense, or whether the defendant is currently the
39 subject of a pending Section 1368 proceeding arising out of a
40 charge of a Section 290 offense. If either determination is made,

1 the prosecutor shall so notify the court and defendant in writing.
2 After this notification, and opportunity for hearing, the court shall
3 order that the defendant be delivered by the sheriff to a state
4 hospital or other secure treatment facility for the care and treatment
5 of the mentally disordered unless the court makes specific findings
6 on the record that an alternative placement would provide more
7 appropriate treatment for the defendant and would not pose a
8 danger to the health and safety of others.

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

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

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

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

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

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

1 violent felony on outpatient status, as specified in Section 1600,
2 the court must serve copies of the placement order on defense
3 counsel, the sheriff in the county where the defendant will be
4 placed and the district attorney for the county in which the violent
5 felony charges are pending against the defendant.

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

9 (A) The court shall order the community program director or a
10 designee to evaluate the defendant and to submit to the court within
11 15 judicial days of the order a written recommendation as to
12 whether the defendant should be required to undergo outpatient
13 treatment, or committed to a state hospital or to any other treatment
14 facility. No person shall be admitted to a state hospital or other
15 treatment facility or placed on outpatient status under this section
16 without having been evaluated by the community program director
17 or a designee. *The community program director or designee shall*
18 *evaluate the appropriate placement for the defendant between a*
19 *state hospital or a local county jail treatment facility based upon*
20 *guidelines provided by the State Department of State Hospitals.*
21 *If a local county jail treatment facility is selected, the State*
22 *Department of State Hospitals shall provide treatment at the county*
23 *jail treatment facility and reimburse the county jail treatment*
24 *facility for the reasonable costs of the bed during the treatment.*
25 *The six-month limitation in Section 1369.1 shall not apply to*
26 *individuals deemed incompetent to stand trial who are being*
27 *treated to restore competency within a county jail treatment facility*
28 *pursuant to this section.*

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

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

34 (I) The defendant lacks capacity to make decisions regarding
35 antipsychotic medication, the defendant's mental disorder requires
36 medical treatment with antipsychotic medication, and, if the
37 defendant's mental disorder is not treated with antipsychotic
38 medication, it is probable that serious harm to the physical or
39 mental health of the patient will result. Probability of serious harm
40 to the physical or mental health of the defendant requires evidence

1 that the defendant is presently suffering adverse effects to his or
2 her physical or mental health, or the defendant has previously
3 suffered these effects as a result of a mental disorder and his or
4 her condition is substantially deteriorating. The fact that a
5 defendant has a diagnosis of a mental disorder does not alone
6 establish probability of serious harm to the physical or mental
7 health of the defendant.

8 (II) The defendant is a danger to others, in that the defendant
9 has inflicted, attempted to inflict, or made a serious threat of
10 inflicting substantial physical harm on another while in custody,
11 or the defendant had inflicted, attempted to inflict, or made a
12 serious threat of inflicting substantial physical harm on another
13 that resulted in his or her being taken into custody, and the
14 defendant presents, as a result of mental disorder or mental defect,
15 a demonstrated danger of inflicting substantial physical harm on
16 others. Demonstrated danger may be based on an assessment of
17 the defendant's present mental condition, including a consideration
18 of past behavior of the defendant within six years prior to the time
19 the defendant last attempted to inflict, inflicted, or threatened to
20 inflict substantial physical harm on another, and other relevant
21 evidence.

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

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

1 medication under subclause (I) of clause (i) and does not meet the
2 criteria under subclause (II) of clause (i).

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

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

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

30 (vi) Any report made pursuant to paragraph (1) of subdivision
31 (b) shall include a description of any antipsychotic medication
32 administered to the defendant and its effects and side effects,
33 including effects on the defendant's appearance or behavior that
34 would affect the defendant's ability to understand the nature of
35 the criminal proceedings or to assist counsel in the conduct of a
36 defense in a reasonable manner. During the time the defendant is
37 confined in a state hospital or other treatment facility or placed on
38 outpatient status, either the defendant or the people may request
39 that the court review any order made pursuant to this subdivision.
40 The defendant, to the same extent enjoyed by other patients in the

1 state hospital or other treatment facility, shall have the right to
2 contact the patients' rights advocate regarding his or her rights
3 under this section.

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

22 (D) (i) If the treating psychiatrist certifies that antipsychotic
23 medication has become medically necessary and appropriate
24 pursuant to subparagraph (C), antipsychotic medication may be
25 administered to the defendant for not more than 21 days, provided,
26 however, that, within 72 hours of the certification, the defendant
27 is provided a medication review hearing before an administrative
28 law judge to be conducted at the facility where the defendant is
29 receiving treatment. The treating psychiatrist shall present the case
30 for the certification for involuntary treatment and the defendant
31 shall be represented by an attorney or a patients' rights advocate.
32 The attorney or patients' rights advocate shall be appointed to meet
33 with the defendant no later than one day prior to the medication
34 review hearing to review the defendant's rights at the medication
35 review hearing, discuss the process, answer questions or concerns
36 regarding involuntary medication or the hearing, assist the
37 defendant in preparing for the hearing and advocating for his or
38 her interests at the hearing, review the panel's final determination
39 following the hearing, advise the defendant of his or her right to
40 judicial review of the panel's decision, and provide the defendant

1 with referral information for legal advice on the subject. The
2 defendant shall also have the following rights with respect to the
3 medication review hearing:

4 (I) To being given timely access to the defendant's records.

5 (II) To be present at the hearing, unless the defendant waives
6 that right.

7 (III) To present evidence at the hearing.

8 (IV) To question persons presenting evidence supporting
9 involuntary medication.

10 (V) To make reasonable requests for attendance of witnesses
11 on the defendant's behalf.

12 (VI) To a hearing conducted in an impartial and informal
13 manner.

14 (ii) If the administrative law judge determines that the defendant
15 either meets the criteria specified in subclause (I) of clause (i) of
16 subparagraph (B), or meets the criteria specified in subclause (II)
17 of clause (i) of subparagraph (B), then antipsychotic medication
18 may continue to be administered to the defendant for the 21-day
19 certification period. Concurrently with the treating psychiatrist's
20 certification, the treating psychiatrist shall file a copy of the
21 certification and a petition with the court for issuance of an order
22 to administer antipsychotic medication beyond the 21-day
23 certification period. For purposes of this subparagraph, the treating
24 psychiatrist shall not be required to pay or deposit any fee for the
25 filing of the petition or other document or paper related to the
26 petition.

27 (iii) If the administrative law judge disagrees with the
28 certification, medication may not be administered involuntarily
29 until the court determines that antipsychotic medication should be
30 administered pursuant to this section.

31 (iv) The court shall provide notice to the prosecuting attorney
32 and to the attorney representing the defendant, and shall hold a
33 hearing, no later than 18 days from the date of the certification, to
34 determine whether antipsychotic medication should be ordered
35 beyond the certification period.

36 (v) If, as a result of the hearing, the court determines that
37 antipsychotic medication should be administered beyond the
38 certification period, the court shall issue an order authorizing the
39 administration of that medication.

- 1 (vi) The court shall render its decision on the petition and issue
- 2 its order no later than three calendar days after the hearing and, in
- 3 any event, no later than the expiration of the 21-day certification
- 4 period.
- 5 (3) When the court orders that the defendant be confined in a
- 6 state hospital or other public or private treatment facility, the court
- 7 shall provide copies of the following documents which shall be
- 8 taken with the defendant to the state hospital or other treatment
- 9 facility where the defendant is to be confined:
- 10 (A) The commitment order, including a specification of the
- 11 charges.
- 12 (B) A computation or statement setting forth the maximum term
- 13 of commitment in accordance with subdivision (c).
- 14 (C) A computation or statement setting forth the amount of
- 15 credit for time served, if any, to be deducted from the maximum
- 16 term of commitment.
- 17 (D) State summary criminal history information.
- 18 (E) Any arrest reports prepared by the police department or
- 19 other law enforcement agency.
- 20 (F) Any court-ordered psychiatric examination or evaluation
- 21 reports.
- 22 (G) The community program director's placement
- 23 recommendation report.
- 24 (H) Records of any finding of mental incompetence pursuant
- 25 to this chapter arising out of a complaint charging a felony offense
- 26 specified in Section 290 or any pending Section 1368 proceeding
- 27 arising out of a charge of a Section 290 offense.
- 28 (4) When the defendant is committed to a treatment facility
- 29 pursuant to clause (i) of subparagraph (B) of paragraph (1) or the
- 30 court makes the findings specified in clause (ii) or (iii) of
- 31 subparagraph (B) of paragraph (1) to assign the defendant to a
- 32 treatment facility other than a state hospital or other secure
- 33 treatment facility, the court shall order that notice be given to the
- 34 appropriate law enforcement agency or agencies having local
- 35 jurisdiction at the site of the placement facility of any finding of
- 36 mental incompetence pursuant to this chapter arising out of a
- 37 charge of a Section 290 offense.
- 38 (5) When directing that the defendant be confined in a state
- 39 hospital pursuant to this subdivision, the court shall select the

1 hospital in accordance with the policies established by the State
2 Department of ~~Mental Health~~ *State Hospitals*.

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

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

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

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

12 (b) (1) Within 90 days of a commitment made pursuant to
13 subdivision (a), the medical director of the state hospital or other
14 treatment facility to which the defendant is confined shall make a
15 written report to the court and the community program director
16 for the county or region of commitment, or a designee, concerning
17 the defendant's progress toward recovery of mental competence.
18 Where the defendant is on outpatient status, the outpatient treatment
19 staff shall make a written report to the community program director
20 concerning the defendant's progress toward recovery of mental
21 competence. Within 90 days of placement on outpatient status, the
22 community program director shall report to the court on this matter.
23 If the defendant has not recovered mental competence, but the
24 report discloses a substantial likelihood that the defendant will
25 regain mental competence in the foreseeable future, the defendant
26 shall remain in the state hospital or other treatment facility or on
27 outpatient status. Thereafter, at six-month intervals or until the
28 defendant becomes mentally competent, where the defendant is
29 confined in a treatment facility, the medical director of the hospital
30 or person in charge of the facility shall report in writing to the
31 court and the community program director or a designee regarding
32 the defendant's progress toward recovery of mental competence.
33 Where the defendant is on outpatient status, after the initial 90-day
34 report, the outpatient treatment staff shall report to the community
35 program director on the defendant's progress toward recovery,
36 and the community program director shall report to the court on
37 this matter at six-month intervals. A copy of these reports shall be
38 provided to the prosecutor and defense counsel by the court. If the
39 report indicates that there is no substantial likelihood that the
40 defendant will regain mental competence in the foreseeable future,

1 the committing court shall order the defendant to be returned to
2 the court for proceedings pursuant to paragraph (2) of subdivision
3 (c). The court shall transmit a copy of its order to the community
4 program director or a designee.

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

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

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

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

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

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

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

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

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

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

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

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

38 (B) If the original grounds for involuntary medication no longer
39 exist, and there is no other basis for involuntary administration of

1 antipsychotic medication, the order for the involuntary
2 administration of antipsychotic medication shall be vacated.

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

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

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

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

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

39 (2) Whenever any defendant is returned to the court pursuant
40 to paragraph (1) or (4) of subdivision (b) or paragraph (1) of this

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

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

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

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

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

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

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

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

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

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

19 1372. (a) (1) If the medical director of the state hospital or
 20 other facility to which the defendant is committed, or the
 21 community program director, county mental health director, or
 22 regional center director providing outpatient services, determines
 23 that the defendant has regained mental competence, the director
 24 shall immediately certify that fact to the court by filing a certificate
 25 of restoration with the court by certified mail, return receipt
 26 requested. For purposes of this section, the date of filing shall be
 27 the date on the return receipt.

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

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

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

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

4 (C) In all cases, the patient shall be returned to the committing
5 court no later than 10 days following the filing of a certificate of
6 restoration. The state shall only pay for 10 hospital days for patients
7 following the filing of a certificate of restoration of competency.
8 The State Department of ~~Mental Health~~ *State Hospitals* shall report
9 to the fiscal and appropriate policy committees of the Legislature
10 on an annual basis in February, on the number of days that exceed
11 the 10-day limit prescribed in this subparagraph. This report shall
12 include, but not be limited to, a data sheet that itemizes by county
13 the number of days that exceed this 10-day limit during the
14 preceding year.

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

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

30 (d) If the committing court approves the certificate of restoration
31 to competence as to a person in custody, the court shall hold a
32 hearing to determine whether the person is entitled to be admitted
33 to bail or released on own recognizance status pending conclusion
34 of the proceedings. If the superior court approves the certificate
35 of restoration to competence regarding a person on outpatient
36 status, unless it appears that the person has refused to come to
37 court, that person shall remain released either on own recognizance
38 status, or, in the case of a developmentally disabled person, either
39 on the defendant's promise or on the promise of a responsible adult
40 to secure the person's appearance in court for further proceedings.

1 If the person has refused to come to court, the court shall set bail
2 and may place the person in custody until bail is posted.

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

17 (f) Notwithstanding subdivision (e), if a defendant is returned
18 by the court to a hospital or other facility for the purpose of
19 maintaining competency to stand trial and that defendant is already
20 under civil commitment to that hospital or facility from another
21 county pursuant to the Lanterman-Petris-Short Act (Part 1
22 commencing with Section 5000) of Division 5 of the Welfare and
23 Institutions Code) or as a developmentally disabled person
24 committed pursuant to Article 2 (commencing with Section 6500)
25 of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
26 Code, the costs of housing and treating the defendant in that facility
27 following return pursuant to subdivision (e) shall be the
28 responsibility of the original county of civil commitment.

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

30 1601. (a) In the case of any person charged with and found
31 incompetent on a charge of, convicted of, or found not guilty by
32 reason of insanity of murder, mayhem, aggravated mayhem, a
33 violation of Section 207, 209, or 209.5 in which the victim suffers
34 intentionally inflicted great bodily injury, robbery or carjacking
35 with a deadly or dangerous weapon or in which the victim suffers
36 great bodily injury, a violation of subdivision (a) or (b) of Section
37 451, a violation of paragraph (2), (3), or (6) of subdivision (a) of
38 Section 261, a violation of paragraph (1) or (4) of subdivision (a)
39 of Section 262, a violation of Section 459 in the first degree, a
40 violation of Section 220 in which the victim suffers great bodily

1 injury, a violation of Section 288, a violation of Section 18715,
2 18725, 18740, 18745, 18750, or 18755, or any felony involving
3 death, great bodily injury, or an act which poses a serious threat
4 of bodily harm to another person, outpatient status under this title
5 shall not be available until that person has actually been confined
6 in a state hospital or other *treatment* facility for 180 days or more
7 after having been committed under the provisions of law specified
8 in Section 1600.

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

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

17 1605. (a) In accordance with Section 1615 of this code and
18 Section 5709.8 of the Welfare and Institutions Code, the State
19 Department of ~~Mental Health~~ *State Hospitals* shall be responsible
20 for the supervision of persons placed on outpatient status under
21 this title. The State Department of ~~Mental Health~~ *State Hospitals*
22 shall designate, for each county or region comprised of two or
23 more counties, a community program director who shall be
24 responsible for administering the community treatment programs
25 for persons committed from that county or region under the
26 provisions specified in Section 1600.

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

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

38 (d) The outpatient treatment supervisor shall, at 90-day intervals
39 following the beginning of outpatient treatment, submit to the
40 court, the prosecutor and defense counsel, and to the community

1 program director, where appropriate, a report setting forth the
2 status and progress of the defendant.

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

4 1615. Pursuant to Section 5709.8 of the Welfare and Institutions
5 Code, the State Department of ~~Mental Health~~ *State Hospitals* shall
6 be responsible for the community treatment and supervision of
7 judicially committed patients. These services shall be available on
8 a county or regional basis. The department may provide these
9 services directly or through contract with private providers or
10 counties. The program or programs through which these services
11 are provided shall be known as the Forensic Conditional Release
12 Program.

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

18 The State Department of ~~Mental Health~~ *State Hospitals* shall
19 ensure consistent data gathering and program standards for use
20 statewide by the Forensic Conditional Release Program.

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

22 1616. The state shall contract with a research agency which
23 shall determine the prevalence of severe mental disorder among
24 the state prison inmates and parolees, including persons admitted
25 to prison, the resident population, and those discharged to parole.
26 An evaluation of the array of services shall be performed, including
27 the correctional, state hospital, and local inpatient programs;
28 residential-level care and partial day care within the institutions
29 as well as in the community; and the individual and group treatment
30 which may be provided within the correctional setting and in the
31 community upon release. The review shall include the
32 interrelationship between the security and clinical staff, as well as
33 the architectural design which aids meeting the treatment needs
34 of these mentally ill offenders while maintaining a secure setting.
35 Administration of these programs within the institutions and in
36 the community shall be reviewed by the contracting agency. The
37 ability of treatment programs to prevent reoffenses by inmates
38 with severe mental disorders shall also be addressed. The process
39 for evaluating inmates and parolees to determine their need for

1 treatment and the ability to differentiate those who will benefit
2 from treatment and those who will not shall be reviewed.

3 The State Department of ~~Mental Health~~ *State Hospitals*, the
4 Department of Corrections *and Rehabilitation*, and the Department
5 of Justice shall cooperate with the research agency conducting this
6 study.

7 The research agency conducting this study shall consult with
8 the State Department of ~~Mental Health~~ *State Hospitals*, the
9 Department of Corrections *and Rehabilitation*, the Department of
10 Justice, and the Forensic Mental Health Association of California
11 in the design of the study.

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

13 1617. The State Department of ~~Mental Health~~ *State Hospitals*
14 shall research the demographic profiles and other related
15 information pertaining to persons receiving supervision and
16 treatment in the Forensic Conditional Release Program. An
17 evaluation of the program shall determine its effectiveness in
18 successfully reintegrating these persons into society after release
19 from state institutions. This evaluation of program effectiveness
20 shall include, but not be limited to, a determination of the rates of
21 reoffense while these persons are served by the program and after
22 their discharge. This evaluation shall also address the effectiveness
23 of the various treatment components of the program and their
24 intensity.

25 The State Department of ~~Mental Health~~ *State Hospitals* may
26 contract with an independent research agency to perform this
27 research and evaluation project. Any independent research agency
28 conducting this research shall consult with the Forensic Mental
29 Health Association concerning the development of the research
30 and evaluation design.

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

32 1618. The administrators and the supervision and treatment
33 staff of the Forensic Conditional Release Program shall not be
34 held criminally or civilly liable for any criminal acts committed
35 by the persons on parole or judicial commitment status who receive
36 supervision or treatment. This waiver of liability shall apply to
37 employees of the State Department of ~~Mental Health~~ *State*
38 *Hospitals*, the Board of ~~Prison Terms~~ *Parole Hearings*, and the
39 agencies or persons under contract to those agencies, who provide
40 screening, clinical evaluation, supervision, or treatment to mentally

1 ill parolees or persons under judicial commitment or considered
2 for placement under a hold by the Board of ~~Prison Terms Parole~~
3 ~~Hearings~~.

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

5 2684. (a) If, in the opinion of the ~~Director~~ *Secretary of the*
6 *Department of Corrections and Rehabilitation*, the rehabilitation
7 of any mentally ill, mentally deficient, or insane person confined
8 in a state prison may be expedited by treatment at any one of the
9 state hospitals under the jurisdiction of the State Department of
10 ~~Mental Health State Hospitals~~ or the State Department of
11 ~~Developmental Services~~, the ~~Director~~ *Secretary of the Department*
12 *of Corrections and Rehabilitation*, with the approval of the Board
13 ~~of Prison Terms Parole Hearings~~ for persons sentenced pursuant
14 to subdivision (b) of Section 1168, shall certify that fact to the
15 director of the appropriate department who shall evaluate the
16 prisoner to determine if he or she would benefit from care and
17 treatment in a state hospital. If the director of the appropriate
18 department so determines, the superintendent of the hospital shall
19 receive the prisoner and keep him or her until in the opinion of the
20 superintendent the person has been treated to the extent that he or
21 she will not benefit from further care and treatment in the state
22 hospital.

23 (b) Whenever the ~~Director~~ *Secretary of the Department of*
24 *Corrections and Rehabilitation* receives a recommendation from
25 the court that a defendant convicted of a violation of Section 646.9
26 and sentenced to confinement in the state prison would benefit
27 from treatment in a state hospital pursuant to subdivision (a), the
28 ~~director~~ *secretary* shall consider the recommendation. If
29 appropriate, the ~~director~~ *secretary* shall certify that the
30 rehabilitation of the defendant may be expedited by treatment in
31 a state hospital and subdivision (a) shall apply.

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

33 2962. As a condition of parole, a prisoner who meets the
34 following criteria shall be required to be treated by the State
35 Department of ~~Mental Health State Hospitals~~, and the State
36 Department of ~~Mental Health State Hospitals~~ shall provide the
37 necessary treatment:

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

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

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

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

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

31 (d) (1) Prior to release on parole, the person in charge of treating
32 the prisoner and a practicing psychiatrist or psychologist from the
33 State Department of ~~Mental Health~~ *State Hospitals* have evaluated
34 the prisoner at a facility of the Department of Corrections and
35 Rehabilitation, and a chief psychiatrist of the Department of
36 Corrections and Rehabilitation has certified to the Board of Parole
37 Hearings that the prisoner has a severe mental disorder, that the
38 disorder is not in remission, or cannot be kept in remission without
39 treatment, that the severe mental disorder was one of the causes
40 or was an aggravating factor in the prisoner’s criminal behavior,

1 that the prisoner has been in treatment for the severe mental
2 disorder for 90 days or more within the year prior to his or her
3 parole release day, and that by reason of his or her severe mental
4 disorder the prisoner represents a substantial danger of physical
5 harm to others. For prisoners being treated by the State Department
6 of ~~Mental Health~~ *State Hospitals* pursuant to Section 2684, the
7 certification shall be by a chief psychiatrist of the Department of
8 Corrections and Rehabilitation, and the evaluation shall be done
9 at a state hospital by the person at the state hospital in charge of
10 treating the prisoner and a practicing psychiatrist or psychologist
11 from the Department of Corrections and Rehabilitation.

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

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

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

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

34 (2) The crime is one of the following:

35 (A) Voluntary manslaughter.

36 (B) Mayhem.

37 (C) Kidnapping in violation of Section 207.

38 (D) Any robbery wherein it was charged and proved that the
39 defendant personally used a deadly or dangerous weapon, as

1 provided in subdivision (b) of Section 12022, in the commission
2 of that robbery.

3 (E) Carjacking, as defined in subdivision (a) of Section 215, if
4 it is charged and proved that the defendant personally used a deadly
5 or dangerous weapon, as provided in subdivision (b) of Section
6 12022, in the commission of the carjacking.

7 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
8 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
9 262.

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

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

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

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

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

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

27 (M) Any felony in which the defendant used a firearm which
28 use was charged and proved as provided in Section 12022.5,
29 12022.53, or 12022.55.

30 (N) A violation of Section 18745.

31 (O) Attempted murder.

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

36 (Q) A crime in which the perpetrator expressly or impliedly
37 threatened another with the use of force or violence likely to
38 produce substantial physical harm in such a manner that a
39 reasonable person would believe and expect that the force or
40 violence would be used. For purposes of this subparagraph,

1 substantial physical harm shall not require proof that the threatened
2 act was likely to cause great or serious bodily injury.

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

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

6 2964. (a) The treatment required by Section 2962 shall be
7 inpatient unless the State Department of ~~Mental Health~~ *State*
8 *Hospitals* certifies to the Board of ~~Prison Terms Parole Hearings~~
9 that there is reasonable cause to believe the parolee can be safely
10 and effectively treated on an outpatient basis, in which case the
11 Board of ~~Prison Terms Parole Hearings~~ shall permit the State
12 Department of ~~Mental Health~~ *State Hospitals* to place the parolee
13 in an outpatient treatment program specified by the State
14 Department of ~~Mental Health~~ *State Hospitals*. Any prisoner who
15 is to be required to accept treatment pursuant to Section 2962 shall
16 be informed in writing of his or her right to request a hearing
17 pursuant to Section 2966. Prior to placing a parolee in a local
18 outpatient program, the State Department of ~~Mental Health~~ *State*
19 *Hospitals* shall consult with the local outpatient program as to the
20 appropriate treatment plan. Notwithstanding any other law, a
21 parolee ordered to have outpatient treatment pursuant to this section
22 may be placed in an outpatient treatment program used to provide
23 outpatient treatment under Title 15 (commencing with Section
24 1600) of Part 2, but the procedural provisions of Title 15 shall not
25 apply. The community program director or a designee of an
26 outpatient program used to provide treatment under Title 15 in
27 which a parolee is placed, may place the parolee, or cause the
28 parolee to be placed, in a secure mental health facility if the parolee
29 can no longer be safely or effectively treated in the outpatient
30 program, and until the parolee can be safely and effectively treated
31 in the program. Upon the request of the community program
32 director or a designee, a peace officer shall take the parolee into
33 custody and transport the parolee, or cause the parolee to be taken
34 into custody and transported, to a facility designated by the
35 community program director, or a designee, for confinement under
36 this section. Within 15 days after placement in a secure facility
37 the State Department of ~~Mental Health~~ *State Hospitals* shall
38 conduct a hearing on whether the parolee can be safely and
39 effectively treated in the program unless the patient or the patient’s
40 attorney agrees to a continuance, or unless good cause exists that

1 prevents the State Department of ~~Mental Health~~ *State Hospitals*
2 from conducting the hearing within that period of time. If good
3 cause exists, the hearing shall be held within 21 days after
4 placement in a secure facility. For purposes of this section, “good
5 cause” means the inability to secure counsel, an interpreter, or
6 witnesses for the hearing within the 15-day time period. Before
7 deciding to seek revocation of the parole of a parolee receiving
8 mental health treatment pursuant to Section 2962, and return him
9 or her to prison, the parole officer shall consult with the director
10 of the parolee’s outpatient program. Nothing in this section shall
11 prevent hospitalization pursuant to Section 5150, 5250, or 5353
12 of the Welfare and Institutions Code.

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

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

26 2968. If the prisoner’s severe mental disorder is put into
27 remission during the parole period, and can be kept in remission,
28 the Director of ~~Mental Health~~ *State Hospitals* shall notify the Board
29 of ~~Prison Terms Parole Hearings~~ and the State Department of
30 ~~Mental Health~~ *State Hospitals* shall discontinue treating the
31 parolee.

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

33 2970. Not later than 180 days prior to the termination of parole,
34 or release from prison if the prisoner refused to agree to treatment
35 as a condition of parole as required by Section 2962, unless good
36 cause is shown for the reduction of that 180-day period, if the
37 prisoner’s severe mental disorder is not in remission or cannot be
38 kept in remission without treatment, the medical director of the
39 state hospital which is treating the parolee, or the community
40 program director in charge of the parolee’s outpatient program, or

1 the ~~Director~~ *Secretary of the Department of Corrections and*
2 *Rehabilitation*, shall submit to the district attorney of the county
3 in which the parolee is receiving outpatient treatment, or for those
4 in prison or in a state mental hospital, the district attorney of the
5 county of commitment, his or her written evaluation on remission.
6 If requested by the district attorney, the written evaluation shall
7 be accompanied by supporting affidavits.

8 The district attorney may then file a petition with the superior
9 court for continued involuntary treatment for one year. The petition
10 shall be accompanied by affidavits specifying that treatment, while
11 the prisoner was released from prison on parole, has been
12 continuously provided by the State Department of ~~Mental Health~~
13 *State Hospitals* either in a state hospital or in an outpatient program.
14 The petition shall also specify that the prisoner has a severe mental
15 disorder, that the severe mental disorder is not in remission or
16 cannot be kept in remission if the person's treatment is not
17 continued, and that, by reason of his or her severe mental disorder,
18 the prisoner represents a substantial danger of physical harm to
19 others.

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

21 2972. (a) The court shall conduct a hearing on the petition
22 under Section 2970 for continued treatment. The court shall advise
23 the person of his or her right to be represented by an attorney and
24 of the right to a jury trial. The attorney for the person shall be given
25 a copy of the petition, and any supporting documents. The hearing
26 shall be a civil hearing, however, in order to reduce costs the rules
27 of criminal discovery, as well as civil discovery, shall be
28 applicable.

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

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

39 (c) If the court or jury finds that the patient has a severe mental
40 disorder, that the patient's severe mental disorder is not in

1 remission or cannot be kept in remission without treatment, and
2 that by reason of his or her severe mental disorder, the patient
3 represents a substantial danger of physical harm to others, the court
4 shall order the patient recommitted to the facility in which the
5 patient was confined at the time the petition was filed, or
6 recommitted to the outpatient program in which he or she was
7 being treated at the time the petition was filed, or committed to
8 the State Department of ~~Mental Health~~ *State Hospitals* if the person
9 was in prison. The commitment shall be for a period of one year
10 from the date of termination of parole or a previous commitment
11 or the scheduled date of release from prison as specified in Section
12 2970. Time spent on outpatient status, except when placed in a
13 locked facility at the direction of the outpatient supervisor, shall
14 not count as actual custody and shall not be credited toward the
15 person's maximum term of commitment or toward the person's
16 term of extended commitment.

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

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

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

37 (g) Except as provided in this subdivision, the person committed
38 shall be considered to be an involuntary mental health patient and
39 he or she shall be entitled to those rights set forth in Article 7
40 (commencing with Section 5325) of Chapter 2 of Part 1 of Division

1 5 of the Welfare and Institutions Code. Commencing January 1,
2 1986, the State Department of Mental Health, *or its successor, the*
3 *State Department of State Hospitals*, may adopt regulations to
4 modify those rights as is necessary in order to provide for the
5 reasonable security of the inpatient facility in which the patient is
6 being held. This subdivision and the regulations adopted pursuant
7 thereto shall become operative on January 1, 1987, except that
8 regulations may be adopted prior to that date.

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

10 2976. (a) The cost of inpatient or outpatient treatment under
11 Section 2962 or 2972 shall be a state expense while the person is
12 under the jurisdiction of the Department of Corrections *and*
13 *Rehabilitation* or the State Department of ~~Mental Health~~ *State*
14 *Hospitals*.

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

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

22 2978. (a) Any independent professionals appointed by the
23 Board of ~~Prison Terms Parole Hearings~~ for purposes of this article
24 shall not be state government employees; shall have at least five
25 years of experience in the diagnosis and treatment of mental
26 disorders; and shall include psychiatrists, and licensed
27 psychologists who have a doctoral degree in psychology.

28 (b) On July 1 of each year the Department of Corrections *and*
29 *Rehabilitation* and the State Department of ~~Mental Health~~ *State*
30 *Hospitals* shall submit to the Board of ~~Prison Terms Parole~~
31 *Hearings* a list of 20 or more independent professionals on which
32 both departments concur. The professionals shall not be state
33 government employees and shall have at least five years of
34 experience in the diagnosis and treatment of mental disorders and
35 shall include psychiatrists and licensed psychologists who have a
36 doctoral degree in psychology. For purposes of this article, when
37 the Board of ~~Prison Terms Parole Hearings~~ receives the list, ~~they~~
38 *it* shall only appoint independent professionals from the list. The
39 list shall not be binding on the Board of ~~Prison Terms Parole~~

1 ~~Hearings until they have received it~~ *it has received the list*, and
2 shall not be binding after June 30 following receipt of the list.

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

4 3000. (a) (1) The Legislature finds and declares that the period
5 immediately following incarceration is critical to successful
6 reintegration of the offender into society and to positive citizenship.
7 It is in the interest of public safety for the state to provide for the
8 effective supervision of and surveillance of parolees, including
9 the judicious use of revocation actions, and to provide educational,
10 vocational, family and personal counseling necessary to assist
11 parolees in the transition between imprisonment and discharge. A
12 sentence resulting in imprisonment in the state prison pursuant to
13 Section 1168 or 1170 shall include a period of parole supervision
14 or postrelease community supervision, unless waived, or as
15 otherwise provided in this article.

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

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

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

37 (A) If the person is committed to the State Department of ~~Mental~~
38 ~~Health~~ *State Hospitals* as a sexually violent predator and
39 subsequently a court orders that the person be unconditionally

1 discharged, the parole period shall be tolled until the date the judge
2 enters the order unconditionally discharging that person.

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

8 (5) Paragraph (4) applies to persons released by the Department
9 of Corrections and Rehabilitation on or after January 1, 2012.
10 Persons released by the Department of Corrections and
11 Rehabilitation prior to January 1, 2012, shall continue to be subject
12 to the law governing the tolling of parole in effect on December
13 31, 2011.

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

17 (1) In the case of any inmate sentenced under Section 1168, the
18 period of parole shall not exceed five years in the case of an inmate
19 imprisoned for any offense other than first or second degree murder
20 for which the inmate has received a life sentence, and shall not
21 exceed three years in the case of any other inmate, unless in either
22 case the parole authority for good cause waives parole and
23 discharges the inmate from custody of the department. This
24 subdivision shall also be applicable to inmates who committed
25 crimes prior to July 1, 1977, to the extent specified in Section
26 1170.2.

27 (2) At the expiration of a term of imprisonment of one year and
28 one day, or a term of imprisonment imposed pursuant to Section
29 1170 or at the expiration of a term reduced pursuant to Section
30 2931 or 2933, if applicable, the inmate shall be released on parole
31 for a period not exceeding three years, except that any inmate
32 sentenced for an offense specified in paragraph (3), (4), (5), (6),
33 (11), or (18) of subdivision (c) of Section 667.5 shall be released
34 on parole for a period not exceeding 10 years, unless a longer
35 period of parole is specified in Section 3000.1.

36 (3) Notwithstanding paragraphs (1) and (2), in the case of any
37 offense for which the inmate has received a life sentence pursuant
38 to subdivision (b) of Section 209, with the intent to commit a
39 specified sex offense, or Section 667.51, 667.61, or 667.71, the

1 period of parole shall be 10 years, unless a longer period of parole
2 is specified in Section 3000.1.

3 (4) (A) Notwithstanding paragraphs (1) to (3), inclusive, in the
4 case of a person convicted of and required to register as a sex
5 offender for the commission of an offense specified in Section
6 261, 262, 264.1, 286, 288a, paragraph (1) of subdivision (b) of
7 Section 288, Section 288.5, or 289, in which one or more of the
8 victims of the offense was a child under 14 years of age, the period
9 of parole shall be 20 years and six months unless the board, for
10 good cause, determines that the person will be retained on parole.
11 The board shall make a written record of this determination and
12 transmit a copy of it to the parolee.

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

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

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

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

31 (6) Upon successful completion of parole, or at the end of the
32 maximum statutory period of parole specified for the inmate under
33 paragraph (1), (2), (3), or (4), as the case may be, whichever is
34 earlier, the inmate shall be discharged from custody. The date of
35 the maximum statutory period of parole under this subdivision and
36 paragraphs (1), (2), (3), and (4) shall be computed from the date
37 of initial parole and shall be a period chronologically determined.
38 Time during which parole is suspended because the prisoner has
39 absconded or has been returned to custody as a parole violator
40 shall not be credited toward any period of parole unless the prisoner

1 is found not guilty of the parole violation. However, the period of
2 parole is subject to the following:

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

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

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

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

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

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

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

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

4 3000.08. (a) Persons released from state prison on or after
5 October 1, 2011, after serving a prison term or, whose sentence
6 has been deemed served pursuant to Section 2900.5, for any of the
7 following crimes shall be subject to the jurisdiction of and parole
8 supervision by the Department of Corrections and Rehabilitation:

9 (1) A serious felony as described in subdivision (c) of Section
10 1192.7.

11 (2) A violent felony as described in subdivision (c) of Section
12 667.5.

13 (3) A crime for which the person was sentenced pursuant to
14 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
15 of subdivision (c) of Section 1170.12.

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

18 (5) Any crime where the person is required, as a condition of
19 parole, to undergo treatment by the *State Department of Mental*
20 ~~Health~~ *State Hospitals* pursuant to Section 2962.

21 (b) Notwithstanding any other provision of law, all other
22 offenders released from prison shall be placed on postrelease
23 supervision pursuant to Title 2.05 (commencing with Section
24 3450).

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

31 (1) The person is required to register as a sex offender pursuant
32 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
33 1, and was subject to a period of parole exceeding three years at
34 the time he or she committed a felony for which they were
35 convicted and subsequently sentenced to state prison.

36 (2) The person was subject to parole for life pursuant to Section
37 3000.1 at the time of the commission of the offense that resulted
38 in a conviction and state prison sentence.

39 (d) Except as described in subdivision (c), any person who is
40 convicted of a felony that requires community supervision and

1 who still has a period of state parole to serve shall discharge from
2 state parole at the time of release to community supervision.

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

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

9 3000.08. (a) Persons released from state prison prior to or on
10 or after July 1, 2013, after serving a prison term or, whose sentence
11 has been deemed served pursuant to Section 2900.5, for any of the
12 following crimes shall be subject to parole supervision by the
13 Department of Corrections and Rehabilitation and the jurisdiction
14 of the court in the county where the parolee is released or resides
15 for the purpose of hearing petitions to revoke parole and impose
16 a term of custody:

17 (1) A serious felony as described in subdivision (c) of Section
18 1192.7.

19 (2) A violent felony as described in subdivision (c) of Section
20 667.5.

21 (3) A crime for which the person was sentenced pursuant to
22 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
23 of subdivision (c) of Section 1170.12.

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

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

29 (b) Notwithstanding any other provision of law, all other
30 offenders released from prison shall be placed on postrelease
31 supervision pursuant to Title 2.05 (commencing with Section
32 3450).

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

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

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

20 (f) If the supervising parole agency has determined, following
21 application of its assessment processes, that intermediate sanctions
22 up to and including flash incarceration are not appropriate, the
23 supervising agency shall petition the revocation hearing officer
24 appointed pursuant to Section 71622.5 of the Government Code
25 in the county in which the parolee is being supervised to revoke
26 parole. At any point during the process initiated pursuant to this
27 section, a parolee may waive, in writing, his or her right to counsel,
28 admit the parole violation, waive a court hearing, and accept the
29 proposed parole modification. The petition shall include a written
30 report that contains additional information regarding the petition,
31 including the relevant terms and conditions of parole, the
32 circumstances of the alleged underlying violation, the history and
33 background of the parolee, and any recommendations. The Judicial
34 Council shall adopt forms and rules of court to establish uniform
35 statewide procedures to implement this subdivision, including the
36 minimum contents of supervision agency reports. Upon a finding
37 that the person has violated the conditions of parole, the revocation
38 hearing officer shall have authority to do any of the following:

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

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

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

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

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

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

25 (1) The person is required to register as a sex offender pursuant
26 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
27 1, and was subject to a period of parole exceeding three years at
28 the time he or she committed a felony for which they were
29 convicted and subsequently sentenced to state prison.

30 (2) The person was subject to parole for life pursuant to Section
31 3000.1 at the time of the commission of the offense that resulted
32 in a conviction and state prison sentence.

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

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

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

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

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

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

25 (c) The board or department, when sending out notices regarding
26 an offender's release on parole, shall use the information provided
27 by the requesting party pursuant to subdivision (b) of Section
28 679.03, unless that information is no longer current. If the
29 information is no longer current, the department shall make a
30 reasonable attempt to contact the person and to notify him or her
31 of the impending release.

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

33 3072. (a) The Department of Corrections and Rehabilitation,
34 subject to the legislative appropriation of the necessary funds, may
35 establish and operate, after January 1, 2007, a specialized sex
36 offender treatment pilot program for inmates whom the department
37 determines pose a high risk to the public of committing violent
38 sex crimes.

39 (b) (1) The program shall be based upon the relapse prevention
40 model and shall include referral to specialized services, such as

1 substance abuse treatment, for offenders needing those specialized
2 services.

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

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

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

14 (B) The offender has been clinically assessed.

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

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

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

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

26 (d) The program under this section shall be established with the
27 assistance and supervision of the staff of the department primarily
28 by obtaining the services of specially trained sex offender treatment
29 providers, as determined by the secretary of the department and
30 the Director of ~~the Department of Mental Health~~ *State Hospitals*.

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

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

1 program shall be provided in program space segregated, to the
2 maximum extent that is practical and feasible, from program space
3 for any non-sex offenders held at the same prison.

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

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

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

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

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

22 3451. (a) Notwithstanding any other law and except for persons
23 serving a prison term for any crime described in subdivision (b),
24 all persons released from prison on and after October 1, 2011, or,
25 whose sentence has been deemed served pursuant to Section 2900.5
26 after serving a prison term for a felony shall, upon release from
27 prison and for a period not exceeding three years immediately
28 following release, be subject to community supervision provided
29 by a county agency designated by each county's board of
30 supervisors which is consistent with evidence-based practices,
31 including, but not limited to, supervision policies, procedures,
32 programs, and practices demonstrated by scientific research to
33 reduce recidivism among individuals under postrelease supervision.

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

36 (1) A serious felony described in subdivision (c) of Section
37 1192.7.

38 (2) A violent felony described in subdivision (c) of Section
39 667.5.

1 (3) A crime for which the person was sentenced pursuant to
2 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
3 of subdivision (c) of Section 1170.12.

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

6 (5) Any crime where the person is required, as a condition of
7 parole, to undergo treatment by the State Department of ~~Mental~~
8 ~~Health~~ *State Hospitals* pursuant to Section 2962.

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

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

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

25 5021. (a) Any death that occurs in any facility operated by the
26 Department of Corrections, ~~the Department of the Youth Authority~~
27 ~~and Rehabilitation~~, the State Department of ~~Mental Health~~ *State*
28 *Hospitals*, a city, county, or city and county, including county
29 juvenile facilities, or any facility which is under contract with any
30 of these entities for the incarceration, rehabilitation, holding, or
31 treatment of persons accused or convicted of crimes, shall be
32 reported within a reasonable time, not to exceed two hours, of its
33 discovery by authorities in the facility to the county sheriff, or his
34 or her designated representative, and to the coroner's office, of the
35 county in which the facility is located, as provided in Section 27491
36 of the Government Code. These deaths shall also be reported to
37 the district attorney, or his or her designated representative, of the
38 county in which the facility is located as soon as a representative
39 of the district attorney's office is on duty. If the facility is located
40 within the city limits of an incorporated city, the report shall also

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

4 Any death of a person in a facility operated by the Department
5 of Corrections ~~or by the Department of the Youth Authority and~~
6 *Rehabilitation* shall also be reported to the Chief of Medical
7 Services in the Central Office of the Department of Corrections
8 *and Rehabilitation*, or his or her designated representative, ~~or to~~
9 ~~the Chief of Medical Services in the Central Office of the~~
10 ~~Department of the Youth Authority, or his or her designated~~
11 ~~representative, whichever applies,~~ as soon as a representative of
12 that office is on duty.

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

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

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

28 5024. (a) The Legislature finds and declares that:

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

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

38 (3) It is the intent of the Legislature that the Department of
39 Corrections *and Rehabilitation*, in cooperation with the Department
40 of General Services and other appropriate state agencies, take

1 prompt action to adopt cost-effective reforms in its drug and
2 medical supply procurement processes by establishing a program
3 to obtain rebates from drug manufacturers, implementing
4 alternative contracting and procurement reforms, or by some
5 combination of these steps.

6 (b) (1) The ~~Director~~ *Secretary* of the Department of Corrections
7 *and Rehabilitation*, pursuant to the Administrative Procedure Act,
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
9 3 of Title 2 of the Government Code, may adopt regulations
10 requiring manufacturers of drugs to pay the department a rebate
11 for the purchase of drugs for offenders in state custody that is at
12 least equal to the rebate that would be applicable to the drug under
13 Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec.
14 1396r-8(c)). Any such regulation shall, at a minimum, specify the
15 procedures for notifying drug manufacturers of the rebate
16 requirements and for collecting rebate payments.

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

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

38 (4) In order to minimize state administrative costs and maximize
39 state benefits for such a rebate program, if one is implemented,
40 the Department of Corrections *and Rehabilitation* may enter into

1 interagency agreements with the Department of General Services,
2 the State Department of Health *Care* Services, the State Department
3 of ~~Mental Health~~ *State Hospitals*, or the State Department of
4 Developmental Services, the University of California, another
5 appropriate state department, or with more than one of those
6 entities, for joint participation in a rebate program, collection and
7 monitoring of necessary drug price and rebate data, the billing of
8 manufacturers for rebates, the resolution of any disputes over
9 rebates, and any other services necessary for the cost-effective
10 operation of the rebate program.

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

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

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

28 (2) Participation by offenders in state custody infected with
29 human immunodeficiency virus (HIV), the etiologic agent of
30 acquired ~~immune deficiency~~ *immunodeficiency* syndrome (AIDS),
31 in the AIDS Drug Assistance Program.

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

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

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

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

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

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

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

14 *SEC. 51. Section 6007 of the Penal Code is amended to read:*
15 6007. (a) No person shall be employed initially by the
16 department unless that person, after an offer of employment,
17 completes an examination, a test, or a medical evaluation and is
18 found to be free of tuberculosis in an infectious or contagious stage
19 prior to assuming work duties.

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

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

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

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

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

37 (d) The examinations or tests or medical evaluations required
38 pursuant to this chapter shall be offered by the department. The
39 department may contract with a medical provider to administer
40 the examinations or tests or medical evaluations. Employees who

1 elect not to accept the department's offer shall obtain the
2 examinations or tests or medical evaluations through their personal
3 health care providers at no cost to the department.

4 The requirements of this section apply to the Department of
5 Corrections, ~~the Department of the Youth Authority, the Board of~~
6 ~~Prison Terms, and the Youthful Offender Parole Board and~~
7 *Rehabilitation and the Board of Parole Hearings*. Notwithstanding
8 any other provision of law, each department or board shall be
9 responsible for the costs of the testing or evaluation required by
10 this section for its own employees or potential employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 6044. (a) The Council on Mentally Ill Offenders is hereby
35 established within the Department of Corrections and
36 Rehabilitation. The council shall be composed of ~~11~~ 12 members,
37 one of whom shall be the secretary of the department who shall
38 be designated as the chairperson, one of whom shall be the Director
39 of ~~Mental Health~~ *State Hospitals*, one of whom shall be the
40 *Director of Health Care Services*, and nine of whom shall be

1 appointed. The Governor shall appoint three members, at least one
2 of whom shall represent mental health. The Senate Committee *on*
3 *Rules* shall appoint two members, one representing law
4 enforcement and one representing mental health. The Speaker of
5 the Assembly shall appoint two members, one representing law
6 enforcement and one representing mental health. The Attorney
7 General shall appoint one member. The Chief Justice of the
8 California Supreme Court shall appoint one member who shall be
9 a superior court judge.

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

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

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

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

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

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

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

37 (f) The council shall consider strategies that:

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

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

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

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

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

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

25 (j) (1) For purposes of this article, the council shall address the
26 needs of adults and juveniles who meet the following criteria:
27 persons who have been arrested, detained, incarcerated, or are at
28 a significant risk of being arrested, detained, or incarcerated, and
29 who have a mental disorder as defined in Section 1830.205 of Title
30 9 of the California Code of Regulations.

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

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

37 13510.5. For the purpose of maintaining the level of
38 competence of state law enforcement officers, the commission
39 shall adopt, and may, from time to time amend, rules establishing
40 minimum standards for training of peace officers as defined in

1 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,
2 who are employed by any railroad company, the California State
3 Police Division, the University of California Police Department,
4 a California State University police department, the Department
5 of Alcoholic Beverage Control, the Division of Investigation of
6 the Department of Consumer Affairs, the Wildlife Protection
7 Branch of the Department of Fish and Game, the Department of
8 Forestry and Fire Protection, including the Office of the State Fire
9 Marshal, the Department of Motor Vehicles, the California Horse
10 Racing Board, the Bureau of Food and Drug, the Division of Labor
11 Law Enforcement, the Director of Parks and Recreation, the State
12 Department of Health *Care* Services, the Department of Toxic
13 Substances Control, the State Department of Social Services, the
14 State Department of ~~Mental Health~~ *State Hospitals*, the State
15 Department of Developmental Services, the State Department of
16 Alcohol and Drug Programs, the Office of Statewide Health
17 Planning and Development, and the Department of Justice. All
18 rules shall be adopted and amended pursuant to Chapter 3.5
19 (commencing with Section 11340) of Part 1 of Division 3 of Title
20 2 of the Government Code.

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

23 13885.6. The Department of Justice shall establish and maintain
24 a comprehensive file of existing information maintained by law
25 enforcement agencies, probation departments, the Department of
26 Corrections and Rehabilitation, the State Department of ~~Mental~~
27 ~~Health~~ *State Hospitals*, the Department of Motor Vehicles, and
28 the Department of Justice. The Department of Justice may request
29 the Department of Corrections and Rehabilitation, the State
30 Department of ~~Mental Health~~ *State Hospitals*, the Department of
31 Motor Vehicles, law enforcement agencies, and probation
32 departments to provide existing information from their files
33 regarding persons identified by the Department of Justice as high
34 risk sex offenders pursuant to Section 13885.4. The Department
35 of Corrections and Rehabilitation, the State Department of ~~Mental~~
36 ~~Health~~ *State Hospitals*, the Department of Motor Vehicles, law
37 enforcement agencies, and probation departments, when requested
38 by the Department of Justice, shall provide copies of existing
39 information maintained in their files regarding persons identified
40 by the Department of Justice as high risk sex offenders and shall

1 provide followup information to the Department of Justice as it
2 becomes available, unless otherwise prohibited by federal law.
3 This information shall include, but is not limited to, criminal
4 histories, Facts of Offense Sheets, sex offender registration records,
5 police reports, probation and presentencing reports, judicial records
6 and case files, juvenile records, psychological evaluations and
7 psychological hospital reports, and sexually violent predator
8 treatment program reports. This information shall also include
9 records that have been sealed. This information shall be provided
10 to the Department of Justice in a manner and format jointly
11 approved by the submitting department and the Department of
12 Justice. This high risk sex offender file shall be maintained by the
13 Department of Justice High Risk Sex Offender Program and shall
14 contain a complete physical description and method of operation
15 of the high risk sex offender, information describing his or her
16 interaction with criminal justice agencies, and his or her prior
17 criminal record. The Department of Justice also shall prepare a
18 bulletin on each high risk sex offender for distribution to law
19 enforcement agencies.

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

22 14202.2. (a) The Department of Justice, in conjunction with
23 the Department of Corrections *and Rehabilitation*, shall update
24 any supervised release file that is available to law enforcement on
25 the California Law Enforcement Telecommunications System
26 every 10 days to reflect the most recent inmates paroled from
27 facilities under the jurisdiction of the Department of Corrections
28 *and Rehabilitation*.

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

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

2 28220. (a) Upon submission of firearm purchaser information,
3 the Department of Justice shall examine its records, as well as
4 those records that it is authorized to request from the State
5 Department of ~~Mental Health~~ *State Hospitals* pursuant to Section
6 8104 of the Welfare and Institutions Code, in order to determine
7 if the purchaser is a person described in subdivision (a) of Section
8 27535, or is prohibited by state or federal law from possessing,
9 receiving, owning, or purchasing a firearm.

10 (b) To the extent that funding is available, the Department of
11 Justice may participate in the National Instant Criminal Background
12 Check System (NICS), as described in subsection (t) of Section
13 922 of Title 18 of the United States Code, and, if that participation
14 is implemented, shall notify the dealer and the chief of the police
15 department of the city or city and county in which the sale was
16 made, or if the sale was made in a district in which there is no
17 municipal police department, the sheriff of the county in which
18 the sale was made, that the purchaser is a person prohibited from
19 acquiring a firearm under federal law.

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

28 (d) If the department determines that the copies of the register
29 submitted to it pursuant to subdivision (d) of Section 28210 contain
30 any blank spaces or inaccurate, illegible, or incomplete information,
31 preventing identification of the purchaser or the handgun or other
32 firearm to be purchased, or if any fee required pursuant to Section
33 28225 is not submitted by the dealer in conjunction with
34 submission of copies of the register, the department may notify
35 the dealer of that fact. Upon notification by the department, the
36 dealer shall submit corrected copies of the register to the
37 department, or shall submit any fee required pursuant to Section
38 28225, or both, as appropriate and, if notification by the department
39 is received by the dealer at any time prior to delivery of the firearm
40 to be purchased, the dealer shall withhold delivery until the

1 conclusion of the waiting period described in Sections 26815 and
2 27540.

3 (e) If the department determines that the information transmitted
4 to it pursuant to Section 28215 contains inaccurate or incomplete
5 information preventing identification of the purchaser or the
6 handgun or other firearm to be purchased, or if the fee required
7 pursuant to Section 28225 is not transmitted by the dealer in
8 conjunction with transmission of the electronic or telephonic
9 record, the department may notify the dealer of that fact. Upon
10 notification by the department, the dealer shall transmit corrections
11 to the record of electronic or telephonic transfer to the department,
12 or shall transmit any fee required pursuant to Section 28225, or
13 both, as appropriate, and if notification by the department is
14 received by the dealer at any time prior to delivery of the firearm
15 to be purchased, the dealer shall withhold delivery until the
16 conclusion of the waiting period described in Sections 26815 and
17 27540.

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

19 28225. (a) The Department of Justice may require the dealer
20 to charge each firearm purchaser a fee not to exceed fourteen
21 dollars (\$14), except that the fee may be increased at a rate not to
22 exceed any increase in the California Consumer Price Index as
23 compiled and reported by the Department of Industrial Relations.

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

26 (1) The department for the cost of furnishing this information.

27 (2) The department for the cost of meeting its obligations under
28 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
29 and Institutions Code.

30 (3) Local mental health facilities for state-mandated local costs
31 resulting from the reporting requirements imposed by Section 8103
32 of the Welfare and Institutions Code.

33 (4) The State Department of ~~Mental Health~~ *State Hospitals* for
34 the costs resulting from the requirements imposed by Section 8104
35 of the Welfare and Institutions Code.

36 (5) Local mental hospitals, sanitariums, and institutions for
37 state-mandated local costs resulting from the reporting
38 requirements imposed by Section 8105 of the Welfare and
39 Institutions Code.

1 (6) Local law enforcement agencies for state-mandated local
2 costs resulting from the notification requirements set forth in
3 subdivision (a) of Section 6385 of the Family Code.

4 (7) Local law enforcement agencies for state-mandated local
5 costs resulting from the notification requirements set forth in
6 subdivision (c) of Section 8105 of the Welfare and Institutions
7 Code.

8 (8) For the actual costs associated with the electronic or
9 telephonic transfer of information pursuant to Section 28215.

10 (9) The Department of Food and Agriculture for the costs
11 resulting from the notification provisions set forth in Section 5343.5
12 of the Food and Agricultural Code.

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

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

19 (c) The fee established pursuant to this section shall not exceed
20 the sum of the actual processing costs of the department, the
21 estimated reasonable costs of the local mental health facilities for
22 complying with the reporting requirements imposed by paragraph
23 (3) of subdivision (b), the costs of the State Department of ~~Mental~~
24 ~~Health~~ *State Hospitals* for complying with the requirements
25 imposed by paragraph (4) of subdivision (b), the estimated
26 reasonable costs of local mental hospitals, sanitariums, and
27 institutions for complying with the reporting requirements imposed
28 by paragraph (5) of subdivision (b), the estimated reasonable costs
29 of local law enforcement agencies for complying with the
30 notification requirements set forth in subdivision (a) of Section
31 6385 of the Family Code, the estimated reasonable costs of local
32 law enforcement agencies for complying with the notification
33 requirements set forth in subdivision (c) of Section 8105 of the
34 Welfare and Institutions Code imposed by paragraph (7) of
35 subdivision (b), the estimated reasonable costs of the Department
36 of Food and Agriculture for the costs resulting from the notification
37 provisions set forth in Section 5343.5 of the Food and Agricultural
38 Code, the estimated reasonable costs of the department for the
39 costs associated with subdivisions (d) and (e) of Section 27560,
40 and the estimated reasonable costs of department firearms-related

1 regulatory and enforcement activities related to the sale, purchase,
2 possession, loan, or transfer of firearms pursuant to any provision
3 listed in Section 16580.

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

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

9 29515. (a) Upon receipt of an initial or renewal application
10 submitted as specified in Sections 29505, 29520, and 29525, the
11 department shall examine its records, records the department is
12 authorized to request from the State Department of ~~Mental Health~~
13 *State Hospitals* pursuant to Section 8104 of the Welfare and
14 Institutions Code, and records of the National Instant Criminal
15 Background Check System as described in subsection (t) of Section
16 922 of Title 18 of the United States Code, in order to determine if
17 the applicant is prohibited from possessing or receiving firearms.

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

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

23 30105. (a) An individual may request that the Department of
24 Justice perform a firearms eligibility check for that individual. The
25 applicant requesting the eligibility check shall provide the personal
26 information required by Section 28160 or 28165, as applicable,
27 but not any information regarding any firearm, to the department,
28 in an application specified by the department.

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

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

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

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

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

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

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

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

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

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

32
33 "No person or agency may require or request another person to
34 obtain a firearms eligibility check or notification of firearms
35 eligibility check pursuant to Section 30105 of the Penal Code. A
36 violation of these provisions is a misdemeanor."
37

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

1

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

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

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

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

25 1756. Notwithstanding any other provision of law, if, in the
26 opinion of the ~~Director of the Youth Authority~~ *Chief Deputy*
27 *Secretary for the Division of Juvenile Justice*, the rehabilitation of
28 any mentally disordered, or developmentally disabled person
29 confined in a state correctional school may be expedited by
30 treatment at one of the state hospitals under the jurisdiction of the
31 State Department of ~~Mental Health~~ *State Hospitals* or the State
32 Department of Developmental Services, the ~~Director of the Youth~~
33 ~~Authority~~ *Chief Deputy Secretary for the Division of Juvenile*
34 *Justice* shall certify that fact to the director of the appropriate
35 department who may authorize receipt of the person at one of the
36 hospitals for care and treatment. Upon notification from the director
37 that the person will no longer benefit from further care and
38 treatment in the state hospital, the ~~Director of the Youth Authority~~
39 *Chief Deputy Secretary for the Division of Juvenile Justice* shall
40 immediately send for, take, and receive the person back into a state

1 correctional school. Any person placed in a state hospital under
2 this section who is committed to the authority shall be released
3 from the hospital upon termination of his or her commitment unless
4 a petition for detention of that person is filed under the provisions
5 of Part 1 (commencing with Section 5000) of Division 5.

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

8 3300. There is hereby established an institution and branches,
9 under the jurisdiction of the Department of Corrections and
10 Rehabilitation, to be known as the California Rehabilitation Center.
11 Branches may be established in existing institutions of the
12 Department of Corrections and Rehabilitation, Division of Adult
13 Operations, in halfway houses as described in Section 3153, in
14 such other facilities as may be made available on the grounds of
15 other state institutions, and in city and county correctional facilities
16 where treatment facilities are available. Branches shall not be
17 established on the grounds of such other institutions in any manner
18 which will result in the placement of patients of such institutions
19 into inferior facilities. Branches placed in a facility of the State
20 Department of ~~Mental Health~~ *State Hospitals* shall have prior
21 approval of the Director of ~~Mental Health~~ *State Hospitals*, and
22 branches placed in a facility of the State Department of
23 Developmental Services shall have the prior approval of the
24 Director of Developmental Services. Commencing July 1, 2005,
25 the branches in the Department of Corrections and Rehabilitation,
26 Division of Juvenile Facilities shall be established by order of the
27 secretary, and shall be subject to his or her administrative direction.
28 Branches placed in city or county facilities shall have prior
29 approval of the legislative body of the city or county.

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

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

38 4000. There is in the *California Health and Welfare Human*
39 *Services Agency* a State Department of ~~Mental Health~~ *State*
40 *Hospitals*.

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

3 4001. As used in this ~~division:~~

4 (a) ~~“Department” means the State Department of Mental Health.~~

5 (b) ~~“Director” means the Director of Mental Health.~~

6 (c) ~~“State hospital”~~ *division “state hospital”* means any hospital
7 specified in Section 4100.

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

10 4004. The department is under the control of an executive
11 officer known as the Director of ~~Mental Health~~ *State Hospitals.*

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

14 4005. With the consent of the Senate, the Governor shall
15 appoint, to serve at his *or her* pleasure, the Director of ~~Mental~~
16 ~~Health~~ *State Hospitals.* He *or she* shall have the powers of a head
17 of a department pursuant to Chapter 2 (commencing with Section
18 11150), Part 1, Division 3, Title 2 of the Government Code, and
19 shall receive the salary provided for by Chapter 6 (commencing
20 with Section 11550), Part 1, Division 3, Title 2 of the Government
21 Code.

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

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

28 4005.5. *All regulations relating to state hospitals previously*
29 *adopted by the State Department of Mental Health pursuant to*
30 *authority now vested in the State Department of State Hospitals*
31 *by Section 4005.1 and in effect immediately preceding the operative*
32 *date of this section, shall remain in effect and shall be fully*
33 *enforceable unless and until readopted, amended, or repealed by*
34 *the Director of State Hospitals.*

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

37 4006. With the approval of the Department of Finance and for
38 use in the furtherance of the work of the State Department of
39 ~~Mental Health~~ *State Hospitals*, the director may accept any or all
40 of the following:

1 (a) Grants of interest in real property.

2 (b) Grants of money received by this state from the United
3 States, the expenditure of which is administered through or under
4 the direction of any department of this state.

5 (c) Gifts of money from public agencies or from persons,
6 organizations, or associations interested in the scientific,
7 educational, charitable, or mental health fields.

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

10 4008. (a) The department may expend money in accordance
11 with law for the actual and necessary travel expenses of officers
12 and employees of the department who are authorized to absent
13 themselves from the State of California on official business.

14 (b) For the purposes of this section and of Sections 11030 and
15 11032 of the Government Code, the following constitutes, among
16 other purposes, official business for officers and employees of the
17 department for which these officers and employees shall be allowed
18 actual and necessary traveling expenses when incurred either in
19 or out of this state upon approval of the Governor and Director of
20 Finance:

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

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

27 (3) Obtaining information from organizations, associations, or
28 persons described in paragraphs (1) and (2) which would be useful
29 in the conduct of the activities of the State Department of ~~Mental~~
30 ~~Health~~ *State Hospitals*.

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

33 4010. Except as in this chapter otherwise prescribed, the
34 provisions of the Government Code relating to state officers and
35 departments shall apply to the State Department of ~~Mental Health~~
36 *State Hospitals*.

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

39 4011.5. In counties where *hospitals under the jurisdiction of*
40 *the State Department of ~~Mental Health~~ hospitals* *State Hospitals*

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

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

8 4012. The State Department of ~~Mental Health~~ *State Hospitals,*
9 *the State Department of Health Care Services, and other*
10 *departments as necessary, may:*

11 (a) Disseminate educational information relating to the
12 prevention, diagnosis and treatment of mental ~~disorder~~ *illness.*

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

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

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

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

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

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

27 4012.5. The State Department of ~~Mental Health~~ *State Hospitals*
28 *may obtain psychiatric, medical and other necessary aftercare*
29 *services for judicially committed patients on leave of absence from*
30 *state hospitals by contracting with any city, county, local health*
31 *district, or other public officer or agency, or with any private person*
32 *or agency to furnish such services to patients in or near the home*
33 *community of the patient. Any city, county, local health district,*
34 *or other public officer or agency authorized by law to provide*
35 *mental health and aftercare services is authorized to enter such*
36 *contracts.*

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

39 4015. (a) The State Department of ~~Mental Health~~ *State*
40 *Hospitals* shall, in coordination with the task force described in

1 subdivision (c) and with other state entities, including, but not
2 limited to, the Department of General Services, the State
3 Department of Developmental Services, the Secretary of State,
4 and the California State Library, do all of the following:

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

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

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

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

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

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

38 (4) Assist the California Memorial Project in developing a plan
39 for the restoration of gravesites and cemeteries at state hospitals
40 and developmental centers and gravesites not located on state lands

1 but designated by the state for burial of state hospital or
2 developmental center residents.

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

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

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

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

19 (A) The Peer Self-Advocacy Unit of ~~Protection and Advocacy,~~
20 ~~the~~ *Disability Rights California*.

21 (B) California Network of Mental Health Clients.

22 (C) Capitol People First.

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

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

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

39 ~~(f) The department shall submit a status update on the~~
40 ~~implementation of this section, including a description of barriers,~~

1 if any, to conducting the activities described in this section, to the
2 Legislature by January 31, 2004.

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

5 4024. The State Department of ~~Mental Health~~ *State Hospitals*
6 proposed allocations for level-of-care staffing in state hospitals
7 that serve persons with mental disabilities shall be submitted to
8 the Department of Finance for review and approval in July and
9 again on a quarterly basis. Each quarterly report shall include an
10 analysis of client characteristics of admissions and discharges in
11 addition to information on any changes in characteristics of current
12 residents.

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

30 The Department of Finance shall also make available to the Joint
31 Legislative Budget Committee a listing of all of the approved
32 assumptions and the impact of each assumption, as well as all
33 supporting data provided by the State Department of ~~Mental Health~~
34 *State Hospitals* or developed independently by the Department of
35 Finance. However, ~~such~~ *the* departmental estimates, assumptions,
36 and other supporting data as have been prepared shall be forwarded
37 to the Joint Legislative Budget Committee not later than January
38 15 or May 15 by the State Department of ~~Mental Health~~ *State*
39 *Hospitals* in the event this information has not been released earlier.

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

3 4027. The State Department of ~~Mental Health~~ *State Hospitals*
4 may adopt regulations concerning patients' rights and related
5 procedures applicable to the inpatient treatment of mentally ill
6 offenders receiving treatment pursuant to Sections 1026, 1026.2,
7 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of
8 ~~the Welfare and Institutions Code~~ *this code*, persons receiving
9 treatment as mentally disordered sex offenders, and inmates of jail
10 psychiatric units.

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

13 4042. ~~The department~~ *State Department of State Hospitals*
14 shall cooperate and coordinate with other state and local agencies
15 engaged in research and evaluation studies. Effort shall be made
16 to coordinate with research, evaluation, and demonstration efforts
17 of local mental health programs, state hospitals serving the mentally
18 disordered, the Department of Rehabilitation, the State Department
19 of Alcohol and Drug Programs, the State Department of
20 Developmental Services, the State Department of Health *Care*
21 Services, universities, and other special projects conducted or
22 contracted for by the State Department of ~~Mental Health~~ *State*
23 *Hospitals*.

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

26 4100.2. (a) Commencing January 10, 2009, and each year
27 thereafter, the State Department of Mental Health, *or its successor,*
28 *the State Department of State Hospitals*, shall provide the fiscal
29 committees of the Legislature with a fiscal estimate package for
30 the current year and budget year for the state hospitals by January
31 10 and at the time of the Governor's May Revision.

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

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

38 (1) A statement articulating the assumptions and methodologies
39 used for calculating the patient caseload factors, all staffing costs,
40 and operating expenses and equipment.

1 (2) Where applicable, individual policy changes shall contain
2 a narrative and basis for its proposed and estimated costs.

3 (3) Fiscal bridge charts shall be included to provide the basis
4 for the year-to-year changes.

5 (d) The department may provide any additional information as
6 deemed appropriate to provide a comprehensive fiscal perspective
7 to the Legislature for analysis and deliberations for purposes of
8 appropriation.

9 *SEC. 79. Section 4101 of the Welfare and Institutions Code is*
10 *amended to read:*

11 4101. Except as otherwise specifically provided elsewhere in
12 this code, all of the institutions under the jurisdiction of the State
13 Department of ~~Mental Health~~ *State Hospitals* shall be governed
14 by uniform rule and regulation of the State Department of ~~Mental~~
15 ~~Health~~ *State Hospitals* and all of the provisions of this chapter
16 shall apply to the conduct and management of ~~such those~~
17 institutions.

18 *SEC. 80. Section 4101.5 of the Welfare and Institutions Code*
19 *is amended to read:*

20 4101.5. (a) Notwithstanding any other law, the State
21 Department of ~~Mental Health~~ *State Hospitals* may contract with
22 providers of health care services and health care network providers,
23 including, but not limited to, health plans, preferred provider
24 organizations, and other health care network managers. Hospitals
25 that do not contract with the department for emergency health care
26 services shall provide these services to the department on the same
27 basis as they are required to provide these services pursuant to
28 Section 489.24 of Title 42 of the Code of Federal Regulations.

29 (b) The department may only reimburse a noncontract provider
30 of hospital or physician services at a rate equal to or less than the
31 amount payable under the Medicare Fee Schedule, regardless of
32 whether the hospital is located within or outside of California. An
33 entity that provides ambulance or any other emergency or
34 nonemergency response service to the department, and that does
35 not contract with the department for that service, shall be
36 reimbursed for the service at the rate payable under the Medicare
37 Fee Schedule, regardless of whether the provider is located within
38 or outside of California.

39 (c) Until regulations or emergency regulations are adopted in
40 accordance with subdivision (g), the department shall not reimburse

1 a contract provider of hospital services at a rate that exceeds 130
2 percent of the amount payable under the Medicare Fee Schedule,
3 a contract provider of physician services at a rate that exceeds 110
4 percent of the amount payable under the Medicare Fee Schedule,
5 or a contract provider of ambulance services at a rate that exceeds
6 120 percent of the amount payable under the Medicare Fee
7 Schedule. The maximum rates established by this subdivision shall
8 not apply to reimbursement for administrative days, transplant
9 services, services provided pursuant to competitively bid contracts,
10 or services provided pursuant to a contract executed prior to
11 September 1, 2009.

12 (d) The maximum rates set forth in this section shall not apply
13 to contracts entered into through the department's designated health
14 care network provider, if any. The rates for those contracts shall
15 be negotiated at the lowest rate possible under the circumstances.

16 (e) The department and its designated health care network
17 provider may enter into exclusive or nonexclusive contracts on a
18 bid or negotiated basis for hospital, physician, and ambulance
19 services contracts.

20 (f) The Director of ~~Mental Health~~ *State Hospitals* may adopt
21 regulations to implement this section. The adoption, amendment,
22 or repeal of a regulation authorized by this section is hereby
23 exempted from the rulemaking provisions of the Administrative
24 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
25 Part 1 of Division 3 of Title 2 of the Government Code).

26 (g) The Director of ~~Mental Health~~ *State Hospitals* may change
27 the maximum rates set forth in this section by regulation or
28 emergency regulation, adopted in accordance with the
29 Administrative Procedure Act, but no sooner than 30 days after
30 notification to the Joint Legislative Budget Committee. Those
31 changes may include, but are not limited to, increasing or
32 decreasing rates, or adding location-based differentials such as
33 those provided to small and rural hospitals as defined in Section
34 124840 of the Health and Safety Code. The adoption, amendment,
35 repeal, or readoption of a regulation authorized by this subdivision
36 is deemed to address an emergency, for purposes of Sections
37 11346.1 and 11349.6 of the Government Code, and the director is
38 hereby exempted for this purpose from the requirements of
39 subdivision (b) of Section 11346.1 of the Government Code.

1 (h) For persons who are transferred from the Department of
2 Corrections and Rehabilitation to, or are housed in, a state hospital
3 or psychiatric program under the jurisdiction of the State
4 Department of ~~Mental Health~~ *State Hospitals*, and while these
5 persons remain under the jurisdiction of the Department of
6 Corrections and Rehabilitation as inmates or parolees, health care
7 or emergency services provided for these persons outside of a State
8 Department of ~~Mental Health~~ *State Hospitals* state hospital or
9 psychiatric program shall continue to be paid for or reimbursed
10 by the Department of Corrections and Rehabilitation in accordance
11 with Section 5023.5 of the Penal Code.

12 *SEC. 81. Section 4104 of the Welfare and Institutions Code is*
13 *amended to read:*

14 4104. All lands necessary for the use of the state hospitals
15 specified in Section 4100, except those acquired by gift, devise,
16 or purchase, shall be acquired by condemnation as lands for other
17 public uses are acquired.

18 The terms of every purchase shall be approved by the State
19 Department of ~~Mental Health~~ *State Hospitals*. No public street or
20 road for railway or other purposes, except for hospital use, shall
21 be opened through the lands of any state hospital, unless the
22 Legislature by special enactment consents thereto.

23 *SEC. 82. Section 4106 of the Welfare and Institutions Code is*
24 *amended to read:*

25 4106. Notwithstanding the provisions of Section 4104, the
26 Director of General Services, with the consent of the State
27 Department of ~~Mental Health~~ *State Hospitals*, may grant to the
28 County of Napa a right-of-way for public road purposes over the
29 northerly portion of the Napa State Hospital lands for the widening
30 of Imola Avenue between Penny Lane and Fourth Avenue, upon
31 such terms and conditions as the Director of General Services may
32 deem for the best interests of the state.

33 *SEC. 83. Section 4107 of the Welfare and Institutions Code is*
34 *amended to read:*

35 4107. (a) The security of patients committed pursuant to
36 Section 1026 of, and Chapter 6 (commencing with Section 1367)
37 of Title 10 of Part 2 of, the Penal Code, and former Sections 6316
38 and 6321, at Patton State Hospital shall be the responsibility of
39 the Secretary of the Department of Corrections and Rehabilitation.

1 (b) The Department of Corrections and Rehabilitation and the
2 State Department of Mental Health shall jointly develop a plan to
3 transfer all patients committed to Patton State Hospital pursuant
4 to the provisions in subdivision (a) from Patton State Hospital no
5 later than January 1, 1986, and shall transmit this plan to the Senate
6 Committee on Judiciary and to the Assembly Committee on
7 Criminal Justice, and to the Senate Health and Welfare Committee
8 and Assembly Health Committee by June 30, 1983. The plan shall
9 address whether the transferred patients shall be moved to other
10 state hospitals or to correctional facilities, or both, for commitment
11 and treatment.

12 (c) Notwithstanding any other provision of law, the State
13 Department of ~~Mental Health~~ *State Hospitals* shall house no more
14 than 1,336 patients at Patton State Hospital. However, until
15 September-2012 2020, up to 1,530 patients may be housed at the
16 hospital.

17 ~~(d) The Department of Corrections and Rehabilitation and the~~
18 ~~State Department of Mental Health shall jointly develop a plan for~~
19 ~~ensuring the external and internal security of the hospital during~~
20 ~~the construction of additional beds at Patton State Hospital and~~
21 ~~the establishment of related modular program space for which~~
22 ~~funding is provided in the Budget Act of 2001. No funds shall be~~
23 ~~expended for the expansion project until 30 days after the date~~
24 ~~upon which the plan is submitted to the fiscal committees of the~~
25 ~~Legislature and the Chair of the Joint Legislative Budget~~
26 ~~Committee.~~

27 ~~(e) The Department of Corrections and Rehabilitation and the~~
28 ~~State Department of Mental Health shall also jointly develop a~~
29 ~~plan for ensuring the external and internal security of the hospital~~
30 ~~upon the occupation of the additional beds at Patton State Hospital.~~
31 ~~These beds shall not be occupied by patients until the later of the~~
32 ~~date that is 30 days after the date upon which the plan is submitted~~
33 ~~to the Chair of the Joint Legislative Budget Committee or the date~~
34 ~~upon which it is implemented by the departments.~~

35 (f)

36 (d) This section shall remain in effect only until all patients
37 committed, pursuant to the provisions enumerated in subdivision
38 (a), have been removed from Patton State Hospital and shall have
39 no force or effect on or after that date.

1 *SEC. 84. Section 4107.1 of the Welfare and Institutions Code*
2 *is amended to read:*

3 4107.1. Consistent with the authority of the State Department
4 of ~~Mental Health~~ *State Hospitals* to maintain and operate state
5 hospitals under its jurisdiction, the State Department of ~~Mental~~
6 ~~Health~~ *State Hospitals* shall provide internal security for the patient
7 population at Patton State Hospital. The State Department of
8 ~~Mental Health~~ *State Hospitals* may employ hospital police at Patton
9 State Hospital for this purpose.

10 This section is not intended to increase or decrease the duties
11 and responsibilities of the Department of Corrections *and*
12 *Rehabilitation* at Patton State Hospital.

13 *SEC. 85. Section 4109 of the Welfare and Institutions Code is*
14 *amended to read:*

15 4109. The State Department of ~~Mental Health~~ *State Hospitals*
16 has general control and direction of the property and concerns of
17 each state hospital specified in Section 4100. The department shall:

18 (a) Take care of the interests of the hospital, and see that its
19 purpose and its bylaws, rules, and regulations are carried into
20 effect, according to law.

21 (b) Establish such bylaws, rules, and regulations as it deems
22 necessary and expedient for regulating the duties of officers and
23 employees of the hospital, and for its internal government,
24 discipline, and management.

25 (c) Maintain an effective inspection of the hospital.

26 *SEC. 86. Section 4109.5 of the Welfare and Institutions Code*
27 *is amended to read:*

28 4109.5. (a) Whenever the department proposes the closure of
29 a state hospital, it shall submit as part of the Governor's proposed
30 budget to the Legislature a complete program, to be developed
31 jointly by the State Department of ~~Mental Health~~ *State Hospitals*
32 and the county in which the state hospital is located, for absorbing
33 as many of the staff of the hospital into the local mental health
34 programs as may be needed by the county. Those programs shall
35 include a redefinition of occupational positions, if necessary, and
36 a recognition by the counties of licensed psychiatric technicians
37 for treatment of the mentally disordered, developmentally disabled,
38 drug abusers, and alcoholics.

1 (b) The Director of ~~Mental Health~~ *State Hospitals* shall submit
 2 all plans for the closure of state hospitals as a report with the
 3 department’s budget. This report shall include all of the following:

- 4 (1) The land and buildings affected.
- 5 (2) The number of patients affected.
- 6 (3) Alternative plans for patients presently in the facilities.
- 7 (4) Alternative plans for patients who would have been served
 8 by the facility assuming it was not closed.
- 9 (5) A joint statement of the impact of the closure by the
 10 department and affected local treatment programs.

11 (c) These plans may be submitted to the Legislature until April
 12 1 of each budget year. Any plans submitted after that date shall
 13 not be considered until the fiscal year following that in which it is
 14 being considered.

15 (d) The plan shall not be placed into effect unless the Legislature
 16 specifically approves the plan.

17 (e) This section shall not apply to the proposed closure of a
 18 developmental center.

19 *SEC. 87. Section 4110 of the Welfare and Institutions Code is*
 20 *amended to read:*

21 4110. The ~~medical superintendent executive director~~ shall ~~make~~
 22 ~~triplicate~~ *provide detailed expenditure estimates, in minute detail,*
 23 ~~as approved by the State Department of Mental Health,~~ *of such of*
 24 *all anticipated hospital expenditures, all supplies, expenses,*
 25 *buildings, and improvements as are required for the best interests*
 26 *of the hospital, and for the improvement thereof of the hospital*
 27 *and of the grounds and buildings connected therewith with the*
 28 *hospital.* These estimates shall be submitted to the State
 29 Department of ~~Mental Health~~ *State Hospitals*, which may revise
 30 them. The department shall certify that it has carefully examined
 31 the estimates, and that the supplies, expenses, buildings, and
 32 improvements contained in ~~such~~ *the* estimates, as approved by it,
 33 are required for the best interests of the hospital. The department
 34 shall thereupon proceed to purchase ~~such~~ *the* supplies, make ~~such~~
 35 *the* expenditures, or conduct ~~such~~ *the* improvements or buildings
 36 in accordance with law.

37 *SEC. 88. Section 4111 of the Welfare and Institutions Code is*
 38 *amended to read:*

39 4111. The state hospitals may manufacture supplies and
 40 materials necessary or required to be used in any of the state

1 hospitals which can be economically manufactured therein. The
2 necessary cost and expense of providing for and conducting the
3 manufacture of such supplies and materials shall be paid in the
4 same manner as other expenses of the hospitals. No hospital shall
5 enter into or engage in manufacturing any supplies or materials
6 unless permission for the same is obtained from the State
7 Department of ~~Mental Health~~ *State Hospitals*. If, at any time, it
8 appears to the department that the manufacture of any article is
9 not being or cannot be economically carried on at a state hospital,
10 the department may suspend or stop the manufacture of ~~such~~ *the*
11 article, and on receipt of a certified copy of the order directing the
12 suspension or stopping of ~~such~~ *its* manufacture, by the medical
13 superintendent, the hospital shall cease from manufacturing ~~such~~
14 *the* article.

15 *SEC. 89. Section 4112 of the Welfare and Institutions Code is*
16 *amended to read:*

17 4112. (a) All money belonging to the state and received by
18 state hospitals from any source, except appropriations, shall, at the
19 end of each month, be deposited in the State Treasury, to the credit
20 of the General Fund. This section shall not apply to the funds
21 known as the industrial or amusement funds.

22 (b) There is hereby continuously appropriated from the General
23 Fund to the State Department of ~~Mental Health~~ *State Hospitals*
24 that amount which is necessary to pay the premium, as specified
25 in Section 7353, for third-party health coverage for Medicare
26 beneficiaries who are patients at state hospitals under the
27 jurisdiction of the State Department of ~~Mental Health~~ *State*
28 *Hospitals*. It is the intent of the Legislature that the General Fund
29 expenditures authorized by this subdivision not exceed the proceeds
30 to be deposited in the General Fund from Medicare payments to
31 the State Department of ~~Mental Health~~ *State Hospitals* in any fiscal
32 year. ~~If General Fund expenditures exceed Medicare proceeds in~~
33 ~~any fiscal year, the State Department of Mental Health shall report~~
34 ~~to the Joint Legislative Budget Committee and the Department of~~
35 ~~Finance the following information: (1) the amount of any excess~~
36 ~~costs compared to the Medicare proceeds; (2) the reasons for the~~
37 ~~excess costs; and (3) a plan to ensure that in future fiscal years the~~
38 ~~costs will not exceed proceeds.~~

39 *SEC. 90. Section 4114 of the Welfare and Institutions Code is*
40 *amended to read:*

1 4114. ~~The authorities for the several hospitals shall furnish to~~
2 ~~the State Department of Mental Health the facts mentioned in~~
3 ~~Section 4019 of this code and such other obtainable facts as the~~
4 ~~department from time to time requires of them, with the opinion~~
5 ~~of the superintendent thereon, if requested. The superintendent~~
6 *The executive director* or other person in charge of a hospital shall,
7 within 10 days after the admission of any person ~~thereto to the~~
8 *hospital*, cause an abstract of the medical certificate and order on
9 which ~~such the~~ person was received and a list of all property,
10 books, and papers of value found in the possession of or belonging
11 to ~~such the~~ person to be forwarded to the office of the department,
12 and when a patient is discharged, transferred, or dies, the
13 superintendent or person in charge shall within three days
14 thereafter, send the information to the office of the department, in
15 accordance with the form prescribed by it.

16 *SEC. 91. Section 4117 of the Welfare and Institutions Code is*
17 *amended to read:*

18 4117. (a) Whenever a trial is had of any person charged with
19 escape or attempt to escape from a state hospital, whenever a
20 hearing is had on the return of a writ of habeas corpus prosecuted
21 by or on behalf of any person confined in a state hospital except
22 in a proceeding to which Section 5110 applies, whenever a hearing
23 is had on a petition under Section 1026.2, subdivision (b) of Section
24 1026.5, Section 2972, or Section 2966 of the Penal Code, Section
25 7361 of this code, or former Section 6316.2 of this code for the
26 release of a person confined in a state hospital, and whenever a
27 person confined in a state hospital is tried for any crime committed
28 therein, the appropriate financial officer or other designated official
29 of the county in which the trial or hearing is had shall make out a
30 statement of all mental health treatment costs and shall make out
31 a separate statement of all nontreatment costs incurred by the
32 county for investigation and other preparation for the trial or
33 hearing, and the actual trial or hearing, all costs of maintaining
34 custody of the patient and transporting him or her to and from the
35 hospital, and costs of appeal, which statements shall be properly
36 certified by a judge of the superior court of that county and the
37 statement of mental health treatment costs shall be sent to the State
38 Department of ~~Mental Health~~ *State Hospitals* and the statement
39 of all nontreatment costs shall be sent to the Controller for
40 approval. After approval, the department shall cause the amount

1 of mental health treatment costs incurred on or after July 1, 1987,
2 to be paid to the county mental health director or his or her
3 designee where the trial or hearing was held out of the money
4 appropriated for this purpose by the Legislature. In addition, the
5 Controller shall cause the amount of all nontreatment costs incurred
6 on and after July 1, 1987, to be paid out of the money appropriated
7 by the Legislature, to the county treasurer of the county where the
8 trial or hearing was had.

9 (b) Commencing January 1, 2012, the nontreatment costs
10 associated with Section 2966 of the Penal Code and approved by
11 the Controller, as required by subdivision (a), shall be paid by the
12 Department of Corrections and Rehabilitation pursuant to Section
13 4750 of the Penal Code.

14 (c) Whenever a hearing is held pursuant to Section 1604, 1608,
15 1609, or 2966 of the Penal Code, all transportation costs to and
16 from a state hospital or a facility designated by the community
17 program director during the hearing shall be paid by the Controller
18 as provided in this subdivision. The appropriate financial officer
19 or other designated official of the county in which a hearing is
20 held shall make out a statement of all transportation costs incurred
21 by the county, which statement shall be properly certified by a
22 judge of the superior court of that county and sent to the Controller
23 for approval. The Controller shall cause the amount of
24 transportation costs incurred on and after July 1, 1987, to be paid
25 to the county treasurer of the county where the hearing was had
26 out of the money appropriated by the Legislature.

27 As used in this subdivision the community program director is
28 the person designated pursuant to Section 1605 of the Penal Code.

29 *SEC. 92. Section 4118 of the Welfare and Institutions Code is*
30 *amended to read:*

31 4118. The State Department of ~~Mental Health~~ *State Hospitals*
32 shall cooperate with the United States Bureau of Immigration in
33 arranging for the deportation of all aliens who are confined in,
34 admitted, or committed to any state hospital.

35 *SEC. 93. Section 4119 of the Welfare and Institutions Code is*
36 *amended to read:*

37 4119. The State Department of ~~Mental Health~~ *State Hospitals*
38 shall investigate and examine all nonresident persons residing in
39 any state hospital for the mentally disordered and shall cause these
40 persons, when found to be nonresidents as defined in this chapter,

1 to be promptly and humanely returned under proper supervision
2 to the states in which they have legal residence. The department
3 may defer ~~such~~ *that* action by reason of a patient's medical
4 condition.

5 Prior to returning the judicially committed nonresident to his or
6 her proper state of residency, the department shall *do either of the*
7 *following*:

8 (a) Obtain the written consent of the prosecuting attorney of the
9 committing county, the judicially committed nonresident person,
10 and the attorney of record for the judicially committed nonresident
11 person; ~~or~~.

12 (b) In the department's discretion request a hearing in the
13 superior court of the committing county requesting a judicial
14 determination of the proposed transfer, notify the court that the
15 state of residence has agreed to the transfer, and file the
16 department's recommendation with a report explaining the reasons
17 for its recommendation.

18 The court shall give notice of such a hearing to the prosecuting
19 attorney, the judicially committed nonresident person, the attorney
20 of record for the judicially committed nonresident person and the
21 department, no less than 30 days before ~~such~~ *the* hearing. At the
22 hearing, the prosecuting attorney and the judicially committed
23 nonresident person may present evidence bearing on the intended
24 transfer. After considering all evidence presented, the court shall
25 determine whether the intended transfer is in the best interest of
26 and for the proper protection of the nonresident person and the
27 public. The court shall use the same procedures and standard of
28 proof as used in conducting probation revocation hearings pursuant
29 to Section 1203.2 of the Penal Code.

30 For the purpose of facilitating the prompt and humane return of
31 such persons, the State Department of ~~Mental Health~~ *State*
32 *Hospitals* may enter into reciprocal agreements with the proper
33 boards, commissions, or officers of other states or political
34 subdivision thereof for the mutual exchange or return of persons
35 residing in any state hospital for the mentally disordered in one
36 state whose legal residence is in the other, and it may in these
37 reciprocal agreements vary the period of residence as defined in
38 this chapter to meet the requirements or laws of the other states.

39 The department may give written permission for the return of
40 any resident of this state confined in a public institution in another

1 state, corresponding to any state hospital for the mentally
2 disordered of this state. When a resident is returned to this state
3 pursuant to this chapter, he or she may be admitted as a voluntary
4 patient to any institution of the department as designated by the
5 Director of ~~Mental Health~~ *State Hospitals*. If he or she is mentally
6 disordered and is a danger to himself or herself or others, or he or
7 she is gravely disabled, he or she may be detained and given care
8 and services in accordance with the provisions of Part 1
9 (commencing with Section 5000) of Division 5.

10 *SEC. 94. Section 4122 of the Welfare and Institutions Code is*
11 *amended to read:*

12 4122. The State Department of ~~Mental Health~~ *State Hospitals*,
13 when it deems it necessary, may, under conditions prescribed by
14 the director, transfer any patients of a state institution under its
15 jurisdiction to another ~~such~~ institution. Transfers of patients of
16 state hospitals shall be made in accordance with the provisions of
17 Section 7300.

18 Transfer of a conservatee shall only be with the consent of the
19 conservator.

20 The expense of any ~~such~~ transfer shall be paid from the moneys
21 available by law for the support of the department or for the support
22 of the institution from which the patient is transferred. Liability
23 for the care, support, and maintenance of a patient so transferred
24 in the institution to which he *or she* has been transferred shall be
25 the same as if he *or she* had originally been committed to ~~such the~~
26 institution. The State Department of ~~Mental Health~~ *State Hospitals*
27 shall present to the county, not more frequently than monthly, a
28 claim for the amount due the state for care, support, and
29 maintenance of any such patients and which the county shall
30 process and pay pursuant to the provisions of Chapter 4
31 (commencing with Section 29700) of Division 3 of Title 3 of the
32 Government Code.

33 *SEC. 95. Section 4123 of the Welfare and Institutions Code is*
34 *amended to read:*

35 4123. The Director of ~~Mental Health~~ *State Hospitals* may
36 authorize the transfer of persons from any institution within the
37 department to any institution authorized by the federal government
38 to receive ~~such the~~ person.

39 *SEC. 96. Section 4124 of the Welfare and Institutions Code is*
40 *amended to read:*

1 4124. The State Department of ~~Mental Health~~ *State Hospitals*
2 shall send to the Department of Veterans Affairs whenever
3 requested a list of all persons who have been patients for six months
4 or more in each state institution within the jurisdiction of the State
5 Department of ~~Mental Health~~ *State Hospitals* and who are known
6 to have served in the ~~armed forces~~ *Armed Forces* of the United
7 States.

8 *SEC. 97. Section 4126 of the Welfare and Institutions Code is*
9 *amended to read:*

10 4126. Whenever any patient in any state institution subject to
11 the jurisdiction of the State Department of ~~Mental Health~~ *State*
12 *Hospitals* dies, and any personal funds or property of ~~such the~~
13 patient remains in the hands of the superintendent thereof, and no
14 demand is made upon ~~said the~~ superintendent by the owner of the
15 funds or property or his *or her* legally appointed representative all
16 money and other personal property of ~~such the~~ decedent remaining
17 in the custody or possession of the superintendent thereof shall be
18 held by him *or her* for a period of one year from the date of death
19 of the decedent, for the benefit of the heirs, legatees, or successors
20 in interest of ~~such the~~ decedent.

21 Upon the expiration of ~~said the~~ one-year period, any money
22 remaining unclaimed in the custody or possession of the
23 superintendent shall be delivered by him *or her* to the ~~State~~
24 Treasurer for deposit in the Unclaimed Property Fund under the
25 provision of Article 1 (commencing with Section 1440) of Chapter
26 6 of Title 10 of Part 3 of the Code of Civil Procedure.

27 Upon the expiration of said one-year period, all personal property
28 and documents of the decedent, other than cash, remaining
29 unclaimed in the custody or possession of the superintendent, shall
30 be disposed of as follows:

31 (a) All deeds, contracts or assignments shall be filed by the
32 superintendent with the public administrator of the county of
33 commitment of the decedent;

34 (b) All other personal property shall be sold by the
35 superintendent at public auction, or upon a sealed-bid basis, and
36 the proceeds of the sale delivered by him *or her* to the ~~State~~
37 Treasurer in the same manner as is herein provided with respect
38 to unclaimed money of the decedent. If he *or she* deems it
39 expedient to do so, the superintendent may accumulate the property
40 of several decedents and sell the property in ~~such lots as he~~ *lots*

1 *that he or she* may determine, provided that *he or she* makes a
2 determination as to each decedent's share of the proceeds;

3 (c) If any personal property of the decedent is not salable at
4 public auction, or upon a sealed-bid basis, or if it has no intrinsic
5 value, or if its value is not sufficient to justify the deposit of such
6 property in the State Treasury, the superintendent may order it
7 destroyed;

8 (d) All other unclaimed personal property of the decedent not
9 disposed of as provided in ~~paragraph~~ *subdivision* (a), (b), or (c)
10 ~~hereof~~, shall be delivered by the superintendent to the ~~State~~
11 Controller for deposit in the State Treasury under the provisions
12 of Article 1 (commencing with Section 1440) of Chapter 6 of Title
13 10 of Part 3 of the Code of Civil Procedure.

14 *SEC. 98. Section 4127 of the Welfare and Institutions Code is*
15 *amended to read:*

16 4127. (a) Whenever any patient in any state institution subject
17 to the jurisdiction of the State Department of ~~Mental Health~~ *State*
18 *Hospitals* escapes, is discharged, or is on leave of absence from
19 the institution, and any personal funds or property of the patient
20 remains in the hands of the superintendent, and no demand is made
21 upon the superintendent by the owner of the funds or property or
22 his or her legally appointed representative, all money and other
23 intangible personal property of the patient, other than deeds,
24 contracts, or assignments, remaining in the custody or possession
25 of the superintendent shall be held by him or her for a period of
26 seven years from the date of the escape, discharge, or leave of
27 absence, for the benefit of the patient or his or her successors in
28 interest. Unclaimed personal funds or property of minors on leave
29 of absence may be exempted from this section during the period
30 of their minority and for a period of one year thereafter, at the
31 discretion of the Director of ~~Mental Health~~ *State Hospitals*.

32 (b) Upon the expiration of the seven-year period, any money
33 and other intangible property, other than deeds, contracts, or
34 assignments, remaining unclaimed in the custody or possession of
35 the superintendent shall be subject to Chapter 7 (commencing with
36 Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

37 (c) Upon the expiration of one year from the date of the escape,
38 discharge, or parole, the following shall apply:

1 (1) All deeds, contracts, or assignments shall be filed by the
2 superintendent with the public administrator of the county of
3 commitment of the patient.

4 (2) All tangible personal property other than money, remaining
5 unclaimed in the superintendent’s custody or possession, shall be
6 sold by the superintendent at public auction, or upon a sealed-bid
7 basis, and the proceeds of the sale shall be held by him or her
8 subject to Section 4125 of this code and Chapter 7 (commencing
9 with Section 1500) of Title 10 of Part 3 of the Code of Civil
10 Procedure. If the superintendent deems it expedient to do so, the
11 superintendent may accumulate the property of several patients
12 and may sell the property in lots that the superintendent determines,
13 provided that the superintendent makes a determination as to each
14 patient’s share of the proceeds.

15 (d) If any tangible personal property covered by this section is
16 not salable at public auction or upon a sealed-bid basis, or if it has
17 no intrinsic value or its value is not sufficient to justify its retention
18 by the superintendent to be offered for sale at public auction or
19 upon a sealed-bid basis at a later date, the superintendent may
20 order it destroyed.

21 *SEC. 99. Section 4133 of the Welfare and Institutions Code is*
22 *amended to read:*

23 4133. All day hospitals and rehabilitation centers maintained
24 by the State Department of ~~Mental Health~~ *State Hospitals* shall be
25 subject to the provisions of this code pertaining to the admission,
26 transfer, and discharge of patients at the state hospitals, except that
27 all admissions to ~~such those~~ facilities shall be subject to the
28 approval of the chief officer thereof. Charges for services rendered
29 to patients at ~~such those~~ facilities shall be determined pursuant to
30 Section 4025. The liability for ~~such the~~ charges shall be governed
31 by the provisions of Article 4 (commencing with Section 7275)
32 of Chapter 2 of Division 7, except at the hospitals maintained by
33 the State Department of Developmental Services ~~such the~~ liability
34 shall be governed by the provisions of Article 4 (commencing with
35 Section 6715) of Chapter 3 of Part 2 of Division 6 and Chapter 3
36 (commencing with Section 7500) of Division 7.

37 *SEC. 100. Section 4134 of the Welfare and Institutions Code*
38 *is amended to read:*

39 4134. The state mental hospitals under the jurisdiction of the
40 State Department of ~~Mental Health~~ *State Hospitals* shall comply

1 with the California Food Sanitation Act, Article 1 (commencing
2 with Section 111950) of Chapter 4 of Part 6 of Division 104 of
3 the Health and Safety Code.

4 The state mental hospitals under the jurisdiction of the State
5 Department of ~~Mental Health~~ *State Hospitals* shall also comply
6 with the California ~~Uniform Retail Food Facilities Law, Chapter~~
7 *Retail Food Code* (Chapter 4 (commencing with Section 113700)
8 of Part 7 of Division 104 of the Health and Safety ~~Code Code~~).

9 Sanitation, health and hygiene standards that have been adopted
10 by a city, county, or city and county that are more strict than those
11 of the California ~~Uniform Retail Food Facilities Law~~ *Retail Food*
12 *Code* or the California Food Sanitation Act shall not be applicable
13 to state mental hospitals that are under the jurisdiction of the State
14 Department of ~~Mental Health~~ *State Hospitals*.

15 *SEC. 101. Section 4135 of the Welfare and Institutions Code*
16 *is amended to read:*

17 4135. Any person committed to the State Department of ~~Mental~~
18 ~~Health~~ *State Hospitals* as a mentally abnormal sex offender shall
19 remain a patient committed to the department for the period
20 specified in the court order of commitment or until discharged by
21 the medical director of the state hospital in which the person is a
22 patient, whichever occurs first. The medical director may grant
23 ~~such~~ *the* patient a leave of absence upon ~~such~~ *the* terms and
24 conditions as the medical director deems proper. The petition for
25 commitment of a person as a mentally abnormal sex offender, the
26 reports, the court orders, and other court documents filed in the
27 court in connection therewith shall not be open to inspection by
28 any other than the parties to the proceeding, the attorneys for the
29 party or parties, and the State Department of ~~Mental Health~~ *State*
30 *Hospitals*, except upon the written authority of a judge of the
31 superior court of the county in which the proceedings were had.

32 Records of the supervision, care, and treatment given to each
33 person committed to the State Department of ~~Mental Health~~ *State*
34 *Hospitals* as a mentally abnormal sex offender shall not be open
35 to the inspection of any person not in the employ of the department
36 or of the state hospital, except that a judge of the superior court
37 may by order permit examination of ~~such~~ *those* records.

38 The charges for the care and treatment rendered to persons
39 committed as mentally abnormal sex offenders shall be in

1 accordance with the provisions of Article 4 (commencing with
2 Section 7275) of Chapter 3 of Division 7.

3 *SEC. 102. Section 4137 of the Welfare and Institutions Code*
4 *is amended to read:*

5 4137. Whenever a patient dies in a state mental hospital and
6 the coroner finds that the death was by accident or at the hands of
7 another person other than by accident, the State Department of
8 ~~Mental Health~~ *State Hospitals* shall determine upon review of the
9 coroner's investigation if ~~such~~ *the* death resulted from the
10 negligence, recklessness, or intentional act of a state employee. If
11 it is determined that ~~such~~ *the* death directly resulted from the
12 negligence, recklessness, or intentional act of a state employee,
13 the department shall immediately notify the State Personnel Board
14 and any appropriate licensing agency and shall terminate the
15 employment of ~~such~~ *the* employee as provided by law. In addition,
16 if ~~such~~ *the* state employee is a licensed mental health professional,
17 the appropriate licensing board shall inquire into the circumstances
18 of ~~such~~ *the* death, examine the findings of the coroner's
19 investigation, and make a determination of whether ~~such~~ *the* mental
20 health professional should have his *or her* license revoked or
21 suspended or be subject to other disciplinary action. "Licensed
22 mental health professional," as used in this section, means a person
23 licensed by any board, bureau, department, or agency pursuant to
24 a state law and employed in a state mental hospital.

25 *SEC. 103. Section 4138 of the Welfare and Institutions Code*
26 *is amended to read:*

27 4138. (a) Upon receiving a request from the director of a state
28 hospital listed in Section 4100, the Director of ~~Mental Health~~ *State*
29 *Hospitals* may prohibit the possession or use of tobacco products
30 on the grounds of the requesting facility. The Director of ~~Mental~~
31 ~~Health~~ *State Hospitals* shall provide an implementation plan that
32 shall include a phase-in period for any of the state hospitals listed
33 in Section 4100 that prohibits the possession or use of tobacco
34 products by patients or any other persons on hospital grounds,
35 except on the premises of residential staff housing where patients
36 are not present.

37 (b) This prohibition shall include an exemption for
38 departmentally approved religious ceremonies.

39 (c) As part of the implementation plan, the department shall
40 provide any requesting patient with a smoking cessation plan that

1 may include, at minimum, an individual medical treatment plan,
2 counseling, prescription drugs, or nicotine replacement, as
3 determined to be medically necessary and appropriate.

4 (d) Nothing in this section shall be construed to restrict the
5 outside activity time currently available to hospital patients.

6 (e) If an implementation plan is adopted pursuant to subdivision
7 (a), the store or canteen at any facility subject to the prohibition
8 shall not sell tobacco products.

9 *SEC. 104. Section 4200 of the Welfare and Institutions Code*
10 *is amended to read:*

11 4200. (a) Each state hospital under the jurisdiction of the State
12 Department of ~~Mental Health~~ *State Hospitals* shall have a hospital
13 advisory board of eight members appointed by the Governor from
14 a list of nominations submitted to him or her by the boards of
15 supervisors of counties within each hospital's designated service
16 area. If a state hospital provides services for both the mentally
17 disordered and the developmentally disabled, there shall be a
18 separate advisory board for the program provided the mentally
19 disordered and a separate board for the program provided the
20 developmentally disabled. To the extent feasible, an advisory board
21 serving a hospital for the mentally disordered shall consist of one
22 member who has been a patient in a state mental hospital and two
23 members shall be the parents, spouse, siblings, or adult children
24 of persons who are or have been patients in a state mental hospital,
25 three representatives of different professional disciplines selected
26 from primary user counties for patients under Part 1 (commencing
27 with Section 5000) of Division 5, and two representatives of the
28 general public who have demonstrated an interest in services to
29 the mentally disordered.

30 (b) Of the members first appointed after the operative date of
31 the amendments made to this section during the 1975–76 legislative
32 session, one shall be appointed for a term of two years, and one
33 for three years. Thereafter, each appointment shall be for the term
34 of three years, except that an appointment to fill a vacancy shall
35 be for the unexpired term only. No person shall be appointed to
36 serve more than a maximum of two terms as a member of the
37 board.

38 (c) Notwithstanding any provision of this section, members
39 serving on the hospital advisory board on the operative date of the
40 amendments made to this section during the 1987–88 legislative

1 session, may continue to serve on the board until the expiration of
2 their term. The Legislature intends that changes in the composition
3 of the board required by these amendments apply to future
4 vacancies on the board.

5 *SEC. 105. Section 4202 of the Welfare and Institutions Code*
6 *is amended to read:*

7 4202. The advisory boards of the several state hospitals are
8 advisory to the State Department of ~~Mental Health~~ *State Hospitals*
9 and the Legislature with power of visitation and advice with respect
10 to the conduct of the hospitals and coordination with community
11 mental health programs. The members of the boards shall serve
12 without compensation other than necessary expenses incurred in
13 the performance of duty. They shall organize and elect a chairman.
14 They shall meet at least once every three months and at such other
15 times as they are called by the chairman, by the medical director,
16 by the head of the department or a majority of the board. No
17 expenses shall be allowed except in connection with meetings so
18 held.

19 *SEC. 106. Section 4243 of the Welfare and Institutions Code*
20 *is amended to read:*

21 4243. (a) All funds appropriated for the purposes of this
22 chapter shall be used to contract with an organization to establish
23 a statewide network of families who have mentally disordered
24 family members for the purpose of providing information, advice,
25 support, and other assistance to these families.

26 (b) A request for proposal shall be issued seeking applicants
27 who are capable of supplying the services specified in Section
28 4244. The respondent organizations shall demonstrate that they:

29 (1) Focus their activities exclusively on the seriously mentally
30 disordered.

31 (2) Have experience in successfully working with state agencies,
32 including, but not limited to, the State Department of ~~Mental Health~~
33 *State Hospitals*.

34 (3) Have the ability to reach and involve the target population
35 as active members.

36 (4) Have proven experience providing structured self-help
37 services that benefit the target population.

38 (5) Have experience holding statewide and local conferences
39 to educate families and professionals regarding the needs of the
40 mentally disordered.

1 (6) Have the financial and organizational structure and
2 experience to manage the funds provided under the proposed
3 contract.

4 *SEC. 107. Section 4244 of the Welfare and Institutions Code*
5 *is amended to read:*

6 4244. The Director of ~~Mental Health~~ *State Hospitals* shall enter
7 into a contract with the successful bidder to provide services which
8 shall include, but not be necessarily limited to, all of the following:

9 (a) Production and statewide dissemination of information to
10 families regarding methods of obtaining and evaluating services
11 needed by mentally disordered family members.

12 (b) Provision of timely advice, counseling, and other supportive
13 services to assist families in coping with emotional stress and to
14 enable them to care for or otherwise assist mentally disordered
15 family members.

16 (c) Organizing family self-help services in local communities,
17 accessible to families throughout the state.

18 (d) Conducting training programs for mental health practitioners
19 and college and university students to inform current and future
20 mental health professionals of the needs of families and methods
21 of utilizing family resources to assist mentally disordered clients.

22 *SEC. 108. Section 4245 of the Welfare and Institutions Code*
23 *is amended to read:*

24 4245. Contracts entered in pursuant to this chapter shall:

25 (a) Have an annual contract period from July 1 through June 30
26 of each fiscal year unless the Director of ~~Mental Health~~ *State*
27 *Hospitals* or the contractor terminates the contract earlier.

28 (b) Require an annual report by the contractor accounting for
29 all expenditures and program accomplishments.

30 *SEC. 109. Section 4301 of the Welfare and Institutions Code*
31 *is amended to read:*

32 4301. (a) The Director of ~~Mental Health~~ *State Hospitals* shall
33 appoint and define the duties, subject to the laws governing civil
34 service, of the clinical director and the hospital administrator for
35 each state hospital. The director shall appoint either the clinical
36 director or the hospital administrator to be the hospital director.

37 ~~The director~~

38 (b) *The Director of State Hospitals* shall appoint a program
39 director for each program at a state hospital.

1 *SEC. 110. Section 4302 of the Welfare and Institutions Code*
2 *is amended to read:*

3 4302. The Director of ~~the State Department of Mental Health~~
4 *State Hospitals* shall have the final authority for determining all
5 other employee needs after consideration of program requests from
6 the various hospitals.

7 *SEC. 111. Section 4319 of the Welfare and Institutions Code*
8 *is amended to read:*

9 4319. To ~~assure~~ *ensure* a continuous level of competency for
10 all state hospital treatment personnel under the jurisdiction of the
11 State Department of ~~Mental Health~~ *State Hospitals*, the department
12 shall provide adequate in-service training programs for such state
13 hospital treatment personnel.

14 *SEC. 112. Section 4320 of the Welfare and Institutions Code*
15 *is amended to read:*

16 4320. To ~~assure~~ *ensure* an adequate supply of licensed
17 psychiatric technicians for state hospitals for the mentally
18 disordered, the State Department of ~~Mental Health~~ *State Hospitals*,
19 to the extent necessary, shall establish in state hospitals for the
20 mentally disordered a course of study and training equivalent, as
21 determined by the Board of Vocational ~~Nurse Nursing~~ and
22 Psychiatric ~~Technician Examiners~~ *Technicians of the State of*
23 *California*, to the minimum requirements of an accredited program
24 for psychiatric technicians in the state. No unlicensed psychiatric
25 technician trainee shall be permitted to perform the duties of a
26 licensed psychiatric technician as provided by Section 4502 of the
27 Business and Professions Code unless ~~such~~ *the* trainee performs
28 ~~such~~ *the* duties pursuant to a plan of supervision approved by the
29 Board of Vocational ~~Nurse Nursing~~ and Psychiatric ~~Technician~~
30 ~~Examiners~~ *Technicians of the State of California* as part of the
31 equivalency trainee program. This section shall not be construed
32 to reduce the effort presently expended by the community college
33 system or private colleges in training psychiatric technicians.

34 *SEC. 113. Section 4330 of the Welfare and Institutions Code*
35 *is amended to read:*

36 4330. The State Department of Mental Health, *or its successor,*
37 *the State Department of State Hospitals*, shall be reimbursed for
38 use of state hospital beds by counties pursuant to Part 1
39 (commencing with Section 5000) of Division 5 as follows:

1 (a) (1) For the 1991–92 fiscal year, the department shall receive
2 reimbursement in accordance with subdivision (b) of Section
3 17601. This total may be adjusted to reflect any and all amounts
4 previously unallocated or held in reserve for use by small counties
5 and any adjustments made pursuant to Chapter 1341 of the Statutes
6 of 1990.

7 (2) It is the intent of the Legislature to encourage and allow
8 greater flexibility with respect to resources during the first
9 transitional year, and, to this end, the Director of Mental Health,
10 *or his or her successor, the Director of State Hospitals,* may
11 implement proposals for purchase in or purchase out of, state
12 hospital beds which were proposed in accordance with Chapter
13 1341 of the Statutes of 1990.

14 (3) Funds and bed days historically allocated to small counties
15 shall be allocated to counties with no allocation.

16 ~~(b) Commencing with the 1992–93 fiscal year and each fiscal~~
17 ~~year thereafter, the department~~ *Each fiscal year, the State*
18 *Department of Mental Health, or its successor, the State*
19 *Department of State Hospitals,* shall be reimbursed in accordance
20 with the contracts entered into pursuant to Section 4331.

21 (c) The rate of reimbursement which shall apply each fiscal year
22 shall be determined by the ~~department~~ *State Department of Mental*
23 *Health, or its successor, the State Department of State Hospitals,*
24 and shall include all actual costs determined by hospital and by
25 type of service provided. Any costs resulting from overexpenditure
26 in the previous year shall be clearly separated from actual costs
27 projected for the contract year and identified as a part of the rate
28 negotiation. Costs shall not include costs incurred for capital outlay
29 relating to existing facilities or capacity, which shall remain the
30 responsibility of the state. Costs for capital outlay related to future
31 expansions or construction of new facilities requested by any
32 county or cost related to innovative arrangements under Section
33 4355 shall be a cost to the county unless the expansion,
34 construction or innovative arrangements are determined to be of
35 statewide benefit. Pursuant to Section 11343 of the Government
36 Code, the rate of reimbursement shall not be subject to Chapter
37 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
38 Title 2 of the Government Code.

39 (d) After final determination of state hospital costs for patients
40 covered under Part 1 (commencing with Section 5000) of Division

1 5, funds that remain unencumbered at the close of the fiscal year
2 shall be made available to counties that used fewer state hospital
3 beds than their contracted number, proportional to the contracted
4 amount not used, but this amount shall not exceed the value of the
5 unused contracted amount. These funds shall be used for mental
6 health purposes.

7 *SEC. 114. Section 4331 of the Welfare and Institutions Code*
8 *is amended to read:*

9 4331. (a) No later than July 1, 1992, and in each subsequent
10 year, each county acting singly or in combination with other
11 counties shall contract with the ~~department~~ *State Department of*
12 *Mental Health, or its successor, the State Department of State*
13 *Hospitals*, for the number and types of state hospital beds that the
14 department will make available to the county or counties during
15 the fiscal year. Each county contract shall be subject to the
16 provisions of this chapter, as well as other applicable provisions
17 of law, but shall not be subject to Chapter 3.5 (commencing with
18 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
19 Code, the State Administrative Manual, or the Public Contract
20 Code and shall not be subject to review and approval by the
21 Department of General Services.

22 (b) (1) No later than January 1, 1992, each county acting singly
23 or in combination with other counties, shall notify the ~~department~~
24 *State Department of Mental Health* in writing as to the number
25 and type of state hospital beds the county or counties will contract
26 for with the state in the 1992–93 fiscal year.

27 (2) No later than July 1, 1992, and no later than July 1 of each
28 subsequent year, each county acting singly or in combination with
29 other counties shall give the ~~department~~ *State Department of*
30 *Mental Health, or its successor, the State Department of State*
31 *Hospitals*, preliminary written notification of the number and types
32 of state hospital beds that the county or counties will contract for
33 with the state during the subsequent fiscal year. Counties may
34 include in their notification a request for additional beds beyond
35 their previous year's contract.

36 (3) No later than January 1, 1993, and no later than January 1
37 of each subsequent year, each county acting singly or in
38 combination with other counties shall give the ~~department~~ *State*
39 *Department of Mental Health, or its successor, the State*
40 *Department of State Hospitals*, final written notifications of the

1 number and types of state hospital beds that the county or counties
2 will contract for with the state during the subsequent fiscal year.
3 These notifications shall not preclude subsequent changes agreed
4 to by both the state and the county in the contract negotiation
5 process.

6 (4) ~~The department~~ *State Department of Mental Health, or its*
7 *successor; the State Department of State Hospitals,* shall provide
8 counties with preliminary cost and utilization information based
9 on the best data possible, 60 days in advance of the preliminary
10 notification deadline, and a proposed final cost estimate, based on
11 the best data possible, 60 days in advance of the final deadline.
12 Final rates shall be subject to contract agreement.

13 (c) There shall be no increase in the number of beds provided
14 to a county or group of counties during a fiscal year unless the
15 contract between ~~the department~~ *State Department of Mental*
16 *Health, or its successor; the State Department of State Hospitals,*
17 and that county or group of counties is amended by mutual
18 agreement. Any significant change in services requested by a
19 county shall require amendment of the contract.

20 (d) If a county or group of counties has not contracted with the
21 ~~department~~ *State Department of Mental Health, or its successor;*
22 *the State Department of State Hospitals,* by July 1 of any given
23 year, the number of beds to be provided that fiscal year shall be
24 the same as the number provided the previous fiscal year, unless
25 the department and a county have formally agreed otherwise, and
26 the rate of reimbursement that shall be paid to the department shall
27 be at the amount set by the department for the fiscal year
28 commencing July 1 of that year. The department shall provide a
29 mechanism for formal agreement of bed levels no later than June
30 15 of each year. However, after July 1 the department and a county
31 or group of counties may enter into a contract pursuant to this
32 chapter and the contract shall govern the number of state hospital
33 beds and rates of reimbursement for the fiscal year commencing
34 July 1 of that year.

35 *SEC. 115. Section 4332 of the Welfare and Institutions Code*
36 *is amended to read:*

37 4332. (a) Contracts entered into pursuant to Section 4331 shall
38 do all of the following:

- 39 (1) Specify the number of beds to be provided.
40 (2) Specify the rate or rates of reimbursement.

1 (3) Set forth the specific type of services requested by the
2 county, in detail.

3 (4) Specify procedures for admission and discharge.

4 (5) Include any other pertinent terms as agreed to by the
5 department and the county.

6 (b) The department shall consult, in advance, with the counties
7 regarding any changes in state hospital facilities or operations
8 which would significantly impact access to care or quality of care,
9 or significantly increase costs.

10 ~~(c) Beginning with the 1992-93 fiscal year and annually~~
11 ~~thereafter, the~~ The department shall make available to counties
12 upon request the basis upon which its rates have been set, including
13 any indirect cost allocation formulas.

14 *SEC. 116. Section 4333 of the Welfare and Institutions Code*
15 *is amended to read:*

16 4333. (a) In the event a county or counties elect to reduce their
17 state hospital resources, beginning July 1, 1992, systemwide state
18 hospital net bed reduction in any one year may not exceed 10
19 percent of the total for patients under Part 1 (commencing with
20 Section 5000) of Division 5 in the prior year without the specific
21 approval of the Director of ~~Mental Health~~ *State Hospitals*.

22 (b) Net bed reductions at any one hospital may not exceed 10
23 percent of its contracted beds without specific approval of the
24 Director of ~~Mental Health~~ *State Hospitals*.

25 (c) If the proposed reduction in any year exceeds the maximum
26 permitted amount, the department, with the assistance of counties,
27 shall make every effort to contract for beds with other purchasers.

28 (d) If total county requests for bed reduction in any one year or
29 at any one facility still exceed the amount of reduction allowed,
30 each county's share of the reduction shall be determined by taking
31 the ratio of its contracted beds to the total contracted and
32 multiplying this by the total beds permitted to be reduced.

33 (e) (1) Small counties shall be exempted from the limitations
34 of this section and shall have the amount of their reduction
35 determined by the Director of ~~Mental Health~~ *State Hospitals*.

36 (2) For purposes of this chapter, "small counties" means counties
37 with a population of 125,000 or less based on the most recent
38 available estimates of population data determined by the Population
39 Research Unit of the Department of Finance.

1 (f) It is the intent of the Legislature that counties have maximum
2 flexibility in planning the use of these resources, which includes
3 making full use of existing facilities and that the Director of ~~Mental~~
4 ~~Health~~ *State Hospitals* enforce his or her exemption authority in
5 a manner consistent with this intent. Because freed-up beds may
6 be purchased by other counties or may be used for other purposes,
7 it is anticipated that individual county flexibility will be
8 substantially greater than the 10-percent figure described in
9 subdivisions (a) and (b).

10 (g) Counties may annually contract for state hospital beds as
11 single entities or in combination with other counties. For purposes
12 of this section, small counties, as defined in subdivision (e):

13 (1) Are encouraged to establish regional authorities to pool their
14 resources to assure their ability to provide the necessary array of
15 services to their mentally ill populations not otherwise available
16 to them on an individual basis.

17 (2) May receive loans from the General Fund when emergency
18 state hospital beds are needed, not to exceed one year in duration,
19 with interest payable at the same rate as that earned through the
20 Pooled Money Investment Fund. Any interest due may be waived
21 based upon a finding of emergency by the Secretary of *California*
22 ~~Health and Welfare~~ *Human Services* and the Director of Finance.

23 *SEC. 117. Section 4333.5 of the Welfare and Institutions Code*
24 *is amended to read:*

25 4333.5. (a) The ~~department~~ *State Department of State*
26 *Hospitals* shall encourage the counties to use state hospital
27 facilities, in addition to utilizing state hospital beds pursuant to
28 contract, for additional treatment programs through contracts, on
29 either an individual county or regional basis.

30 (b) For purposes of contracts entered into through
31 encouragement provided by the department pursuant to subdivision
32 (a), costs shall be based on the actual costs to the state, and shall
33 be prorated on an annual lease basis.

34 *SEC. 118. Section 4334 of the Welfare and Institutions Code*
35 *is amended to read:*

36 4334. ~~By July 1, 1992, the~~ *The State Department of Mental*
37 ~~Health~~ *State Hospitals*, in collaboration with counties, shall do all
38 of the following:

39 (a) Prepare and publish a catalogue of available state hospital
40 services. The catalogue shall be updated annually.

1 (b) Develop a process by which a county or group of counties
2 constituting the primary user of a particular hospital may, upon
3 their request individually, or through selected representatives,
4 participate in long-range planning and program development to
5 ensure the provision of appropriate services.

6 (c) Ensure direct county involvement in admission to, and
7 discharge from, beds contracted for patients under Part 1
8 (commencing with Section 5000) of Division 5.

9 *SEC. 119. Section 4335 of the Welfare and Institutions Code*
10 *is amended to read:*

11 4335. Nothing in this chapter is intended to prevent the
12 department from entering into innovative arrangements with
13 counties for delivery of state hospital services. The Director of
14 ~~Mental Health~~ *State Hospitals* may contract with a county, or group
15 of counties, for excess state hospital space for purposes of staffing
16 and operating their own program.

17 *SEC. 120. Section 4341.5 of the Welfare and Institutions Code*
18 *is amended to read:*

19 4341.5. In order to ensure an adequate number of qualified
20 psychiatrists and psychologists with forensic skills, the State
21 Department of ~~Mental Health~~ *State Hospitals* shall, to the extent
22 resources are available, plan with the University of California,
23 private universities, and the California Postsecondary Education
24 Commission, for the development of programs for the training of
25 psychiatrists and psychologists with forensic skills, and recommend
26 appropriate incentive measures, such as state scholarships.

27 *SEC. 121. Section 4360 of the Welfare and Institutions Code*
28 *is amended to read:*

29 4360. (a) ~~The department~~ *State Department of State Hospitals*
30 shall provide mental health treatment and supervision in the
31 community for judicially committed persons. The program
32 established and administered by the department under this chapter
33 to provide these services shall be known as the Forensic
34 Conditional Release Program and may be used by the department
35 in accordance with this section to provide services in the
36 community to other patient populations for which the department
37 has direct responsibility.

38 (b) ~~The department~~ *State Department of State Hospitals* may
39 provide directly, or through contract with private providers or
40 counties, for these services, including administrative and ancillary

1 services related to the provision of direct services. These contracts
2 shall be exempt from the requirements contained in the Public
3 Contract Code and the State Administrative Manual, and from
4 approval by the Department of General Services. Subject to
5 approval by the ~~department~~ *State Department of State Hospitals*,
6 a county or private provider under contract to the department to
7 provide these services may subcontract with private providers for
8 those services.

9 (c) Notwithstanding Section 5328, programs providing services
10 pursuant to this section may inform a local law enforcement agency
11 of the names and addresses of program participants who reside
12 within that agency's jurisdiction. Providing notice under this
13 subdivision does not relieve a person or entity of any statutory
14 duty.

15 *SEC. 122. Section 4440.1 of the Welfare and Institutions Code*
16 *is amended to read:*

17 4440.1. The department may contract with the State Department
18 of ~~Mental Health~~ *State Hospitals* to provide services to persons
19 with developmental disabilities in state hospitals under the
20 jurisdiction of the State Department of ~~Mental Health~~ *State*
21 *Hospitals*.

22 *SEC. 123. Section 5008 of the Welfare and Institutions Code*
23 *is amended to read:*

24 5008. Unless the context otherwise requires, the following
25 definitions shall govern the construction of this part:

26 (a) "Evaluation" consists of multidisciplinary professional
27 analyses of a person's medical, psychological, educational, social,
28 financial, and legal conditions as may appear to constitute a
29 problem. Persons providing evaluation services shall be properly
30 qualified professionals and may be full-time employees of an
31 agency providing evaluation services or may be part-time
32 employees or may be employed on a contractual basis.

33 (b) "Court-ordered evaluation" means an evaluation ordered by
34 a superior court pursuant to Article 2 (commencing with Section
35 5200) or by a court pursuant to Article 3 (commencing with Section
36 5225) of Chapter 2.

37 (c) "Intensive treatment" consists of such hospital and other
38 services as may be indicated. Intensive treatment shall be provided
39 by properly qualified professionals and carried out in facilities
40 qualifying for reimbursement under the California Medical

1 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
2 with Section 14000) of Part 3 of Division 9, or under Title XVIII
3 of the federal Social Security Act and regulations thereunder.
4 Intensive treatment may be provided in hospitals of the United
5 States government by properly qualified professionals. Nothing
6 in this part shall be construed to prohibit an intensive treatment
7 facility from also providing 72-hour treatment and evaluation.

8 (d) “Referral” is referral of persons by each agency or facility
9 providing intensive treatment or evaluation services to other
10 agencies or individuals. The purpose of referral shall be to provide
11 for continuity of care, and may include, but need not be limited
12 to, informing the person of available services, making appointments
13 on the person’s behalf, discussing the person’s problem with the
14 agency or individual to which the person has been referred,
15 appraising the outcome of referrals, and arranging for personal
16 escort and transportation when necessary. Referral shall be
17 considered complete when the agency or individual to whom the
18 person has been referred accepts responsibility for providing the
19 necessary services. All persons shall be advised of available precare
20 services which prevent initial recourse to hospital treatment or
21 aftercare services which support adjustment to community living
22 following hospital treatment. These services may be provided
23 through county welfare departments, State Department of ~~Mental~~
24 ~~Health~~ *State Hospitals*, Short-Doyle programs or other local
25 agencies.

26 Each agency or facility providing evaluation services shall
27 maintain a current and comprehensive file of all community
28 services, both public and private. These files shall contain current
29 agreements with agencies or individuals accepting referrals, as
30 well as appraisals of the results of past referrals.

31 (e) “Crisis intervention” consists of an interview or series of
32 interviews within a brief period of time, conducted by qualified
33 professionals, and designed to alleviate personal or family
34 situations which present a serious and imminent threat to the health
35 or stability of the person or the family. The interview or interviews
36 may be conducted in the home of the person or family, or on an
37 inpatient or outpatient basis with such therapy, or other services,
38 as may be appropriate. Crisis intervention may, as appropriate,
39 include suicide prevention, psychiatric, welfare, psychological,
40 legal, or other social services.

1 (f) “Prepetition screening” is a screening of all petitions for
2 court-ordered evaluation as provided in Article 2 (commencing
3 with Section 5200) of Chapter 2, consisting of a professional
4 review of all petitions; an interview with the petitioner and,
5 whenever possible, the person alleged, as a result of mental
6 disorder, to be a danger to others, or to himself or herself, or to be
7 gravely disabled, to assess the problem and explain the petition;
8 when indicated, efforts to persuade the person to receive, on a
9 voluntary basis, comprehensive evaluation, crisis intervention,
10 referral, and other services specified in this part.

11 (g) “Conservatorship investigation” means investigation by an
12 agency appointed or designated by the governing body of cases in
13 which conservatorship is recommended pursuant to Chapter 3
14 (commencing with Section 5350).

15 (h) (1) For purposes of Article 1 (commencing with Section
16 5150), Article 2 (commencing with Section 5200), and Article 4
17 (commencing with Section 5250) of Chapter 2, and for the purposes
18 of Chapter 3 (commencing with Section 5350), “gravely disabled”
19 means either of the following:

20 (A) A condition in which a person, as a result of a mental
21 disorder, is unable to provide for his or her basic personal needs
22 for food, clothing, or shelter.

23 (B) A condition in which a person, has been found mentally
24 incompetent under Section 1370 of the Penal Code and all of the
25 following facts exist:

26 (i) The indictment or information pending against the defendant
27 at the time of commitment charges a felony involving death, great
28 bodily harm, or a serious threat to the physical well-being of
29 another person.

30 (ii) The indictment or information has not been dismissed.

31 (iii) As a result of mental disorder, the person is unable to
32 understand the nature and purpose of the proceedings taken against
33 him or her and to assist counsel in the conduct of his or her defense
34 in a rational manner.

35 (2) For purposes of Article 3 (commencing with Section 5225)
36 and Article 4 (commencing with Section 5250), of Chapter 2, and
37 for the purposes of Chapter 3 (commencing with Section 5350),
38 “gravely disabled” means a condition in which a person, as a result
39 of impairment by chronic alcoholism, is unable to provide for his
40 or her basic personal needs for food, clothing, or shelter.

1 (3) The term “gravely disabled” does not include mentally
2 retarded persons by reason of being mentally retarded alone.

3 (i) “Peace officer” means a duly sworn peace officer as that
4 term is defined in Chapter 4.5 (commencing with Section 830) of
5 Title 3 of Part 2 of the Penal Code who has completed the basic
6 training course established by the Commission on Peace Officer
7 Standards and Training, or any parole officer or probation officer
8 specified in Section 830.5 of the Penal Code when acting in relation
9 to cases for which he or she has a legally mandated responsibility.

10 (j) “Postcertification treatment” means an additional period of
11 treatment pursuant to Article 6 (commencing with Section 5300)
12 of Chapter 2.

13 (k) “Court,” unless otherwise specified, means a court of record.

14 (l) “Antipsychotic medication” means any medication
15 customarily prescribed for the treatment of symptoms of psychoses
16 and other severe mental and emotional disorders.

17 (m) “Emergency” means a situation in which action to impose
18 treatment over the person’s objection is immediately necessary
19 for the preservation of life or the prevention of serious bodily harm
20 to the patient or others, and it is impracticable to first gain consent.
21 It is not necessary for harm to take place or become unavoidable
22 prior to treatment.

23 *SEC. 124. Section 5008.1 of the Welfare and Institutions Code*
24 *is amended to read:*

25 5008.1. As used in this division and in Division 4 (commencing
26 with Section 4000), Division 4.1 (commencing with Section 4400),
27 Division 6 (commencing with Section 6000), Division 7
28 (commencing with Section 7100), and Division 8 (commencing
29 with Section 8000), the term “judicially committed” means all of
30 the following:

31 (a) Persons who are mentally disordered sex offenders placed
32 in a state hospital or institutional unit for observation or committed
33 to the State Department of ~~Mental Health~~ *State Hospitals* pursuant
34 to Article 1 (commencing with Section 6300) of Chapter 2 of Part
35 2 of Division 6.

36 (b) Developmentally disabled persons who are admitted to a
37 state hospital upon application or who are committed to the State
38 Department of Developmental Services by court order pursuant
39 to Article 2 (commencing with Section 6500) of Chapter 2 of Part
40 2 of Division 6.

1 (c) Persons committed to the State Department of Mental Health
2 *State Hospitals* or a state hospital pursuant to the Penal Code.

3 *SEC. 125. Section 5306.5 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5306.5. (a) If at any time during the outpatient period, the
6 outpatient treatment supervisor is of the opinion that the person
7 receiving treatment requires extended inpatient treatment or refuses
8 to accept further outpatient treatment and supervision, the county
9 mental health director shall notify the superior court in either the
10 county which approved outpatient status or in the county where
11 outpatient treatment is being provided of such opinion by means
12 of a written request for revocation of outpatient status. The county
13 mental health director shall furnish a copy of this request to the
14 counsel of the person named in the request for revocation and to
15 the public officer, pursuant to Section 5114, in both counties if the
16 request is made in the county of treatment, rather than the county
17 of commitment.

18 ~~Within~~

19 (b) *Within* 15 judicial days, the court where the request was
20 filed shall hold a hearing and shall either approve or disapprove
21 the request for revocation of outpatient status. If the court approves
22 the request for revocation, the court shall order that the person be
23 confined in a state hospital or other treatment facility approved by
24 the county mental health director. The court shall transmit a copy
25 of its order to the county mental health director or a designee and
26 to the Director of ~~Mental Health~~ *State Hospitals*. Where the county
27 of treatment and the county of commitment differ and revocation
28 occurs in the county of treatment, the court shall enter the name
29 of the committing county and its case number on the order of
30 revocation and shall send a copy of the order to the committing
31 court and the public officer, pursuant to Section 5114, and counsel
32 of the person named in the request for revocation in the county of
33 commitment.

34 *SEC. 126. Section 5328.35 of the Welfare and Institutions Code*
35 *is repealed.*

36 ~~5328.35. The State Department of Mental Health shall develop~~
37 ~~policies and procedures no later than 30 days after the effective~~
38 ~~date of the Budget Act of 1998, at each state hospital, to notify~~
39 ~~Members of the Legislature who represent the district in which~~
40 ~~the state hospital is located, local law enforcement, and designated~~

1 local government officials in the event of a patient escape or
2 walkaway.

3 *SEC. 127. Section 5328.8 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5328.8. The State Department of ~~Mental Health~~ *State Hospitals*,
6 the physician in charge of the patient, or the professional person
7 in charge of the facility or his or her designee, shall, except as
8 otherwise provided in this section, release information obtained
9 in the course of providing services under Division 5 (commencing
10 with Section 5000), Division 6 (commencing with Section 6000),
11 or Division 7 (commencing with Section 7100), to the coroner
12 when a patient dies from any cause, natural or otherwise, while
13 hospitalized in a state mental hospital. The State Department of
14 ~~Mental Health~~ *State Hospitals*, the physician in charge of the
15 patient, or the professional person in charge of the facility or his
16 or her designee, shall not release any notes, summaries, transcripts,
17 tapes, or records of conversations between the patient and health
18 professional personnel of the hospital relating to the personal life
19 of the patient which is not related to the diagnosis and treatment
20 of the patient's physical condition. Any information released to
21 the coroner pursuant to this section shall remain confidential and
22 shall be sealed and shall not be made part of the public record.

23 *SEC. 128. Section 5331 of the Welfare and Institutions Code*
24 *is amended to read:*

25 5331. No person may be presumed to be incompetent because
26 he or she has been evaluated or treated for mental disorder or
27 chronic alcoholism, regardless of whether such evaluation or
28 treatment was voluntarily or involuntarily received. Any person
29 who leaves a public or private mental health facility following
30 evaluation or treatment for mental disorder or chronic alcoholism,
31 regardless of whether that evaluation or treatment was voluntarily
32 or involuntarily received, shall be given a statement of California
33 law as stated in this paragraph.

34 Any person who has been, or is, discharged from a state hospital
35 and received voluntary or involuntary treatment under former
36 provisions of this code relating to inebriates or the mentally ill
37 shall, upon request to the state hospital ~~superintendent~~ *executive*
38 *director* or the State Department of ~~Mental Health~~ *State Hospitals*,
39 be given a statement of California law as stated in this section

1 unless the person is found to be incompetent under proceedings
2 for conservatorship or guardianship.

3 *SEC. 129. Section 5333 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5333. (a) Persons subject to capacity hearings pursuant to
6 Section 5332 shall have a right to representation by an advocate
7 or legal counsel. “Advocate,” as used in this section, means a
8 person who is providing mandated patients’ rights advocacy
9 services pursuant to Chapter 6.2 (commencing with Section 5500),
10 and this chapter. If the *State* Department of ~~Mental Health~~ *State*
11 *Hospitals* provides training to patients’ rights advocates, that
12 training shall include issues specific to capacity hearings.

13 (b) Petitions for capacity hearings pursuant to Section 5332
14 shall be filed with the superior court. The director of the treatment
15 facility or his or her designee shall personally deliver a copy of
16 the notice of the filing of the petition for a capacity hearing to the
17 person who is the subject of the petition.

18 (c) The mental health professional delivering the copy of the
19 notice of the filing of the petition to the court for a capacity hearing
20 shall, at the time of delivery, inform the person of his or her legal
21 right to a capacity hearing, including the right to the assistance of
22 the patients’ rights advocate or an attorney to prepare for the
23 hearing and to answer any questions or concerns.

24 (d) As soon after the filing of the petition for a capacity hearing
25 is practicable, an attorney or a patients’ rights advocate shall meet
26 with the person to discuss the capacity hearing process and to assist
27 the person in preparing for the capacity hearing and to answer
28 questions or to otherwise assist the person, as is appropriate.

29 *SEC. 130. Section 5352.5 of the Welfare and Institutions Code*
30 *is amended to read:*

31 5352.5. Conservatorship proceedings may be initiated for any
32 person committed to a state hospital or local mental health facility
33 or placed on outpatient treatment pursuant to Section 1026 or 1370
34 of the Penal Code or transferred pursuant to Section 4011.6 of the
35 Penal Code upon recommendation of the medical director of the
36 state hospital, or a designee, or professional person in charge of
37 the local mental health facility, or a designee, or the local mental
38 health director, or a designee, to the conservatorship investigator
39 of the county of residence of the person prior to his or her
40 admission to the hospital or facility or of the county in which the

1 hospital or facility is located. The initiation of conservatorship
2 proceedings or the existence of a conservatorship shall not affect
3 any pending criminal proceedings.

4 Subject to the provisions of Sections 5150 and 5250,
5 conservatorship proceedings may be initiated for any person
6 convicted of a felony who has been transferred to a state hospital
7 under the jurisdiction of the State Department of ~~Mental Health~~
8 *State Hospitals* pursuant to Section 2684 of the Penal Code by the
9 recommendation of the medical director of the state hospital to the
10 conservatorship investigator of the county of residence of the
11 person or of the county in which the state hospital is located.

12 Subject to the provisions of Sections 5150 and 5250,
13 conservatorship proceedings may be initiated for any person
14 committed to the ~~Youth Authority~~ *Department of Corrections and*
15 *Rehabilitation, Division of Juvenile Justice*, or on parole from a
16 facility of the ~~Youth Authority~~ *Department of Corrections and*
17 *Rehabilitation, Division of Juvenile Justice*, by the ~~Director of the~~
18 ~~Department of the Youth Authority~~ *Chief Deputy Secretary for*
19 *Juvenile Justice* or a designee, to the conservatorship investigator
20 of the county of residence of the person or of the county in which
21 the facility is situated.

22 The county mental health program providing conservatorship
23 investigation services and conservatorship case management
24 services for any persons except those transferred pursuant to
25 Section 4011.6 of the Penal Code shall be reimbursed for the
26 expenditures made by it for the services pursuant to the
27 Short-Doyle Act (commencing with Section 5600) at 100 percent
28 of the expenditures. Each county Short-Doyle plan shall include
29 provision for the services in the plan.

30 *SEC. 131. Section 5355 of the Welfare and Institutions Code*
31 *is amended to read:*

32 5355. If the conservatorship investigation results in a
33 recommendation for conservatorship, the recommendation shall
34 designate the most suitable person, corporation, state or local
35 agency or county officer, or employee designated by the county
36 to serve as conservator. No person, corporation, or agency shall
37 be designated as conservator whose interests, activities, obligations
38 or responsibilities are such as to compromise his *or her* or their
39 ability to represent and safeguard the interests of the conservatee.
40 Nothing in this section shall be construed to prevent the State

1 Department of ~~Mental Health~~ *State Hospitals* from serving as
2 guardian pursuant to Section 7284, or the function of the
3 conservatorship investigator and conservator being exercised by
4 the same public officer or employee.

5 When a public guardian is appointed conservator, his *or her*
6 official bond and oath as public guardian are in lieu of the
7 conservator's bond and oath on the grant of letters of
8 conservatorship. No bond shall be required of any other public
9 officer or employee appointed to serve as conservator.

10 *SEC. 132. Section 5366 of the Welfare and Institutions Code*
11 *is amended to read:*

12 5366. On or before June 30, 1970, the medical director of each
13 state hospital for the mentally disordered shall compile a roster of
14 those mentally disordered or chronic alcoholic patients within the
15 institution who are gravely disabled. The roster shall indicate the
16 county from which each such patient was admitted to the hospital
17 or, if the hospital records indicate that the county of residence of
18 the patient is a different county, the county of residence. The officer
19 providing conservatorship investigation for each county shall be
20 given a copy of the names and pertinent records of the patients
21 from that county and shall investigate the need for conservatorship
22 for ~~such~~ *those* patients as provided in this chapter. After his *or her*
23 investigation and on or before July 1, 1972, the county officer
24 providing conservatorship shall file a petition of conservatorship
25 for ~~such~~ *those* patients that he *or she* determines may need
26 conservatorship. Court commitments under the provisions of law
27 in effect prior to July 1, 1969, of ~~such~~ *those* patients for whom a
28 petition of conservatorship is not filed shall terminate and the
29 patient shall be released unless he *or she* agrees to accept treatment
30 on a voluntary basis.

31 Each state hospital and the State Department of ~~Mental Health~~
32 *State Hospitals* shall make their records concerning ~~such~~ *those*
33 patients available to the officer providing conservatorship
34 investigation.

35 *SEC. 133. Section 5402.2 of the Welfare and Institutions Code*
36 *is amended to read:*

37 5402.2. The Director of ~~Mental Health~~ *State Hospitals* shall
38 develop a master plan for the utilization of state hospital facilities
39 identifying levels of care. The level of care shall be either general

1 acute care, skilled nursing care, subacute, intermediate care, or
2 residential care.

3 *SEC. 134. Section 5511 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5511. The Director of ~~Mental Health~~ *State Hospitals* or the
6 executive director of each state hospital serving mentally disordered
7 persons may contract with independent persons or agencies to
8 perform patients’ rights advocacy services in state hospitals.

9 *SEC. 135. Section 5587 of the Welfare and Institutions Code*
10 *is repealed.*

11 ~~5587. The Metropolitan State Hospital Youth Program’s~~
12 ~~admission policy shall require the referring agency to document~~
13 ~~all placement attempts prior to admission. The youth program’s~~
14 ~~discharge planning policy shall require the referring agency to~~
15 ~~document all attempts to place the child during the discharge~~
16 ~~planning process.~~

17 *SEC. 136. Section 5701.2 of the Welfare and Institutions Code*
18 *is amended to read:*

19 5701.2. (a) ~~The department~~ *State Department of Mental Health,*
20 *or its successor, the State Department of State Hospitals,* shall
21 maintain records of any transfer of funds or state hospital beds
22 made pursuant to Chapter 1341 of the Statutes of 1991.

23 (b) Commencing with the 1991–92 fiscal year, ~~the department~~
24 *State Department of Mental Health, or its successor, the State*
25 *Department of State Hospitals,* shall maintain records that set forth
26 that portion of each county’s allocation of state mental health
27 moneys that represent the dollar equivalent attributed to each
28 county’s state hospital beds or bed days, or both, that were
29 allocated as of May 1, 1991. ~~The department~~ *State Department of*
30 *Mental Health, or its successor, the State Department of State*
31 *Hospitals,* shall provide a written summary of these records to the
32 appropriate committees of the Legislature and the California Mental
33 Health Directors Association within 30 days after the enactment
34 of the annual Budget Act.

35 (c) Nothing in this section is intended to change the counties’
36 base allocations as provided in subdivisions (a) and (b) of Section
37 17601.

38 *SEC. 137. Section 6000 of the Welfare and Institutions Code*
39 *is amended to read:*

1 6000. Pursuant to applicable rules and regulations established
2 by the State Department of ~~Mental Health~~ *State Hospitals* or the
3 State Department of Developmental Services, the medical director
4 of a state hospital for the mentally disordered or developmentally
5 disabled may receive in ~~such~~ *the* hospital, as a boarder and patient,
6 any person who is a suitable person for care and treatment in ~~such~~
7 *the* hospital, upon receipt of a written application for the admission
8 of the person into the hospital for care and treatment made in
9 accordance with the following requirements:

10 (a) In the case of an adult person, the application shall be made
11 voluntarily by the person, at a time when he *or she* is in such
12 condition of mind as to render him *or her* competent to make it
13 or, if he *or she* is a conservatee with a conservator of the person
14 or person and estate who was appointed under Chapter 3
15 (commencing with Section 5350) of Part 1 of Division 5 with the
16 right as specified by court order under Section 5358 to place his
17 *or her* conservatee in a state hospital, by his *or her* conservator.

18 (b) In the case of a minor person, the application shall be made
19 by his *or her* parents, or by the parent, guardian, conservator, or
20 other person entitled to his *or her* custody to any ~~of such~~ mental
21 hospitals as may be designated by the Director of ~~Mental Health~~
22 *State Hospitals* or the Director of Developmental Services to admit
23 minors on voluntary applications. If the minor has a conservator
24 of the person, or the person and the estate, appointed under Chapter
25 3 (commencing with Section 5350) of Part 1 of Division 5, with
26 the right as specified by court order under Section 5358 to place
27 the conservatee in a state hospital the application for the minor
28 shall be made by his *or her* conservator.

29 Any ~~such~~ person received in a state hospital shall be deemed a
30 voluntary patient.

31 Upon the admission of a voluntary patient to a state hospital the
32 medical director shall immediately forward to the office of the
33 State Department of ~~Mental Health~~ *State Hospitals* or the State
34 Department of Developmental Services the record of ~~such~~ *the*
35 voluntary patient, showing the name, residence, age, sex, place of
36 birth, occupation, civil condition, date of admission of ~~such~~ *the*
37 patient to ~~such~~ *the* hospital, and such other information as is
38 required by the rules and regulations of the department.

39 The charges for the care and keeping of a mentally disordered
40 person in a state hospital shall be governed by the provisions of

1 Article 4 (commencing with Section 7275) of Chapter 3 of Division
 2 7 relating to the charges for the care and keeping of mentally
 3 disordered persons in state hospitals.

4 A voluntary adult patient may leave the hospital or institution
 5 at any time by giving notice of his *or her* desire to leave to any
 6 member of the hospital staff and completing normal hospitalization
 7 departure procedures. A conservatee may leave in a like manner
 8 if notice is given by his *or her* conservator.

9 A minor person who is a voluntary patient may leave the hospital
 10 or institution after completing normal hospitalization departure
 11 procedures after notice is given to the superintendent or person in
 12 charge by the parents, or the parent, guardian, conservator, or other
 13 person entitled to the custody of the minor, of their desire to
 14 remove him *or her* from the hospital.

15 No person received into a state hospital, private mental
 16 institution, or county psychiatric hospital as a voluntary patient
 17 during his *or her* minority shall be detained therein after he *or she*
 18 reaches the age of majority, but any ~~such~~ person, after attaining
 19 the age of majority, may apply for admission into the hospital or
 20 institution for care and treatment in the manner prescribed in this
 21 section for applications by adult persons.

22 The State Department of ~~Mental Health~~ *State Hospitals* or the
 23 State Department of Developmental Services shall establish such
 24 rules and regulations as are necessary to carry out properly the
 25 provisions of this section.

26 *SEC. 138. Section 6600.05 of the Welfare and Institutions Code*
 27 *is amended to read:*

28 6600.05. (a) ~~Until a permanent housing and treatment facility~~
 29 ~~is available, Atascadero-Coalinga State Hospital~~ shall be used
 30 whenever a person is committed to a secure facility for mental
 31 health treatment pursuant to this article and is placed in a state
 32 hospital under the direction of the State Department of ~~Mental~~
 33 ~~Health~~ *State Hospitals* unless there are unique circumstances that
 34 would preclude the placement of a person at that facility. If a state
 35 hospital is not used, the facility to be used shall be located on a
 36 site or sites determined by the ~~Director~~ *Secretary of the Department*
 37 *of Corrections and Rehabilitation* and the Director of ~~Mental~~
 38 ~~Health~~ *State Hospitals*. In no case shall a person committed to a
 39 secure facility for mental health treatment pursuant to this article
 40 be placed at Metropolitan State Hospital or Napa State Hospital.

1 (b) ~~A permanent facility for the housing and treatment of persons~~
2 ~~committed pursuant to this article shall be located on a site or sites~~
3 ~~determined by the Director of Corrections and the Director of~~
4 ~~Mental Health, with approval by the Legislature through a trailer~~
5 ~~bill or other legislation.~~ The State Department of Mental Health
6 *State Hospitals* shall be responsible for operation of the facility,
7 including the provision of treatment.

8 *SEC. 139. Section 6601 of the Welfare and Institutions Code,*
9 *as amended by Section 2 of Chapter 359 of the Statutes of 2011,*
10 *is amended to read:*

11 6601. (a) (1) Whenever the Secretary of the Department of
12 Corrections and Rehabilitation determines that an individual who
13 is in custody under the jurisdiction of the Department of
14 Corrections and Rehabilitation, and who is either serving a
15 determinate prison sentence or whose parole has been revoked,
16 may be a sexually violent predator, the secretary shall, at least six
17 months prior to that individual's scheduled date for release from
18 prison, refer the person for evaluation in accordance with this
19 section. However, if the inmate was received by the department
20 with less than nine months of his or her sentence to serve, or if the
21 inmate's release date is modified by judicial or administrative
22 action, the secretary may refer the person for evaluation in
23 accordance with this section at a date that is less than six months
24 prior to the inmate's scheduled release date.

25 (2) A petition may be filed under this section if the individual
26 was in custody pursuant to his or her determinate prison term,
27 parole revocation term, or a hold placed pursuant to Section 6601.3,
28 at the time the petition is filed. A petition shall not be dismissed
29 on the basis of a later judicial or administrative determination that
30 the individual's custody was unlawful, if the unlawful custody was
31 the result of a good faith mistake of fact or law. This paragraph
32 shall apply to any petition filed on or after January 1, 1996.

33 (b) The person shall be screened by the Department of
34 Corrections and Rehabilitation and the Board of Parole Hearings
35 based on whether the person has committed a sexually violent
36 predatory offense and on a review of the person's social, criminal,
37 and institutional history. This screening shall be conducted in
38 accordance with a structured screening instrument developed and
39 updated by the State Department of ~~Mental Health~~ *State Hospitals*
40 in consultation with the Department of Corrections and

1 Rehabilitation. If as a result of this screening it is determined that
2 the person is likely to be a sexually violent predator, the
3 Department of Corrections and Rehabilitation shall refer the person
4 to the State Department of ~~Mental Health~~ *State Hospitals* for a full
5 evaluation of whether the person meets the criteria in Section 6600.

6 (c) The State Department of ~~Mental Health~~ *State Hospitals* shall
7 evaluate the person in accordance with a standardized assessment
8 protocol, developed and updated by the State Department of ~~Mental~~
9 ~~Health~~ *State Hospitals*, to determine whether the person is a
10 sexually violent predator as defined in this article. The standardized
11 assessment protocol shall require assessment of diagnosable mental
12 disorders, as well as various factors known to be associated with
13 the risk of reoffense among sex offenders. Risk factors to be
14 considered shall include criminal and psychosexual history, type,
15 degree, and duration of sexual deviance, and severity of mental
16 disorder.

17 (d) Pursuant to subdivision (c), the person shall be evaluated
18 by two practicing psychiatrists or psychologists, or one practicing
19 psychiatrist and one practicing psychologist, designated by the
20 Director of ~~Mental Health~~ *State Hospitals*, one or both of whom
21 may be independent professionals as defined in subdivision (g).
22 If both evaluators concur that the person has a diagnosed mental
23 disorder so that he or she is likely to engage in acts of sexual
24 violence without appropriate treatment and custody, the Director
25 of ~~Mental Health~~ *State Hospitals* shall forward a request for a
26 petition for commitment under Section 6602 to the county
27 designated in subdivision (i). Copies of the evaluation reports and
28 any other supporting documents shall be made available to the
29 attorney designated by the county pursuant to subdivision (i) who
30 may file a petition for commitment.

31 (e) If one of the professionals performing the evaluation pursuant
32 to subdivision (d) does not concur that the person meets the criteria
33 specified in subdivision (d), but the other professional concludes
34 that the person meets those criteria, the Director of ~~Mental Health~~
35 *State Hospitals* shall arrange for further examination of the person
36 by two independent professionals selected in accordance with
37 subdivision (g).

38 (f) If an examination by independent professionals pursuant to
39 subdivision (e) is conducted, a petition to request commitment
40 under this article shall only be filed if both independent

1 professionals who evaluate the person pursuant to subdivision (e)
2 concur that the person meets the criteria for commitment specified
3 in subdivision (d). The professionals selected to evaluate the person
4 pursuant to subdivision (g) shall inform the person that the purpose
5 of their examination is not treatment but to determine if the person
6 meets certain criteria to be involuntarily committed pursuant to
7 this article. It is not required that the person appreciate or
8 understand that information.

9 (g) Any independent professional who is designated by the
10 Secretary of the Department of Corrections and Rehabilitation or
11 the Director of ~~Mental Health~~ *State Hospitals* for purposes of this
12 section shall not be a state government employee, shall have at
13 least five years of experience in the diagnosis and treatment of
14 mental disorders, and shall include psychiatrists and licensed
15 psychologists who have a doctoral degree in psychology. The
16 requirements set forth in this section also shall apply to any
17 professionals appointed by the court to evaluate the person for
18 purposes of any other proceedings under this article.

19 (h) If the State Department of ~~Mental Health~~ *State Hospitals*
20 determines that the person is a sexually violent predator as defined
21 in this article, the Director of ~~Mental Health~~ *State Hospitals* shall
22 forward a request for a petition to be filed for commitment under
23 this article to the county designated in subdivision (i). Copies of
24 the evaluation reports and any other supporting documents shall
25 be made available to the attorney designated by the county pursuant
26 to subdivision (i) who may file a petition for commitment in the
27 superior court.

28 (i) If the county's designated counsel concurs with the
29 recommendation, a petition for commitment shall be filed in the
30 superior court of the county in which the person was convicted of
31 the offense for which he or she was committed to the jurisdiction
32 of the Department of Corrections and Rehabilitation. The petition
33 shall be filed, and the proceedings shall be handled, by either the
34 district attorney or the county counsel of that county. The county
35 board of supervisors shall designate either the district attorney or
36 the county counsel to assume responsibility for proceedings under
37 this article.

38 (j) The time limits set forth in this section shall not apply during
39 the first year that this article is operative.

1 (k) An order issued by a judge pursuant to Section 6601.5,
2 finding that the petition, on its face, supports a finding of probable
3 cause to believe that the individual named in the petition is likely
4 to engage in sexually violent predatory criminal behavior upon his
5 or her release, shall toll that person's parole pursuant to paragraph
6 (4) of subdivision (a) of Section 3000 of the Penal Code, if that
7 individual is determined to be a sexually violent predator.

8 (l) Pursuant to subdivision (d), the attorney designated by the
9 county pursuant to subdivision (i) shall notify the State Department
10 of ~~Mental Health~~ *State Hospitals* of its decision regarding the filing
11 of a petition for commitment within 15 days of making that
12 decision.

13 (m) (1) The department shall provide the fiscal and policy
14 committees of the Legislature, including the Chairperson of the
15 Joint Legislative Budget Committee, and the Department of
16 Finance, with a semiannual update on the progress made to hire
17 qualified state employees to conduct the evaluation required
18 pursuant to subdivision (d). The first update shall be provided no
19 later than July 10, 2009.

20 (2) On or before January 2, 2010, the department shall report
21 to the Legislature on all of the following:

22 (A) The costs to the department for the sexual offender
23 commitment program attributable to the provisions in Proposition
24 83 of the November 2006 general election, otherwise known as
25 Jessica's Law.

26 (B) The number and proportion of inmates evaluated by the
27 department for commitment to the program as a result of the
28 expanded evaluation and commitment criteria in Jessica's Law.

29 (C) The number and proportion of those inmates who have
30 actually been committed for treatment in the program.

31 (3) This section shall remain in effect and be repealed on the
32 date that the director executes a declaration, which shall be
33 provided to the fiscal and policy committees of the Legislature,
34 including the Chairperson of the Joint Legislative Budget
35 Committee, and the Department of Finance, specifying that
36 sufficient qualified state employees have been hired to conduct
37 the evaluations required pursuant to subdivision (d), or January 1,
38 2013, whichever occurs first.

39 *SEC. 140. Section 6601.3 of the Welfare and Institutions Code*
40 *is amended to read:*

1 6601.3. (a) Upon a showing of good cause, the Board of ~~Prison~~
2 ~~Terms Parole Hearings~~ may order that a person referred to the
3 State Department of ~~Mental Health~~ *State Hospitals* pursuant to
4 subdivision (b) of Section 6601 remain in custody for no more
5 than 45 days beyond the person's scheduled release date for full
6 evaluation pursuant to subdivisions (c) to (i), inclusive, of Section
7 6601.

8 (b) For purposes of this section, good cause means circumstances
9 where there is a recalculation of credits or a restoration of denied
10 or lost credits, a resentencing by a court, the receipt of the prisoner
11 into custody, or equivalent exigent circumstances which result in
12 there being less than 45 days prior to the person's scheduled release
13 date for the full evaluation described in subdivisions (c) to (i),
14 inclusive, of Section 6601.

15 *SEC. 141. Section 6602 of the Welfare and Institutions Code*
16 *is amended to read:*

17 6602. (a) A judge of the superior court shall review the petition
18 and shall determine whether there is probable cause to believe that
19 the individual named in the petition is likely to engage in sexually
20 violent predatory criminal behavior upon his or her release. The
21 person named in the petition shall be entitled to assistance of
22 counsel at the probable cause hearing. Upon the commencement
23 of the probable cause hearing, the person shall remain in custody
24 pending the completion of the probable cause hearing. If the judge
25 determines there is not probable cause, he or she shall dismiss the
26 petition and any person subject to parole shall report to parole. If
27 the judge determines that there is probable cause, the judge shall
28 order that the person remain in custody in a secure facility until a
29 trial is completed and shall order that a trial be conducted to
30 determine whether the person is, by reason of a diagnosed mental
31 disorder, a danger to the health and safety of others in that the
32 person is likely to engage in acts of sexual violence upon his or
33 her release from the jurisdiction of the Department of Corrections
34 *and Rehabilitation* or other secure facility.

35 (b) The probable cause hearing shall not be continued except
36 upon a showing of good cause by the party requesting the
37 continuance.

38 (c) The court shall notify the State Department of ~~Mental Health~~
39 *State Hospitals* of the outcome of the probable cause hearing by

1 forwarding to the department a copy of the minute order of the
2 court within 15 days of the decision.

3 *SEC. 142. Section 6602.5 of the Welfare and Institutions Code*
4 *is amended to read:*

5 6602.5. (a) No person may be placed in a state hospital
6 pursuant to the provisions of this article until there has been a
7 determination pursuant to Section 6601.3 or 6602 that there is
8 probable cause to believe that the individual named in the petition
9 is likely to engage in sexually violent predatory criminal behavior.

10 (b) The State Department of ~~Mental Health~~ *State Hospitals* shall
11 identify each person for whom a petition pursuant to this article
12 has been filed who is in a state hospital on or after January 1, 1998,
13 and who has not had a probable cause hearing pursuant to Section
14 6602. The State Department of ~~Mental Health~~ *State Hospitals* shall
15 notify the court in which the petition was filed that the person has
16 not had a probable cause hearing. Copies of the notice shall be
17 provided by the court to the attorneys of record in the case. Within
18 30 days of notice by the State Department of ~~Mental Health~~ *State*
19 *Hospitals*, the court shall either order the person removed from
20 the state hospital and returned to local custody or hold a probable
21 cause hearing pursuant to Section 6602.

22 (c) In no event shall the number of persons referred pursuant to
23 subdivision (b) to the superior court of any county exceed 10 in
24 any 30-day period, except upon agreement of the presiding judge
25 of the superior court, the district attorney, the public defender, the
26 sheriff, and the Director of ~~Mental Health~~ *State Hospitals*.

27 (d) This section shall be implemented in Los Angeles County
28 pursuant to a letter of agreement between the Department of ~~Mental~~
29 ~~Health~~ *State Hospitals*, the Los Angeles County district attorney,
30 the Los Angeles County public defender, the Los Angeles County
31 sheriff, and the Los Angeles County ~~superior court~~ *Superior Court*.
32 The number of persons referred to the superior court of Los
33 Angeles County pursuant to subdivision (b) shall be governed by
34 the letter of agreement.

35 *SEC. 143. Section 6604 of the Welfare and Institutions Code*
36 *is amended to read:*

37 6604. The court or jury shall determine whether, beyond a
38 reasonable doubt, the person is a sexually violent predator. If the
39 court or jury is not satisfied beyond a reasonable doubt that the
40 person is a sexually violent predator, the court shall direct that the

1 person be released at the conclusion of the term for which he or
2 she was initially sentenced, or that the person be unconditionally
3 released at the end of parole, whichever is applicable. If the court
4 or jury determines that the person is a sexually violent predator,
5 the person shall be committed for an indeterminate term to the
6 custody of the State Department of ~~Mental Health~~ *State Hospitals*
7 for appropriate treatment and confinement in a secure facility
8 designated by the Director of ~~Mental Health~~ *State Hospitals*. The
9 facility shall be located on the grounds of an institution under the
10 jurisdiction of the Department of Corrections *and Rehabilitation*.

11 *SEC. 144. Section 6605 of the Welfare and Institutions Code*
12 *is amended to read:*

13 6605. (a) A person found to be a sexually violent predator and
14 committed to the custody of the State Department of ~~Mental Health~~
15 *State Hospitals* shall have a current examination of his or her
16 mental condition made at least once every year. The annual report
17 shall include consideration of whether the committed person
18 currently meets the definition of a sexually violent predator and
19 whether conditional release to a less restrictive alternative or an
20 unconditional release is in the best interest of the person and
21 conditions can be imposed that would adequately protect the
22 community. The State Department of ~~Mental Health~~ *State Hospitals*
23 shall file this periodic report with the court that committed the
24 person under this article. The report shall be in the form of a
25 declaration and shall be prepared by a professionally qualified
26 person. A copy of the report shall be served on the prosecuting
27 agency involved in the initial commitment and upon the committed
28 person. The person may retain, or if he or she is indigent and so
29 requests, the court may appoint, a qualified expert or professional
30 person to examine him or her, and the expert or professional person
31 shall have access to all records concerning the person.

32 (b) If the State Department of ~~Mental Health~~ *State Hospitals*
33 determines that either: (1) the person's condition has so changed
34 that the person no longer meets the definition of a sexually violent
35 predator, or (2) conditional release to a less restrictive alternative
36 is in the best interest of the person and conditions can be imposed
37 that adequately protect the community, the director shall authorize
38 the person to petition the court for conditional release to a less
39 restrictive alternative or for an unconditional discharge. The
40 petition shall be filed with the court and served upon the

1 prosecuting agency responsible for the initial commitment. The
2 court, upon receipt of the petition for conditional release to a less
3 restrictive alternative or unconditional discharge, shall order a
4 show cause hearing at which the court can consider the petition
5 and any accompanying documentation provided by the medical
6 director, the prosecuting attorney, or the committed person.

7 (c) If the court at the show cause hearing determines that
8 probable cause exists to believe that the committed person's
9 diagnosed mental disorder has so changed that he or she is not a
10 danger to the health and safety of others and is not likely to engage
11 in sexually violent criminal behavior if discharged, then the court
12 shall set a hearing on the issue.

13 (d) At the hearing, the committed person shall have the right to
14 be present and shall be entitled to the benefit of all constitutional
15 protections that were afforded to him or her at the initial
16 commitment proceeding. The attorney designated by the county
17 pursuant to subdivision (i) of Section 6601 shall represent the state
18 and shall have the right to demand a jury trial and to have the
19 committed person evaluated by experts chosen by the state. The
20 committed person also shall have the right to demand a jury trial
21 and to have experts evaluate him or her on his or her behalf. The
22 court shall appoint an expert if the person is indigent and requests
23 an appointment. The burden of proof at the hearing shall be on the
24 state to prove beyond a reasonable doubt that the committed
25 person's diagnosed mental disorder remains such that he or she is
26 a danger to the health and safety of others and is likely to engage
27 in sexually violent criminal behavior if discharged. Where the
28 person's failure to participate in or complete treatment is relied
29 upon as proof that the person's condition has not changed, and
30 there is evidence to support that reliance, the jury shall be instructed
31 substantially as follows:

32 "The committed person's failure to participate in or complete
33 the State Department of ~~Mental Health~~ *State Hospitals* Sex
34 Offender Commitment Program (SOCP) are facts that, if proved,
35 may be considered as evidence that the committed person's
36 condition has not changed. The weight to be given that evidence
37 is a matter for the jury to determine."

38 (e) If the court or jury rules against the committed person at the
39 hearing conducted pursuant to subdivision (d), the term of
40 commitment of the person shall run for an indeterminate period

1 from the date of this ruling. If the court or jury rules for the
2 committed person, he or she shall be unconditionally released and
3 unconditionally discharged.

4 (f) In the event that the State Department of ~~Mental Health~~ *State*
5 *Hospitals* has reason to believe that a person committed to it as a
6 sexually violent predator is no longer a sexually violent predator,
7 it shall seek judicial review of the person's commitment pursuant
8 to the procedures set forth in Section 7250 in the superior court
9 from which the commitment was made. If the superior court
10 determines that the person is no longer a sexually violent predator,
11 he or she shall be unconditionally released and unconditionally
12 discharged.

13 *SEC. 145. Section 6606 of the Welfare and Institutions Code*
14 *is amended to read:*

15 6606. (a) A person who is committed under this article shall
16 be provided with programming by the State Department of ~~Mental~~
17 ~~Health~~ *State Hospitals* which shall afford the person with treatment
18 for his or her diagnosed mental disorder. Persons who decline
19 treatment shall be offered the opportunity to participate in treatment
20 on at least a monthly basis.

21 (b) Amenability to treatment is not required for a finding that
22 any person is a person described in Section 6600, nor is it required
23 for treatment of that person. Treatment does not mean that the
24 treatment be successful or potentially successful, nor does it mean
25 that the person must recognize his or her problem and willingly
26 participate in the treatment program.

27 (c) The programming provided by the State Department of
28 ~~Mental Health~~ *State Hospitals* in facilities shall be consistent with
29 current institutional standards for the treatment of sex offenders,
30 and shall be based on a structured treatment protocol developed
31 by the State Department of ~~Mental Health~~ *State Hospitals*. The
32 protocol shall describe the number and types of treatment
33 components that are provided in the program, and shall specify
34 how assessment data will be used to determine the course of
35 treatment for each individual offender. The protocol shall also
36 specify measures that will be used to assess treatment progress
37 and changes with respect to the individual's risk of reoffense.

38 (d) Notwithstanding any other provision of law, except as to
39 requirements relating to fire and life safety of persons with mental
40 illness, and consistent with information and standards described

1 in subdivision (c), the ~~department~~ *State Department of State*
 2 *Hospitals* is authorized to provide the programming using an
 3 outpatient/day treatment model, wherein treatment is provided by
 4 licensed professional clinicians in living units not licensed as health
 5 facility beds within a secure facility setting, on less than a 24-hour
 6 a day basis. The ~~department~~ *State Department of State Hospitals*
 7 shall take into consideration the unique characteristics, individual
 8 needs, and choices of persons committed under this article,
 9 including whether or not a person needs antipsychotic medication,
 10 whether or not a person has physical medical conditions, and
 11 whether or not a person chooses to participate in a specified course
 12 of offender treatment. The ~~department~~ *State Department of State*
 13 *Hospitals* shall ensure that policies and procedures are in place
 14 that address changes in patient needs, as well as patient choices,
 15 and respond to treatment needs in a timely fashion. The ~~department~~
 16 *State Department of State Hospitals*, in implementing this
 17 subdivision, shall be allowed by the State Department of ~~Health~~
 18 ~~Services~~ *Public Health* to place health facility beds at Coalinga
 19 State Hospital in suspense ~~for a period of up to six years in order~~
 20 ~~to meet the mental health and medical needs of the patient~~
 21 ~~population~~. Coalinga State Hospital may remove all or any portion
 22 of its voluntarily suspended beds into active license status by
 23 request to the State Department of ~~Health Services~~ *Public Health*.
 24 The facility's request shall be granted unless the suspended beds
 25 fail to comply with current operational requirements for licensure.

26 (e) The department shall meet with each patient who has chosen
 27 not to participate in a specific course of offender treatment during
 28 monthly treatment planning conferences. At these conferences the
 29 department shall explain treatment options available to the patient,
 30 offer and re-offer treatment to the patient, seek to obtain the
 31 patient's cooperation in the recommended treatment options, and
 32 document these steps in the patient's health record. The fact that
 33 a patient has chosen not to participate in treatment in the past shall
 34 not establish that the patient continues to choose not to participate.

35 *SEC. 146. Section 6608 of the Welfare and Institutions Code*
 36 *is amended to read:*

37 6608. (a) Nothing in this article shall prohibit the person who
 38 has been committed as a sexually violent predator from petitioning
 39 the court for conditional release or an unconditional discharge
 40 without the recommendation or concurrence of the Director of

1 ~~Mental Health State Hospitals~~. If a person has previously filed a
2 petition for conditional release without the concurrence of the
3 director and the court determined, either upon review of the petition
4 or following a hearing, that the petition was frivolous or that the
5 committed person's condition had not so changed that he or she
6 would not be a danger to others in that it is not likely that he or
7 she will engage in sexually violent criminal behavior if placed
8 under supervision and treatment in the community, then the court
9 shall deny the subsequent petition unless it contains facts upon
10 which a court could find that the condition of the committed person
11 had so changed that a hearing was warranted. Upon receipt of a
12 first or subsequent petition from a committed person without the
13 concurrence of the director, the court shall endeavor whenever
14 possible to review the petition and determine if it is based upon
15 frivolous grounds and, if so, shall deny the petition without a
16 hearing. The person petitioning for conditional release and
17 unconditional discharge under this subdivision shall be entitled to
18 assistance of counsel. The person petitioning for conditional release
19 or unconditional discharge shall serve a copy of the petition on
20 the State Department of ~~Mental Health State Hospitals~~ at the time
21 the petition is filed with the court.

22 (b) The court shall give notice of the hearing date to the attorney
23 designated in subdivision (i) of Section 6601, the retained or
24 appointed attorney for the committed person, and the Director of
25 ~~Mental Health State Hospitals~~ at least 30 court days before the
26 hearing date.

27 (c) No hearing upon the petition shall be held until the person
28 who is committed has been under commitment for confinement
29 and care in a facility designated by the Director of ~~Mental Health~~
30 ~~State Hospitals~~ for not less than one year from the date of the order
31 of commitment.

32 (d) The court shall hold a hearing to determine whether the
33 person committed would be a danger to the health and safety of
34 others in that it is likely that he or she will engage in sexually
35 violent criminal behavior due to his or her diagnosed mental
36 disorder if under supervision and treatment in the community. If
37 the court at the hearing determines that the committed person
38 would not be a danger to others due to his or her diagnosed mental
39 disorder while under supervision and treatment in the community,
40 the court shall order the committed person placed with an

1 appropriate forensic conditional release program operated by the
2 state for one year. A substantial portion of the state-operated
3 forensic conditional release program shall include outpatient
4 supervision and treatment. The court shall retain jurisdiction of
5 the person throughout the course of the program. At the end of
6 one year, the court shall hold a hearing to determine if the person
7 should be unconditionally released from commitment on the basis
8 that, by reason of a diagnosed mental disorder, he or she is not a
9 danger to the health and safety of others in that it is not likely that
10 he or she will engage in sexually violent criminal behavior. The
11 court shall not make this determination until the person has
12 completed at least one year in the state-operated forensic
13 conditional release program. The court shall notify the Director
14 of ~~Mental Health~~ *State Hospitals* of the hearing date.

15 (e) Before placing a committed person in a state-operated
16 forensic conditional release program, the community program
17 director designated by the State Department of ~~Mental Health~~ *State*
18 *Hospitals* shall submit a written recommendation to the court
19 stating which forensic conditional release program is most
20 appropriate for supervising and treating the committed person. If
21 the court does not accept the community program director's
22 recommendation, the court shall specify the reason or reasons for
23 its order on the record. The procedures described in Sections 1605
24 to 1610, inclusive, of the Penal Code shall apply to the person
25 placed in the forensic conditional release program.

26 (f) If the court determines that the person should be transferred
27 to a state-operated forensic conditional release program, the
28 community program director, or his or her designee, shall make
29 the necessary placement arrangements and, within 30 days after
30 receiving notice of the court's finding, the person shall be placed
31 in the community in accordance with the treatment and supervision
32 plan unless good cause for not doing so is presented to the court.

33 (g) If the court rules against the committed person at the trial
34 for unconditional release from commitment, the court may place
35 the committed person on outpatient status in accordance with the
36 procedures described in Title 15 (commencing with Section 1600)
37 of Part 2 of the Penal Code.

38 (h) If the court denies the petition to place the person in an
39 appropriate forensic conditional release program or if the petition
40 for unconditional discharge is denied, the person may not file a

1 new application until one year has elapsed from the date of the
2 denial.

3 (i) In any hearing authorized by this section, the petitioner shall
4 have the burden of proof by a preponderance of the evidence.

5 (j) If the petition for conditional release is not made by the
6 director of the treatment facility to which the person is committed,
7 no action on the petition shall be taken by the court without first
8 obtaining the written recommendation of the director of the
9 treatment facility.

10 (k) Time spent in a conditional release program pursuant to this
11 section shall not count toward the term of commitment under this
12 article unless the person is confined in a locked facility by the
13 conditional release program, in which case the time spent in a
14 locked facility shall count toward the term of commitment.

15 *SEC. 147. Section 6718 of the Welfare and Institutions Code*
16 *is repealed.*

17 ~~6718. The State Department of Mental Health shall present to~~
18 ~~the county, not more frequently than monthly, a claim for the~~
19 ~~amount due the state by reason of commitments of the mentally~~
20 ~~retarded which the county shall process and pay pursuant to the~~
21 ~~provisions of Chapter 4 (commencing with Section 29700) of~~
22 ~~Division 3 of Title 3 of the Government Code.~~

23 *SEC. 148. Section 6750 of the Welfare and Institutions Code*
24 *is amended to read:*

25 6750. The superior court judge of each county may grant
26 certificates in accordance with the form prescribed by the State
27 Department of ~~Mental Health~~ *State Hospitals*, showing that the
28 persons named therein are reputable physicians licensed in this
29 state, and have been in active practice of their profession at least
30 five years. When certified copies of such certificates have been
31 filed with the department, it shall issue to such persons certificates
32 or commissions, and the persons therein named shall be known as
33 “medical examiners.” There shall at all times be at least two such
34 medical examiners in each county. The certificate may be revoked
35 by the department for incompetency or neglect, and shall not be
36 again granted without the consent of the department.

37 *SEC. 149. Section 7200.05 of the Welfare and Institutions Code*
38 *is repealed.*

39 ~~7200.05. It is the intent of the Legislature that not more than~~
40 ~~227 patients whose placement has been required pursuant to~~

1 provisions of the Penal Code shall be placed in Metropolitan State
2 Hospital in the 1996–97 fiscal year.

3 *SEC. 150. Section 7200.06 of the Welfare and Institutions Code*
4 *is amended to read:*

5 7200.06. (a) Of the 1,362 licensed beds at Napa State Hospital,
6 at least 20 percent of these beds shall be available in any given
7 fiscal year for use by counties for contracted services. Of the
8 remaining beds, in no case shall the population of patients whose
9 placement has been required pursuant to the Penal Code exceed
10 980.

11 (b) After construction of the perimeter security fence is
12 completed at Napa State Hospital, no patient whose placement has
13 been required pursuant to the Penal Code shall be placed outside
14 the perimeter security fences, with the exception of placements in
15 the general acute care and skilled nursing units. The State
16 Department of ~~Mental Health~~ *State Hospitals* shall ensure that
17 appropriate security measures are in place for the general acute
18 care and skilled nursing units.

19 (c) Any alteration to the security perimeter structure or policies
20 shall be made in conjunction with representatives of the City of
21 Napa, the County of Napa, and local law enforcement agencies.

22 *SEC. 151. Section 7200.07 of the Welfare and Institutions Code*
23 *is repealed.*

24 ~~7200.07. Notwithstanding any other provision of law, not more~~
25 ~~than 824 patients whose placement has been required pursuant to~~
26 ~~the Penal Code shall be placed at Napa State Hospital in the~~
27 ~~1998–99 fiscal year.~~

28 *SEC. 152. Section 7201 of the Welfare and Institutions Code*
29 *is amended to read:*

30 7201. All of the institutions under the jurisdiction of the State
31 Department of ~~Mental Health~~ *State Hospitals* shall be governed
32 by the uniform rules and regulations of the State Department of
33 ~~Mental Health~~ *State Hospitals* and all of the provisions of Part 2
34 (commencing with Section 4100) of Division 4 of this code on the
35 administration of state institutions for the mentally disordered shall
36 apply to the conduct and management of the state hospitals for the
37 mentally disordered. All of the institutions under the jurisdiction
38 of the State Department of Developmental Services shall be
39 governed by the uniform rules and regulations of the State
40 Department of Developmental Services and, except as provided

1 in Chapter 4 (commencing with Section 7500) of this division, all
2 of the provisions of Part 2 (commencing with Section 4440) of
3 Division 4.1 of this code on the administration of state institutions
4 for the developmentally disabled shall apply to the conduct and
5 management of the state hospitals for the developmentally disabled.

6 *SEC. 153. Section 7202 of the Welfare and Institutions Code*
7 *is amended to read:*

8 7202. The State Department of ~~Mental Health~~ *State Hospitals*
9 shall regularly consult with the Napa State Hospital Task Force,
10 which consists of local community representatives, on proposed
11 policy or structural modifications to Napa State Hospital that may
12 affect the Napa community, including, but not limited to, all of
13 the following:

14 (a) Changes in the patient population mix.

15 (b) Construction of, or significant alterations to, facility
16 structures.

17 (c) Changes in the hospital security plan.

18 *SEC. 154. Section 7206 of the Welfare and Institutions Code*
19 *is amended to read:*

20 7206. Notwithstanding the provisions of Section 4444, the
21 Director of General Services, with the consent of the Director of
22 ~~Developmental Services~~ *State Hospitals*, may grant a right-of-way
23 for road purposes to the County of San Bernardino over and along
24 a portion of the Patton State Hospital property adjacent to Arden
25 Way and Pacific Street upon such terms and conditions and with
26 such reservations and exceptions as in the opinion of the Director
27 of General Services will be for the best interests of the state.

28 *SEC. 155. Section 7207 of the Welfare and Institutions Code*
29 *is amended to read:*

30 7207. The Director of General Services, with the consent of
31 the State Department of ~~Mental Health~~ *State Hospitals*, may grant
32 to the Regents of the University of California, upon such terms,
33 conditions, and with such reservations and exceptions as in the
34 opinion of the Director of General Services may be for the best
35 interest of the state, the necessary easements and rights-of-way
36 for a utilities relocation and campus access road on the Langley
37 Porter Neuropsychiatric Institute property. The right-of-way shall
38 be across, along and upon the following described property:

39 A strip of land approximately 40' in width extending from the
40 southerly line of Parnassus Avenue beginning at a point on the

1 southerly boundary of Parnassus Avenue 331' from the westerly
2 boundary of said parcel of land described by deed dated October
3 1, 1940, and extending in a southerly direction to the south
4 boundary of Langley Porter property.

5 *SEC. 156. Section 7226 of the Welfare and Institutions Code*
6 *is amended to read:*

7 7226. The State Department of ~~Mental Health~~ *State Hospitals*
8 may admit to any state hospital for the mentally disordered, if there
9 is room therein, any mentally disordered soldier or sailor in the
10 service of the United States on such terms as are agreed upon
11 between the department and the properly authorized agents,
12 officers, or representatives of the United States government.

13 *SEC. 157. Section 7228 of the Welfare and Institutions Code*
14 *is amended to read:*

15 7228. Prior to admission to the Napa State Hospital or the
16 Metropolitan State Hospital, the State Department of ~~Mental Health~~
17 *State Hospitals* shall evaluate each patient committed pursuant to
18 Section 1026 or 1370 of the Penal Code. A patient determined to
19 be a high security risk shall be treated in the department's most
20 secure facilities. A Penal Code patient not needing this level of
21 security shall be treated as near to the patient's community as
22 possible if an appropriate treatment program is available.

23 *SEC. 158. Section 7230 of the Welfare and Institutions Code*
24 *is amended to read:*

25 7230. Those patients determined to be high security risk
26 patients, as described in Section 7228, shall be treated at
27 Atascadero State Hospital or Patton State Hospital, a correctional
28 facility, or other secure facility as defined by the State Department
29 of ~~Mental Health~~ *State Hospitals*, but shall not be treated at
30 Metropolitan State Hospital or Napa State Hospital. Metropolitan
31 State Hospital and Napa State Hospital shall treat only low- to
32 moderate-risk patients, as defined by the State Department of
33 ~~Mental Health~~ *State Hospitals*.

34 *SEC. 159. Section 7231 of the Welfare and Institutions Code*
35 *is amended to read:*

36 7231. (a) The State Department of Mental Health shall
37 develop policies and procedures, by no later than 30 days following
38 the effective date of the Budget Act of 1997, at each state hospital,
39 to notify appropriate law enforcement agencies in the event of a
40 patient escape or walkaway. Local law enforcement agencies,

1 including local police and county sheriff departments, shall review
2 the policies and procedures prior to final implementation by the
3 department.

4 *(b) Commencing July 1, 2012, the State Department of State
5 Hospitals may adopt the policies and procedures developed by the
6 State Department of Mental Health pursuant to subdivision (a).*

7 *SEC. 160. Section 7232 of the Welfare and Institutions Code
8 is amended to read:*

9 7232. (a) The State Department of Mental Health shall issue
10 a state hospital administrative directive by no later than 30 days
11 following the effective date of the Budget Act of 1997 to require
12 patients whose placement has been required pursuant to the Penal
13 Code, and other patients within the secured perimeter at each state
14 hospital, to wear clothing that enables these patients to be readily
15 identified.

16 *(b) Commencing July 1, 2012, the State Department of State
17 Hospitals may adopt the state hospital administrative directive
18 issued by the State Department of Mental Health pursuant to
19 subdivision (a).*

20 *SEC. 161. Section 7250 of the Welfare and Institutions Code
21 is amended to read:*

22 7250. Any person who has been committed is entitled to a writ
23 of habeas corpus, upon a proper application made by the State
24 Department of ~~Mental Health~~ *State Hospitals* or the State
25 Department of Developmental Services, by that person, or by a
26 relative or friend in his or her behalf to the judge of the superior
27 court of the county in which the hospital is located, or if the person
28 has been found incompetent to stand trial and has been committed
29 pursuant to Chapter 6 (commencing with Section 1367) of Title
30 10 of Part 2 of the Penal Code, judicial review shall be in the
31 superior court for the county that determined the question of the
32 mental competence of the person. All documents requested by the
33 court in the county of confinement shall be forwarded from the
34 county of commitment to the court. Upon the return of the writ,
35 the truth of the allegations under which he or she was committed
36 shall be inquired into and determined. The medical history of the
37 person as it appears in the clinical records shall be given in
38 evidence, and the superintendent in charge of the state hospital
39 wherein the person is held in custody and any other person who

1 has knowledge of the facts shall be sworn and shall testify relative
2 to the mental condition of the person.

3 *SEC. 162. Section 7251 of the Welfare and Institutions Code*
4 *is amended to read:*

5 ~~7251. Every superintendent, or person in charge~~ *executive*
6 *director* of a state hospital, shall, within three days after the
7 reception of a patient, make or cause to be made a thorough
8 physical and mental examination of the patient, and state the result
9 thereof, on blanks prepared and exclusively set apart for that
10 purpose. During the time the patient remains under his *or her* care
11 he *or she* shall also make, or cause to be made, from time to time,
12 examination of the mental state, bodily condition, and medical
13 treatment of the patient at such intervals and in such manner, and
14 state its result, upon ~~such~~ blank forms, as are approved by the
15 department. In the event of the death or discharge of a patient, the
16 superintendent, or person in charge of the state hospital, shall state
17 the circumstances thereof upon ~~such~~ forms as are required by the
18 department.

19 *SEC. 163. Section 7252 of the Welfare and Institutions Code*
20 *is amended to read:*

21 ~~7252. Any patient in a state hospital, upon the consent of the~~
22 ~~superintendent executive director~~ and medical director of ~~such the~~
23 hospital, may voluntarily donate blood to any nonprofit blood bank
24 duly licensed by the State Department of ~~Health Services~~ *Public*
25 *Health*.

26 *SEC. 164. Section 7253 of the Welfare and Institutions Code*
27 *is amended to read:*

28 7253. Every patient in a state hospital under this chapter may
29 be permitted to keep for his *or her* own use articles of handiwork
30 and other finished products suitable primarily for personal use, as
31 determined by the ~~superintendent executive director~~, which have
32 been fabricated by the patient.

33 *SEC. 165. Section 7254 of the Welfare and Institutions Code*
34 *is amended to read:*

35 7254. Notwithstanding any other provision of law, the State
36 Department of ~~Mental Health~~ *State Hospitals* shall have the
37 authority to require that patients committed to a state mental health
38 facility pursuant to Section 1026 of, and Chapter 6 (commencing
39 with Section 1367) of Title 10 of Part 2 of the Penal Code, and

1 Sections 6316 and 6321 of this code shall wear identifiable clothing
2 in a secured area of the facility.

3 *SEC. 166. Section 7275.1 of the Welfare and Institutions Code*
4 *is repealed.*

5 ~~7275.1. (a) Notwithstanding any other provision of law, the~~
6 ~~Director of Mental Health may delegate to each county all or part~~
7 ~~of the responsibility for determining the ability to pay, as delineated~~
8 ~~in subdivisions (b) and (c) of Section 5710, for the cost of care~~
9 ~~provided to mentally disordered minor children in a state hospital,~~
10 ~~and all or part of the responsibility for collecting the charges.~~

11 ~~(b) If the director delegates responsibility pursuant to subdivision~~
12 ~~(a) and that responsibility is accepted by a county, the director~~
13 ~~shall establish and maintain the policies and procedures for making~~
14 ~~the determinations and collections. Each county to which~~
15 ~~responsibility is delegated pursuant to subdivision (a) shall comply~~
16 ~~with policies and procedures adopted pursuant to this subdivision.~~

17 *SEC. 167. Section 7276 of the Welfare and Institutions Code*
18 *is amended to read:*

19 7276. (a) The charge for the care and treatment of all mentally
20 disordered persons ~~and alcoholics~~ at state hospitals for the mentally
21 disordered for whom there is liability to pay therefor shall be
22 determined pursuant to Section 4025. The Director of ~~Mental~~
23 ~~Health~~ *State Hospitals* may reduce, cancel or remit the amount to
24 be paid by the estate or the relatives, as the case may be, liable for
25 the care and treatment of any mentally disordered person or
26 alcoholic who is a patient at a state hospital for the mentally
27 disordered, on satisfactory proof that the estate or relatives, as the
28 case may be, are unable to pay the cost of that care and treatment
29 or that the amount is uncollectible. In any case where there has
30 been a payment under this section, and the payment or any part
31 thereof is refunded because of the death, leave of absence, or
32 discharge of any patient of the hospital, that amount shall be paid
33 by the hospital or the State Department of ~~Mental Health~~ *State*
34 *Hospitals* to the person who made the payment upon demand, and
35 in the statement to the Controller the amounts refunded shall be
36 itemized and the aggregate deducted from the amount to be paid
37 into the State Treasury, as provided by law. If any person dies at
38 any time while his or her estate is liable for his or her care and
39 treatment at a state hospital, the claim for the amount due may be
40 presented to the executor or administrator of his or her estate, and

1 paid as a preferred claim, with the same rank in order of preference,
2 as claims for expenses of last illness.

3 (b) If the Director of ~~Mental Health~~ *State Hospitals* delegates
4 to the county the responsibility for determining the ability of a
5 minor child and his or her parents to pay for state hospital services,
6 the requirements of Sections 5710 and 7275.1 and the policies and
7 procedures established and maintained by the director, including
8 those relating to the collection and accounting of revenue, shall
9 be followed by each county to which that responsibility is
10 delegated.

11 *SEC. 168. Section 7277 of the Welfare and Institutions Code*
12 *is amended to read:*

13 7277. The State Department of ~~Mental Health~~ *State Hospitals*
14 shall collect all the costs and charges mentioned in Section 7275,
15 and shall determine, pursuant to Section 7275, and collect the
16 charges for care and treatment rendered persons in any community
17 mental hygiene clinics maintained by the department and may take
18 ~~such~~ action as is necessary to effect their collection within or
19 without the state. The Director of ~~Mental Health~~ *State Hospitals*
20 may, however, at his *or her* discretion, refuse to accept payment
21 of charges for the care and treatment in a state hospital of any
22 mentally disordered person or inebriate who is eligible for
23 deportation by the federal immigration authorities.

24 *SEC. 169. Section 7278 of the Welfare and Institutions Code*
25 *is amended to read:*

26 7278. The ~~department~~ *State Department of State Hospitals*
27 shall, following the admission of a patient into a state hospital for
28 the mentally disordered cause an investigation to be made to
29 determine the moneys, property, or interest in property, if any, the
30 patient has, and whether he *or she* has a duly appointed and acting
31 guardian to protect his *or her* property and his *or her* property
32 interests. The department shall also make an investigation to
33 determine whether the patient has any relative or relatives
34 responsible under the provisions of this code for the payment of
35 the costs of transportation and maintenance, and shall ascertain
36 the financial condition of ~~such the~~ relative or relatives to determine
37 whether in each case ~~such the~~ relative or relatives are in fact
38 financially able to pay ~~such the~~ charges. All reports in connection
39 with ~~such the~~ investigation, together with the findings of the
40 department, shall be records of the department, and may be

1 inspected by interested relatives, their agents, or representatives
2 at any time upon application.

3 *SEC. 170. Section 7281 of the Welfare and Institutions Code*
4 *is amended to read:*

5 7281. There is at each institution under the jurisdiction of the
6 State Department of ~~Mental Health~~ *State Hospitals* and at each
7 institution under the jurisdiction of the State Department of
8 Developmental Services, a fund known as the patients' personal
9 deposit fund. Any funds coming into the possession of the
10 superintendent, belonging to any patient in that institution, shall
11 be deposited in the name of that patient in the patients' personal
12 deposit fund, except that if a guardian or conservator of the estate
13 is appointed for the patient then he *or she* shall have the right to
14 demand and receive ~~such~~ *the* funds. Whenever the sum belonging
15 to any one patient, deposited in the patients' personal deposit fund,
16 exceeds the sum of five hundred dollars (\$500), the excess may
17 be applied to the payment of the care, support, maintenance, and
18 medical attention of the patient. After the death of the patient any
19 sum remaining in his *or her* personal deposit account in excess of
20 burial costs may be applied for payment of care, support,
21 maintenance, and medical attention. Any of the funds belonging
22 to a patient deposited in the patients' personal deposit fund may
23 be used for the purchase of personal incidentals for the patient or
24 may be applied in an amount not exceeding five hundred dollars
25 (\$500) to the payment of his *or her* burial expenses.

26 *SEC. 171. Section 7282 of the Welfare and Institutions Code*
27 *is amended to read:*

28 7282. The State Department of ~~Mental Health~~ *State Hospitals*
29 with respect to a state hospital under its jurisdiction, or the State
30 Department of Developmental Services with respect to a state
31 hospital under its jurisdiction, may in its own name bring an action
32 to enforce payment for the cost and charges of transportation of a
33 person to a state hospital against any person, guardian, conservator,
34 or relative liable for ~~such~~ transportation. The department also may
35 in its own name bring an action to recover for the use and benefit
36 of any state hospital or for the state the amount due for the care,
37 support, maintenance, and expenses of any patient therein, against
38 any county, or officer thereof, or against any person, guardian,
39 conservator, or relative, liable for ~~such~~ *the* care, support,
40 maintenance, or expenses.

1 *SEC. 172. Section 7282.1 of the Welfare and Institutions Code*
2 *is amended to read:*

3 7282.1. If a person who is or has been a recipient of services
4 provided by the State Department of Developmental Services or
5 the State Department of ~~Mental Health~~ *State Hospitals* in a state
6 hospital, or the guardian, conservator, or personal representative
7 of ~~such~~ *the* person, brings an action or claim against a third party
8 for an injury, disorder, or disability, which resulted in the need for
9 care, maintenance, or treatment in a state hospital, the person or
10 the guardian, conservator, or personal representative shall within
11 30 days of filing the action or claim give to the Director of
12 Developmental Services, for hospitals under the jurisdiction of the
13 State Department of Developmental Services, or the Director of
14 ~~Mental Health~~ *State Hospitals*, for hospitals under the jurisdiction
15 of the State Department of ~~Mental Health~~ *State Hospitals*, written
16 notice of the action or claim and of the name of the court or agency
17 in which the action or claim is to be brought. Proof of the notice
18 shall be filed in the action or claim. For pending actions or claims
19 filed prior to January 1, 1986, proof of the notice shall be filed by
20 February 1, 1986.

21 Any judgment, award, or settlement arising out of the action or
22 claim shall be subject to a lien in favor of the Director of
23 Developmental Services or the Director of ~~Mental Health~~ *State*
24 *Hospitals*, for hospitals under the jurisdiction of that department,
25 for the cost of state hospital care and treatment furnished with
26 respect to the subject of the action or claim, however:

27 (a) A lien shall not attach to that portion of a money judgment
28 awarded for pain and suffering.

29 (b) A lien shall not attach if over 180 days has elapsed between
30 the time when notice was given to the department and the time
31 when the department has filed its lien with the court or agency in
32 which the action or claim has been brought.

33 (c) A lien authorized by this section shall not be placed for
34 services which have been paid through the state Medi-Cal program.

35 (d) This section shall not apply to actions or claims in which a
36 final judgment, award, or settlement has been entered into prior
37 to January 1, 1986.

38 *SEC. 173. Section 7283 of the Welfare and Institutions Code*
39 *is amended to read:*

1 7283. All moneys collected by the State Department of ~~Mental~~
2 ~~Health~~ *State Hospitals* and the State Department of Developmental
3 Services for the cost and charges of transportation of persons to
4 state hospitals shall be remitted by the department to the State
5 Treasury for credit to, and shall become a part of, the current
6 appropriation from the General Fund of the state for the
7 transportation of the mentally disordered, correctional school, or
8 other state hospital patients and shall be available for expenditure
9 for ~~such~~ *those* purposes. In lieu of exact calculations of moneys
10 collected for transportation charges the department may determine
11 the amount of ~~such~~ collections by the use of ~~such~~ *those* estimates
12 or formula as may be approved by the Department of Finance.

13 *SEC. 174. Section 7284 of the Welfare and Institutions Code*
14 *is amended to read:*

15 7284. If any incompetent person, who has no guardian or
16 conservator of the estate and who has been admitted or committed
17 to the State Department of ~~Mental Health~~ *State Hospitals* for
18 placement in any state hospital for the mentally disordered, is the
19 owner of any property, the State Department of ~~Mental Health~~
20 *State Hospitals*, acting through its designated officer, may apply
21 to the superior court of the proper county for its appointment as
22 guardian or conservator of the estate of ~~such~~ *the* incompetent
23 person.

24 For the purposes of this section, the State Department of ~~Mental~~
25 ~~Health~~ *State Hospitals* is hereby made a corporation and may act
26 as executor, administrator, guardian or conservator of estates,
27 assignee, receiver, depository or trustee, under appointment of any
28 court or by authority of any law of this state, and may transact
29 business in ~~such~~ *that* capacity in like manner as an individual, and
30 for this purpose may sue and be sued in any of the courts of this
31 state.

32 If a person admitted or committed to the State Department of
33 ~~Mental Health~~ *State Hospitals* dies, leaving any estate, and having
34 no relatives at the time residing within this state, the State
35 Department of ~~Mental Health~~ *State Hospitals* may apply for letters
36 of administration of his or her estate, and, in the discretion of the
37 court, letters of administration may be issued to the department.
38 When the State Department of ~~Mental Health~~ *State Hospitals* is
39 appointed as guardian, conservator, or administrator, the
40 department shall be appointed as guardian or conservator or

1 administrator without bond. The officer designated by the
2 department shall be required to give a surety bond in such amount
3 as may be deemed necessary from time to time by the director, but
4 in no event shall the initial bond be less than ten thousand dollars
5 (\$10,000), which bond shall be for the joint benefit of the several
6 estates and the State of California. The State Department of ~~Mental~~
7 ~~Health~~ *State Hospitals* shall receive ~~such~~ any reasonable fees for
8 its services as ~~such~~ the guardian, conservator, or administrator as
9 the court allows. The fees paid to the State Department of ~~Mental~~
10 ~~Health~~ *State Hospitals* for its services as guardian, conservator, or
11 administrator of the various estates may be used as a trust account
12 from which may be drawn expenses for filing fees, bond premiums,
13 court costs, and other expenses required in the administration of
14 the various estates. Whenever the balance remaining in ~~such~~ the
15 trust fund account shall exceed a sum deemed necessary by the
16 department for the payment of ~~such~~ expenses, ~~such~~ the excess shall
17 be paid quarterly by the department into the State Treasury to the
18 credit of the General Fund.

19 *SEC. 175. Section 7285 of the Welfare and Institutions Code*
20 *is amended to read:*

21 7285. The State Department of ~~Mental Health~~ *State Hospitals*
22 may invest funds held as executor, administrator, guardian or
23 conservator of estates, or trustee, in bonds or obligations issued
24 or guaranteed by the United States or the State of California. Such
25 investments may be made and such bonds or obligations may be
26 sold or exchanged for similar bonds or obligations without notice
27 or court authorization.

28 *SEC. 176. Section 7286 of the Welfare and Institutions Code*
29 *is amended to read:*

30 7286. The State Department of ~~Mental Health~~ *State Hospitals*
31 may establish one or more common trusts for investment of funds
32 held as executor, administrator, guardian or conservator of estates,
33 or trustee and may designate from time to time the amount of
34 participation of each estate in such trusts. The funds in such trusts
35 may be invested only in bonds or obligations issued or guaranteed
36 by the United States or the State of California.

37 The income and profits of each trust shall be the property of the
38 estates participating and shall be distributed, when received, in
39 proportion to the amount of participation of each estate in such
40 trust. The losses of each trust shall be the losses of the estates

1 participating and shall be apportioned, as the same occur, upon
2 the same basis as income and profits.

3 *SEC. 177. Section 7287 of the Welfare and Institutions Code*
4 *is amended to read:*

5 7287. Upon the death of an incompetent person over whom
6 the State Department of ~~Mental Health~~ *State Hospitals* has obtained
7 jurisdiction pursuant to Section 7284, the department may make
8 proper disposition of the remains, and pay for the disposition of
9 the remains together with any indebtedness existing at the time of
10 the death of ~~such~~ *the* person from the assets of the guardianship
11 or conservatorship estate, and thereupon it shall file its final
12 account with the court or otherwise close its administration of the
13 estate of ~~such~~ *the* person.

14 *SEC. 178. Section 7288 of the Welfare and Institutions Code*
15 *is amended to read:*

16 7288. Whenever it appears that a person who has been admitted
17 to a state institution and remains under the jurisdiction of the State
18 Department of ~~Mental Health~~ *State Hospitals* or the State
19 Department of Developmental Services does not have a guardian
20 or conservator of the estate and owns personal property which
21 requires safekeeping for the benefit of the patient, the State
22 Department of ~~Mental Health~~ *State Hospitals* or the State
23 Department of Developmental Services may remove or cause to
24 be removed ~~such~~ *the* personal property from wherever located to
25 a place of safekeeping.

26 Whenever it appears that ~~such~~ *the* patient does not own property
27 of a value which would warrant guardianship or conservatorship
28 proceedings, the expenses of ~~such~~ removal and safekeeping shall
29 be paid from funds appropriated for the support of the institution
30 in which the patient is receiving care and treatment; provided,
31 however, that if the sum on deposit to the credit of ~~such~~ *the* patient
32 in the patients' personal deposit fund exceeds the sum of three
33 hundred dollars (\$300), the excess may be applied to the payment
34 of ~~such~~ *the* expenses of removal and safekeeping.

35 When it is determined by the superintendent, at any time after
36 the removal for safekeeping of ~~such~~ *the* personal property, that the
37 patient is incurable or is likely to remain in a state institution
38 indefinitely, then any of those articles of personal property which
39 cannot be used by the patient at the institution may be sold at public
40 auction and the proceeds therefrom shall first be applied in

1 reimbursement of the expenses so incurred, and the balance shall
2 be deposited to the patient's credit in the patients' personal deposit
3 fund. All moneys so received as reimbursement shall be deposited
4 in the State Treasury in augmentation of the appropriation from
5 which the expenses were paid.

6 *SEC. 179. Section 7289 of the Welfare and Institutions Code*
7 *is amended to read:*

8 7289. When a person who is a client of a state hospital or
9 developmental center in the State Department of ~~Mental Health~~
10 *State Hospitals* or the State Department of Developmental Services
11 has no guardian or conservator of the estate and has money due
12 or owing to him or her, the executive director of the institution of
13 which the person is a client may, during the client's residence at
14 the institution, collect an amount not to exceed three thousand
15 dollars (\$3,000) of any money so due or owing upon furnishing
16 to the person, representative, officer, body or corporation in
17 possession of or owing any sums, an affidavit executed by the
18 executive director or acting executive director. The affidavit shall
19 contain the name of the institution of which the person is a client,
20 and the statement that the total amount requested pursuant to the
21 affidavit does not exceed the sum of three thousand dollars
22 (\$3,000). Payments from retirement systems and annuity plans
23 which are due or owing to the clients may also be collected by the
24 executive director of the institution of which the person is a client,
25 upon the furnishing of an affidavit executed by the executive
26 director or acting executive director, containing the name of the
27 institution of which the person is a client and the statement that
28 the person is entitled to receive the payments. These sums shall
29 be delivered to the executive director and shall be deposited by
30 him or her in the clients' personal deposit fund as provided in
31 Section 7281.

32 The receipt of the executive director shall constitute sufficient
33 acquittance for any payment of money made pursuant to this
34 section and shall fully discharge the person, representative, officer,
35 body or corporation from any further liability with reference to
36 the amount of money so paid.

37 The executive director of each institution shall render reports
38 and accounts annually or more often as may be required by the
39 department having jurisdiction over the hospital or the Department

1 of Finance of all moneys of clients deposited in the clients'
2 personal deposit accounts of the institution.

3 *SEC. 180. Section 7289.1 of the Welfare and Institutions Code*
4 *is amended to read:*

5 7289.1. (a) The amount of three thousand dollars (\$3,000) as
6 set forth in Section 7289, shall be adjusted annually, on January
7 1 by the State Department of Developmental Services as it applies
8 to state hospitals or developmental centers under its jurisdiction,
9 and by the State Department of ~~Mental Health~~ *State Hospitals* as
10 it applies to state hospitals under its jurisdiction, to reflect any
11 increases or decreases in the cost of living occurring after
12 December 31, 1967, so that the first adjustment becomes effective
13 January 1, 1990. The indices of the California Consumer Price
14 Index—All Urban as prepared by the Department of Industrial
15 Relations, shall be used as the basis for determining the changes
16 in the cost of living.

17 (b) In implementing the cost-of-living provisions of this section,
18 the State Department of Developmental Services and the State
19 Department of ~~Mental Health~~ *State Hospitals* shall use the most
20 recent December for computation of the percentage change in the
21 cost of living after December 31, 1967. The amount of this
22 adjustment shall be made by comparing the average index for the
23 most recent December with the average index for December 1967.
24 The product of any percentage increase or decrease in the average
25 index and the amount set forth in Section 7289 shall be the adjusted
26 amount subject to affidavit pursuant to the provisions of Section
27 7289.

28 *SEC. 181. Section 7290 of the Welfare and Institutions Code*
29 *is amended to read:*

30 7290. The State Department of ~~Mental Health~~ *State Hospitals*
31 or the State Department of Developmental Services may enter into
32 a special agreement, secured by a properly executed bond, with
33 the relatives, guardian, conservator, or friend of any patient therein,
34 for his *or her* care, support, maintenance, or other expenses at the
35 institution. Such agreement and bond shall be to the people of the
36 State of California and action to enforce the same may be brought
37 thereon by the department. All charges due under the provisions
38 of this section, including the monthly rate for the patient's care
39 and treatment as established by or pursuant to law, shall be

1 collected monthly. No patient, however, shall be permitted to
2 occupy more than one room in any state institution.

3 *SEC. 182. Section 7292 of the Welfare and Institutions Code*
4 *is amended to read:*

5 7292. The cost of such care shall be determined and fixed from
6 time to time by the Director of ~~Mental Health~~ *State Hospitals*, but
7 in no case shall it exceed the rate of forty dollars (\$40) per month.

8 *SEC. 183. Section 7293 of the Welfare and Institutions Code*
9 *is amended to read:*

10 7293. The State Department of ~~Mental Health~~ *State Hospitals*
11 shall present to the county, not more frequently than monthly, a
12 claim for the amount due the state under Section 7291 which the
13 county shall process and pay pursuant to the provisions of Chapter
14 4 (commencing with Section 29700) of Division 3 of Title 3 of
15 the Government Code.

16 *SEC. 184. Section 7294 of the Welfare and Institutions Code*
17 *is amended to read:*

18 7294. Any person who has been committed as a defective or
19 psychopathic delinquent may be paroled or granted a leave of
20 absence by the medical superintendent of the institution wherein
21 the person is confined whenever the medical superintendent is of
22 the opinion that the person has improved to such an extent that he
23 *or she* is no longer a menace to the health and safety of others or
24 that the person will receive benefit from ~~such the~~ parole or leave
25 of absence, and after the medical superintendent and the Director
26 of ~~Mental Health~~ *State Hospitals* have certified ~~such the~~ opinion
27 to the committing court.

28 If within 30 days after the receipt of ~~such the~~ certification the
29 committing court orders the return of ~~such the~~ person, the person
30 shall be returned forthwith to await further action of the court. If
31 within 30 days after the receipt of ~~such the~~ certification the
32 committing court does not order the return of the person to await
33 the further action of the court, the medical superintendent may
34 thereafter parole the person under ~~such the~~ terms and conditions
35 as may be specified by the superintendent. Any ~~such~~ paroled inmate
36 may at any time during the parole period be recalled to the
37 institution. The period of parole shall in no case be less than five
38 years, and shall be on the same general rules and conditions as
39 parole of the mentally disordered.

1 When any person has been paroled for five consecutive years,
2 if in the opinion of the medical superintendent and the Director of
3 ~~Mental Health State Hospitals~~ the person is no longer a menace
4 to the health, person, or property of himself *or herself* or of any
5 other person, the medical superintendent, subject to the approval
6 of the Director of ~~Mental Health State Hospitals~~, may discharge
7 the person. The committing court shall be furnished with a certified
8 copy of ~~such~~ *the* discharge and shall thereupon make such
9 disposition of the court case as it deems necessary and proper.

10 When, in the opinion of the medical superintendent, a person
11 ~~heretofore~~ *previously* committed as a defective or psychopathic
12 delinquent will not benefit by further care and treatment under any
13 facilities of the department and should be returned to the
14 jurisdiction of the court, the superintendent of the institution and
15 the Director of ~~Mental Health State Hospitals~~ shall certify ~~such~~
16 *the* opinion to the committing court including therein a report,
17 diagnosis and recommendation concerning the person's future
18 care, supervision, or treatment. Upon receipt of ~~such~~ *the*
19 certification, the committing court shall forthwith order the return
20 of the person to the court. The person shall be entitled to a court
21 hearing and to present witnesses in his *or her* own behalf, to be
22 represented by counsel and to cross-examine any witness who
23 testifies against him *or her*. After considering all the evidence
24 before it, the court may make ~~such~~ *a* further order or commitment
25 with reference to ~~such~~ *the* person as may be authorized by law.

26 *SEC. 185. Section 7300 of the Welfare and Institutions Code*
27 *is amended to read:*

28 7300. It shall be the policy of the department to make available
29 to all persons admitted to a state hospital prior to July 1, 1969, and
30 to all persons judicially committed or remanded to its jurisdiction
31 all of the facilities under the control of the department. Whenever,
32 in the opinion of the Director of ~~Mental Health State Hospitals~~, it
33 appears that a person admitted prior to July 1, 1969, or that a person
34 judicially committed or remanded to the State Department of
35 ~~Mental Health State Hospitals~~ for placement in an institution would
36 be benefited by a transfer from that institution to another institution
37 in the department, the director may cause the transfer of the patient
38 from that institution to another institution under the jurisdiction
39 of the department. Preference shall be given in any such transfer
40 to an institution in an adjoining rather than a remote district.

1 However, before any inmate of a correctional school may be
2 transferred to a state hospital for the mentally disordered he *or she*
3 shall first be returned to a court of competent jurisdiction, and, if
4 subject to commitment, after hearing, may be committed to a state
5 hospital for the mentally disordered in accordance with law.

6 The expense of such transfers is chargeable to the state, and the
7 bills for the same, when approved by the Director of ~~Mental Health~~
8 *State Hospitals*, shall be paid by the Treasurer on the warrant of
9 the Controller, out of any moneys provided for the care or support
10 of the patients or out of the moneys provided for the support of
11 the department, in the discretion of the department.

12 *SEC. 186. Section 7301 of the Welfare and Institutions Code*
13 *is amended to read:*

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

29 Persons so transferred shall not be subject to the provisions of
30 Section 4500, 4501, 4501.5, 4502, 4530, or 4531 of the Penal
31 Code. However, they shall be subject to the general rules of the
32 ~~Director~~ *Secretary of the Department of Corrections and*
33 *Rehabilitation* and of the facility where they are confined and any
34 correctional employee dealing with ~~such~~ *those* persons during the
35 course of an escape or attempted escape, a fight or a riot, shall
36 have the same rights, privileges and immunities as if the person
37 transferred had been committed to the ~~Director~~ *Secretary of the*
38 *Department of Corrections and Rehabilitation*.

39 Whenever a person is transferred to an institution under the
40 jurisdiction of the Department of *Corrections and Rehabilitation*

1 pursuant to this section, any report, opinion, or certificate required
2 or authorized to be filed with the court which committed ~~such the~~
3 person to a state hospital, or ordered ~~such the~~ person placed therein,
4 shall be prepared and filed with the court by the head of the
5 institution in which the person is actually confined or by the
6 designee of ~~such the~~ head of the institution.

7 *SEC. 187. Section 7303 of the Welfare and Institutions Code*
8 *is amended to read:*

9 7303. Whenever a person, committed to the care of the State
10 Department of ~~Mental Health~~ *State Hospitals* or the State
11 Department of Developmental Services under one of the
12 commitment laws which provides for reimbursement for care and
13 treatment to the state by the county of commitment of ~~such the~~
14 person, is transferred under Section 7300 to an institution under
15 the jurisdiction of the department where the state rather than the
16 county is liable for the support and care of patients, the county of
17 commitment may have the original commitment vacated and a
18 new commitment issued, designating the institution to which the
19 person has been transferred, in order to absolve the county from
20 liability under the original commitment.

21 *SEC. 188. Section 7304 of the Welfare and Institutions Code*
22 *is amended to read:*

23 7304. Whenever a person, committed to the State Department
24 of ~~Mental Health~~ *State Hospitals* or the State Department of
25 Developmental Services under one of the commitment laws
26 providing for no reimbursement for care and treatment to the state
27 by the county of commitment, is transferred under Section 6700
28 to an institution under the jurisdiction of the department where the
29 county is required to reimburse the state for such care and
30 treatment, the State Department of ~~Mental Health~~ *State Hospitals*
31 or the State Department of Developmental Services may have the
32 original commitment vacated and a new commitment issued,
33 designating the institution to which the person has been transferred,
34 in order to make the county liable for the care and treatment of the
35 committed person to the extent provided by Sections 7511 and
36 7512 ~~of the Welfare and Institutions Code~~.

37 *SEC. 189. Section 7325 of the Welfare and Institutions Code*
38 *is amended to read:*

39 7325. (a) When any patient committed by a court to a state
40 hospital or other institution on or before June 30, 1969, or when

1 any patient who is judicially committed on or after July 1, 1969,
2 or when any patient who is involuntarily detained pursuant to Part
3 1 (commencing with Section 5000) of Division 5 escapes from
4 any state hospital, any hospital or facility operated by or under the
5 Veterans' Administration of the United States government, or any
6 facility designated by a county pursuant to Part 1 (commencing
7 with Section 5000) of Division 5, or any facility into which the
8 patient has been placed by his or her conservator appointed
9 pursuant to Chapter 3 (commencing with Section 5350) of Part 1
10 of Division 5, or when a judicially committed patient's return from
11 leave of absence has been authorized or ordered by the State
12 Department of ~~Mental Health~~ *State Hospitals*, or the State
13 Department of Developmental Services, or the facility of the
14 Veterans' Administration, any peace officer, upon written request
15 of the state hospital, veterans' facility, or the facility designated
16 by a county, or the patient's conservator appointed pursuant to
17 Chapter 3 (commencing with Section 5350) of Part 1 of Division
18 5, shall, without the necessity of a warrant or court order, or any
19 officer or employee of the State Department of ~~Mental Health~~ *State*
20 *Hospitals*, or of the State Department of Developmental Services,
21 designated to perform these duties may, apprehend, take into
22 custody, and deliver the patient to the state hospital or to a facility
23 of the Veterans' Administration, or the facility designated by a
24 county, or to any person or place authorized by the State
25 Department of ~~Mental Health~~ *State Hospitals*, the State Department
26 of Developmental Services, the Veterans' Administration, the local
27 director of the county mental health program of the county in which
28 is located the facility designated by the county, or the patient's
29 conservator appointed pursuant to Chapter 3 (commencing with
30 Section 5350) of Part 1 of Division 5, as the case may be, to receive
31 him or her. Every officer or employee of the State Department of
32 ~~Mental Health~~ *State Hospitals*, or of the State Department of
33 Developmental Services, designated to apprehend or return those
34 patients has the powers and privileges of peace officers so far as
35 necessary to enforce this section.

36 (b) As used in this section, "peace officer" means a person as
37 specified in Section 830.1 of the Penal Code.

38 (c) Any officer or employee of a state hospital, hospital or
39 facility operated by or under the Veterans' Administration, or any
40 facility designated by a county pursuant to Part 1 (commencing

1 with Section 5000) of Division 5 shall provide any peace officer
2 with any information concerning any patient who escapes from
3 the hospital or facility that is necessary to assist in the apprehension
4 and return of the patient. The written notification of the escape
5 required by this section shall include the name and physical
6 description of the patient, his or her home address, the degree of
7 dangerousness of the patient, including specific information about
8 the patient if he or she is deemed likely to cause harm to himself
9 or herself or to others, and any additional information that is
10 necessary to apprehend and return the patient. If the escapee has
11 been charged with any crime involving physical harm to children,
12 the notice shall be provided by the law enforcement agency to
13 school districts in the vicinity of the hospital or other facility in
14 which the escapee was being held, in the area the escapee is known
15 or is likely to frequent, and in the area where the escapee resided
16 immediately prior to confinement.

17 (d) The person in charge of the hospital or facility, or his or her
18 designee, may provide telephonic notification of the escape to the
19 law enforcement agency of the county or city in which the hospital
20 or facility is located. If that notification is given, the time and date
21 of notification, the person notified, and the person making the
22 notification shall be noted in the written notification required by
23 this section.

24 (e) Photocopying is not required in order to satisfy the
25 requirements of this section.

26 (f) No public or private entity or public or private employee
27 shall be liable for damages caused, or alleged to be caused, by the
28 release of information or the failure to release information pursuant
29 to this section.

30 *SEC. 190. Section 7328 of the Welfare and Institutions Code*
31 *is amended to read:*

32 7328. Whenever a person who is committed to an institution
33 subject to the jurisdiction of the State Department of ~~Mental Health~~
34 *State Hospitals* or the State Department of Developmental Services,
35 under one of the commitment laws that provides for reimbursement
36 for care and treatment to the state by the county of commitment
37 of the person, is accused of committing a crime while confined in
38 the institution and is committed by the court in which the crime is
39 charged to another institution under the jurisdiction of the State
40 Department of ~~Mental Health~~ *State Hospitals* or the Department

1 of Corrections and Rehabilitation, the state rather than the county
2 of commitment shall bear the subsequent cost of supporting and
3 caring for the person.

4 *SEC. 191. Section 7329 of the Welfare and Institutions Code*
5 *is amended to read:*

6 7329. When any patient, who is subject to judicial commitment,
7 has escaped from any public mental hospital in a state of the United
8 States other than California and is present in this state, any peace
9 officer, health officer, county physician, or assistant county
10 physician may take ~~such~~ *the* person into custody within five years
11 after the escape. ~~Such~~ *The* person may be admitted and detained
12 in the quarters provided in any county hospital or state hospital
13 upon application of the peace officer, health officer, county
14 physician, or assistant county physician. The application shall be
15 in writing and shall state the identity of the person, the name and
16 place of the institution from which he *or she* escaped and the
17 approximate date of the escape, and the fact that the person has
18 been apprehended pursuant to this section.

19 As soon as possible after the person is apprehended, the district
20 attorney of the county in which the person is present shall file a
21 petition in the superior court alleging the facts of the escape, and
22 requesting an immediate hearing on the question of whether the
23 person has escaped from a public mental hospital in another state
24 within five years prior to his *or her* apprehension. The hearing
25 shall be held within three days after the day on which the person
26 was taken into custody. If the court finds that the person has not
27 escaped from such a hospital within five years prior to his *or her*
28 apprehension, he *or she* shall be released immediately.

29 If the court finds that the person did escape from a public mental
30 hospital in another state within five years prior to his *or her*
31 apprehension, the superintendent or physician in charge of the
32 quarters provided in ~~such~~ *the* county hospital or state hospital may
33 care for and treat the person, and the district attorney of the county
34 in which ~~such~~ *the* person is present immediately shall present to
35 a judge of the superior court a petition asking that the person be
36 judicially committed to a state hospital in this state. The hearing
37 on the petition shall be held within seven days after the court's
38 determination in the original hearing that the person did escape
39 from a public mental hospital in another state within five years
40 prior to his apprehension. Proceedings shall thereafter be conducted

1 as on a petition for judicial commitment of the particular type of
2 person subject to judicial commitment. If the court finds that the
3 person is subject to judicial commitment it shall order him *or her*
4 judicially committed to a state hospital in this state; otherwise, it
5 shall order him *or her* to be released. It shall be the duty of the
6 superintendent of the state hospital to accept custody of ~~such the~~
7 person, if he *or she* has been determined to be subject to judicial
8 commitment. The State Department of ~~Mental Health~~ *State*
9 *Hospitals* will promptly cause ~~such the~~ person to be returned to
10 the institution from which he *or she* escaped if the authorities in
11 charge of ~~such the~~ institution agree to accept him *or her*. If ~~such~~
12 ~~the~~ authorities refuse to accept ~~such the~~ person, the superintendent
13 of the state hospital in which the person is confined shall continue
14 to care for and treat the person in the same manner as any other
15 person judicially committed to the hospital as mentally disordered.

16 *SEC. 192. Section 7352 of the Welfare and Institutions Code*
17 *is amended to read:*

18 7352. The medical director of a state hospital for the mentally
19 disordered may grant a leave of absence to any judicially
20 committed patient, except as provided in Section 7350, under
21 general conditions prescribed by the State Department of ~~Mental~~
22 ~~Health~~ *State Hospitals*.

23 The State Department of ~~Mental Health~~ *State Hospitals* may
24 continue to render services to patients placed on leave of absence
25 prior to July 1, 1969, to the extent such services are authorized by
26 law in effect immediately preceding July 1, 1969.

27 *SEC. 193. Section 7353 of the Welfare and Institutions Code*
28 *is amended to read:*

29 7353. The State Department of ~~Mental Health~~ *State Hospitals*
30 shall pay the premium for third-party health coverage for Medicare
31 beneficiaries who are patients at state hospitals under the
32 jurisdiction of the State Department of ~~Mental Health~~ *State*
33 *Hospitals*. The department shall, when a mental health state
34 hospital patient's coverage would lapse due to lack of sufficient
35 income or financial resources, or any other reason, continue the
36 health coverage by paying the costs of continuation or group
37 coverage pursuant to federal law or converting from a group to an
38 individual plan.

39 *SEC. 194. Section 7354 of the Welfare and Institutions Code*
40 *is amended to read:*

1 7354. Any mentally disordered person may be granted care in
 2 a licensed institution or other suitable licensed or certified facility.
 3 The State Department of ~~Mental Health State Hospitals~~ may pay
 4 for ~~such that~~ care at a rate not exceeding the average cost of care
 5 of patients in the state hospitals as determined by the Director of
 6 ~~Mental Health State Hospitals~~. ~~Such~~ The payments shall be made
 7 from funds available to the State Department of ~~Mental Health~~
 8 ~~State Hospitals~~ for that purpose.

9 The State Department of ~~Mental Health State Hospitals~~ may
 10 make payments for services for mentally disordered patients in
 11 private facilities released or discharged from state hospitals on the
 12 basis of reimbursement for reasonable cost, using the same
 13 standards and rates consistent with those established by the State
 14 Department of Health Care Services for similar types of care. ~~Such~~
 15 The payments shall be made within the limitation of funds
 16 appropriated to the State Department of ~~Mental Health State~~
 17 ~~Hospitals~~ for that purpose.

18 No payments for care or services of a mentally disordered patient
 19 shall be made by the State Department of ~~Mental Health State~~
 20 ~~Hospitals~~ pursuant to this section unless ~~such the~~ care or services
 21 are requested by the local director of the mental health services of
 22 the county of the patient's residence, unless provision for ~~such the~~
 23 care or services is made in the county Short-Doyle plan of the
 24 county under which the county shall reimburse the department for
 25 10 percent of the amount expended by the department, exclusive
 26 of ~~such the~~ portion of the cost ~~as that~~ is provided by the federal
 27 government.

28 The provision for ~~such the~~ 10-percent county share shall be
 29 inapplicable with respect to any county with a population of under
 30 100,000 which has not elected to participate financially in
 31 providing services under Division 5 (commencing with Section
 32 5000) in accordance with Section 5709.5.

33 *SEC. 195. Section 7356 of the Welfare and Institutions Code*
 34 *is amended to read:*

35 7356. The charges for the care and keeping of persons on leave
 36 of absence from a state hospital where the State Department of
 37 ~~Mental Health State Hospitals~~, the State Department of
 38 Developmental Services, or the State Department of Social Services
 39 pays for ~~such the~~ care shall be a liability of ~~such the~~ person, his

1 *or her* estate, and relatives, to the same extent that ~~such~~ *the* liability
2 exists for patients in state hospitals.

3 The State Department of ~~Mental Health~~ *State Hospitals* shall
4 collect or adjust ~~such~~ *the* charges in accordance with Article 4
5 (commencing with Section 7275) of Chapter 3 of this division.

6 *SEC. 196. Section 7357 of the Welfare and Institutions Code*
7 *is amended to read:*

8 7357. The superintendent of a state hospital, on filing his *or*
9 *her* written certificate with the Director of ~~Mental Health~~ *State*
10 *Hospitals*, may discharge any patient who, in his *or her* judgment,
11 has recovered or was not, at time of admission, mentally
12 disordered.

13 *SEC. 197. Section 7359 of the Welfare and Institutions Code*
14 *is amended to read:*

15 7359. The superintendent of a state hospital, on filing his *or*
16 *her* written certificate with the Director of ~~Mental Health~~ *State*
17 *Hospitals*, may discharge as improved, or may discharge as
18 unimproved, as the case may be, any judicially committed patient
19 who is not recovered, but whose discharge, in the judgment of the
20 superintendent, will not be detrimental to the public welfare, or
21 injurious to the patient.

22 *SEC. 198. Section 7362 of the Welfare and Institutions Code*
23 *is amended to read:*

24 7362. The medical superintendent of a state hospital, on filing
25 his *or her* written certificate with the Director of ~~Mental Health~~
26 *State Hospitals*, may on his *or her* own motion, and shall on the
27 order of the State Department of ~~Mental Health~~ *State Hospitals*,
28 discharge any patient who comes within any of the following
29 descriptions:

30 (a) Who is not a proper case for treatment therein.

31 (b) Who is developmentally disabled or is affected with a
32 chronic harmless mental disorder.

33 ~~Such~~

34 *The* person, when discharged, shall be returned to the county of
35 his *or her* residence at the expense of ~~such~~ *the* county, and
36 delivered to the sheriff or other appropriate county official to be
37 designated by the board of supervisors, for delivery to the official
38 or agency in that county charged with the responsibility for ~~such~~
39 *the* person. Should ~~such~~ *the* person be a poor and indigent person,

1 he *or she* shall be cared for by ~~such~~ *the* county as are other indigent
2 poor.

3 No person who has been discharged from any state hospital
4 under the provisions of subdivision (b) above shall be again
5 committed to any state hospital for the mentally disordered unless
6 he *or she* is subject to judicial commitment.

7 *SEC. 199. Section 8050 of the Welfare and Institutions Code*
8 *is amended to read:*

9 8050. The State Department of ~~Mental Health~~ *State Hospitals*
10 shall plan, conduct, and cause to be conducted scientific research
11 into sex crimes against children and into methods of identifying
12 those who commit sexual offenses.

13 *SEC. 200. Section 8051 of the Welfare and Institutions Code*
14 *is amended to read:*

15 8051. Upon the recommendation of the superintendent of the
16 Langley Porter Clinic, the State Department of ~~Mental Health~~ *State*
17 *Hospitals* may enter into contracts with the Regents of the
18 University of California for the conduct, by either for the other,
19 of all or any portion of the research provided for in this chapter.

20 *SEC. 201. Section 8053 of the Welfare and Institutions Code*
21 *is amended to read:*

22 8053. The State Department of ~~Mental Health~~ *State Hospitals*
23 with the approval of the Director of Finance may accept gifts or
24 grants from any source for the accomplishment of the objects and
25 purposes of this chapter. The provisions of Section 16302 of the
26 Government Code do not apply to such gifts or grants and the
27 money so received shall be expended to carry out the purposes of
28 this chapter, subject to any limitation contained in such gift or
29 grant.

30 *SEC. 202. Section 15630 of the Welfare and Institutions Code*
31 *is amended to read:*

32 15630. (a) Any person who has assumed full or intermittent
33 responsibility for the care or custody of an elder or dependent
34 adult, whether or not he or she receives compensation, including
35 administrators, supervisors, and any licensed staff of a public or
36 private facility that provides care or services for elder or dependent
37 adults, or any elder or dependent adult care custodian, health
38 practitioner, clergy member, or employee of a county adult
39 protective services agency or a local law enforcement agency, is
40 a mandated reporter.

1 (b) (1) Any mandated reporter who, in his or her professional
2 capacity, or within the scope of his or her employment, has
3 observed or has knowledge of an incident that reasonably appears
4 to be physical abuse, as defined in Section 15610.63, abandonment,
5 abduction, isolation, financial abuse, or neglect, or is told by an
6 elder or dependent adult that he or she has experienced behavior,
7 including an act or omission, constituting physical abuse, as defined
8 in Section 15610.63, abandonment, abduction, isolation, financial
9 abuse, or neglect, or reasonably suspects that abuse, shall report
10 the known or suspected instance of abuse by telephone or through
11 a confidential Internet reporting tool, as authorized by Section
12 15658, immediately or as soon as practicably possible. If reported
13 by telephone, a written report shall be sent, or an Internet report
14 shall be made through the confidential Internet reporting tool
15 established in Section 15658, within two working days, as follows:

16 (A) If the abuse has occurred in a long-term care facility, except
17 a state mental health hospital or a state developmental center, the
18 report shall be made to the local ombudsperson or the local law
19 enforcement agency.

20 The local ombudsperson and the local law enforcement agency
21 shall, as soon as practicable, except in the case of an emergency
22 or pursuant to a report required to be made pursuant to clause (v),
23 in which case these actions shall be taken immediately, do all of
24 the following:

25 (i) Report to the State Department of Public Health any case of
26 known or suspected abuse occurring in a long-term health care
27 facility, as defined in subdivision (a) of Section 1418 of the Health
28 and Safety Code.

29 (ii) Report to the State Department of Social Services any case
30 of known or suspected abuse occurring in a residential care facility
31 for the elderly, as defined in Section 1569.2 of the Health and
32 Safety Code, or in an adult day care facility, as defined in paragraph
33 (2) of subdivision (a) of Section 1502.

34 (iii) Report to the State Department of Public Health and the
35 California Department of Aging any case of known or suspected
36 abuse occurring in an adult day health care center, as defined in
37 subdivision (b) of Section 1570.7 of the Health and Safety Code.

38 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse
39 any case of known or suspected criminal activity.

1 (v) Report all cases of known or suspected physical abuse and
2 financial abuse to the local district attorney's office in the county
3 where the abuse occurred.

4 (B) If the suspected or alleged abuse occurred in a state mental
5 hospital or a state developmental center, the report shall be made
6 to designated investigators of the State Department of ~~Mental~~
7 ~~Health~~ *State Hospitals* or the State Department of Developmental
8 Services, or to the local law enforcement agency.

9 Except in an emergency, the local law enforcement agency shall,
10 as soon as practicable, report any case of known or suspected
11 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

12 (C) If the abuse has occurred any place other than one described
13 in subparagraph (A), the report shall be made to the adult protective
14 services agency or the local law enforcement agency.

15 (2) (A) A mandated reporter who is a clergy member who
16 acquires knowledge or reasonable suspicion of elder or dependent
17 adult abuse during a penitential communication is not subject to
18 paragraph (1). For purposes of this subdivision, "penitential
19 communication" means a communication that is intended to be in
20 confidence, including, but not limited to, a sacramental confession
21 made to a clergy member who, in the course of the discipline or
22 practice of his or her church, denomination, or organization is
23 authorized or accustomed to hear those communications and under
24 the discipline tenets, customs, or practices of his or her church,
25 denomination, or organization, has a duty to keep those
26 communications secret.

27 (B) Nothing in this subdivision shall be construed to modify or
28 limit a clergy member's duty to report known or suspected elder
29 and dependent adult abuse when he or she is acting in the capacity
30 of a care custodian, health practitioner, or employee of an adult
31 protective services agency.

32 (C) Notwithstanding any other provision in this section, a clergy
33 member who is not regularly employed on either a full-time or
34 part-time basis in a long-term care facility or does not have care
35 or custody of an elder or dependent adult shall not be responsible
36 for reporting abuse or neglect that is not reasonably observable or
37 discernible to a reasonably prudent person having no specialized
38 training or experience in elder or dependent care.

39 (3) (A) A mandated reporter who is a physician and surgeon,
40 a registered nurse, or a psychotherapist, as defined in Section 1010

1 of the Evidence Code, shall not be required to report, pursuant to
2 paragraph (1), an incident where all of the following conditions
3 exist:

4 (i) The mandated reporter has been told by an elder or dependent
5 adult that he or she has experienced behavior constituting physical
6 abuse, as defined in Section 15610.63, abandonment, abduction,
7 isolation, financial abuse, or neglect.

8 (ii) The mandated reporter is not aware of any independent
9 evidence that corroborates the statement that the abuse has
10 occurred.

11 (iii) The elder or dependent adult has been diagnosed with a
12 mental illness or dementia, or is the subject of a court-ordered
13 conservatorship because of a mental illness or dementia.

14 (iv) In the exercise of clinical judgment, the physician and
15 surgeon, the registered nurse, or the psychotherapist, as defined
16 in Section 1010 of the Evidence Code, reasonably believes that
17 the abuse did not occur.

18 (B) This paragraph shall not be construed to impose upon
19 mandated reporters a duty to investigate a known or suspected
20 incident of abuse and shall not be construed to lessen or restrict
21 any existing duty of mandated reporters.

22 (4) (A) In a long-term care facility, a mandated reporter shall
23 not be required to report as a suspected incident of abuse, as defined
24 in Section 15610.07, an incident where all of the following
25 conditions exist:

26 (i) The mandated reporter is aware that there is a proper plan
27 of care.

28 (ii) The mandated reporter is aware that the plan of care was
29 properly provided or executed.

30 (iii) A physical, mental, or medical injury occurred as a result
31 of care provided pursuant to clause (i) or (ii).

32 (iv) The mandated reporter reasonably believes that the injury
33 was not the result of abuse.

34 (B) This paragraph shall not be construed to require a mandated
35 reporter to seek, nor to preclude a mandated reporter from seeking,
36 information regarding a known or suspected incident of abuse prior
37 to reporting. This paragraph shall apply only to those categories
38 of mandated reporters that the State Department of Public Health
39 determines, upon approval by the Bureau of Medi-Cal Fraud and
40 Elder Abuse and the state long-term care ombudsperson, have

1 access to plans of care and have the training and experience
2 necessary to determine whether the conditions specified in this
3 section have been met.

4 (c) (1) Any mandated reporter who has knowledge, or
5 reasonably suspects, that types of elder or dependent adult abuse
6 for which reports are not mandated have been inflicted upon an
7 elder or dependent adult, or that his or her emotional well-being
8 is endangered in any other way, may report the known or suspected
9 instance of abuse.

10 (2) If the suspected or alleged abuse occurred in a long-term
11 care facility other than a state mental health hospital or a state
12 developmental center, the report may be made to the long-term
13 care ombudsperson program. Except in an emergency, the local
14 ombudsperson shall report any case of known or suspected abuse
15 to the State Department of Public Health and any case of known
16 or suspected criminal activity to the Bureau of Medi-Cal Fraud
17 and Elder Abuse, as soon as is practicable.

18 (3) If the suspected or alleged abuse occurred in a state mental
19 health hospital or a state developmental center, the report may be
20 made to the designated investigator of the State Department of
21 ~~Mental Health State Hospitals~~ *State Hospitals* or the State Department of
22 Developmental Services or to a local law enforcement agency or
23 to the local ombudsperson. Except in an emergency, the local
24 ombudsperson and the local law enforcement agency shall report
25 any case of known or suspected criminal activity to the Bureau of
26 Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

27 (4) If the suspected or alleged abuse occurred in a place other
28 than a place described in paragraph (2) or (3), the report may be
29 made to the county adult protective services agency.

30 (5) If the conduct involves criminal activity not covered in
31 subdivision (b), it may be immediately reported to the appropriate
32 law enforcement agency.

33 (d) When two or more mandated reporters are present and jointly
34 have knowledge or reasonably suspect that types of abuse of an
35 elder or a dependent adult for which a report is or is not mandated
36 have occurred, and when there is agreement among them, the
37 telephone report or Internet report, as authorized by Section 15658,
38 may be made by a member of the team selected by mutual
39 agreement, and a single report may be made and signed by the
40 selected member of the reporting team. Any member who has

1 knowledge that the member designated to report has failed to do
2 so shall thereafter make the report.

3 (e) A telephone report or Internet report, as authorized by
4 Section 15658, of a known or suspected instance of elder or
5 dependent adult abuse shall include, if known, the name of the
6 person making the report, the name and age of the elder or
7 dependent adult, the present location of the elder or dependent
8 adult, the names and addresses of family members or any other
9 adult responsible for the elder's or dependent adult's care, the
10 nature and extent of the elder's or dependent adult's condition, the
11 date of the incident, and any other information, including
12 information that led that person to suspect elder or dependent adult
13 abuse, as requested by the agency receiving the report.

14 (f) The reporting duties under this section are individual, and
15 no supervisor or administrator shall impede or inhibit the reporting
16 duties, and no person making the report shall be subject to any
17 sanction for making the report. However, internal procedures to
18 facilitate reporting, ensure confidentiality, and apprise supervisors
19 and administrators of reports may be established, provided they
20 are not inconsistent with this chapter.

21 (g) (1) Whenever this section requires a county adult protective
22 services agency to report to a law enforcement agency, the law
23 enforcement agency shall, immediately upon request, provide a
24 copy of its investigative report concerning the reported matter to
25 that county adult protective services agency.

26 (2) Whenever this section requires a law enforcement agency
27 to report to a county adult protective services agency, the county
28 adult protective services agency shall, immediately upon request,
29 provide to that law enforcement agency a copy of its investigative
30 report concerning the reported matter.

31 (3) The requirement to disclose investigative reports pursuant
32 to this subdivision shall not include the disclosure of social services
33 records or case files that are confidential, nor shall this subdivision
34 be construed to allow disclosure of any reports or records if the
35 disclosure would be prohibited by any other provision of state or
36 federal law.

37 (h) Failure to report, or impeding or inhibiting a report of,
38 physical abuse, as defined in Section 15610.63, abandonment,
39 abduction, isolation, financial abuse, or neglect of an elder or
40 dependent adult, in violation of this section, is a misdemeanor,

1 punishable by not more than six months in the county jail, by a
 2 fine of not more than one thousand dollars (\$1,000), or by both
 3 that fine and imprisonment. Any mandated reporter who willfully
 4 fails to report, or impedes or inhibits a report of, physical abuse,
 5 as defined in Section 15610.63, abandonment, abduction, isolation,
 6 financial abuse, or neglect of an elder or dependent adult, in
 7 violation of this section, where that abuse results in death or great
 8 bodily injury, shall be punished by not more than one year in a
 9 county jail, by a fine of not more than five thousand dollars
 10 (\$5,000), or by both that fine and imprisonment. If a mandated
 11 reporter intentionally conceals his or her failure to report an
 12 incident known by the mandated reporter to be abuse or severe
 13 neglect under this section, the failure to report is a continuing
 14 offense until a law enforcement agency specified in paragraph (1)
 15 of subdivision (b) of Section 15630 discovers the offense.

16 (i) For purposes of this section, “dependent adult” shall have
 17 the same meaning as in Section 15610.23.

18 *SEC. 203. Section 17601 of the Welfare and Institutions Code*
 19 *is amended to read:*

20 17601. On or before the 27th day of each month, the Controller
 21 shall allocate to the mental health account of each local health and
 22 welfare trust fund the amounts deposited and remaining
 23 unexpended and unreserved on the 15th day of the month in the
 24 Mental Health Subaccount of the Sales Tax Account in the Local
 25 Revenue Fund in accordance with the following schedules:

26 (a) (1) Schedule A—State Hospital and Community Mental
 27 Health Allocations.

28

Jurisdiction	Allocation Percentage
31 Alameda	4.882
32 Alpine	0.018
33 Amador	0.070
34 Butte	0.548
35 Calaveras	0.082
36 Colusa	0.073
37 Contra Costa.....	2.216
38 Del Norte	0.088
39 El Dorado	0.285
40 Fresno	2.045

1	Glenn	0.080
2	Humboldt	0.465
3	Imperial	0.342
4	Inyo	0.104
5	Kern	1.551
6	Kings	0.293
7	Lake	0.167
8	Lassen	0.087
9	Los Angeles	28.968
10	Madera	0.231
11	Marin	0.940
12	Mariposa	0.054
13	Mendocino	0.332
14	Merced	0.546
15	Modoc	0.048
16	Mono	0.042
17	Monterey	0.950
18	Napa	0.495
19	Nevada	0.191
20	Orange	4.868
21	Placer	0.391
22	Plumas	0.068
23	Riverside	2.394
24	Sacramento	3.069
25	San Benito	0.090
26	San Bernardino.....	3.193
27	San Diego	5.603
28	San Francisco	4.621
29	San Joaquin	1.655
30	San Luis Obispo	0.499
31	San Mateo	2.262
32	Santa Barbara	0.949
33	Santa Clara	4.112
34	Santa Cruz	0.558
35	Shasta	0.464
36	Sierra	0.026
37	Siskiyou	0.137
38	Solano	1.027
39	Sonoma	1.068
40	Stanislaus	1.034

1	Sutter/Yuba	0.420
2	Tehama	0.181
3	Trinity	0.055
4	Tulare	0.941
5	Tuolumne	0.121
6	Ventura	1.472
7	Yolo	0.470
8	Berkeley	0.190
9	Tri-City	0.165

10
 11 The amounts allocated in accordance with Schedule A for the
 12 1991–92 fiscal year shall be considered the base allocations for
 13 the 1992–93 fiscal year.

14 (2) The funds allocated pursuant to Schedule B shall be
 15 increased to reflect the addition of percentages for the ~~Institute for~~
 16 ~~Mental Disease~~ *institutions for mental disease* allocation pursuant
 17 to paragraph (1) of subdivision (c).

18 (3) The Controller shall allocate three million seven hundred
 19 thousand dollars (\$3,700,000) to the counties pursuant to a
 20 percentage schedule developed by the Director of ~~Mental Health~~
 21 *Health Care Services* as specified in subdivision (c) of Section
 22 4095. The funds allocated pursuant to Schedule A shall be
 23 increased to reflect the addition of this schedule.

24 (4) (A) ~~The department~~ *State Department of Health Care*
 25 *Services* may amend Schedule A in order to restore counties funds
 26 associated with multicounty regional programs.

27 (B) Notwithstanding any other provision of law, ~~the department~~
 28 *State Department of Health Care Services* shall amend Schedule
 29 A for the purpose of establishing mental health base allocations
 30 for each county for the 1994–95 fiscal year and fiscal years
 31 thereafter, in order to ensure that mental health base allocations
 32 for each county do not fall below 75 percent of the allocations for
 33 the 1989–90 fiscal year. The money specified in subdivision (c)
 34 of Section 17605.05 shall be used for this purpose.

35 (b) (1) Schedule B—State Hospital Payment Schedule.
 36 From the amounts allocated in accordance with Schedule A,
 37 each county and city shall reimburse the Controller for
 38 reimbursement to the State Department of Mental Health, *or its*
 39 *successor, the State Department of State Hospitals*, for the 1991–92
 40 fiscal year only, an amount equal to one-ninth of the amount

1 identified in Schedule B as modified to reflect adjustments pursuant
 2 to paragraph (2) of subdivision (a) of Section 4330. The
 3 reimbursements shall be due the 24th day of each month and the
 4 first payment shall be due on October 24, 1991. During the
 5 1992–93 fiscal year and fiscal years thereafter, each monthly
 6 reimbursement shall be one-twelfth of the total amount of the
 7 county’s contract with the ~~department~~ *State Department of Mental*
 8 *Health, or its successor, the State Department of State Hospitals,*
 9 *for state hospital services. If a county has not contracted with the*
 10 *State Department of State Hospitals by July 1 of any given fiscal*
 11 *year, each monthly reimbursement shall be an amount equal to*
 12 *one-twelfth the number of beds provided to the county the previous*
 13 *fiscal year multiplied by the current state rate as determined by*
 14 *the State Department of State Hospitals.*

	First Year State Hospital Withholding
18 Jurisdiction	
19 Alameda	\$ 15,636,372
20 Berkeley City	0
21 Alpine	95,379
22 Amador	148,915
23 Butte	650,238
24 Calaveras	100,316
25 Colusa	189,718
26 Contra Costa	8,893,339
27 Del Norte	94,859
28 El Dorado	236,757
29 Fresno	1,429,379
30 Glenn	51,977
31 Humboldt	727,684
32 Imperial	259,887
33 Inyo	363,842
34 Kern	4,024,613
35 Kings	266,904
36 Lake	292,373
37 Lassen	167,367
38 Los Angeles	102,458,700
39 Tri-City	0
40 Madera	131,243

1	Marin	3,248,590
2	Mariposa	117,989
3	Mendocino	471,955
4	Merced	404,125
5	Modoc	94,859
6	Mono	94,859
7	Monterey	2,079,097
8	Napa	2,338,985
9	Nevada	493,786
10	Orange	14,066,133
11	Placer	847,232
12	Plumas	130,463
13	Riverside	4,891,077
14	Sacramento	4,547,506
15	San Benito	259,887
16	San Bernardino	5,587,574
17	San Diego	6,734,976
18	San Francisco	23,615,688
19	San Joaquin	927,018
20	San Luis Obispo	719,887
21	San Mateo	6,497,179
22	Santa Barbara	2,168,758
23	Santa Clara	7,106,095
24	Santa Cruz	1,403,391
25	Shasta	1,169,492
26	Sierra	94,859
27	Siskiyou	129,944
28	Solano	5,332,885
29	Sonoma	2,669,041
30	Stanislaus	1,740,205
31	Sutter/Yuba	363,842
32	Tehama	363,842
33	Trinity	94,859
34	Tulare	675,707
35	Tuolumne	304,328
36	Ventura	3,378,533
37	Yolo	1,169,492

38
 39 (2) (A) (i) During the 1992–93 fiscal year, in lieu of making
 40 the reimbursement required by paragraph (1), a county may elect

1 to authorize the Controller to reimburse the State Hospital Account
2 of the Mental Health Facilities Fund a pro rata share each month
3 computed by multiplying the ratio of the reimbursement amount
4 owed by the county as specified in Schedule B to the total amount
5 of money projected to be allocated to the county pursuant to
6 Schedule A by the funds available for deposit in the mental health
7 account of the county's health and welfare trust fund.

8 (ii) The reimbursement shall be made monthly on the same day
9 the Controller allocates funds to the local health and welfare trust
10 funds.

11 (B) During the 1992-93 fiscal year and thereafter, the amount
12 to be reimbursed each month shall be computed by multiplying
13 the ratio of the county's contract for state hospital services to the
14 amount of money projected to be allocated to the county pursuant
15 to Schedule A by the funds available for deposit in the mental
16 health account of the county's health and welfare trust fund.

17 (C) All reimbursements, deposits, and transfers made to the
18 Mental Health Facilities Fund pursuant to a county election shall
19 be deemed to be deposits to the local health and welfare trust fund.

20 (3) (A) Counties shall notify the Controller, in writing, by
21 October 15, 1991, upon making the election pursuant to paragraph
22 (2). The election shall be binding for the fiscal year. The pro rata
23 share of allocations made prior to the election by the county shall
24 be withheld from allocations in subsequent months until paid.

25 (B) For the 1992-93 fiscal year and fiscal years thereafter,
26 counties shall notify the Controller, in writing, by July 1 of the
27 fiscal year for which the election is made, upon making the election
28 pursuant to paragraph (2).

29 (4) Regardless of the reimbursement option elected by a county,
30 no county shall be required to reimburse the Mental Health
31 Facilities Fund by an amount greater than the amount identified
32 in Schedule B as modified to reflect adjustments pursuant to
33 paragraph (2) of subdivision (a) of Section 4330.

34 (c) (1) For the 1991-92 fiscal year, the Controller shall
35 distribute monthly beginning in October from the Mental Health
36 Subaccount of the Sales Tax Account of the Local Revenue Fund
37 to the mental health account of each local health and welfare trust
38 fund one-ninth of the amount allocated to the county in accordance
39 with the institutions for mental disease allocation schedule
40 established by the State Department of Mental Health.

1 (2) Each county shall forward to the Controller, monthly, an
2 amount equal to one-ninth of the amount identified in the schedule
3 established by the State Department of Mental Health. The
4 reimbursements shall be due by the 24th day of the month to which
5 they apply, and the first payment shall be due October 24, 1991.
6 These amounts shall be deposited in the Institutions for Mental
7 Disease Account in the Mental Health Facilities Fund.

8 (3) (A) (i) During the 1991–92 fiscal year, in lieu of making
9 the reimbursement required by paragraph (1), a county may elect
10 to authorize the Controller to reimburse the Institutions for Mental
11 Disease Account of the Mental Health Facilities Fund a pro rata
12 share each month computed by multiplying the ratio of the
13 reimbursement amount owed by the county as specified in Schedule
14 B to the total amount of money projected to be allocated to the
15 county pursuant to Schedule A by the funds available for deposit
16 in the mental health account of the county's health and welfare
17 trust fund.

18 (ii) The reimbursement shall be made monthly on the same day
19 the Controller allocates funds to the local health and welfare trust
20 funds.

21 (B) During the 1992–93 fiscal year and thereafter, the amount
22 to be reimbursed each month shall be computed by multiplying
23 the ratio of the county's contract for mental health services to the
24 amount of money projected to be allocated to the county pursuant
25 to Schedule A by the funds available for deposit in the mental
26 health account of the county's health and welfare trust fund.

27 (C) All reimbursements, deposits, and transfers made to the
28 Mental Health Facilities Fund pursuant to a county election shall
29 be deemed to be deposits to the local health and welfare trust fund.

30 (4) (A) Counties shall notify the Controller, in writing, by
31 October 15, 1991, upon making the election pursuant to paragraph
32 (3). The election shall be binding for the fiscal year. The pro rata
33 share of allocations made prior to the election by the county shall
34 be withheld from allocations in subsequent months until paid.

35 (B) For the 1992–93 fiscal year and fiscal years thereafter,
36 counties shall notify the Controller, in writing, by July 1 of the
37 fiscal year for which the election is made, upon making the election
38 pursuant to paragraph (2).

39 (5) Regardless of the reimbursement option elected by a county,
40 no county shall be required to reimburse the Institutions for Mental

1 Disease Account in the Mental Health Facilities Fund an amount
2 greater than the amount identified in the schedule developed by
3 the State Department of Mental Health pursuant to paragraph (1).

4 (d) The Controller shall withhold the allocation of funds
5 pursuant to subdivision (a) in any month a county does not meet
6 the requirements of paragraph (1) of subdivision (b) or paragraph
7 (2) of subdivision (c), in the amount of the obligation and transfer
8 the funds withheld to the State Department of ~~Mental Health~~ *State*
9 *Hospitals and the State Department of Health Care Services* for
10 deposit in the State Hospital Account or the Institutions for Mental
11 Disease Account in the Mental Health Facilities Fund, as
12 appropriate.

13 *SEC. 204. Section 17601.05 of the Welfare and Institutions*
14 *Code is amended to read:*

15 17601.05. (a) There is hereby created the Mental Health
16 Facilities Fund, which shall have the following accounts:

17 (1) The State Hospital Account.

18 (2) The Institutions for Mental Disease Account.

19 (b) Funds deposited in the State Hospital Account are
20 continuously appropriated, notwithstanding Section 13340 of the
21 Government Code, without regard to fiscal years, for disbursement
22 monthly to the State Department of ~~Mental Health~~ *State Hospitals*
23 for costs incurred pursuant to Chapter 4 (commencing with Section
24 4330) of Part 2 of Division 4.

25 (c) Funds deposited in the Institutions for Mental Disease
26 Account of the Mental Health Facilities Fund are continuously
27 appropriated, notwithstanding Section 13340 of the Government
28 Code, without regard to fiscal years, for disbursement monthly to
29 the State Department of ~~Mental Health~~ *Health Care Services* for
30 costs incurred pursuant to Part 5 (commencing with Section 5900)
31 of Division 4.

32 *SEC. 205. Section 17601.10 of the Welfare and Institutions*
33 *Code is amended to read:*

34 17601.10. (a) The State Department of ~~Mental Health~~ *State*
35 *Hospitals* may request a loan from the General Fund in an amount
36 that shall not exceed one hundred million dollars (\$100,000,000)
37 for the purposes of meeting cash-flow needs in its state hospital
38 operations due to delays in the receipt of reimbursements from
39 counties.

1 (b) The Controller shall liquidate any loan, in accordance with
2 Section 16314 of the Government Code, from the next available
3 deposits into the State Hospital Account in the Mental Health
4 Facilities Fund.

5 (c) If a loan remains outstanding at the end of any fiscal year,
6 the State Department of ~~Mental Health~~ *State Hospitals* shall
7 determine the amount of the loan attributable to a shortfall in
8 payments by counties against the amount due in Schedule B in the
9 1991–92 fiscal year or the contract amount for beds purchased in
10 each subsequent fiscal year. The State Department of ~~Mental Health~~
11 *State Hospitals* shall determine any amounts due to counties
12 pursuant to subdivision (d) of Section 4330. The State Department
13 of ~~Mental Health~~ *State Hospitals* shall invoice each county for any
14 outstanding balance. Sixty days after an invoice has been provided
15 and upon notice to the Controller by the State Department of
16 ~~Mental Health~~ *State Hospitals*, the Controller shall collect an
17 amount from the county’s allocation to the mental health account
18 of the local health and welfare trust fund that is sufficient to pay
19 any outstanding balance of the invoice. If these amounts do not
20 provide sufficient funds to repay the outstanding loan, the
21 Controller shall liquidate the balance from the next available
22 deposits into the Mental Health Subaccount in the Sales Tax
23 Account in the Local Revenue Fund.

24 *SEC. 206. (a) It is the intent of the Legislature that any*
25 *changes in staffing ratios at the state’s mental hospitals address*
26 *adequate staff and patient safety standards, and that staffing ratios*
27 *may vary based on patient acuity.*

28 *(b) It is further the intent of the Legislature that adult education*
29 *in the state hospitals is not to be eliminated or substantially*
30 *reduced.*

31 *SEC. 207. The sum of one thousand dollars (\$1,000) is hereby*
32 *appropriated from the General Fund to the State Department of*
33 *Health Care Services for administration.*

34 *SEC. 208. This act is a bill providing for appropriations related*
35 *to the Budget Bill within the meaning of subdivision (e) of Section*
36 *12 of Article IV of the California Constitution, has been identified*
37 *as related to the budget in the Budget Bill, and shall take effect*
38 *immediately.*

1 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
2 ~~changes relating to the Budget Act of 2012.~~

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